

**AGREEMENT
BETWEEN THE
CITY OF WESTON
AND
ASHBRITT, INC.
FOR
DISASTER RECOVERY SERVICES - PRIME CONTRACTOR
RFP NO. 2006-04**

This Agreement, is made and entered into the 23RD day of June, 2006 by and between the City of Weston, a Florida municipal corporation, ("CITY"), and AshBritt, Inc., ("CONTRACTOR") for Disaster Recovery Services - Prime Contractor, ("Agreement"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the CITY, solicited proposals from firms to perform Disaster Recovery Services - Prime Contractor; and

WHEREAS, Proposals were evaluated and ranked by a Selection Committee; and

WHEREAS, the City Commission has selected the CONTRACTOR upon the recommendation of the Selection Committee to perform Disaster Recovery Services - Prime Contractor; and

WHEREAS, on May 15, 2006, the CITY enacted Resolution No. 2006-84, which ratified the ranking of Proposals for Disaster Recovery Services - Prime Contractor and authorized the appropriate City officials to execute an agreement with the number one ranked contractor AshBritt, Inc.; and

WHEREAS, CITY and CONTRACTOR desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

- 1.1 The CONTRACTOR must meet the requirements and perform the services identified in the Request for Proposals for Disaster Recovery Services - Prime Contractor published on March 28, 2006, ("RFP"), attached hereto and made a part hereof, as Exhibit "A" and the CONTRACTOR'S Proposal, attached hereto and made a part hereof, as Exhibit "B".
- 1.2 CONTRACTOR agrees and acknowledges that CONTRACTOR is prohibited from exempting provisions of the RFP or in this Agreement in any of CONTRACTOR'S services pursuant to this Agreement.

SECTION 2. TERM

- 2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a five (5) year term.
- 2.2 After the initial five (5) year term, the CITY shall have the option to renew for an additional term of five (5) years, and upon completion of that period, the CITY shall again have the option to renew for an additional term of five (5) years. The parties hereto may extend this Agreement by mutual consent, in writing, prior to the expiration of the current term. This provision in no way limits either party's right to terminate this Agreement at any time during the initial term or any extension thereof, pursuant to Section 4 of the Agreement.

SECTION 3. COMPENSATION

- 3.1 The amount of compensation payable by the CITY to CONTRACTOR shall be based upon the rates and fees schedules as set forth in Exhibit "C", attached hereto and made a part hereof, which amount shall be accepted by CONTRACTOR as full compensation for all such work performed under this Agreement. It is acknowledged and agreed by CONTRACTOR that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONTRACTOR for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONTRACTOR'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

- 3.2 CONTRACTOR may submit an invoice for compensation, developed and agreed upon by the City Manager and CONTRACTOR, no more often than on a monthly basis, but only after the services for which the invoices are submitted have been completed. Invoices shall designate the nature of the services performed and shall also show a summary of rates and fees with accrual of the total and credits for portions paid previously, and shall allocate the billing costs to the appropriate fund or combination of funds. Each statement shall show the proportion of the guaranteed maximum payment that has been expended through previous billings.
- 3.3 CITY shall pay CONTRACTOR in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONTRACTOR to comply with a term, condition or requirement of this Agreement.
- 3.4 Notwithstanding any provision of this Agreement to the contrary, City Manager, may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work of Contractor, which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.
- 3.5 Payment shall be made to CONTRACTOR by check or by Electronic Funds Transfer (EFT) as determined by the CITY.
- 3.6 CONTRACTOR agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONTRACTOR receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.
- 3.7 If it should become necessary for CITY to request CONTRACTOR to render any additional services to either supplement the services described in the RFP or to perform additional work, such additional work shall be performed only as authorized by the City Manager or designee. Any such additional work agreed to by both parties shall be performed at the same rate in the schedules included in Exhibit "C".
- 3.8 On June 1, 2007 and on June 1st of each subsequent year, all hourly rates and fees described in the Agreement and Exhibit hereto shall be increased by an amount equal to the Consumer Price Index ("CPI") increase, as measured by the nearest geographical index, unless both parties mutually agree in writing to an alternative arrangement.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City Commission if the CONTRACTOR is in breach and has not corrected the breach within sixty (60) days after written notice from the CITY identifying the breach, or for convenience by action of the City Commission upon not less than sixty (60) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONTRACTOR if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONTRACTOR identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONTRACTOR shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONTRACTOR shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONTRACTOR acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONTRACTOR, is given as specific consideration to CONTRACTOR for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.1 of this Agreement. In no event shall the CITY be liable to CONTRACTOR for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

- 5.1 CONTRACTOR shall indemnify, hold harmless and, at CITY's option, pay for an attorney selected by the CITY, to defend the CITY, Calvin, Giordano & Associates, Inc., Weiss Serota Helfman Pastoriza Cole & Boniske, P.A., and Severn Trent Services, Inc., and any of their officers, agents, servants and employees from and against any and all liability, suits, actions, damages, costs, losses and expenses, including attorneys' fees, demands and claims for personal injury, bodily injury, sickness, diseases or death or damage or destruction of tangible property, arising out of any errors, omissions, misconduct or negligent acts, errors or omissions of CONTRACTOR, its officials, agents, employees or subcontractors in the performance of the services of CONTRACTOR under this Agreement, whether direct or indirect and from and against any orders, judgments, or decrees which may be entered thereon and from and against all costs, damages of every kind and nature, attorneys' fees, expenses and liabilities incurred in and about the defense of any such claim and investigation thereof.
- 5.2 CONTRACTOR shall indemnify, hold harmless and, at CITY's option, pay for an attorney selected by the CITY, to defend the CITY, Calvin, Giordano & Associates, Inc., Weiss Serota Helfman Pastoriza Cole & Boniske, P.A., and Severn Trent Services, Inc., and any of their officers, agents, servants and employees from and against any and all liability, suits, actions, damages, costs, losses and expenses, including attorneys' fees, demands and claims sought by third parties related to any alleged breach of any non-competition of similar provisions.
- 5.3 CONTRACTOR shall indemnify CITY, Calvin, Giordano & Associates, Inc., Weiss Serota Helfman Pastoriza Cole & Boniske, P.A., and Severn Trent Services, Inc., and any of their officers, agents, servants and employees, for all loss, damage, expense or liability including, without limitation, court costs and attorneys' fees that may result by reason of any infringement or claim of infringement by CONTRACTOR of any patent, trademark, copyright, trade secret or other proprietary right relating to services furnished pursuant to this Contract. CONTRACTOR will defend and/or settle at its own expense any action brought against the CITY, Calvin, Giordano & Associates, Inc., Weiss Serota Helfman Pastoriza Cole & Boniske, P.A., and Severn Trent Services, Inc., and any of their officers, agents, servants and employees, to the extent that it is based on a claim that products or services furnished to CITY by CONTRACTOR pursuant to this Contract, or if any portion of the services or goods related to the performance of the service become unusable as a result of any such infringement or claim.

- 5.4 CONTRACTOR acknowledges that specific consideration has been paid or will be paid under this Agreement for this hold harmless and indemnification provision, and further agrees with the foregoing provisions of indemnity and with the collateral obligation of insuring said indemnity.
- 5.5 The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONTRACTOR under this Agreement may be retained by CITY until all of CITY's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONTRACTOR shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverages as set forth in the RFP, Exhibit "A".

SECTION 7. MISCELLANEOUS

- 7.1 **Ownership of Documents.** Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONTRACTOR, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONTRACTOR to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONTRACTOR shall be withheld until all documents are received as provided herein.
- 7.2 **Audit and Inspection Rights and Retention of Records.** CITY shall have the right to audit the books, records and accounts of CONTRACTOR that are related to this Agreement. CONTRACTOR shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONTRACTOR shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONTRACTOR is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONTRACTOR'S expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONTRACTOR'S records, CONTRACTOR shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONTRACTOR. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONTRACTOR shall respond to the reasonable inquiries of successor CONTRACTORS and allow successor CONTRACTORS to receive working papers relating to matters of continuing significance.

In addition, CONTRACTOR shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the RFP for CONTRACTOR services.

- 7.3 Policy of Non Discrimination.** CONTRACTOR shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONTRACTOR shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

- 7.4 **Public Entity Crime Act.** CONTRACTOR represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONTRACTOR further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONTRACTOR has been placed on the convicted vendor list.
- 7.5 **Independent Contractor.** CONTRACTOR is an independent contractor under this Agreement. Services provided by CONTRACTOR pursuant to this Agreement shall be subject to the supervision of CONTRACTOR. In providing such services, neither CONTRACTOR nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONTRACTOR. This Agreement shall not constitute or make the parties a partnership or joint venture.
- 7.6 **Third Party Beneficiaries.** Neither CONTRACTOR nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices.** Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

John R. Flint
City Manager
City of Weston
2500 Weston Road, Suite 101
Weston, Florida 33331

With a copy to:

Jamie Alan Cole, Esq.
City Attorney
Weiss Serota Helfman Pastoriza Cole & Boniske, P.A.
3107 Stirling Road, Suite 300
Fort Lauderdale, Florida 33312

CONTRACTOR:

Terry Jackson
Chief Marketing Officer
AshBritt, Inc.
480 South Andrews Avenue, Suite 103
Pompano Beach, Florida 33069

7.8 **Assignment and Performance.** Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONTRACTOR, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. In addition, CONTRACTOR shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors shall be provided to the City Manager, subject to his approval.

CONTRACTOR represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFP and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONTRACTOR shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner.

- 7.9 Conflicts.** Neither CONTRACTOR nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONTRACTOR'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONTRACTOR agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONTRACTOR agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONTRACTOR or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONTRACTOR is permitted to utilize subcontractors to perform any services required by this Agreement, CONTRACTOR agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

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

- 7.11 Materiality and Waiver of Breach.** CITY and CONTRACTOR agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- 7.12 Compliance with Laws.** CONTRACTOR shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.
- 7.13 Severance.** In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONTRACTOR elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.
- 7.14 Joint Preparation.** The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.
- 7.15 Priority of Provisions.** If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 7 of this Agreement shall prevail and be given effect.
- 7.16 Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of, or relating to, this Agreement. Venue of any action to enforce this Agreement shall be in Broward County, Florida. The parties expressly waive all rights to trial by jury for any disputes arising from or in any way connected with this Agreement. The parties understand and agree that this waiver is a material contract term. This agreement is not subject to arbitration.

- 7.17 **Amendments.** No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.
- 7.18 **Prior Agreements.** This Agreement and its attachments constitute the entire agreement between CONTRACTOR and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.
- 7.19 **Drug-Free Workplace.** CONTRACTOR shall maintain a drug-free workplace.
- 7.20 **Incorporation by Reference.** The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.
- 7.21 **Multiple Originals.** This Agreement may be fully executed in two (2) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.
- 7.22 **Headings.** Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.
- 7.23 **Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
- 7.24 **Public Records.** CONTRACTOR understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONTRACTOR'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions.** Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 **Truth-in-Negotiation Certificate.** Signature of this Agreement by CONTRACTOR shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

[THIS SPACE INTENTIONALLY LEFT BLANK]

AGREEMENT BETWEEN THE CITY OF WESTON AND ASHBRIIT, INC. FOR DISASTER RECOVERY SERVICES - PRIME CONTRACTOR.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: City of Weston through its City Commission, signing by and through its Mayor, authorized to execute same by Commission action on the 19th day of June, 2006; and _____ authorized to execute same, through its _____.

CITY OF WESTON, through its City Commission

By: [Signature]
Eric M. Hersh, Mayor

23rd day of June, 2006

By: [Signature]
John R. Flint, City Manager

23rd day of June, 2006

(CITY SEAL)

ATTEST:

[Signature]
Patricia A. Bates, CMC, City Clerk

Approved as to form and legality for the use of and reliance by the City of Weston only:

By: [Signature]
Jamie Alan Cole, City Attorney

23rd day of June, 2006

WITNESSES:

[Signature]
Randi Miller 01/22/06
Print Name

[Signature]
Print Name

[Signature]
Print Name

ASHBRITT, INC.

By: [Signature]
Randall Perkins, Chief Executive Officer

20th day of June, 2006

(CORPORATE SEAL)

Wasta sup contract

SUBCONTRACT AGREEMENT

THIS SUBCONTRACT AGREEMENT ("Agreement") is this 29 day of October, 2010 by and between Ashbritt, Inc address is 480 South Andrews Avenue, Suite 103, Pom ("Contractor"), and 100% Landscaping Co., Inc (Ranches, FL 33331) corporation, whose address is 17401 SW ("Subcontractor"), whose type of business can be best described by

- Large Business
- Small Business
- Small Disadvantaged Business
- HUB Zone small business
- Women Owned Small Business
- Service-Disabled veteran-owned small business
- Veteran-Owned small business
- Historically Black/Minority institution

WHEREAS, Contractor entered into a contract (the "Prime Contract") with AshBritt, Inc. (the "Owner") for hurricane debris recovery, remediation and disposal in TBD ("Project Zone"); and

WHEREAS, Contractor desires to engage Subcontractor to provide the services set forth herein at the Project Zone, and Subcontractor desires to provide such services at the Project Zone, pursuant to and in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration for the mutual covenants and agreements hereinafter set forth, Contractor and Subcontractor agree as follows:

1. **Scope of Subcontract Work and Contract Documents.**

1.1 The recitals above are true and correct and are incorporated herein by reference.

1.2 Contractor engages Subcontractor, as an independent contractor, to perform a portion of the work, which Contractor has contracted with the Owner, which portion is set forth in Exhibit "A" attached hereto ("Subcontract Work").

1.3 Subcontractor agrees to perform the Subcontract Work under the direction of Contractor, and to the reasonable satisfaction of Contractor and Owner. Subcontractor agrees (i) to provide and pay for all labor, materials, tools, supplies and equipment necessary to perform the Subcontract Work, except as otherwise expressly provided herein, and (ii) to perform the Subcontract Work in strict conformity with the requirements of this Agreement. Subcontractor shall perform all Subcontract Work in the best and most workmanlike manner by qualified, careful and efficient workers who shall be satisfactory to Contractor.

1.4 The Contract Documents for this Agreement consist of Hurricane Debris Recovery Remediation including the statement of work and contractor requirements, insurance requirements, all terms and conditions and any other documents listed in or referred to by the Prime Contract.

1.5 The Contract Documents are hereby incorporated by reference into this Agreement; provided, however, that notwithstanding the foregoing, it is expressly acknowledged and agreed by the parties that all payment terms between Contractor and Owner set forth in the Contract Documents are not incorporated by reference and are expressly excluded from this Agreement. The Contract Documents are available in Contractor's office and Subcontractor acknowledges that it has carefully examined them and understands them completely. To the extent of any conflict between the provisions of this Agreement and the Contract Documents, this Agreement shall control.

1.6 Subcontractor is bound to Contractor by the terms of this Agreement, including those of the Contract Documents, and shall assume towards Contractor, with respect to Subcontractor's performance, all of the obligations and responsibilities which Contractor assumes towards Owner under the Contract Documents with respect to the Subcontract Work. In the event of any conflict between the terms of this Agreement and the terms of any of the Contract Documents, or a conflict among any of the Contract Documents themselves, the provision granting the greater rights or remedies to Contractor, or imposing the greater duty, standard, responsibility or obligation on Subcontractor, as determined by Contractor, shall govern. Subcontractor shall bind its lower tier subcontractors and suppliers to all of the performance obligations and responsibilities which Subcontractor assumes towards Contractor hereunder.

1.7 This Agreement is for the Subcontract Work provided herein, and is not an exclusive contract for work in the Project Zone. Contractor may assign to other subcontractors, and/or reserve unto itself, any portion of the work required pursuant to the Prime Contract between Owner and Contractor, except for the Subcontract Work, which is further subject to the terms and conditions of this Agreement regarding, amongst other things, suspension, termination and performance generally.

2. Contract Sum and Payment Schedule.

2.1 In consideration for the Subcontractor's services hereunder, Contractor shall pay to Subcontractor the contract sum set forth on Exhibit "B" attached hereto ("Contract Sum"). The Contract Sum shall be paid in accordance with the Payment Schedule set forth on Exhibit "B" attached hereto. Contractor, if provided on Exhibit "B", may withhold ten percent (10%) of each payment of the Contract Sum due to Subcontractor ("Retainage") pending final payment by Owner to Contractor, completion of the Subcontract Work, the Contractor and Owner's acceptance thereof, and Subcontractor's delivery to Contractor of a final release of all claims, including any lien or bond claims, in form and substance satisfactory to the Contractor.

2.2 Contractor may deduct from any Contract Sum payment, any sum owed by Subcontractor to Contractor, either under this Agreement or any other agreement between Contractor and Subcontractor. Further, in the event of any breach by Subcontractor of this

Agreement or any other agreement between Contractor and Subcontractor, or in the event of the assertion by others of any claim or lien against Owner, Contractor, or Contractor's surety, which claim or lien arises out of Subcontractor's performance hereunder, Contractor may, but is not required to, retain out of any payments due Subcontractor, either under this Agreement or any other agreement between Contractor and Subcontractor, an amount sufficient to protect Contractor and Owner from any and all loss, damage or expense therefrom, until the breach has been cured or the claim or lien has been adjusted by Subcontractor to the reasonable satisfaction of Contractor, even though Subcontractor may have posted a payment or performance bond. Contractor, in its sole discretion and at its sole option, may directly negotiate, settle and pay any claim or lien of any person or entity claiming by, through or under Subcontractor in the event Subcontractor fails to satisfy such claim or lien within thirty (30) days after Contractor places Subcontractor on notice of such claim or lien. Contractor may withhold final payment of the Contract Sum, including Retainage, pending payment of any such claim or lien and receipt of a final release of all claims, including any lien or bond claims, in form and substance satisfactory to the Contractor.

3. **Prosecution of Subcontract Work.**

3.1 Subcontractor agrees, within forty-eight (48) hours after notification by Contractor ("Notice to Proceed"), to commence its operations and to continue diligently in its performance of the Subcontract Work until completion. Subcontractor shall not commence the Subcontract Work until receipt of such Notice to Proceed.

3.2 Time is of the essence of this Agreement and in the Subcontractor's performance of the Subcontract Work.

3.3 Subcontractor shall cooperate with Contractor and other subcontractors whose work must be coordinated with the Subcontract Work. Subcontractor shall send a representative, with full authority to act on behalf of and bind Subcontractor, to all meetings and conferences, as may be directed by Contractor.

3.4 Subcontractor shall keep the Project Zone clean from debris resulting from the performance of the Subcontract Work, and free from damage caused by the Subcontractor's performance of such Subcontract Work, and shall remove and properly dispose of all debris generated by the execution of the Subcontract Work and promptly repair any damage caused thereby. If the Subcontractor fails at any time to comply with this Section, within twenty-four (24) hours after receipt of notice from Contractor of such noncompliance, Contractor shall have the right, but not the obligation to, perform such necessary clean-up or repair and deduct the cost from any amounts due Subcontractor under this Agreement or any other agreement between Contractor and Subcontractor. Said right shall be in addition to all other rights and remedies available to Contractor as a result of such noncompliance by Subcontractor.

3.5 Subcontractor shall give all required notices pertaining to the Subcontract Work to the proper authorities and shall secure and pay for all necessary licenses and permits to carry on the Subcontract Work. Subcontractor shall provide a copy of such notices, licenses and permits to Contractor prior to the start of the Subcontract Work.

3.6 Subcontractor shall at all times have at the Project Zone when any of the Subcontract Work is being performed a competent superintendent satisfactory to Contractor and with full authority to act for and bind Subcontractor on all matters arising out of or relating to this Agreement or the performance of the Subcontract Work.

3.7 Subcontractor shall assign only qualified personnel to perform the Subcontract Work. Contractor shall have the authority, at any time during the course of the prosecution of the Subcontract Work, to require Subcontractor to remove or terminate any employee of the Subcontractor, if such employee is unsatisfactory to Contractor or Owner. Subcontractor shall immediately remove and replace the employee at no cost to Contractor or Owner, including those costs resulting from delay or inefficiency the change may cause.

3.8 Contractor may for any reason whatsoever suspend, in whole or in part, performance of the Subcontract Work and Subcontractor's performance under this Agreement. Contractor shall give notice, either written or verbally, of such suspension to Subcontractor specifying when such suspension is to become effective and the scope of the Subcontract Work affected by such suspension.

3.8.1 Ceasing Performance Upon Suspension. From and upon the effective date of any suspension order by Contractor, Subcontractor shall not incur any further expense or obligations in connection with the suspended portion of the Subcontract Work. From and upon the effective date of any suspension ordered by Contractor, Subcontractor shall utilize its best efforts to mitigate its costs resulting from the suspension.

3.8.2 Resumption of Subcontract Work After Suspension. If Contractor lifts the suspension it shall do so in writing and Subcontractor shall promptly resume performance of the Subcontract Work unless, prior to receiving the notice to resume, Subcontractor has exercised its right of termination as provided in Section 7.6 herein.

3.8.3 No Claim for Suspension. Neither Owner nor Contractor shall be liable for any claims due to the suspension of the Subcontract Work. Without limitation, Owner and Contractor shall not be liable to Subcontractor for any damages, expenses, lost profits, mobilization or de-mobilization charges, or any other amounts or losses incurred by Subcontractor as a result of such suspension.

3.9 Subcontractor shall not subcontract all or any portion of the Subcontract Work without the express, prior written consent of Contractor, in its sole and absolute discretion. Any unauthorized subcontract will constitute a breach of this Agreement and Subcontractor shall not be entitled to any payment therefore.

4. Insurance.

4.1 Prior to starting the Subcontract Work, Subcontractor at its own expense, shall procure and maintain in full force throughout the entire term of this Agreement, and the completion of the Subcontract Work, on all its operations, insurance in accordance with the

Owner's and Contractor's requirements as set forth in Exhibit "C" attached hereto. Subcontractor shall not perform any Subcontract Work unless Subcontractor is and remains insured.

4.2 The policies of insurance shall be in such form and shall be issued by such company or companies as may be reasonably satisfactory to Contractor and licensed to insure in the state where the Subcontract Work is performed. Before commencing the Subcontract Work, Subcontractor shall furnish Contractor with certificates of insurance from the insuring companies, which certificates shall specify the effective dates of the policies, the limits of liability there under, and contain a provision that such insurance will not be cancelled or modified except upon thirty (30) days prior written notice to Contractor. Subcontractor shall not cancel any policies of insurance required hereunder without the prior written consent of Contractor, which may be withheld in Contractor's discretion unless the terms of this Section and Exhibit "C" are strictly complied with. Except for workers' compensation, Contractor and Owner shall be named as additional insureds under all policies required to be maintained by Subcontractor under this Agreement.

4.3 Subcontractor may use a combination of General Liability Insurance and Excess Liability Insurance provided the sum of these insurances at least equals the amounts listed for the General Liability Insurance on Exhibit "C" attached hereto. If Excess Liability Insurance is used, "Umbrella Form" must be furnished.

4.4 The carrying of insurance shall not be deemed to release Subcontractor or in any way diminish or limit its liability, by way of indemnity or otherwise, as assumed by it or otherwise provided under this Agreement.

5. **Bonds.**

5.1 Subcontractor [] is / [] is not (check appropriate box) required to provide a performance and payment bond. If Subcontractor is required to provide a performance and payment bond, Subcontractor shall furnish Contractor, in the form attached as Exhibit "D", a full and duly executed performance and payment bond, underwritten by a surety or sureties reasonably satisfactory to Contractor, authorized to issue the same in the state where the Subcontract Work is to be performed, in the full amount of the Contract Sum to be paid over the term of this Agreement. If such bond is required, Subcontractor's failure to deliver a satisfactory bond within ten (10) calendar days after the execution of this Agreement shall be deemed a material breach by Subcontractor of this Agreement.

Initial Acknowledgment
Of Selection Above:


Subcontractor

Contractor

6. **Inspections.**

6.1 Subcontractor shall allow for the inspection of the Subcontract Work by Contractor, Owner or any of their authorized representatives, at any time.

6.2 Neither the review and acceptance by Contractor, nor the approval by Owner or its representative, of any of the Subcontract Work by Subcontractor shall relieve Subcontractor of liability for any deviations from any requirement of this Agreement unless specifically called to Contractor's attention, in writing, and so acknowledged by Contractor in writing. Inspection or supervision by Contractor shall not relieve Subcontractor of its obligations herein.

7. **Term and Termination.**

7.1 This Agreement shall be coterminous with Contractor's Prime Contract with Owner, unless this Agreement is terminated early pursuant to this Section 7.

7.2 Should Subcontractor fail, in the reasonable opinion of Owner or Contractor, at any time and in any respect, to (i) supply a sufficient number of properly skilled employees, (ii) prosecute the Subcontract Work with promptness and diligence, (iii) supply sufficient material or equipment, or (iv) otherwise perform the Subcontract Work in accordance with the requirements of this Agreement, Contractor may, at its option, provide such labor, equipment and services to perform the Subcontract Work and deduct the cost thereof, together with all loss or damage occasioned thereby, from any money then due or thereafter to become due Subcontractor either under this Agreement or any other agreement between Contractor and Subcontractor. Contractor shall provide notice, either written or verbal, of any such failure to Subcontractor except in an emergency, in which event, no notice is required.

7.3 Contractor may immediately terminate this Agreement if an Event of Default (as defined below) has occurred, and such Event of Default is not cured by Subcontractor after receipt of notice, either written or verbal, by Contractor of such Event of Default. For the purposes hereof, "Event of Default" shall mean Subcontractor has, at any time, (i) refused or neglected to supply sufficient properly skilled employees or materials or equipment of the proper quality and quantity, (ii) failed in any respect to prosecute the Subcontract Work with promptness and diligence in accordance with this Agreement, (iii) caused by any action or omission the stoppage or interference with the work of Contractor or other subcontractors, (iv) failed in the performance of any of the covenants contained in this Agreement, (v) breached any provision of this Agreement, and/or (v) been unable to meet its debts as they mature. Upon termination of this Agreement pursuant to this Section, Contractor may take possession of the Project Zone and Subcontract Work, including all materials, appliances and equipment of Subcontractor at the Project Zone, and through itself or others provide labor, equipment and materials to prosecute the Subcontract Work on such terms and conditions as Contractor deems reasonably necessary, and Contractor shall deduct the cost thereof, including all charges, expenses, losses, costs, and damages, incurred as a result of Subcontractor's failure to perform and the termination of this Agreement, from any money then due or thereafter to become due Subcontractor either under this Agreement or any other agreement between Contractor and Subcontractor.

7.4 In addition, Contractor shall have the right to terminate this Agreement, or any portion of the Subcontract Work hereunder, at any time, with or without cause, upon notice, either written or verbal, to Subcontractor. Upon receipt of such notice, Subcontractor shall immediately stop performance of the Subcontract Work or the portion thereof terminated. In

such event, Contractor shall pay Subcontractor for that portion of the Subcontract Work actually performed in an amount proportionate to the Contract Sum. Contractor shall not be liable to Subcontractor for any costs or damages, nor for prospective profits on portions of the Subcontract Work not performed. Without limitation, Contractor shall not be liable to Subcontractor for any damages, expenses, lost profits, mobilization or de-mobilization charges, or any other amounts or losses incurred by Subcontractor as a result of such termination.

7.5 From and after the effective date of any termination, Subcontractor shall cease performance to the extent of the terminated portion of the Subcontract Work and shall not incur any further expense or obligations in connection with the terminated portion of the Subcontract Work. Subcontractor shall terminate any outstanding authorized sub-subcontracts and purchase orders related to the terminated portion of the Subcontract Work unless directed to do otherwise by Contractor. If so requested by Contractor, Subcontractor shall assign its rights, title and interest under open sub-subcontracts and purchase orders to Contractor or its designee. Unless directed otherwise by Contractor, Subcontractor shall settle the liabilities and claims arising out of the termination of any sub-subcontracts. If so requested by Contractor, Subcontractor shall vacate the Project Zone immediately.

7.6 Subcontractor may, upon written notice to Contractor, terminate this Agreement if, after issuance of a Notice to Proceed, the Subcontract Work required under this Agreement is suspended by Contractor in its entirety for a period of seventy-two (72) hours or more, through no fault of Subcontractor. In the event Subcontractor terminates this Agreement pursuant to this Section 7.6, Subcontractor shall be entitled to recover from Contractor as though Contractor had terminated Subcontractor's performance for convenience pursuant to Section 7.4 above.

8. **Claims and Disputes.**

8.1 Either party may litigate any dispute arising under or relating to this Agreement before a court of competent jurisdiction subject to the limitations of Section 15.4 of this Agreement. Pending resolution of any such dispute by settlement or by final judgment, or the termination of this Agreement under Section 7, the parties shall proceed diligently with performance hereunder. Subcontractor's performance of the Subcontract Work shall be in accordance with Contractor's written instructions irrespective of any claim or dispute.

8.2 The rights and obligations described in this Section shall survive completion of the Subcontract Work and final payment of the Contract Sum.

9. **Indemnification.**

9.1 Subcontractor assumes full liability for any and all damages, death or injury of any kind to all person(s) (whether employees or otherwise) and property arising out of or in any way connected with the Subcontract Work or Subcontractor's performance hereunder, including that of Subcontractor, its sub-subcontractors and materialmen, or agents and employees thereof, and shall to the fullest extent permitted by law defend, indemnify and hold harmless Contractor and Owner, and their respective parents, subsidiaries, affiliates, officers, managers, members, agents, employees, indemnitees, insurers, bond companies and sureties (collectively, the "Contractor Indemnified Parties") from and against any and all claims, losses, liabilities, suits,

damages, fines, demands or expenses, legal and otherwise, including attorneys' fees and costs, (collectively, "Losses"), arising out of or in any way connected with the Subcontract Work or Subcontractor's performance hereunder, including all claims and demands of Subcontractor's subcontractors, vendors, suppliers or materialmen, or arising out of the same, unless such claim, loss, suit, damage or expense is caused in part by Contractor. If any claim or demand is made against the Contractor Indemnified Parties for any matter enumerated herein, any payment due, or thereafter to become due, Subcontractor under this Agreement or any other agreement between Contractor and Subcontractor, shall be held liable by Contractor to the extent necessary to cover such losses and expenses, including reasonable attorneys' fees. As separate consideration for this indemnification, defense and hold harmless obligation provided by Subcontractor hereunder, the parties acknowledge and agree that the first One Hundred Dollars (\$100.00) of the Contract Sum paid to Subcontractor shall be paid as separate consideration for these indemnification obligations of Subcontractor.

10. **Compliance with Laws and Safety Standards.**

10.1 All work, labor, services and materials to be furnished by Subcontractor hereunder, and the performance of the Subcontract Work, must strictly comply with all applicable federal, state and local laws, rules, regulations, statutes, ordinances and directives, including any applicable environmental rules and regulations and Federal Emergency Management Agency ("FEMA") policies and procedures, (hereinafter "Laws") now in force or hereafter in effect. Additionally, Subcontractor warrants and represents that Subcontractor is familiar with all applicable Laws including FEMA policies and procedures. All work, labor, services or materials necessary to comply with said Laws will be furnished by Subcontractor as part of this Agreement without any additional compensation. Subcontractor agrees to indemnify, defend and hold the Contractor Indemnified Parties harmless from and against any and all Losses caused directly or indirectly by its failure to fully comply with all Laws.

10.2 Subcontractor shall be responsible for the safety of its operations and its employees and agents and shall take all reasonable safety precautions with respect to its Subcontract Work and in accordance with all applicable Laws. Subcontractor shall comply with all safety policies and procedures initiated by Contractor for the Project, including Contractor's policy regarding drugs, alcohol and controlled substances and shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority for the safety of persons or property, including, but not limited to, the Federal Occupational Safety and Health Act (OSHA). Subcontractor shall immediately notify Contractor of any injury to any of the Subcontractor's employees or agents. Subcontractor shall require its personnel to attend any safety meetings Contractor might conduct and direct Subcontractor to attend.

10.3 Subcontractor agrees that the prevention of accidents to workers engaged in the Subcontract Work under Subcontractor is solely its responsibility. Subcontractor shall comply with all applicable safety laws and with any safety standards established during the progress of the Subcontract Work by Contractor. If requested by Contractor, Subcontractor shall submit a safety plan for review by Contractor. The review of any safety plan by Contractor shall not be deemed to release Subcontractor or in any way diminish or limit its liability, by way of indemnity or otherwise, as assumed by it under this Agreement.

10.4 Subcontractor agrees that in performing the Subcontract Work, it will not create, use or dispose of any hazardous chemicals or substances in an unlawful or hazardous manner and shall be solely responsible for the lawful, proper and safe handling, storage and removal of all hazardous wastes, chemicals and substances which are introduced to the Project, or removed from the Project Zone, by Subcontractor's operations in performing the Subcontract Work. The term "hazardous waste, chemicals or substances" shall mean those materials and substances prohibited, proscribed, or the use of which is controlled, by any agency of the federal government or the applicable state or local agency having jurisdiction of such matters. Subcontractor shall comply with all federal, state and local regulations dealing with the use, storage or disposal of all hazardous wastes, chemicals and substances. Subcontractor shall be responsible for any and all claims and damages resulting from the use, handling and storage and removal and disposal of such hazardous wastes, chemicals or substances from the Project, and will indemnify, defend and hold Contractor and Owner harmless, in accordance with Section 9 herein, from any and all liability associated with such use, handling, storage, removal and disposal including all associated attorneys' fees and costs of all clean-up operations wherever and whenever required by any governmental authority, Contractor or Owner.

10.5 Subcontractor shall comply with all codes, laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Subcontract Work and shall not allow itself, its employees, agents or subcontractors to submit to or profit financially by any illegal activities, including, but not limited to bribery, threats to property or person, conspiracy, extortion, public or private "kickbacks," corruption, or federal or state racketeering. Subcontractor shall secure and pay for all costs and expenses to perform the Subcontract Work including, without limitation, permits, fees and licenses necessary for the execution of the Subcontract Work, and all federal, state and local taxes in connection with the Subcontract Work, and Subcontractor agrees that all costs thereof are included in the Contract Sum. When required by Contractor, Subcontractor will furnish satisfactory evidence showing its payment of all costs incurred in connection with its performance of the Subcontract Work under this Agreement. Subcontractor shall promptly review the Subcontract Work and report in writing to Contractor any variance with codes, laws, ordinances, rules and regulations, and without having given such notice to the Contractor, Subcontractor shall assume full responsibility therefore, and shall bear all costs and damages attributable thereto.

10.6 When so ordered, Subcontractor shall stop any part of the Subcontract Work which Contractor deems unsafe or improper until corrective measures satisfactory to Contractor have been taken. Should Subcontractor neglect to adopt such corrective measures, Contractor may do so and deduct the cost from any payments due Subcontractor under this Agreement or any other agreement between Contractor and Subcontractor. Subcontractor shall timely submit copies of all accident or injury reports to Contractor.

11. **Assignments.**

11.1 Neither this Agreement nor any interest herein may be transferred, voluntarily or involuntarily, nor may the Subcontract Work or any part thereof be subcontracted by Subcontractor, without the prior written consent of Contractor. Notwithstanding the foregoing,

except as otherwise provided in this Agreement, no assignment or subcontract by Subcontractor shall relieve Subcontractor from its obligations to Contractor hereunder. Contractor may assign this Agreement without the consent of Subcontractor provided the assignee hereof assumes all of Contractor's duties and obligations hereunder, in which case Contractor shall be relieved of all duties, obligations and liabilities under this Agreement.

12. **Labor Relations.**

12.1 Subcontractor shall do whatever is reasonably necessary in the progress of the Subcontract Work to assure harmonious labor relations at the Project Zone and to prevent strikes or other labor disputes. Subcontractor shall employ only such labor as, to Contractor's reasonable satisfaction, will work in harmony at the Project Zone and shall not use materials or employ means which may cause strikes or other labor troubles.

12.2 If requested by Contractor, Subcontractor shall conduct a criminal background check acceptable to Contractor on each and every employee and independent contractor it employs or engages to work on the Subcontract Work or at the Project Zone. Subcontractor shall fully comply with all applicable laws relating to the terms and conditions of employment of any employee who is employed in connection with the Subcontract Work or at the Project Zone.

12.3 Subcontractor agrees not make, or cause any employee or independent contractor it employs or engages to work on the Subcontract Work or at the Project Zone to make, disparaging remarks or comments with respect to Contractor, its related entities or the Owner.

12.4 Subcontractor's authorized subcontractors shall comply with this Section 12 to the same extent required of Subcontractor and an express provision imposing such requirements on lower tier subcontractors shall be included in their subcontracts. Subcontractor shall indemnify, defend and hold the Contractor Indemnified Parties harmless from and against any and all Losses resulting in any way, directly or indirectly, from Subcontractor's failure to comply with the requirements of this Section 12.

13. **Taxes, Charges.**

13.1 Subcontractor shall comply with federal, state and local tax laws, Social Security acts, unemployment compensation acts and workers' compensation acts, insofar as applicable to the performance of the Subcontract Work. Subcontractor shall be responsible for all payments of taxes and other withholdings (whether city, county and/or state taxes), contributions and/or premiums payable on its employees or on its operations under workers' compensation laws, unemployment compensation laws, the Federal Social Security Act, health and welfare benefit plans, gross business taxes, sales and use taxes and any other taxes, contributions and/or premiums which are payable by employers generally, and Subcontractor shall indemnify, defend and hold the Contractor Indemnified Parties harmless from and against any and all Losses resulting from Subcontractor's failure to comply with these requirements in accordance with Section 9 herein. Subcontractor shall comply with all rules and regulations at any time applicable hereto and shall, on demand, substantiate to Contractor's reasonable satisfaction that all taxes and other charges are being properly paid.

14. **Equal Opportunity.**

14.1 Subcontractor shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, national origin, sexual orientation, or other prohibited classification or cause. Subcontractor shall comply with all laws, procedures rules and regulations with regard to nondiscrimination issued or to be issued by any federal, state or local government or agency, including the Equal Employment Opportunity Commission, insofar as they may apply to the Subcontract Work.

15. **General Provisions.**

15.1 The failure of Contractor to insist in any instance upon strict compliance with any of the provisions of this Agreement, or to exercise any options provided Contractor hereunder, shall not be construed as a waiver of Contractor's right to thereafter require such compliance or to exercise such option.

15.2 This Agreement comprises the entire agreement between Contractor and Subcontractor relating to the Subcontract Work covered hereby and no other agreement, representation or understanding concerning the same has been made and no oral statement, understandings or agreement shall affect the terms hereof. All prior discussions, representations and/or agreements shall be merged herein and are superseded hereby.

15.3 To the best knowledge and belief of the parties, this Agreement contains no provision that is contrary to federal, state or local law, ruling or regulation. However, if any provision of this Agreement shall conflict with any such law, ruling or regulation, then such provision shall continue in effect only to the extent permissible. In the event any provision is thus inoperative, the remaining provisions shall, nevertheless, survive and remain in full force and effect.

15.4 No party may commence litigation against the other party without providing written notice and demand to the other party setting forth the matters in dispute including the amounts in dispute and no party may commence litigation against the other party without first mediating the dispute before a certified mediator in Broward County, Florida. In the event, the mediation results in an impasse, the parties may commence litigation. With respect to any litigation, this Agreement shall be construed and governed by the laws of the State of Florida, without giving effect to any choice or conflict of law provision or rule. The sole and exclusive venue for any suit, action or proceeding arising out of, relating to, to interpret or for breach of this Agreement, or with respect to the Subcontract Work (a "Related Proceeding") shall be in the courts of Broward County, Florida, federal or state. Each of the parties irrevocably consents and submits to the exclusive subject matter and personal jurisdiction of the courts of the State of Florida located in Broward County, and of the United States District Court for the Southern District of Florida located therein for the purposes of a Related Proceeding, and irrevocably waives, to the fullest extent it may effectively do so, (i) any objection it may have to the laying of venue of any Related Proceeding in the Courts of Broward County, Florida, federal or state,

and (ii) the defense of any inconvenient forum to the maintenance of any Related Proceeding in such court.

15.5 CONTRACTOR AND SUBCONTRACTOR HEREBY SEVERALLY, VOLUNTARILY, KNOWINGLY AND INTELLIGENTLY WAIVE ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY RELATED PROCEEDING, REGARDLESS OF WHETHER SUCH PROCEEDING CONCERNS ANY CONTRACTUAL, STATUTORY, TORTIOUS OR OTHER CLAIM. CONTRACTOR AND SUBCONTRACTOR SEVERALLY ACKNOWLEDGE THAT THEY HAVE BEEN REPRESENTED BY AN ATTORNEY OR HAVE HAD AN OPPORTUNITY TO CONSULT WITH AN ATTORNEY REGARDING THIS AGREEMENT AND UNDERSTAND THE LEGAL EFFECT OF THIS JURY TRIAL WAIVER.

15.6 This Agreement shall be binding on and inure to the benefit of the heirs, successors and permitted assigns of the parties hereto.

15.7 All sections and headings are used for convenience only and do not affect the construction or interpretation of this Agreement.

15.8 This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same Agreement.

15.9 Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, the term "including" is not limiting and the terms "hereof," "herein," "hereunder" and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement unless stated otherwise. Additionally, the parties hereto acknowledge that they have carefully reviewed this Agreement and have had the opportunity to consult with legal counsel of their choosing with respect thereto, and that they understand its contents and agree that this Agreement shall not be construed more strongly against any part hereto, regardless of who is responsible for its preparation.

15.10 The following Exhibits are attached hereto and made part hereof:

Exhibit A	Scope of Subcontract Work
Exhibit B	Contract Sum and Payment Schedule
Exhibit C	Insurance Requirements
Exhibit D	Bond Form
Exhibit E	Additional Terms and Conditions

15.11 This Agreement, including all Exhibits hereto, may not be amended, modified or changed except by a written instrument executed by both Contractor and Subcontractor. No future oral modification or course of dealing shall be effective to modify the express terms of this Agreement unless set forth in a written instrument executed by both Contractor and Subcontractor.

15.12 Sections 2, 3.3, 4, 8, 9, 13, 14 and 15 shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

CONTRACTOR:

ASHBRITT, INC., a Florida corporation

By: _____

Print Name: _____

Title: _____

SUBCONTRACTOR:

100% Landscaping Co., Inc.

By: *[Signature]* _____

Print Name: *Linda Flack* _____

Title: *President* _____

EXHIBIT A

SCOPE OF SUBCONTRACT WORK

The scope of the Subcontract Work shall be as follows:

- Subcontractor shall be required to attend meetings with Contractor to identify disaster recovery priorities.
- Subcontractor shall be able to respond to emergency situations when product is unknown or extent of service needed is uncertain.
- Contractor and Subcontractor shall identify work-site limitations.
- Subcontractor shall obtain all required permits, certifications and licenses.
- Subcontractor shall provide specialized equipment to conduct immediate emergency road clearance, in order to 'cut and toss' the debris and disaster generated obstacles out of the rights of way (ROW). Work areas to be identified by Contractor and City's representative.
- Subcontractor shall assist Contractor and City in providing clearance to allow for emergency access of search and rescue operations.
- Subcontractor shall assist public/private utility companies with the ability to provide water and electrical service.
- Subcontractor shall be responsible for the removal of 'Eligible' debris from public property and ROW.
- While Subcontractor is engaged in work requirements under this Agreement, Subcontractor shall be responsible for the security of water, sewer, storm drain, cable television, gas lines, electrical lines and all other infrastructure and communication lines or other utility lines.
- Subcontractor shall assist Contractor and City in the assessment of suspected contaminations of hazardous materials and conduct hazardous materials abatement if so directed by Contractor.

EXHIBIT B

PAYMENT SCHEDULE

Contract for Disaster Recovery Services: Ashbritt Hourly/Service Rate Schedule

Heavy Equipment	Size or Type	U/M	Unit Price
<i>Operators Included</i>			
Skid Steer Loader	Bobcat	Hour	\$50.00
Backhoe	Cat 416	Hour	\$73.00
Wheel Loaders	Cat 950	Hour	\$96.00
Wheel Loaders	Cat 966	Hour	\$107.00
Wheel Loaders	Cat 980	Hour	\$123.00
Tracked Loader	Cat 955	Hour	\$96.00
Towed Loader w/ Tractor	Prentice 210	Hour	\$107.00
Dozer	Cat D4	Hour	\$81.00
Dozer	Cat D5	Hour	\$88.00
Dozer	Cat D6	Hour	\$108.00
Dozer	Cat D7	Hour	\$112.00
Dozer	Cat D8	Hour	\$127.00
Excavators	Cat 320	Hour	\$85.00
Excavators	Cat 325	Hour	\$103.00
Excavators	Cat 330	Hour	\$115.00
Tractor w/ Box Blade	80 Hp	Hour	\$27.00
Bucket Truck	Up to 50' reach	Hour	\$100.00
Bucket Truck	50' to 75' reach	Hour	\$115.00
Mechanized Broom	Street Sweeper	Hour	\$57.00
Chipper w/ 2 man crew	Morbark Storm	Hour	\$96.00
Equipment Transport w/ Tractor	50 Ton	Hour	\$88.00
Truck Mounted Winch	Tow Truck	Hour	\$69.00
Pickup Truck	1/2 Ton	Day	\$96.00
Pickup Truck	3/4 Ton	Day	\$111.00
Pickup Truck	1 Ton	Day	\$134.00
Superintendent w/ Pickup Truck	Individual	Hour	\$61.00
Supervisor w/ Pickup Truck	Individual	Hour	\$50.00
Safety or QC Manager w/ Pickup Truck	Individual	Hour	\$61.00
Climber w/ Gear	Individual	Hour	\$72.00
Operator w/ Chainsaw	Individual	Hour	\$40.00

Laborer w/ Tools	Individual	Hour	\$23.00
Traffic Control Personnel	Individual	Hour	\$23.00

Payment terms: Work week is from Sunday to Saturday. Invoices from Subcontractor are due to the Contractor every Monday following the completion of a work week. Ashbritt will process payment within a time period not to exceed 15 days. Subcontractor will bill Contractor by the hour or day based on the hourly log or daily log which is provided by the Client. Payment of hours shall be recorded on an hourly log signed by City's representative. The hourly log will be the basis for payment.

Contractor shall retain 10% Retainage from each payment made herein, which Retainage shall be paid in accordance with Section 2 of the Agreement.

EXHIBIT C

INSURANCE REQUIREMENTS

The insurance requirements for this Agreement are as follows:

General Liability

A rated Category VIII or greater
\$1,000,000 per occurrence
\$1,000,000 products and completed operations
\$1,000,000 premises and operations
\$1,000,000 personal injury
\$2,000,000 aggregate limit
AshBritt listed as additional insured
Waiver of subrogation

Automobile Liability

A rated Category VIII or greater
\$1,000,000 per occurrence.
Hired and nonowned included.
Symbol 1 or 2 only on policy
AshBritt listed as additional insured
Waiver of subrogation

Workers compensation

A rated Category VIII or greater.
\$500,000 each accident
\$500,000 each occurrence
\$500,000 disease limit
AshBritt named as additional insured.

EXHIBIT D

BOND FORM

Attached Bond Form, if applicable or state "None" if not applicable.

EXHIBIT E

ADDITIONAL TERMS AND CONDITIONS

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID NT
ONEHUN1

DATE (MM/DD/YYYY)
10/29/10

PRODUCER Todd-Dorroh Insurance, Inc. 4388 Clinton St. Marianna FL 32446 Phone: 866-482-2310 Fax: 850-482-7042	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED 100% Landscaping Company, Inc. Todd Flack Qualifier 17401 South West 70th Place Southwest Ranches FL 33331	INSURER A: COMMERCE AND INDUSTRY INS. CO.	
	INSURER B: SCOTTSDALE INSURANCE CO.	
	INSURER C: NORTHERN INS. CO. OF NY	
	INSURER D:	
	INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR/ADD'L LTR	INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
B		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO. JECT <input type="checkbox"/> LOC	CPS1245595	07/07/10	07/07/11	EACH OCCURRENCE	\$ 1,000,000
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
						MED EXP (Any one person)	\$ 10,000
						PERSONAL & ADV INJURY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 2,000,000
						PRODUCTS - COMP/OP AGG	\$ 2,000,000
C		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> Hired Auto Phys. Dmg. \$500	SCP 33061392	05/15/10	05/15/11	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
						BODILY INJURY (Par person)	\$
						BODILY INJURY (Par accident)	\$
						PROPERTY DAMAGE (Par accident)	\$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN AUTO ONLY: EA ACC	\$
						AGG	\$
A		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$	EBU067325122	10/15/10	10/15/11	EACH OCCURRENCE	\$ 5,000,000
						AGGREGATE	\$ 5,000,000
						PRODUCTS	\$ 5,000,000
							\$
							\$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	WC662-66-58	03/01/10	03/01/11	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
						E.L. EACH ACCIDENT	\$ 1,000,000
						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
						E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
C		Equipment Floater	SCP 33061392	05/15/10	05/15/11	Tools	5,000
						Equipment	100000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 ASHRITT, INC. IS NAMED AS ADDITIONAL INSURED IN RESPECTS TO GENERAL LIABILITY, AUTOMOBILE LIABILITY AND WORKERS COMPENSATION. WAIVER OF SUBROGATION APPLIES TO GENERAL & AUTOMOBILE LIABILITIES.
 100,000 ALL RISK RENTAL EQUIPMENT COVERAGE
 FAX 954-680-7179

CERTIFICATE HOLDER

CANCELLATION

ASHRITT, INC.
 480 S ANDREWS AVE STE103
 POMPANO BEACH FL 33069

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURED, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Francine Todd