

**AGREEMENT FOR EMERGENCY RESPONSE AND DEBRIS MANAGEMENT AND
RECOVERY SERVICES**

THIS AGREEMENT made and entered into on this 30 day of August, 2019, by and between:

CITY OF COOPER CITY, FLORIDA, a municipal corporation, of the State of Florida, with a business address of 9090 SW 50th Place, Cooper City, Florida 33328, hereinafter referred to as “CITY”,

and

ASHBRITT, INC. with a business address of 565 E. Hillsboro Blvd., Deerfield Beach, FL 33441 hereinafter referred to as “PRIMARY CONTRACTOR”,

Recitals

WHEREAS, the CITY may experience massive destruction wrought by the impact of a hurricane landfall, violent storms, spawning tornadoes as well as other natural and/or man- made disasters (hereinafter “Catastrophic Events”); and

WHEREAS, the CITY finds it necessary to contract with Emergency Response and Debris Management and Recovery Contractors in order to remove disaster generated debris from public property and public rights of way so as to protect the public health and safety, minimize economic and environmental impacts and facilitate the restoration of normal public services following a Catastrophic Event; and

WHEREAS, the City finds it necessary to contract with Emergency Response and Debris Recovery Contractors in order to remove disaster generated debris, subject to compliance with any and all local, state and federal regulations, including FEMA requirements so as to protect the public health and safety, minimize economic and environmental impacts and facilitate the restoration of normal public services following a Catastrophic Event; and

WHEREAS, the CITY previously issued a **Request for Proposal No. #RFP 2019-3-PW** (hereinafter “RFP”), for Emergency Response, Debris Management, and Recovery Services on an as needed basis, a copy of which is attached hereto as **Exhibit “A”** and incorporated herein by reference; and

WHEREAS, other services of the PRIMARY CONTRACTOR may include facilitating communication with the Federal Emergency Management Agency (hereinafter “FEMA”), the Federal Highway Administration (hereinafter “FHWA”), Broward County, the State of Florida and other federal, state or local agencies, and coordination with state insurance representatives; and

WHEREAS, the PRIMARY CONTRACTOR desires to perform such services subject to the terms of this Agreement; and

WHEREAS, FEMA's regulations require that the CITY has a written contract with its PRIMARY CONTRACTORS to be used following Catastrophic Events, as described above; and

WHEREAS, the CITY and the PRIMARY CONTRACTOR has reached a mutual agreement as to the terms and conditions of such services; and

WHEREAS, this Agreement would potentially be invoked for City, County, State and Federally declared emergency disaster events and where the services will only be required when an emergency situation exists which threatens the life, safety or welfare of the citizens of Cooper City; and

WHEREAS, the City Commission of the City of Cooper City, Florida deems it in the best interest of the citizens and residents of the CITY to enter into an agreement with PRIMARY CONTRACTOR for Emergency Response, Debris Management, and Recovery Services.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, understandings, conditions, premises, covenants, and payment hereinafter set forth, and intending to be legally bound, the parties hereby agree as follows:

Article 1 – Recitals

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

Article 2 - Scope of Professional Services

2.1 Debris Removal: It is the intent of this Agreement for the PRIMARY CONTRACTOR to provide the services as described the RFP at Section V, so as to protect the public health and safety, minimize economic and environmental impacts and facilitate the restoration of normal public services. Clean up, demolition and removal will be limited to: (1) that which is determined to eliminate immediate threats to life, public health, and safety; (2) that which has been determined to eliminate immediate threats of significant damage to improved public property (or private property when specifically authorized by the CITY), and; (3) that which is considered essential to ensure economic recovery of the affected community to the benefit of the community-at-large. The Services shall consist of clean up, demolition, removal, reduction, and disposal of debris from CITY streets, roads, and right-of-ways, public property and facilities and any other facility or site as directed by the designated representative of the CITY.

Specifically, the Scope of Services will encompass the services as set forth in the RFP, attached hereto as **Exhibit "A."**

2.1.1 Ownership and Disposal of Debris: The PRIMARY CONTRACTOR shall be responsible for removal of debris up to the point where debris can only be described as light litter and additional collection can be facilitated only by sweeping and raking. All debris handled by the PRIMARY CONTRACTOR shall become the property of the

PRIMARY CONTRACTOR upon collection. The PRIMARY CONTRACTOR shall be responsible for the lawful disposal of all debris handled or transported. The PRIMARY CONTRACTOR shall not use any disposal site not designated by the CITY without written consent.

2.1.2 Permits and Regulations: All necessary permits, licenses and certificates required for the execution of this Agreement as set forth in **Exhibit "A"** shall be secured and paid for by the PRIMARY CONTRACTOR.

2.1.3 Event Closure: PRIMARY CONTRACTOR will assist the CITY in preparing final reports necessary for reimbursement by FEMA, FHWA and any other applicable agencies for disaster recovery efforts by CITY staff and designated Debris Removal Contractors.

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

2.2 Supervision by PRIMARY CONTRACTOR: The PRIMARY CONTRACTOR will supervise and direct all Services. The PRIMARY CONTRACTOR is solely responsible for the means, methods, techniques, sequences, safety program and procedures. The PRIMARY CONTRACTOR will employ and maintain on the worksite a qualified supervisor(s) who shall have full authority to act on behalf of the PRIMARY CONTRACTOR and all communications given to the supervisor(s) by the CITY's Authorized Representative shall be as binding as if given to the PRIMARY CONTRACTOR. The name(s) of the supervisor(s) will be supplied to the CITY for each issuance of a Notice to Proceed through an attachment to this Agreement in the form of a Memorandum for the Record.

2.3 Changes in the Scope of Services: The CITY and PRIMARY CONTRACTOR may at any time order changes within the scope of services without invalidating this Agreement. All changes affecting the project's costs or modifications of the terms, conditions, and the scopes of services of this Agreement shall be authorized by means of an official written Contract Change Order that is mutually agreed upon and signed by the CITY and the PRIMARY CONTRACTOR. All changes must be recorded on a written Contract Change Order before PRIMARY CONTRACTOR may proceed with the changes to the services provided. All changes must be allowable, allocable, within the scope of FEMA's grant or cooperative agreement, and reasonable for the completion of the Project. CITY's Signatory Authority for such changes shall be as set for in the CITY's Code of Ordinances.

Article 3- Term of Agreement

3.1 Term: This Agreement shall be effective August 30, 2019 and shall be for an initial period of five (5) years on the date of issuance of a Notice to Proceed.

3.2 Renewal: The Agreement may be extended for one (5) year term under the same terms and conditions, if mutually agreed upon by both parties.

Article 4- Payment

4.1 Pricing for all services shall be done in accordance with PRIMARY CONTRACTOR's Proposal incorporated herein by reference as Exhibit "B".

4.2 The PRIMARY CONTRACTOR expressly agrees that it will not be compensated for disposing of any material not defined as eligible debris. The term "eligible debris" shall have that meaning as given under 44 C.F.R. 206.224 and as further defined in the FEMA Debris Management Assistance Policy Guidebook. The PRIMARY CONTRACTOR and CITY will inspect each load to verify that 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. No payment will be allowed for that load and the PRIMARY 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 PRIMARY CONTRACTOR and numbered tickets shall be supplied to the CITY by the PRIMARY CONTRACTOR and the CITY'S designee on site. Each invoice shall contain verification for 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 tickets disputed will be returned to the PRIMARY CONTRACTOR within five (5) working days of invoice date for additional clarification prior to payment of those tickets.

4.3 Invoices shall be emailed to Accounting@CooperCityFL.org, or sent via US Mail to City of Cooper City, P.O. Box 290910, Cooper City, FL 33329-0910. All invoices must reference the applicable task order and/or Bid number.

4.4 The CITY shall make payment on all invoices in accordance with the Florida Prompt Payment Act, Sections 218.70 through 218.79, Florida Statutes, inclusive.

4.5 Other than the fees set forth herein, the PRIMARY CONTRACTOR shall not be entitled to payment for expenses, fees, or other costs it may incur at any time and in any connection with its performance hereunder.

Article 5- City Obligations

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

5.2 The CITY shall pre-designate necessary Temporary Debris Storage and Reduction (“TDSR”) sites either within the CITY, or as designated by Broward County, for the sole purpose of the temporary storage and reduction of clean woody debris and construction and demolition materials. If requested by the CITY, the PRIMARY CONTRACTOR shall operate the TDSR sites and only PRIMARY CONTRACTOR vehicles and others specifically authorized by the CITY will be allowed to use these sites. The PRIMARY CONTRACTOR shall have a General Operation Plan, which describes the operations PRIMARY CONTRACTOR expects to carry out at each site, i.e., materials handling, reduction, storage, recycling operations, equipment maintenance, etc. The PRIMARY CONTRACTOR shall include provisions for rodent control, noise abatement, etc. If any facilities are utilized for air curtain burning, they must be approved by the CITY and Broward County.

5.3 The CITY may also establish homeowner drop-off sites for debris. If requested by the CITY, the PRIMARY CONTRACTOR shall be responsible for removing all debris from these sites.

5.4 The CITY shall timely pay PRIMARY CONTRACTOR in accordance with Part VII, Chapter 218, Florida Statutes.

Article 6- FEMA Reimbursements and Requirements

Any reference made to PRIMARY CONTRACTOR in this section shall also apply to any Subcontractor under the terms of this Contract. The PRIMARY CONTRACTOR shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses:

6.1 PRIMARY CONTRACTOR shall assist CITY in completing any and all forms necessary for reimbursements from state or federal agencies, including but not limited to FEMA, relating to costs arising out of Disaster and Debris Management Services. This may include, but is not limited to, the timely completion and submittal of reimbursement requests, preparation and submittal of any and all necessary cost substantiation and preparing replies to any and all agency denial or inquiries. PRIMARY CONTRACTOR responsibilities in this regard are set forth in **Exhibit “A”**.

6.2 If reimbursement is denied to CITY due to PRIMARY CONTRACTOR’s negligence collecting or removing debris, completing project worksheets and load tickets, or documenting work performed, PRIMARY CONTRACTOR upon notification from FEMA or the Florida Division of Emergency Management of such denial and upon written demand by the CITY, shall reimburse CITY for amounts denied due to PRIMARY CONTRACTOR’s negligence. This obligation shall survive the term or termination of this Agreement.

6.3 Notwithstanding anything to the contrary set forth herein, PRIMARY CONTRACTOR shall comply with the following federally required standard provisions, as set forth in 2 C.F.R. Sec. 200.326 and 2 C.F.R. Part 200. In the event of any conflicts, the provisions of this section shall prevail.

6.3.1 Equal Employment Opportunity: During the performance of this contract, PRIMARY CONTRACTOR agrees as follows:

(1) PRIMARY CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. PRIMARY 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. PRIMARY 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) PRIMARY CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of PRIMARY 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) PRIMARY CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with PRIMARY CONTRACTOR's legal duty to furnish information.

(4) PRIMARY CONTRACTOR will send to each labor union or representative of workers with which it 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 PRIMARY 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.

(5) PRIMARY 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.

(6) PRIMARY 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.

(7) In the event of PRIMARY CONTRACTOR's non-compliance 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 PRIMARY 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.

(8) PRIMARY CONTRACTOR will include the provisions of paragraphs (1) through (8) 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. PRIMARY 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 PRIMARY CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, PRIMARY CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

6.3.2 Davis-Bacon Act: Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor Regulations (29 CFR Part 5). **In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.**

6.3.3 Copeland "Anti-Kickback" Act: PRIMARY CONTRACTOR shall comply with the Copeland "Anti-Kickback" Act, (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). PRIMARY CONTRACTOR must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. CITY must report all suspected or reported violations to the Federal awarding agency.

6.3.4 Contract Work Hours and Safety Standards Act. (40 U.S.C. 3701- 3708). Where applicable, pursuant to 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor

regulations (29 CFR Part 5) PRIMARY CONTRACTOR must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

- (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. 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 other 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.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

6.3.5 Clean Air Act: Pursuant to 42 U.S.C. 7401- 7671q. and the Federal Water Pollution Control Act (33 U.S.C. 1251- 1387), as amended PRIMARY 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). CITY will report violations to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Clean Air Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The contractor agrees to report each violation to CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the State, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The contractor agrees to report each violation to the CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the State, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.”

6.3.6. Suspension and Debarment. 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)

- (1) 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. This certification is a material representation of fact relied upon by 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 State and CITY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

- (2) 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 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.”

6.3.7. 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.”

6.3.8 Compliance with State Energy Policy and Conservation Act. Contractor shall comply with all mandatory standards and policies relating to energy efficiency contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163, 89 Stat. 871).

6.3.9 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, along with the list of EPA-designated items, is available at EPA’s Comprehensive Procurement Guidelines web site, <http://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

6.3.10 Pursuant to 44 CFR 13.36(i)(7), Contractor shall comply with FEMA requirements and regulations pertaining to reporting, including but not limited to those set forth at 44 CFR 40 and 41

6.3.11 Pursuant to 44 CFR 13.36(i)(8), Contractor agrees that if this Agreement results in any copyrightable materials or inventions, in accordance with 44 CFR 13.34, FEMA reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use the copyright of said materials or inventions for Federal Government purposes

6.3.12 Access to Records. In accordance with 44 CFR 13.36(i)(11) and Chapters 119 and 257, Florida Statutes,

(1) The Contractor agrees to provide the City, State, FEMA, 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 the contract for the purposes of making audits, examinations, excerpts and transcriptions.

(2) The Contractor agrees to maintain all books, records, accounts and reports required under the contract for a period of not less than five (5) years after the date of termination or expiration of the contract, except in the event of litigation or settlement of claims arising from the performance of the contract, in which case Contractor agrees to maintain same until the City, the State, FEMA, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

(3) In order to comply with Florida's public records laws, the Contractor shall:

a. Keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the services under the Agreement.

b. 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 Chapter 119 Florida Statutes 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.

d. Meet all requirements for retaining public records and transfer, at no cost, to the CITY all public records in possession of Contractor upon termination of the Agreement 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.

IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PRIMARY CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

**KATHRYN SIMS
PO BOX 290910
COOPER CITY, FL 33329
(954) 434-4300**

6.3.13 No Obligation by the Federal Government

(1) Absent the express written consent by the Federal Government, the Federal Government or FEMA is not a party to the contract and shall not be subject to any obligations or liabilities to the City, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FEMA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

6.3.14 DHS Seal, Logo, and Flags. The Contractor shall not use DHS(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

6.3.15 Compliance with Federal Law, Regulations, and Executive Orders. This is an acknowledgement that FEMA financial assistance will be used to fund the Contract only. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

6.3.16 Fraudulent Statements. The Contractor acknowledges that 31 U.S.C. Chap. 38 applies to the Contractor's actions pertaining to this Contract.

Article 7- Termination

7.1 Termination. This Agreement may be terminated by the CITY upon thirty (30) days advance written notice to the other party; but if any work or service/task hereunder is in progress but not completed as of the date of termination, then this Agreement may be extended upon written approval of the CITY until said work or service(s)/task(s) is completed and accepted.

- A.** Termination for Convenience. In the event this Agreement is terminated or cancelled upon the request and for the convenience of CITY with the required 30-day advance written notice, CITY shall reimburse PRIMARY CONTRACTOR for actual work satisfactorily completed.
- B.** Termination for Cause. Termination by CITY for cause, default, or negligence on part of the PRIMARY CONTRACTOR shall be excluded from the foregoing provision. Termination costs, if any shall not apply. The 30-day advance notice requirement is waived in the event of termination for cause.

- C. Termination Due to Unavailability of Funds in Succeeding Fiscal Years. When funds are not appropriated or otherwise made available to support continuation or performance in the subsequent fiscal year, this Agreement shall be canceled and the PRIMARY CONTRACTOR shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of supplies or services/tasks delivered under this Agreement.

Article 8- Insurance

8.1 PRIMARY CONTRACTOR shall not commence performance under this Agreement until has obtained all insurance required under this Article and such insurance has been approved by the Risk Manager of the CITY.

8.2 CERTIFICATES OF INSURANCE reflecting evidence of the required insurance, shall be filed with the CITY's Risk Manager prior to the commencement of this Agreement. Policies shall be endorsed to provide the CITY thirty (30) days' notice of cancellation or the PRIMARY CONTRACTOR shall obtain written agreement from its Agent to provide the CITY thirty (30) days' notice of cancellation. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. Financial Ratings must not be less than "A" as to management, and Class VI as to financial strength in the latest edition of "Best's Insurance Guide", published by A.M. Best Guide.

8.3 Insurance shall be in force until the obligations required to be fulfilled under the terms of the Contract are satisfied. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this contract, then in that event, the PRIMARY CONTRACTOR shall furnish, at least fifteen (15) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the contract and extension thereunder is in effect. The PRIMARY CONTRACTOR shall not commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. PRIMARY CONTRACTOR shall be responsible for subcontractors and their insurance. PRIMARY CONTRACTOR shall be liable to CITY for any lapse in service resulting from a gap in insurance coverage.

8.4 Required Insurance:

8.4.1 COMPREHENSIVE GENERAL LIABILITY INSURANCE - \$1,000,000 combined single limit of insurance per occurrence and \$2,000,000 in the general aggregate for Bodily Injury and Property Damage and \$3,000,000 general aggregate for Products/Completed Operations, Comprehensive General Liability insurance shall include endorsements for property damage; personal injury; contractual liability; completed operations; products liability and independent contractors' coverage.

8.4.2 WORKERS' COMPENSATION INSURANCE - Contractor shall provide coverage for its employees with statutory workers' compensation limits, and no less than \$1,000,000.00 for

Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City and its agents, employees and officials.

8.4.3 COMPREHENSIVE AUTOMOBILE LIABILITY INSURANCE - Contractor shall provide coverage for all owned, non- owned and hired vehicles with limits of not less than \$1,000,000.00, per occurrence, Combined Single Limits (CSL) or its equivalent.

8.4.4 PROFESSIONAL LIABILITY (ERRORS & OMISSIONS) - Contractor shall provide coverage for all claims arising out of the services performed with limits not less than \$1,000,000.00 per claim. The aggregate limit shall either apply separately to this contract or shall be at least twice the required per claim limit. The Proposer shall either require of its Subcontractors to procure and to maintain Subcontractor's Comprehensive General Insurance and Automobile Liability Insurance of the type and in the same amounts specified above or insure the activities of its Subcontractors in the Proposer's own policies.

8.5 PRIMARY CONTRACTOR shall have its insurer name the City of Cooper City as an additional insured on its General Liability policy and shall hold the CITY, its agents, officers and employees harmless on account of claims for damages to persons, property or premises arising out of the services provided hereunder.

8.6 Any insurance required of PRIMARY CONTRACTOR pursuant to this Agreement must also be required by any sub-contractor in the same limits and with all requirements as provided herein, including naming the CITY as an additional insured, in any work is subcontracted unless such subcontractor is covered by the protection afforded by the PRIMARY CONTRACTOR and provided proof of such coverage is provided to CITY. The PRIMARY CONTRACTOR and any subcontractors shall maintain such policies during the term of this Agreement.

8.7 The CITY reserves the right to require any other insurance coverage it deems necessary depending upon the exposures.

Article 9-Indemnity and Liens

9.1 Indemnity. PRIMARY CONTRACTOR shall indemnify and hold CITY and its Agents, officers, commissioners or employees harmless for any damages resulting from failure of PRIMARY CONTRACTOR to take out and maintain the above insurance. Additionally, PRIMARY CONTRACTOR agrees for good and valuable consideration in the amount of ten dollars (\$10.00) to protect, defend, indemnify, and hold the City of Cooper City and its officers, commissions, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses, liabilities of every kind and character resulting from the error, omission or negligent act of PRIMARY CONTRACTOR, its agents, employees or representative, in the performance of PRIMARY CONTRACTOR's duties set forth in this Agreement. PRIMARY CONTRACTOR further agrees to investigate, handle, respond to, provide defenses for and defend any such claims, etc., even if such claim is groundless, false or fraudulent.

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

Article 10- Subcontractors

10.1 Local Resources The PRIMARY CONTRACTOR shall, to the extent practicable, give priority to utilizing resources in CITY and surrounding areas, including but not limited to procuring supplies and equipment, awarding subcontracts, and employing workers.

10.2 Subcontractors

10.2.1 The PRIMARY CONTRACTOR shall be fully responsible to the CITY for the acts and omissions of its subcontractors and of persons directly or indirectly employed by them, as the PRIMARY CONTRACTOR is for the acts and omissions of persons employed by it. The PRIMARY CONTRACTOR shall cause appropriate provisions to be inserted in all subcontracts, which reflect the termination provisions that the CITY may exercise over the PRIMARY CONTRACTOR under this Agreement.

10.2.2 Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and the CITY or subject the CITY to liability of any kind to any subcontractor. The PRIMARY CONTRACTOR shall supply the names and addresses of subcontractors and materials suppliers when requested to do so by the CITY upon activation of the Agreement and updated by the PRIMARY CONTRACTOR to the CITY on a biweekly basis during said activation.


10.2.3 PRIMARY 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, to provide and perform such services to CITY'S satisfaction for the agreed compensation, and meets all other requirements of the RFP, including without limitation insurance requirements. PRIMARY CONTRACTOR shall be solely responsible for payment of subcontractors, and its failure to pay subcontractors shall be grounds for withholding future payments to PRIMARY CONTRACTOR, or termination of this Agreement.

10.2.4 The PRIMARY CONTRACTOR shall not use a subcontractor or material supplier against whom the CITY has a reasonable objection to, and shall to the extent practicable subcontract with local firms currently doing business with the CITY. All subcontractors will operate in strict accord with all local, state, and federal laws governing this type of work.

10.2.5 No subcontract shall, under any circumstances, relieve the PRIMARY CONTRACTOR of its liability and obligations under this Agreement and all transactions with the CITY must be through the PRIMARY CONTRACTOR.

Article 11 - Special Conditions

11.1 Independent Contractor: All employees of the PRIMARY CONTRACTOR shall be, at all times, the sole employees of the PRIMARY CONTRACTOR under its sole discretion and not an employee or agent of the CITY. The PRIMARY CONTRACTOR shall supply competent and physically capable employees who shall have and wear proper identification. The CITY reserves the right to require the PRIMARY CONTRACTOR to remove an employee the CITY deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on CITY property is not in the best interest of the CITY. The CITY also reserves the right to dismiss any of the PRIMARY CONTRACTOR's drivers who fail to follow proper safety and traffic rules and regulations.

RFP Section IV, Paragraph 4.24 shall apply. 

11.2 Liquidated Damages: ~~Liquidated damages of \$1,500.00 per day will be deducted from the Agreement sum for each regular workday the PRIMARY CONTRACTOR fails without justifiable excuse to perform in accordance with its contractual obligations or, if the contract does not provide specific performance standards or timeliness requirements, in accordance with general industry standards of performance for similar services under similar conditions. The PRIMARY CONTRACTOR will make every attempt to supply the awarded goods/services within the time frame(s) requested. Repeated failure to supply the goods and services may result in termination of the Agreement for cause and shall be cause-in-need for the CITY to procure in the open market goods/services meeting or similar to those specified in the Agreement and obligate the PRIMARY CONTRACTOR to pay the CITY any increase in costs occasioned thereby.~~

11.3 Pre-event Condition: The PRIMARY CONTRACTOR shall return all staging and process areas to their pre-event condition or better.

11.4 No Solicitation: The PRIMARY CONTRACTOR shall not solicit work from private citizens or others to be performed in the designated work areas during the term of this Agreement.

11.5 Work Hours: The PRIMARY CONTRACTOR will/may conduct its operations seven (7) days per week during the hours of 7 a.m. to 10 p.m. Monday through Friday and 8 a.m. to 10 p.m. on weekends and holidays unless otherwise directed by the CITY. However, unless directed otherwise, volumetric reduction operations at temporary debris storage and reduction sites may be conducted on a twenty-four (24) hour, seven (7) day basis. PRIMARY CONTRACTOR will conduct its services at the times and dates necessary appropriate to perform its duties as provided for in this Agreement.

11.6 Protection of Property: The PRIMARY CONTRACTOR shall not enter upon private property for any reason without obtaining permission, and the PRIMARY CONTRACTOR shall be responsible for the preservation of all public and private property, along and adjacent to the work site(s) and shall use every precaution necessary to prevent damage and injury thereto. When

or where any direct or indirect damage or injury is done to public or private property by or on account of the work, or in consequence of the non-execution thereof on the part of the PRIMARY CONTRACTOR, the PRIMARY CONTRACTOR shall restore, at its own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing or rebuilding or otherwise restoring, as may be directed by the CITY, or PRIMARY CONTRACTOR shall make good such damage or injury in an acceptable manner.

11.7 Equipment: All of the PRIMARY CONTRACTOR'S equipment utilized for this Agreement shall be:

- A. In good operating condition and provided with all needed maintenance to sustain this condition for the duration of the Agreement, subject to inspection and approval by the CITY.
- B. Properly registered and insured in accordance with the Motor Vehicle Laws of Florida and in compliance with all federal, state, and local safety regulations.
- C. All loading equipment shall be operated from the road, street, or right-of-way using buckets and/or boom and grapple devices to collect and load debris. No equipment shall be allowed behind the curb or outside of the defined roadway/shoulder section unless directed by the CITY. If operation of the equipment shall be required outside of the ride-away, the CITY will provide Right-of-Entry agreements executed with the property owner prior to the PRIMARY CONTRACTOR work being authorized. No tracked equipment shall be operated on any paved or improved roadway surface.
- D. Prior to commencing operations, the PRIMARY CONTRACTOR shall affix to each piece of equipment, signs or markings indicating the Owner/Operator's name and unique identification number. One sign shall be placed on each side of the equipment. For trucks, trailers and other equipment intended to haul debris, the maximum volume of cubic yards of the load bed shall be shown. Signs shall be maintained in an easily readable fashion for the duration of the work hereunder. Minimum letter size shall be three (3) inches in height.
- E. All trucks and trailers utilized in hauling debris shall be provided with a tailgate that will permit the vehicle to be loaded to capacity and effectively contain the debris on the vehicle while hauling. Sideboards or other extensions to the bed are allowable provided they meet all applicable rules and regulations, cover the front and/or sides, and are constructed in a manner to withstand severe operating conditions. The sideboards must be constructed of 2"x 6" boards or greater and may not extend more than two (2) feet above the medal bed sides. Once installed, all sideboards and extensions must remain in place throughout the operation, or the vehicle shall be re-measured and re-marked. All extensions to the bed are subject to acceptance or rejection by the CITY inspector.

- F. The PRIMARY CONTRACTOR shall use trucks, trailers, and/or equipment approved for use under this Agreement for this Agreement only, and such equipment shall not be used for any other work during the term of this Agreement. A list of approved equipment shall be submitted to the CITY.

11.8 Securing Debris: The PRIMARY CONTRACTOR shall be responsible for properly and adequately securing debris within each piece of equipment utilized to haul debris. Prior to leaving the loading site, the PRIMARY CONTRACTOR shall ensure that each load is secure and trimmed so that no debris extends horizontally beyond the bed of the equipment in any direction. All loose debris shall be reasonably compacted during loading and secured during transport. Tarps or other coverings shall be provided and used by the PRIMARY CONTRACTOR to prevent materials from falling or being blown from the bed.

11.9 Traffic Control: The PRIMARY CONTRACTOR shall mitigate the impact of operations on local traffic to the fullest extent practicable. The PRIMARY CONTRACTOR is responsible for establishing and maintaining appropriate traffic controls in all work areas. The PRIMARY CONTRACTOR shall provide sufficient signing, flagging and barricading to ensure the safety of vehicular and pedestrian traffic in all work areas. All work shall be done in conformity with all applicable federal, state and local laws, regulations and ordinances governing personnel, equipment and work place.

11.10 Hazardous Materials:

- A. The PRIMARY CONTRACTOR shall set aside and reasonably protect any hazardous materials encountered during debris removal operations. The PRIMARY CONTRACTOR shall notify the CITY of the nature and location of any such debris encountered.
- B. The PRIMARY CONTRACTOR must not transport hazardous materials to the TDSR sites or landfills that are not specifically authorized to accept such materials. However, the PRIMARY CONTRACTOR will be responsible for proper handling and storage of any hazardous materials brought to the TDSR site and if requested to manage the site by the CITY, the PRIMARY CONTRACTOR shall provide a suitable area at each TDSR site to accommodate such hazardous materials. The area shall be lined with impervious material and surrounded with berms or other containment structures to contain potential leakage.
- C. The CITY recognizes that construction and demolition debris might contain small amounts of asbestos, lead based paints, or similar materials. These materials may be handled in the same manner as other debris when they constitute less than twenty percent (20%) of a load of debris destined for a TDSR site. Any load containing more than twenty percent (20%) shall be taken directly to a properly permitted Class I landfill authorized to receive such hazardous waste.

11.11 Inoperable Private Vehicles and Equipment: The PRIMARY CONTRACTOR shall not move abandoned vehicles that interfere with debris removal operations. The PRIMARY

CONTRACTOR shall instead report the location of such vehicles to the City of Cooper City Police Department.

11.12 Reports: The PRIMARY CONTRACTOR shall make daily reports to the CITY to detail the progress of the debris removal and disposal program. Such reports shall include a description of all areas where work was done, detailing the street names and address blocks where debris removal was completed. The reports must also include the types and volumes of debris transported, reduced and disposed of.

Article 12- General Conditions

12.1 Interpretation and Venue: This Agreement is made under, and in all respects shall be interpreted, construed, and governed by and in accordance with, the laws of the State of Florida. Venue for any legal action resulting from this Agreement shall lie in the Broward County, Florida.

12.2 Captions: The captions utilized in this Agreement are for purposes of identification only and do not control or affect the meaning or interpretation of any of the provisions hereof.

12.3 Amendment: This Agreement may not be amended, released, discharged, rescinded or abandoned, except by a written instrument duly executed by each of the parties hereto.

12.4 Waiver: The failure of either party hereto at any time to enforce any of the provisions of this Agreement will in no way constitute or be construed as a waiver or relinquishment of such provision or of any other provision hereof, nor in any way affect the validity of, or the right thereafter to enforce, each and every provision of this Agreement.

12.5 Civil Rights: During the term of this Agreement PRIMARY CONTRACTOR assures CITY that it is in compliance with Title VII of the 1964 Civil Rights Act, as amended, and the Florida Civil Rights Act of 1992, in that PRIMARY CONTRACTOR does not on the grounds of race, color, national origin, religion, sex, age, disability or martial status, discriminate in any form or manner against PRIMARY CONTRACTOR's employees or applicants for employment. PRIMARY CONTRACTOR understands and agrees that this Agreement is conditioned upon the veracity of this statement of assurance.

12.6 Other Laws: PRIMARY CONTRACTOR shall at all times comply with all federal, state and local laws, rules and regulations.

12.7 Severability: The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

12.8 Independent Contractor: This Agreement does not create an employee/employer relationship between both Parties. It is the intent of both Parties that the PRIMARY CONTRACTOR is an independent contractor under this Agreement and not the CITY's employee

for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State unemployment insurance law. The PRIMARY CONTRACTOR shall retain sole and absolute discretion in the judgment of the manner and means of carrying out PRIMARY CONTRACTOR's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of PRIMARY CONTRACTOR, which policies of PRIMARY CONTRACTOR shall not conflict with CITY, or United States policies, rules or regulations relating to the use of PRIMARY CONTRACTOR's funds provided for herein. The PRIMARY CONTRACTOR agrees that it is a separate and independent enterprise from the CITY, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between the PRIMARY CONTRACTOR and the CITY and the CITY will not be liable for any obligation incurred by PRIMARY CONTRACTOR, including but not limited to unpaid minimum wages and/or overtime premiums.

12.9 No Contingent Fees: Vendor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Vendor 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 Vendor any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or Infraction of this provision, the City shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

12.10 Dispute Resolution: Upon the occurrence of any dispute or disagreement between the parties hereto arising out of or in connection with any term or provision of this Agreement, the subject matter hereof, or the interpretation or enforcement hereof (the "Dispute"), both Parties shall engage in informal, good faith discussions and attempt to resolve the Dispute. In connection therewith, upon written notice of either party, each of the parties will appoint a designated officer whose task it shall be to meet for the purpose of attempting to resolve such Dispute. The designated officers shall meet as often as the parties shall deem to be reasonably necessary. Such officers will discuss the Dispute. If the parties are unable to resolve the Dispute in accordance with this Section, and in the event that either of the parties concludes in good faith that amicable resolution through continued negotiation with respect to the Dispute is not reasonably likely, then the parties may mutually agree to submit to binding or nonbinding arbitration or mediation.

12.11 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.

12.12 Exhibits: Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.

12.13 Legal Representation: It is acknowledged that each party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement and, accordingly, the rule that a contract shall be interpreted strictly against the party preparing same shall not apply herein due to the joint contributions of both parties.

12.14 Notices: Wherever provision is made in this Agreement for the giving, service or delivery of any notice, statement or other instrument, such notice shall be in writing and shall be deemed to have been duly given, served and delivered, if delivered by hand, mailed by United States registered or certified mail, sent by facsimile addressed as follows:

As to PRIMARY CONTRACTOR: AshBritt, Inc.

Attention: Dow Knight
565 E. Hillsboro Blvd.
Deerfield Beach, FL 33441

As to CITY:

Kathryn Sims, Interim City Manager
City of Cooper City
PO Box 290910
Cooper City, FL 33329
(954) 434-4300 (phone)
(954) 372-4255 (facsimile)

With a Copy to:

Jacob G. Horowitz, City Attorney
Goren, Cherof, Doody & Ezrol P.A.
3099 East Commercial Boulevard, Suite 200
Fort Lauderdale, Florida 33308
(954) 771-4500 (phone)
(954) 771-4923 (facsimile)

Each party hereto may change its mailing address by giving to the other party notice of such change.

12.15 Entire Agreement: This Agreement is intended by both parties hereto to be final expression of this Agreement, and it constitutes the full and entire understanding between the parties with respect to the subject hereof, notwithstanding any prior representations, statements, or agreements to the contrary heretofore made.

12.16 Assignment of Rights/Subletting of Contract: Neither this Agreement nor any interest herein shall be assigned, subcontracted, transferred, or encumbered by PRIMARY CONTRACTOR, except with the prior approval of the City Manager or designee, which shall be in his sole and absolute discretion. PRIMARY CONTRACTOR may subcontract any portion of the work required by this Agreement pursuant to a Subcontractor Plan. The Subcontractor Plan shall specify the anticipated work to be completed by subcontractors, and include a list of all such subcontractors. 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 or designee, subject to his approval, prior to use.

12.17 Attorney's Fees: In the event that either party brings suit for enforcement of this Agreement, the prevailing party shall be entitled to attorney's fees and court costs in addition to any other remedy afforded by law.

12.18 Compliance with Federally Required Contract Provisions: PRIMARY CONTRACTOR shall comply with all, local, state, and federally required contract provisions, as amended from time to time.

12.19 PRIMARY CONTRACTOR agrees to:

- a. Comply with Section 287.135, Florida Statutes, which prohibits agencies from contracting with companies for goods or services of any amount that are on the Scrutinized Companies that Boycott Israel List or that are participating in a boycott of Israel; The boycott Israel list is created pursuant to 215.4725, Florida Statutes.
- b. As the person authorized to sign on behalf of PRIMARY CONTRACTOR, I hereby certify that the PRIMARY CONTRACTOR is not participating in a boycott of Israel. I understand and agree that pursuant to section 287.135, Florida Statutes, the submission of a false certification; or being placed on the Scrutinized Companies that Boycott Israel List, or engaging in a boycott of Israel will be cause for the CITY to terminate this Agreement at the option of the CITY. In addition, the PRIMARY CONTRACTOR may be subject to civil penalties, attorney's fees, and/or costs.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the date first written above.

