

THIRD AMENDMENT

THIS IS THIRD AMENDMENT dated the _____ day of _____
2017, between:

CITY OF POMPANO BEACH, a municipal corporation of the State of Florida, whose address is 100 West Atlantic Boulevard, Pompano Beach, Florida 33060, hereinafter referred to as "CITY,"

and

ASHBRITT, INC., a Florida corporation, having its office and place of business at 565 E. Hillsboro Blvd., Deerfield Beach, Florida 33441, hereinafter referred to as "CONTRACTOR."

WHEREAS, the parties entered into a competitively procured Contract for Disaster Debris Recovery Services on September 16, 2014, ("Original Agreement"), and approved by Resolution No. 2014-308; and

WHEREAS, the parties entered into a Reinstatement and First Amendment to the Original Agreement on June 17, 2016, approved by City Resolution No. 2016-210; and

WHEREAS, the parties entered into a Second Amendment to the Original Agreement on July 28, 2017, approved by City Resolution No. 2017-290; and

WHEREAS, on August 25, 2017, Hurricane Harvey made landfall in Texas as a major Category 4 hurricane and caused a significant amount of flooding, disaster debris and damage; and

WHEREAS, on September 4, 2017, the Florida Governor issued Executive Order 17-235 declaring a State of Emergency in every county in the State of Florida due to Hurricane "Irma"; and

WHEREAS, on September 10, 2017, Hurricane Irma made landfall in South Florida as a major Category 4 hurricane and effected nearly every county in Florida and generated a significant amount of disaster debris statewide; and

WHEREAS, as Hurricane Irma was approaching South Florida, the City requested that Ashbritt mobilize to prepare to perform the Services for the City, and Ashbritt has since commenced providing a certain level of Services; and

WHEREAS, Hurricane Irma caused the presence of a significant amount of disaster-generated debris that currently exists in large piles stacked up along public and private rights-of-way throughout the City; and

WHEREAS, the City's Fire Chief and the County's Health Officer have indicated that large amounts of disaster-related debris scattered throughout the City presents an immediate concern and increased risks to life, public health and/or public safety, and the City Manager has determined that the disaster debris represents such immediate threats to the health and safety of the public and that it is in the public interest to remove the disaster-generated debris as quickly as possible; and

WHEREAS, Ashbritt recently submitted a request to the City to adjust certain rates under the Contract, and Ashbritt claims such rate adjustments are necessary in order to properly and timely perform due to "exigent and emergency conditions" resulting from the magnitude and impacts of both Hurricane Harvey and Hurricane Irma; and

WHEREAS, Ashbritt is presently performing a certain level of Services in the City; and

WHEREAS, several nearby municipalities and Miami-Dade County have granted rate increases generally consistent with the rate adjustments requested by Ashbritt indicating that the proposed adjusted rates reflect current market rates; and

WHEREAS, the City's alternatives to approving the requested rate adjustments are not likely to lead to lower pricing and will further delay debris removal and further exacerbate the existing health and safety conditions resulting from the buildup of decaying disaster debris within the City; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions provided herein, the City and Contractor agree as follows:

1. The above recitals are true and correct and are specifically incorporated into this Amendment.
2. The effective date of this surcharge shall be for work performed on or after September 20, 2017 and will expire upon the completion of work performed as a result of Hurricane Irma.
3. As a result of conditions following Hurricane Irma, the following surcharges for the line items listed below shall be added to the Contractor Bid Price Form set forth in the Contractor's Response to the **RFP**, which is incorporated into the Contract Exhibit "F":

1. Vegetative debris removal from public property (right-of-way) and hauling to DMS within the City limits of City of Pompano Beach	CY	\$6.75
3. Vegetative debris removal from DMS and hauling to final disposal site within Broward County	CY	\$1.50
5. C&D debris removal from public property (right-of-way) and hauling to DMS within the City limits of City of Pompano Beach	CY	\$6.75

7. C&D debris removal from DMS and hauling to final disposal site within Broward County	CY	\$1.50
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3. Contractor agrees to send a separate invoice to the City for the surcharges provided for in this Amendment.

4. As a condition to Contractor's entitlement to the surcharges above, at a minimum, the Contractor agrees to utilize and continuously maintain the following equipment within the City to perform the Services until the Services are completed:

- Quantity Equipment**
- 1 Tub grinder
 - 1 Front-end loader
 - 18 Hauling Units (truck/trailer)
 - 1 Excavator
 - 1 Man Lift

The Contractor may make substitutions to the types of equipment specified above, but only upon prior written approval of the City Manager or designee, which may be withheld in the City's sole discretion.

5. Contractor agrees that to the extent the exigent and emergency conditions claimed by Contractor cease to exist, upon such cessation Contractor shall no longer be entitled to the surcharges provided for in this Amendment.

6. Contractor agrees that if out-of-state debris removal resources become available to Contractor, Contractor pledges to allocate such resources to the City on a first priority basis.

7. The parties agree that this Amendment shall not deemed or interpreted as a waiver of any of the parties' respective rights and remedies under the original Agreement.

Except as modified herein, all terms and conditions of the original Contract remain in full force and effect.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

"CITY":

Witnesses:

CITY OF POMPANO BEACH

By: _____
LAMAR FISHER, MAYOR

By: _____
GREGORY P. HARRISON, CITY MANAGER

Attest:

ASCELETA HAMMOND, CITY CLERK

(SEAL)

Approved by:

MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____, 2017 by **LAMAR FISHER** as Mayor, **GREGORY P. HARRISON** as City Manager, and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

"CONTRACTOR":

Witnesses:

ASHBRITT, INC., a Florida corporation

Christina Demidio
CHRISTINA DEMIDIO

Print Name

By: [Signature]

~~JOHN NOBLE, C.O.O.~~ Randy Perkins,
Chairman

Holly Beckmann

KAREN BECKMANN
Print Name

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 5th day of OCTOBER, 2017 by ^{RANDAL PERKINS CHAIRMAN} ~~JOHN NOBLE~~ as C.O.O. of AshBritt, Inc., a Florida corporation, on behalf of the corporation. He is personally known to me or who has produced _____
_____ (type of identification) as identification.

NOTARY'S SEAL:

Christina Demidio
NOTARY PUBLIC, STATE OF FLORIDA

CHRISTINA DEMIDIO
(Name of Acknowledger Typed, Printed or Stamped)

66042260
Commission Number

