

RESOLUTION NO. 20-02-14

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA APPROVING AND RATIFYING EXECUTION OF AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH ASHBRIIT, INC., FOR DEBRIS MANAGEMENT AND DISASTER RESPONSE SERVICES; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE PROFESSIONAL SERVICE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Islamorada, Village of Islands (the “Village”) secured the services of an experienced emergency response contractor capable of efficiently providing all necessary expertise, personnel, tools, materials, equipment, transportation, supervision and oval services for disaster recovery within the Village limits in accordance with the standards of the Federal Emergency Management Administration and other federal and state agencies through Request for Proposals (“RFP 17-05”); and

WHEREAS, at its regular meeting on September 6, 2017, the Village Council ratified the Professional Service Agreement with Ashbriit, Inc. (“Ashbriit”), the highest-ranked firm for the services set forth in RFP 17-05, which had been executed by the Village Manager on September 5, 2017; and

WHEREAS, at its regular meeting on October 26, 2017, the Village Council adopted Resolution No. 17-10-91, thereby approving a First Amendment to the Professional Service Agreement with Ashbriit to clarify certain disposal fees that were not clearly delineated in the Agreement between the Village and Ashbriit; and

WHEREAS, in performance of the services under this Agreement and the First Amendment, Ashbritt must comply as applicable with regulatory requirements including federal, state, and local laws, rules, regulations, orders, codes, criteria, standards and 2 C.F.R. Part 200; and

WHEREAS, the Village Council has determined that approval and execution of Amendment No. 2 to the Agreement (Exhibit "A" attached hereto) to incorporate federal procurement language from 2 C.F.R Part 200 is in the best interests of the Village and its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. **Approval of Amendment.** The Village Council of Islamorada, Village of Islands, hereby approves and ratifies execution of Amendment No. 2 with Ashbritt for debris management and disaster response services.

Section 3. **Authorization of Village Officials.** The Village Manager and/or his designee and the Village Attorney are authorized to take all actions necessary to implement the terms and conditions of the Agreement.

Section 4. **Authorization of Fund Expenditure.** Notwithstanding the limitations imposed upon the Village Manager pursuant to the Village's Purchasing Procedures Ordinance, the Village Manager is authorized to expend budgeted funds to implement the terms and conditions of the Agreement.

Section 5. **Execution of Amendment.** The Village Manager is authorized to execute the Amendment on behalf of the Village, to execute any required agreements and/or documents to implement the terms and conditions of the Amendment and to execute any extensions and/or amendments to the Agreement, subject to the approval as to form and legality by the Village Attorney.

Section 6. **Effective Date.** This Resolution shall take effect retroactive to September 5, 2017.

Motion to adopt by Councilwoman Deb Gillis, second by Councilman Chris Sante.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Mike Forster	YES
Vice Mayor Ken Davis	YES
Councilwoman Deb Gillis	YES
Councilman Jim Mooney	YES
Councilman Chris Sante	YES

PASSED AND ADOPTED ON THIS 13TH DAY OF FEBRUARY, 2020.



MIKE FORSTER, VILLAGE MAYOR

ATTEST:



KELLY TOTH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF ISLAMORADA,
VILLAGE OF ISLANDS ONLY



ROGET V. BRYAN, VILLAGE ATTORNEY

**SECOND AMENDMENT TO AGREEMENT
FOR DEBRIS MANAGEMENT AND DISASTER RESPONSE SERVICES
BETWEEN
ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA
AND
ASHBRITT, INC.**

Effective November 22, 2017

This Amendment No. 2 to the Contract for Debris Management and Disaster Response Services ("Amendment") is made and entered into this 13th day of February, 2020, by and between ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA ("Village") and ASHBRIIT, INC. ("Contractor").

RECITALS

WHEREAS, the Village entered into a Contract for Debris Management and Disaster Response Services ("Contract") with Contractor dated November 22, 2017 (RFP 17-05);

WHEREAS, in performance of the services under this Contract, Contractor must comply as applicable with regulatory requirements including federal, state, and local laws, rules, regulations, orders, codes, criteria, standards and 2 C.F.R. Part 200; and

WHEREAS, the parties desire to amend the Contract in order to add a new Section to Article of 13 of the Contract; and

NOW THEREFORE, the parties hereby agree as follows:

1. The following Section 13.16 to Article 13 is hereby added to the Contract:

13.16 Federal Provisions. *The VILLAGE and CONTRACTOR shall comply with the applicable terms of Addendum A – Federal Provisions, which is attached to and incorporated in this Contract.*

2. This Amendment No. 1 shall be retroactive with an effective date of November 22, 2017.
3. Except as modified by this Amendment No. 2, all terms and conditions of the original Contract and Amendment No. 1 shall remain in full force and effect for the term of the Contract.

IN WITNESS WHEREOF, the parties have duly executed this Amendment on the date above written.

ASHBRITT, INC.

**ISLAMORADA, VILLAGE OF ISLANDS,
FLORIDA**


By: Dow Knight
Title: Senior Vice President


By: Seth Lawless
Title: Village Manager

ADDENDUM A

FEDERAL CONTRACT PROVISIONS

(The following clauses apply to this contract to the extent allowed by Florida law)

A. EQUAL EMPLOYMENT OPPORTUNITY CLAUSE (2 CFR §200.326 Appendix II to Part 200 (C))

During the performance of the contract, CONTRACTOR shall comply with the Equal Employment Opportunity Clause (41 CFR 60-1.4(b)):

1. *CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. 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, 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. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.*
2. *CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.*
3. *CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the CONTRACTOR's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.*
4. *CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.*
5. *CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor for purpose of investigation to ascertain compliance with such rules, regulations, and orders.*
6. *In the event of the CONTRACTOR's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.*
7. *CONTRACTOR will include the portion of the sentence immediately preceding paragraph 1 and the provisions of paragraph 1 through 7 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: provided, however, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the CONTRACTOR may request the United States to enter into such litigation to protect the interest of the United States.*

B. DAVIS-BACON ACT (2 CFR §200.326 Appendix II to Part 200 (D))

When applicable, CONTRACTOR shall pay wages to laborers and mechanics at a rate not less than those in the attached Davis-Bacon Act Wage Rate Table(s) as made by the Secretary of Labor. CONTRACTOR shall pay wages not less than once per week.

C. COPELAND "ANTI-KICKBACK" ACT (2 CFR §200.326 Appendix II to Part 200 (D))

When applicable, 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"). The Act provides that the CONTRACTOR and CLIENT is 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. The CLIENT must report all suspected or reported violations to the appropriate Federal agency.

1. *CONTRACTOR. The CONTRACTOR shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this Contract.*
2. *Subcontracts. The CONTRACTOR or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime CONTRACTOR shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.*
3. *Breach. A breach of the contract clause above may be grounds for termination of the Contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. §5.12.*

D. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (2 CFR §200.326 Appendix II to Part 200 (E)) (40 U.S.C. 3701-3708)

When applicable, Contracts in excess of \$100,000 that involve the employment of mechanics or laborers shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each CONTRACTOR and its subcontractors shall 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.

E. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT (2 CFR §200.326 Appendix II to Part 200 (F))

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

F. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (2 CFR §200.326 Appendix II to Part 200 (G))

CONTRACTOR shall 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). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

G. DEBARMENT AND SUSPENSION (2 CFR §200.326 Appendix II to Part 200 (H))

A contract cannot be awarded to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Vendor/CONTRACTOR 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 Vendor/CONTRACTOR further agrees to include a provision requiring such compliance in its lower tier covered transactions.

H. PROCUREMENT OF RECOVERED MATERIALS (2 CFR §200.322)

CONTRACTOR must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

I. CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS (2 CFR §200.321)

Should the CONTRACTOR subcontract any of the work under this Contract, CONTRACTOR shall take the following affirmative steps: place qualified small and minority businesses and women's business enterprises on solicitation lists; assure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce. Their websites and contact information can be found at www.SBA.gov and www.MBDA.gov.

J. ENERGY EFFICIENCY AND CONSERVATION

CONTRACTOR shall comply with the mandatory standards and policies of the Florida Energy Efficiency and Conservation Act issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6201).

K. BYRD ANTI-LOBBYING AMENDMENT (2 CFR §200.326 Appendix II to Part 200 (I))

Vendors that apply or bid for an award exceeding \$100,000 must 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 must 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 non-Federal award. If not provided with the bid response, Vendor must complete and submit the Certification Regarding Lobbying Form within three business days of CLIENT's request.