

RESOLUTION No. 2008-154-841

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT, IN SUBSTANTIAL FORM AS THAT AGREEMENT ATTACHED HERETO AS EXHIBIT "A", WITH ASHBRIIT, INC., FOR THE PROVISION OF EMERGENCY DISASTER DEBRIS REMOVAL AND DISPOSAL SERVICES; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, there is an immediate need after a hurricane for the City to remove debris, and

WHEREAS, although the City relies upon Miami-Dade County for solid waste and debris removal, in an emergency situation, often times the County is not able to respond as quickly as the City's needs warrant, and

WHEREAS, the City Manager is recommending to the City Council that it contract with a company to provide emergency debris removal and clean-up services in the event of a hurricane, and

WHEREAS, City staff prepared specifications to retain qualified company(s) to provide disaster debris removal and disposal services in the RFP document 07-08-039 ("RFP"), which was advertised on June 2, 2008, and

WHEREAS, twelve (12) proposals were received in response to the RFP, and

WHEREAS, City staff composed a selection/evaluation committee and selected three (3) of the responding firms for recommendation to the City Council,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2. AUTHORIZATION: The City Manager for the City of Miami Gardens is hereby authorized to negotiate and execute an Agreement in substantial form as that Agreement attached hereto as Exhibit "A" with AshBritt, Inc., for the provision of emergency disaster debris removal and disposal services.

Section 3. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON JULY 23, 2008.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Councilman Bratton
SECOND BY: Councilman Williams

VOTE: 5-0

Mayor Shirley Gibson	<u> X </u> (Yes)	<u> </u> (No)
Vice Mayor Barbara Watson	<u> X </u> (Yes)	<u> </u> (No)
Councilman Melvin L. Bratton	<u> X </u> (Yes)	<u> </u> (No)
Councilman Aaron Campbell	<u> </u> (Yes)	<u> </u> (No) (not present)
Councilman Oliver Gilbert, III	<u> X </u> (Yes)	<u> </u> (No)
Councilwoman Sharon Pritchett	<u> </u> (Yes)	<u> </u> (No) (not present)
Councilman André Williams	<u> X </u> (Yes)	<u> </u> (No)

City of Miami Gardens

1515-200 NW 167th Street
Miami Gardens, Florida 33169



Mayor Shirley Gibson
Vice Mayor Barbara Watson
Councilman Melvin L. Bratton
Councilman Aaron Campbell Jr.
Councilwoman Sharon Pritchett
Councilman Oliver G. Gilbert III
Councilman André Williams

Agenda Cover Page

Date: **July 23, 2008**

Fiscal Impact: No **X** Yes

(If yes, explain in Staff Summary)

Funding Source: N/A

Contract/P.O. Requirement: Yes **X** No

Sponsor Name/Department:

Danny Crew, City Manager

Public hearing

Ordinance

1st Reading 2nd Reading

Advertising requirement: Yes **X** No

RFP/RFQ/Bid # RFP#07-08- 039 Emergency Debris
Removal & Disposal

Quasi-Judicial

Resolution **X**

Title

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT, IN SUBSTANTIAL FORM AS THAT AGREEMENT ATTACHED HERETO AS EXHIBIT "A", WITH _____ FOR THE PROVISION OF EMERGENCY DISASTER DEBRIS REMOVAL AND DISPOSAL SERVICES; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

Staff Summary

City Council awarded contracts to two companies for emergency debris removal & disposal services on an "as needed" basis on April 26, 2006, to ensure a speedy removal of debris after an emergency. Because of revisions to FEMA requirements, our current contracts no longer qualify for reimbursements. As such the City issued a Request for Proposal to hire two contractors as needed, to perform initial clearing and removal of debris following an event for a minimum of one week period. Depending on the extent of damage and the County's ability to respond in a timely manner, the City may opt to extend the cleanup period beyond the one week.

Analysis:

The Federal Emergency Management Agency (FEMA) has revised the requirements for reimbursements. The Federal Highway Administration (FHWA) is requesting Form 1273 to be included in any debris removal contracts. That is not a requirement of our current contracts and therefore, our current contracts do not comply with the revised requirements.

Staff prepared specifications with options to retain one or more contractors to provide emergency debris removal and disposal as needed for an initial term contract of three years.

The RFP #07-08-039 was advertised on June 2, 2008. A broadcast notice was sent to 658 suppliers. Forty-three proposal packages were requested. Twelve proposals were received, seven companies are located within Florida, two companies are located in Alabama, one company is located in Texas, and one company is located in North Carolina.

An evaluation committee consisting of Tom Ruiz, Public Works Director, Maurice Murray, Assistance Code Enforcement Director, and Major Anthony Chapman evaluated the proposals in accordance with the criteria. Reference checks were obtained for the highest ranked companies and provided to the committee at their meeting. The committee met July 3, 2008 and short listed five companies. Telephone conferences were scheduled for July 9, 2008 and held with the five companies as listed below:

<u>Time</u>	<u>Company and Location</u>	<u>Score</u>
10:00 a.m.	AshBritt, Inc. located in Pompano Beach, FL	205
10:30 a.m.	Bamaco Inc., located in Bunnell, FL	219
11:00 a.m.	Ceres Environment Services, Inc., located in Sarasota, FL	199
11:30 a.m.	Crowder Disaster Recovery, located in Tallahassee, FL	186
12:00 a.m.	JB Coxwell Disaster Recover Services, located in Jacksonville, FL	213

A copy of the proposal document, proposal submittals, committee meeting minutes, are available at the Assistant to the Mayor and Council's office for review. The evaluation ranking sheet and price tabulation are attached as **Exhibit "A"** and **Exhibit "B"**. The three top ranked companies were notified that an executive summary for inclusion in the agenda package and their presence at the Council meeting on July 23, 2008, were required.

The evaluation committee thought that each of the top-ranked companies will be able to adequately handle our needs. As such they recommend using only one contractor, which would limit the number of staging areas needed simultaneously.

Staff discovered that the two top-ranked firms, Bamaco Inc. and JB Coxwell Disaster Recover Services misrepresented information provided in their proposals, therefore the committee is recommending award to AshBritt, Inc. the third ranked company.

Recommendation:

The City Council approve the attached resolution authorizing the City Manager to execute an agreement with _____ for a term contract of three years for emergency debris removal and disposal services.

**CITY OF MIAMI GARDENS
PROCUREMENT DEPARTMENT**

**EVALUATION RANKING SHEET
RFP# 07-08-039 EMERGENCY DEBRIS REMOVAL & DISPOSAL SERVICES
June 17, 2008**

By signing this form as an Evaluator, I certify that I have no conflict of interest

Signed _____
Dated: _____

Company	Evidence of ability, capacity & skill of firm to perform (max. 60 pts.)	Capacity to perform & operational plan (max. 75 pts.)	References (max. 45 pts.)	Cost for Services (max. 90 pts.)	Firm(s) located in CMG (max. 15 pts.)	Firm(s) contribute local schools (max. 15 pts.)	Total (max. 300 pts.)
AshBritt, Inc	53	67	41	44	0	0	205
Bamaco, Inc	48	60	41	70	0	0	219
Ceres, Inc.	44	50	33	72	0	0	199
Crowder	41	50	34	61	0	0	186
JB Coxwell	55	68	33	57	0	0	213

Comments:

**CITY OF MIAMI GARDENS
CONTRACT FOR DISASTER DEBRIS REMOVAL & DISPOSAL SERVICES**

THIS AGREEMENT is made and entered into this 28 day of August, 2008, by and between the City of Miami Gardens, a Florida municipal corporation (hereinafter referred to as "CITY"), and AshBritt, Inc., authorized to do business in the State of Florida, (hereinafter referred to as "Company") and jointly referred to as the Parties.

WITNESSETH:

WHEREAS, the CITY advertised a Request for Proposals ("RFP") on June 6, 2008 and

WHEREAS, Company submitted a Proposal dated June 17, 2008 in response to the CITY's request; and

WHEREAS, at a meeting held on July 23, 2008, the City Council selected the COMPANY and agreed to a non-exclusive contract with COMPANY to perform the services described in the RFP and COMPANY's Proposal submitted in response to the RFP ("Services"), And

WHEREAS, AshBritt, Inc. has agreed to withdraw its bid protest made on July 14, 2008, and further agrees to waive any irregularities in RFP or the bidding process,

NOW THEREFORE, in consideration of the premises and the mutual covenants herein named, the parties hereto agree as follows:

Article 1 Incorporation by Reference.

The aforementioned whereas clauses are as well as the following documents are hereby incorporated by reference and made part of this Agreement.

- (i) Specifications and Proposal Documents prepared by the CITY for Disaster Debris Removal & Disposal Services RFP#07-08-039 (Exhibit 1).
- (ii) Proposal for the City of Miami Gardens prepared by COMPANY dated June 17, 2008 (Exhibit 2).

All exhibits may also be collectively referred to as the "Documents". In the event of any conflict between the Documents or any ambiguity or missing specifications or instruction, the following priority is established:

- A. This Agreement
- B. Exhibit 1
- C. Exhibit 2

Article 2 Scope of Services

The scope of services shall consist of emergency as well as non-emergency disaster debris removal and disposal services as requested to (hereinafter "Services"). This non-exclusive Agreement is made solely for the Services to be performed by the COMPANY as described in the Documents. COMPANY shall perform the work under the general direction of the CITY and shall furnish all labor, materials, supplies, equipment, supervision and services necessary for and incident to the performance of the work, except as otherwise noted in specifications. By signing the Agreement, COMPANY represents that it thoroughly reviewed the Documents incorporated into this Agreement by reference, and that it accepts the Work and the conditions under which the Work is to be performed.

Article 3 Qualifications

COMPANY and the individual executing this Agreement on behalf of the COMPANY warrant to the CITY that the COMPANY is a Florida corporation duly constituted and authorized to do business in the State of Florida, is in good standing and that COMPANY possesses all of the required licenses and certificates of competency required by the State of Florida and the County of Miami-Dade to perform the work herein described.

Article 4 Compensation

The COMPANY acknowledges that this is a contingent services contract and that no payments will be made or due from the CITY unless COMPANY is specifically engaged by the CITY for a specific emergency. All payments to be made hereunder shall be paid in accordance with the Rate Schedule contained in COMPANY's Response to RFP#07-08-039. All invoices and payment for services shall be for work completed pursuant to this Agreement after submission of invoices(s) to the CITY. All invoices shall be submitted in accordance with RFP#05-06-009.

The CITY's performance and obligation to pay under this Agreement is contingent upon an annual appropriation for its purpose by the City Council. COMPANY shall make no charges to the CITY for supplies, labor, taxes, licenses, permits, overhead or any other expenses or costs unless any such expense or cost is incurred by COMPANY with prior written approval of the CITY. If the CITY disputes any charges on the invoices, it may make payment of the contested amounts and withhold payment on the contested amounts until they

are resolved by agreement with COMPANY. There are no reimbursable expenses associated with this Agreement.

Article 5 Indemnification

COMPANY shall defend, indemnify, and hold the CITY harmless from and against any and all demands, claims, suits, liabilities, causes of action, judgment or damages, arising out of, related to, or in any way connected with COMPANY's performance or non-performance of any provision of this Agreement including, but not limited to, liabilities arising from contracts between COMPANY and third parties made pursuant to this Agreement. COMPANY shall reimburse the CITY for all of its expenses including reasonable attorney fees and costs incurred in and about defense of any such claim or investigation. Nothing contained herein shall be deemed a waiver of sovereign immunity by the CITY.

Article 6 Insurance

COMPANY shall provide and maintain general liability insurance coverage, for personal injury and property damage in the minimum amount of One Million (\$1,000,000.00) Dollars, per incident, for personal injury, and Five Hundred Thousand (\$500,000.00) Dollars, per incident, for property damage.

COMPANY shall also be required to provide and maintain, during the life of the Agreement, comprehensive automobile liability insurance coverage for bodily injury and property damage in the minimum amount of \$500,000.00 or each occurrence and \$500,000.00 combined single limit.

Such liability policy of insurance shall designate the CITY as an additional insured and COMPANY shall deliver a fully effective certificate to that effect, evidencing no less than thirty (30) day cancellation power.

COMPANY shall also provide CITY with proof that COMPANY has workers' compensation insurance in an amount, which satisfies the requirements of Florida Law, for any employee of the COMPANY.

COMPANY shall not commence work pursuant to this Agreement until all insurance required as stated herein has been obtained and such insurance has been approved by the CITY.

Article 7 Term

This Agreement shall become effective upon execution by both parties and shall continue in force for three years with an option to renew on the same terms for two additional years.

Article 9 Termination

The CITY may, for its convenience and without cause, terminate this Agreement by giving COMPANY written notice at least thirty (30) days prior to the effective date of the termination. Upon written notice of the termination, COMPANY shall provide only those services and incur only those expenses specifically approved or directed in writing by the City Manager.

The CITY may, terminate this Agreement for cause immediately, and shall provide notice as soon as possible to COMPANY.

COMPANY may terminate this Agreement by giving the CITY at least thirty (30) days prior to the effective date of termination.

In the event of termination or expiration of this Agreement, COMPANY and CITY shall cooperate in good faith in order to effectuate a smooth and harmonious transition from COMPANY to the CITY or to any other person or entity the CITY may designate, and to maintain during such period of transition that same services provide to the CITY pursuant to the terms of this Agreement.

COMPANY will take all reasonable and necessary actions to transfer all records, etc. and data of the CITY in its possession in an orderly fashion to either the CITY or its designee in a hard copy and computer format.

If either party terminates this Agreement, the CITY shall only pay COMPANY for the services provided through the date of termination.

Article10 Ownership

All inventions, discoveries, deliverables, intellectual property, technical communications and records originated or prepared by COMPANY pursuant to this Agreement including papers, charts, computer programs, and other documentation or improvements thereto shall be owned by the CITY.

Article 11 Modification/Amendment

This writing and exhibits contains the entire Agreement of the parties. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

No agent, employee, or other representative of either party is empowered to modify and amend the terms of this Agreement, unless executed in writing with

the same formality as this Document. No waiver of any provision of this Agreement shall be valid or enforceable unless such waiver is in writing and signed by the party granting such waiver.

Article 12 Severability

If any term or provision of this Agreement shall to any extent be held invalid, or illegal by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each term and provision of this agreement shall be valid and be enforced to the fullest extent permitted by law.

Article 13 Governing Law

This Agreement shall be construed in accordance with and governing by the laws of the State of Florida. Exclusive venue for any litigation shall be in Miami-Dade County, Florida.

Article 14 Waiver

The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

No waiver by the CITY of any provision of this Agreement shall be deemed to be a waiver of any other provisions hereof or of any subsequent breach by COMPANY of the same, or any other provision or the enforcement thereof. The CITY's consent to or approval of any act by COMPANY requiring the CITY's consent or approval shall not be deemed to render unnecessary the obtaining of the CITY's consent to or approval of any subsequent consent or approval of COMPANY, whether or not similar to the act so consented to or approved.

Article 15 Notices/Authorized Representatives

Any notices required or permitted by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered mail with postage prepaid return receipt delivery, by registered or certified mail with postage prepaid return receipt requested, or by Federal Express addressed to the parties at the following address:

City:
Danny Crew, City Manager
City of Miami Gardens
1515 NW 167th Street #200
Miami Gardens, FL 33169

COMPANY:
AshBritt, Inc.
John W. Noble
480 S Andrews Ave Ste 103
Pompano Beach, FL 33069

Either party shall have the right to change its address for notice purposes by sending written notice of such change of address to the other party in accordance with the provisions herein.

Article 16 Independent Contractor

COMPANY is and shall remain an independent contractor and is not an employee or agent of the CITY. Services provided by COMPANY shall be by employees of COMPANY and nothing in this Agreement shall in any way be interpreted or construed to deem said employees to be agents, employees, or representatives of the CITY.

COMPANY shall be responsible for all compensation, tax responsibilities, insurance benefits, other employee benefits, and any other status or rights of its employees during the course of their employment with COMPANY. The rights granted to COMPANY hereunder are nonexclusive, and the CITY reserves the right to enter into agreements with other persons or firms to perform services including those hereunder.

Article 17 Assignment

Subject to the provisions above, this Agreement shall not be assignable by COMPANY.

Article 18 Prohibition Against Contingent Fees

COMPANY warrants that it has no employees or retained any company or person, other than a bona fide employee working solely for COMPANY, to solicit or secure this Agreement; and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for COMPANY, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

Article 19 Attorneys Fees

Should any dispute arise hereunder, the prevailing party shall be entitled to recover against the nonprevailing party all costs, expenses and attorney's fees incurred by the prevailing party in such dispute, whether or not suit be brought, and such right shall include all of such costs, expenses and attorney's fees through all appeals or other actions.

Article 20 Non-Discrimination

COMPANY agrees to comply with all local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1964 as amended, the Americans with the Disabilities Act of 1990, the Age Discrimination Act of 1975. COMPANY will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/family status or status with regard to public assistance. COMPANY will take affirmative action to insure that all employment practices are free from such discrimination.

Article 21 Conflict of Interest

COMPANY agrees to adhere to and be governed by the Miami-Dade County Conflict of Interest Ordinance Section 2-11.11, as amended, which is incorporated by reference herein as if fully set forth herein, in connection with the Agreement conditions hereunder.

Article 22 Binding Effect

All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective assigns, successors, legal representatives, heirs and beneficiaries, as applicable.

Article 23 Construction

This Agreement and the terms hereof shall be construed in accordance with the laws of the State of Florida and venue for all actions in a court of competent jurisdiction shall lie in Miami-Dade County, Florida.

Article 24 Entire Agreement

No statements, representations, warranties, either written or oral, from whatever source arising, except as expressly stated in this Agreement, shall have any legal validity between the parties or be binding upon any of them. The parties acknowledge that this Agreement contains the entire understanding and agreement of the parties. No modifications hereof shall be effective unless made in writing and executed by the parties hereto with the same formalities as this Agreement is executed.

Article 25 Captions and Paragraph Headings

Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope and intent of this Agreement, nor the intent of any provisions hereof.

Article 26 Joint Preparation

The preparation of this Agreement has been a joint effort of the parties, 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. It is the parties' further intention that this Agreement be construed liberally to achieve its intent.

Article 27 Counterparts

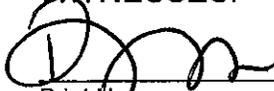
This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

Article 28 Exhibits are Inclusionary

All exhibits attached hereto or mentioned herein which contain additional terms shall be deemed incorporated herein by reference. Typewritten or handwritten provisions inserted in this form or attached hereto shall control all printed provisions in conflict therewith.

IN WITNESS WHEREOF the undersigned parties have executed this Agreement on the date indicated above.

WITNESSES:



Print Name:

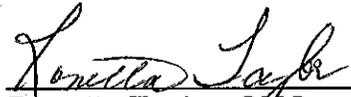
Randi Milner

By: 

Print Name

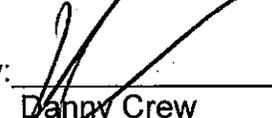
John W. Noble

ATTEST:



Ronetta Taylor, CMC
City Clerk

CITY OF MIAMI GARDENS

By: 

Danny Crew
City Manager

Date: 9/3/2008

APPROVED AS TO LEGAL SUFFICIENCY AND FORM:



Sonja Dickens, City Attorney



August 21, 2008

Pamela Thompson
City of Miami Gardens
1515 NW 167th Street, Building 5, Suite 200
Miami Gardens, FL 33169

Mrs. Thompson,

Per our discussion, AshBritt is agreeing to lower the below denoted prices from what was originally submitted in our response to your RFP #07-08-039 Emergency Removal and Disposal Services.

Item	Unit	Initial Price	New Price
First Response/first push	Per crew/per hour	\$250.00	\$245.00
Debris Collection 0-25 miles	Cubic Yard	\$23.00	\$21.00
Wheel loader Cat 950	Hour	\$120.00	\$115.00
Wheel loader Cat 966	Hour	\$140.00	\$135.00
Wheel loader Cat 980	Hour	\$160.00	\$155.00
Mechanized broom	Hour	\$75.00	\$70.00
Stump backfill	Per stump	\$75.00	\$60.00

Please contact me at the office (954-545-3535) or on my mobile (954-818-3564) in the event you have any questions or if I can be of any assistance whatsoever. Thanks.

Sincerely,

Ralph Dahlgren
Managing Vice President