

## HURRICANE/DISASTER DEBRIS REMOVAL AGREEMENT

**THIS AGREEMENT** (the “Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between the **CITY OF RIVIERA BEACH, FLORIDA**, a municipal corporation (the “City”) and **PHILLIPS AND JORDAN, INC.**, a North Carolina Corporation (the “Independent Contractor”).

**WHEREAS**, the Solid Waste Authority of Palm Beach County, a Florida special district (“SWA”), entered Agreement No. 17-204B with the Independent Contractor for Hurricane/Disaster Debris Removal (the “SWA Contract”), the terms and prices of which are incorporated herein by reference; and

**WHEREAS**, the SWA Contract allowed for and encouraged the Independent Contractor to extend such terms and prices to other governmental agencies; and

**WHEREAS**, Independent Contractor desires to extend such to the City.

**NOW THEREFORE**, in consideration of the mutual covenants and promises set forth herein, the sufficiency of which is acknowledged by both parties, the parties to this Agreement agree as follows:

1. The foregoing “WHEREAS” clauses are incorporated into this Agreement as true and correct statements.
2. Independent Contractor agrees to be bound by all the terms and prices as set forth in the SWA Contract. This is a non-exclusive agreement.
3. To the extent that there exists a conflict between the SWA Contract and this Agreement, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.
4. That the City does hereby retain the services of the Independent Contractor for the same scope of services as set forth in the SWA Contract, specifically hurricane and disaster debris removal.
5. Services must begin upon the of an official notice to proceed or task order and shall be carried on at a rate to insure its full completion within the time and date specified in the official notice to proceed, the rate of progress and time of completion being essential conditions of this Agreement.
6. The City agrees to compensate the Independent Contractor based on the prices set forth in the SWA Contract. The total and cumulative amount of this Agreement shall not exceed the amount of funds annually budgeted for these services.
7. Independent Contractor hereby represents that it has complied and shall continue to comply with all applicable Federal and State statutes and local ordinances. Further, Independent Contractor shall be solely responsible for obtaining and complying with all necessary permits, approvals and authorizations, required for the work to be performed pursuant to the terms of this Agreement from any federal, state, regional, county, or city agency.
8. The Independent Contractor represents that it has, or will secure at its own expense, all necessary personnel, equipment and materials required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.

9. All of the services required hereunder shall be performed by the Independent Contractor or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

10. The Independent Contractor agrees that that it is fully responsible to the City for the acts and omissions of subcontractors and of persons either directly or indirectly employed by the Independent Contractor. Nothing contained herein shall create any contractual relationship between any subcontractor and the City.

11. All of the Independent Contractor's personnel (and all Subcontractors) while on City premises will comply with all City requirements governing conduct, safety and security.

12. The City is exempt from payment of Florida State Sales and Use Taxes. The City will sign an exemption certificate submitted by the Independent Contractor. The Independent Contractor shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the City, nor is the Independent Contractor authorized to use the City's Tax Exemption Number in securing such materials.

13. Prior to execution of this Agreement by the City, the Independent Contractor shall provide certificates evidencing insurance coverages as required under the SWA Contract. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. All insurance, other than Professional Liability and Workers' Compensation, to be maintained by the Independent Contractor shall specifically include the City as an "Additional Insured." Compliance with the foregoing requirements shall not relieve the Independent Contractor of its liability and obligations under this Agreement.

14. All bonding required in the SWA Contract shall also be provided to the City unless prior written authorization is provided by the City to waive said bonding.

15. The Independent Contractor shall indemnify and hold harmless the City, its officers, agents and employees from and against any and all claims, liability, losses, causes of action and/or costs, including but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the Independent Contractor and other persons employed or utilized by the Independent Contractor in the performance of this Agreement.

16. The Independent Contractor does not have the power or authority to bind the City in any promise, agreement or representation other than as specifically provided for in this Agreement.

17. This Agreement and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided herein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County.

18. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

19. Time is of the essence in all respects under this Agreement.

20. The CONTRACTOR shall deliver to the CITY'S representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the CITY under this Contract.

All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the CITY or at its expense will be kept confidential by the CONTRACTOR and will not be disclosed to any other party, directly or indirectly, without the CITY'S prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the CITY'S expense shall be and remain the CITY'S property and may be reproduced and reused at the discretion of the CITY.

The CITY and the Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (a) Keep and maintain public records required by the City to perform the service.
- (b) Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time 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 for the duration of this Contract and following completion of this Contract if the Contractor does not transfer the records to the City.
- (d) Upon completion of this Contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS [THE OFFICE OF THE CITY CLERK] OR DESIGNEE AT 561-845-4090, CROBINSON@RIVIERABCH.COM, 600 WEST BLUE HERON BLVD., RIVIERA BEACH, FL 33404.**

21. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

22. Any notice required to be given under this Agreement shall be sent in accordance with the SWA Contract as follows to the City:

City of Riviera Beach  
Attn: Director of Public Works  
2391 Avenue L  
Riviera Beach, FL 33404

With Copy to:

City Attorney  
City of Riviera Beach  
600 W. Blue Heron Blvd.  
Riviera Beach, FL 33404

**THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY**

**IN WITNESS WHEREOF**, the Parties unto this Hurricane/Disaster Debris Removal Agreement have set their hands and seals on the day and date first written above.

**CITY OF RIVIERA BEACH**

**PHILLIPS AND JORDAN, INC.**

BY: \_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

BY: \_\_\_\_\_  
Name:  
Title:

[Corporate Seal]

ATTEST:

(SEAL)

BY: \_\_\_\_\_  
CLAUDENE L. ANTHONY,  
CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND  
CONDITIONS

BY: \_\_\_\_\_  
ANDREW DEGRAFFENREIDT  
CITY ATTORNEY

BY: \_\_\_\_\_  
BRYNT JOHNSON  
DIRECTOR OF PUBLIC WORKS

DATE: \_\_\_\_\_