

TOWN OF SURFSIDE
REQUEST FOR PROPOSALS (RFP)



RFP No. 2021-01

STREET SWEEPER SERVICES

The Town of Surfside Commission:

Mayor Charles W. Burkett
Vice Mayor Tina Paul
Commissioner Charles Kesl
Commissioner Elianna Salzhauer
Commissioner Nelly Velasquez

Town of Surfside
9293 Harding Ave
Surfside, Florida 33154

ISSUE DATE: WEDNESDAY, MARCH 3, 2021
PROPOSAL OPENING DATE: WEDNESDAY, APRIL 7, 2021
PROPOSAL OPENING TIME: 2:00 P.M.



PUBLIC NOTICE

REQUEST FOR PROPOSALS (RFP) No. 2021-01

STREET SWEEPER SERVICES

NOTICE IS HEREBY GIVEN that the Town of Surfside (“Town”) is soliciting proposals for Street Sweeper Services in Surfside, Florida. Interested firm/individuals (“Proposer(s)”) may pick-up a copy of the Request for Proposals (“RFP”) No. 2021-01 from the Town Clerk’s Office, Town Hall, 9293 Harding Avenue, Second Floor, Surfside, Florida, 33154, or may download it from the Town’s website at www.townofsurfside.fl.gov. The RFP contains detailed and specific information about the scope of services, submission requirements, and evaluation and selection procedures.

One (1) original, five (5) hard copies, and one (1) electronic copy on a USB drive of the completed and executed qualifications must be delivered no later than **Wednesday, April 7, 2021 at 2:00 PM** (“Submission Deadline”), to the following address:

**Town of Surfside Town Hall
Town Clerk’s Office
9293 Harding Avenue
Surfside, Florida, 33154.**

The Town reserves the right to reject late submissions, in the sole discretion of the Town Manager or his designee.

The envelope containing the sealed Proposal must be clearly marked as follows:

**“SEALED PROPOSAL
RFP NO. 2021-01
STREET SWEEPER SERVICES**

**OPENING DATE AND TIME/SUBMISSION DEADLINE: WEDNESDAY, APRIL 7,
2021 at 2:00 PM**

A **Pre-Proposal Submission Conference** is scheduled for **Thursday, March 18, 2021 at 11:00 AM** via zoom. All Proposers planning to submit qualifications are encouraged to attend this

meeting. Virtual participation by zoom meeting may be available and will be noticed by the Town Clerk.

All persons attending the pre-submission conference may ask questions or seek clarification regarding this RFP via the procedures outlined below. Any questions or clarifications concerning the proposal specifications must be received by Sandra McCready, M.M.C. Town Clerk, no later than **5:00 PM, Friday, March 26, 2021**. Any questions regarding RFP No. 2021-01 are to be submitted either in writing directly to Sandra McCready, Town Clerk, at the following address: 9293 Harding Ave., Second Floor, Surfside, Florida 33154, or via email to: smccready@townofsurfsidefl.gov. Any questions received by the Clerk after the stated deadline will be disregarded. All questions received by the Clerk prior to the stated deadline shall be answered via an Addendum to this RFP and circulated to all registered Proposers.

The Town intends to enter into agreement(s) with one or more qualified and successful Proposers to provide the Services.

The Town reserves the right to cancel this solicitation, award any or all of the services requested, reject any or all submissions, with or without cause, to waive technical errors and informalities, and to accept any proposal from a proposer which is qualified and best serves the interests of or represents the best value to the Town.

The Town hereby provides notice to all proposers of the imposition of a Cone of Silence for this solicitation, as set forth in Section 3-17 of the Town Code. "Cone of Silence," as used herein, means a prohibition on communication regarding a competitive bid or solicitation for a purchase exceeding \$25,000.00, including but not limited to, a particular request for qualifications ("RFP") between (1) A potential respondent, vendor, service provider, proposer, bidder, lobbyist, or consultant, and (2) Town commissioners, Town's staff including, but not limited to, the Town Manager and his or her staff, and any member of the Town's selection or evaluation committee. Please contact the Town Clerk and/or Town Attorney with any questions on the Cone of Silence.

Date Issued: Wednesday, March 3, 2021

**REQUEST FOR PROPOSALS
RFP NO. 2021-01
STREET SWEEPER SERVICES**

GENERAL INFORMATION

A. SCOPE OF SERVICES:

The Town of Surfside, Florida, (Town) is requesting sealed Proposals from qualified firms to provide Street Sweeper Services (the “Services” or “Project”). The Services consist of street sweeping services, including but not limited to, collection and removal of paper, leaves, and other visible debris that collect in gutters and roadways for the areas highlighted in Exhibit “A” , Town Streets and Avenues Map. The Town reserves the right to accept and award any or all of the Services to multiple firms on a non-exclusive basis.

B. PROPOSAL DUE DATE:

Sealed Proposals will be received at the Office of the Town Clerk, Town of Surfside, 9293 Harding Avenue, Surfside, FL 33154, until **2:00 p.m. local time, Wednesday, April 7, 2021** (the “Submission Deadline”), at which time all Proposals will be publicly opened.

Proposals must be addressed and delivered to:

RFP No. 2021-01 Street Sweeper Services
Office of the Town Clerk
Town of Surfside
9293 Harding Avenue
Surfside, Florida 33154

C. PRE-PROPOSAL CONFERENCE AND SITE(S) VISIT.

A pre-proposal conference, will be held at 11:00 a.m. on **Thursday, March 18, 2021. Attendance at this conference is encouraged in order to submit a proposal in response to this RFP and for the Project.** Please be advised that due to the declared state of emergency for the COVID-19 health pandemic, the meeting may occur virtually via zoom and notice and instructions will be provided by the Town Clerk. The meeting is not mandatory, but Proposers planning to submit proposals are encouraged to attend this meeting. All persons attending the pre-submission conference will receive the answers to all questions asked or submitted. A site(s) visit for interested proposers will occur on March 18, 2021 at 10:00 am. We ask that interested proposers only send one representative per company due to the declared state of emergency for COVID-19 health pandemic.

Prior to submitting a proposal, each Proposer is required to visit the sites or service areas and become familiar with any conditions that may, in any manner, affect the Services to be performed by Contractor or affect the equipment, materials and labor required. The Proposer is also required to examine carefully the Specifications set forth in Section 3 of this RFP and be thoroughly informed regarding any requirements or conditions that may in any manner affect the Services to

be performed under the Agreement. No allowances will be made because of lack of knowledge of any conditions or requirements.

D. Questions or Requests for Interpretations and Clarifications concerning this RFP should be directed via email to:

Sandra N. McCready, MMC
Town Clerk
Email: smccready@townofsurfsidefl.gov

Material issues to this RFP that are brought to the attention of the Town will be responded via Addenda and sent via email to all firms who have received copies of the RFP and registered with the Town.

E. In order to facilitate review of the proposals, each proposer must submit one (1) original, five (5) additional copies, and one (1) electronic copy on a USB drive of the proposal in response to this RFP, on or before the Submission Deadline indicated herein.

THE RESPONSIBILITY FOR OBTAINING AND SUBMITTING A PROPOSAL TO THE OFFICE OF THE TOWN CLERK ON OR BEFORE THE SUBMISSION DEADLINE IS SOLELY AND STRICTLY THE RESPONSIBILITY OF THE PROPOSER. THE TOWN IS NOT RESPONSIBLE FOR DELAYS CAUSED BY ANY MAIL, PACKAGE OR COURIER SERVICE, INCLUDING THE U.S. MAIL, OR CAUSED BY ANY OTHER OCCURRENCE. ANY PROPOSAL RECEIVED AFTER THE SUBMISSION DEADLINE STATED IN THIS RFP WILL NOT BE OPENED AND WILL NOT BE CONSIDERED. FACSIMILE AND EMAILED PROPOSALS SHALL NOT BE CONSIDERED.

Hand-delivered Proposals may be delivered to the above address during the Town's regular business hours, Monday through Friday, excluding holidays observed by the Town, but not beyond the Submission Deadline. Proposers are responsible for informing any commercial delivery service, if used, of all delivery requirements and for ensuring that the required information appears on the outer label or envelope used by such service.

The Proposal must be signed by an authorized officer of the Proposer who is legally authorized to bind the Proposer and enter into a contractual relationship in the name of the Proposer. The submittal of a Proposal by a Proposer will be considered by the Town as constituting an offer by the Proposer to perform the required Services, upon the terms and at the prices stated by the Proposer.

F. ACRONYMS/DEFINITIONS

For the purposes of this RFP, the following acronyms/definitions will be used:

Agreement Shall refer to the Agreement for Street Sweeper Services that may result from this Request for Proposals. A form of Agreement is attached to this RFP as Attachment "B", and is subject to final form and substance as approved by the Town Manager and Town Attorney.

<i>Contractor</i>	The organization(s)/individual(s) that is awarded and has an approved Agreement with the Town for the Services identified in this RFP.
<i>Commission</i>	The Town Commission of the Town of Surfside, Florida.
<i>Evaluation Committee</i>	An advisory committee comprised solely of representatives of the Town established by the Town Manager to evaluate, score and rank proposals submitted in response to the RFP.
<i>May</i>	Indicates something that is not mandatory but permissible.
<i>Proposal</i>	Shall refer to any offer(s) submitted in response to this Request for Proposals.
<i>Proposer</i>	Shall refer to anyone submitting a Proposal in response to the Request for Proposals.
<i>Request for Proposal, RFP</i>	Shall mean this Request for Proposals including all Exhibits and Attachments as approved by the Town and addenda, amendments or change orders issued by the Town.
<i>Responsible Proposer</i>	A proposer who has the capability in all respects to fully perform the Services requested in this RFP and the Agreement requirements and the capacity and reliability that will assure good faith performance.
<i>Responsive Proposal</i>	A proposal or reply submitted by a responsive and responsible proposer that conforms in all material respects to this RFP.
<i>Services, Project</i>	Shall refer to all matters, work and Services that will be required to be done by the Successful Proposer in accordance with the Scope of Services and the terms and conditions and Specifications of this RFP.
<i>Shall/Must</i>	Indicates a mandatory requirement. Failure to meet a mandatory requirement will, if material, result in the rejection of a proposal as non-responsive.
<i>Should</i>	Indicate something that is recommended but not mandatory. If the Proposer fails to provide recommended information, the Town may, at its sole option, ask the Proposer to provide the information or evaluate the proposal without the information. Failure to provide the information after demand may result in rejection.
<i>Sub-Contractor &</i>	

Sub-Consultant

Shall refer to any person, firm, entity, or organization, other than the employees of the Successful Proposer, who contract with the Successful Proposer to furnish labor, or labor and materials, in connection with the Services to the Town, whether directly or indirectly, on behalf of the Successful Proposer.

Submission Deadline

Shall refer to the due date and time listed in this RFP for the submittal of proposals to the Town.

Successful Proposer(s)

Shall refer to the Proposer(s) receiving an award as a result of this Request for Proposals.

Town /Owner

Shall refer to the Town of Surfside, Florida or its designated representative, as applicable.

SECTION 1

REQUEST FOR PROPOSALS (RFP No. 2021-01) STREET SWEEPER SERVICES

1.1 INTENT.

The Town of Surfside, Florida (“Town”) has issued this Request for Proposals (“RFP”) to invite qualified firms to submit proposals for Street Sweeper Services (“Services”). A more detailed Scope of Services is included under Section 3, Specifications, of this RFP.

1.2 SCHEDULE OF EVENTS.

The following schedule is anticipated for this RFP process, but is subject to change by the Town, in its sole discretion, at any time during the RFP procurement process.

No.	Event	Date*	Time* (EST)
1	Advertisement/ Distribution of RFP	March 3, 2021	10:00 AM
2	Pre-Proposal Conference and Site Visit 9293 Harding Avenue Surfside, FL 33154	March 18, 2021	11:00 AM
3	Deadline to Submit Questions / Requests for Clarification	March 26, 2021	5:00 PM
4	Town Issues Addenda and Responds to Questions	TBA	TBA
5	Deadline to Submit RFP – Submission Deadline	April 7, 2021	2:00 PM
6	Evaluation of Proposals	TBA	TBA
7	Period to request additional information or clarification from Proposers. The Town may interview Proposers	TBA	TBA
8	Award Proposal(s) and Agreement(s) at Commission Meeting	TBA	TBA
9	Notice to Proceed; Agreement Begins	TBA	TBA

1.3 CONE OF SILENCE.

The provisions of Town's Cone of Silence are applicable to this RFP. The Town's Cone of Silence provisions can be found under Section 3-17 of the Town Code of Ordinances. Questions regarding the Cone of Silence may be sent to:

Sandra N. McCreedy, MMC, Town Clerk
Town of Surfside
9293 Harding Avenue, Surfside, Florida 33154
smccreedy@townofsurfsidefl.gov

The Cone of Silence prohibits any communication regarding a competitive bid or solicitation for a purchase exceeding \$25,000.00, including but not limited to, a particular RFP, RFQ, solicitation or bid, between:

- (1) A potential respondent, vendor, service provider, proposer, bidder, lobbyist, or consultant, and
- (2) The Town Commissioners, Town Staff, including but not limited to, the Town Manager and his or her staff, or any member of the Town's Selection Committee or Evaluation Committee.

The Cone of Silence shall be imposed upon this RFP upon advertisement of the RFP. The Cone of Silence shall terminate at the beginning of the Town Commission meeting at which time the Town Manager makes his or her written recommendation to the Town Commission. However, if the Town Commission refers the Manager's recommendation back to the Manager or staff for further review, the Cone of Silence shall be re-imposed until the meeting at which the Manager's subsequent recommendation is before the Town Commission.

The Cone of Silence shall not apply to:

- (1) Oral communications at pre-bid conferences;
- (2) Oral presentations before selection or evaluation committees;
- (3) Public presentations made to the Town Commissioners during any duly noticed public meeting;
- (4) Written communications at any time with any Town employee, unless specifically prohibited by the applicable solicitation documents. The respondent, bidder or proposer shall file a copy of any written communication with the Town Clerk. The Town Clerk shall make copies available to any person upon request;
- (5) Written communications regarding a particular solicitation between a potential respondent, vendor, service provider, proposer, bidder, lobbyist or consultant and the Town's purchasing agent or Town employee designated responsible for administering the procurement process for such solicitation, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document;
- (6) Communications with the Town Attorney and his or her staff;

1.4 SUBMISSION OF PROPOSAL.

One (1) original, five (5) copies, and one (1) electronic copy on a USB drive of the Proposal PLUS a USB containing all documents submitted shall be submitted no later than **Wednesday, April 7, 2021, at 2:00 PM (“Submission Deadline”)** in a sealed envelope which must be plainly marked on the outside “RFP No. 2021-01, STREET SWEEPER SERVICES” to:

Town Clerk Sandra N. McCreedy, M.M.C.
9293 Harding Ave, Second Floor
Town of Surfside, FL 33154
smccreedy@townofsurfsidefl.gov

Proposals will be publicly opened and read. All Proposers and their representative may be invited to be present. Proposals shall be typed or printed in ink. All blanks on the proposal form(s) must be completed. Names must be typed or printed below the signature. Facsimile and email proposals will **not** be accepted.

It shall be the sole responsibility of the Proposer to ensure that the sealed proposal is submitted by the time and date specified. Any proposal received after the appointed time, whether by mail or otherwise, shall **not** be accepted. Such proposals will be returned to the vendor unopened. Any uncertainty regarding the time a proposal is received shall be resolved against the Proposer.

Only one (1) proposal from any individual, firm, partnership, or corporation, under the same or different names, will be considered. If the Town determines that any Proposer has interest in more than one (1) proposal for Services contemplated; all proposals in which such a Proposer is interested will be rejected. Proposer by submitting this proposal certifies that this proposal is made without previous understanding, contract, or connection with any person, firm or corporation making a proposal for the same material, supplies, equipment or services and is in all respects, fair and without collusion of fraud.

1.5 PROPOSAL REQUIREMENTS & FORMAT.

Proposers must submit one (1) original, five (5) copies, and one (1) electronic copy on a USB drive to the Town Clerk on April 7, 2021, by 2 P.M. (“Submission Deadline”). Proposals must be typed or filled in with ink and submitted on 8 ½” x 11” size paper, using a single method of fastening. Each Proposer must present its products, services, and applicable features in a clear and concise manner that demonstrates the proposer’s capabilities to satisfy the requirements of this RFP. The emphasis should be on accuracy, clarity, comprehensiveness and ease of identifying pertinent information and suitability of the Services. Proposals **MUST** include the following:

- 1.5.1. Proposer shall provide complete and accurate copies, with all required signatures and notarizations, for all the forms in the Proposal Package:
 - 1.5.1.1. Form 1. Proposal Form Package Acknowledgement.
 - 1.5.1.2. Form 2A. Proposer’s Certification (if Company or Corporation)
 - 1.5.1.3. Form 2B. Proposer’s Certification (if Partnership)
 - 1.5.1.4. Form 3. Single Execution Affidavits
 - 1.5.1.5. Form 4. Dispute Disclosure

- 1.5.1.6. Form 5. Certification Regarding Debarment, Suspension, & Other Responsibility Matters Primary Covered Transactions
- 1.5.1.7. Form 6. Proposer's Qualifications Survey
- 1.5.1.9. Form 7. Street Sweeper Fee Schedule
- 1.5.1.12. Form 8. Reference List
- 1.5.1.13. Form 9. Federally Required Clauses Affidavit

1.5.2. Proof of Experience. Provide documentation evidencing the experience of the proposer and demonstrating that the proposer has successfully provided Services similar to those specified herein to other agencies of similar size and needs as the Town. The proposer firm shall be currently engaged in landscaping and maintenance services on a full time basis and shall have been in existence and continuous operation providing the Services for a minimum of five (5) years.

1.5.3. Safety Record. Proposer shall provide documentation evidencing the safety record of the proposer in performing similar services, including information as to any safety violations, assessments or citations issued by applicable governmental agencies in the past five (5) years.

1.5.4. Proposer's Qualifications. Include name, function, and qualifications of key personnel in the organization who will be providing g Services and involved in this Project. The key person or contact assigned to this Project shall within the past three (3) years have conducted and been responsible for providing Services in a similar project or environment. Please note, to receive further consideration, all proposers must provide the necessary documentation to demonstrate that they meet the following minimum qualifications:

1.5.4.1. Service and Incorporation – Contractor shall have been in business and continuous operation and service and incorporated in the State of Florida for a minimum of five (5) years.

1.5.4.2. Licenses – Contractor must be fully licensed with all applicable and required licenses, certifications, and permits necessary to conduct street sweeper services, including government licenses, certifications, and permits from the State of Florida, Miami-Dade County, the Town, and any other governing governmental regulatory authorities.

1.5.5. Insurance Certificates. Proposer shall provide certificates of insurance as follows:

- 1.4.5.1. Commercial General Liability
- 1.4.5.2. Workers Compensation & Employer's Liability
- 1.4.5.3. Business Automobile Liability

1.5.6. Proposer may provide any additional information that highlights experience or expertise, which is relevant and directly applicable to this RFP.

1.6 ADDENDA, CHANGES, OR REQUESTS FOR INTERPRETATION DURING PROPOSAL PROCESS.

The Town will not respond to oral inquiries or questions concerning this RFP. All written inquiries, requests for interpretation or clarification shall be sent to:

Sandra N. McCreedy, M.M.C.
Town of Surfside Clerk
9293 Harding Ave, Second Floor
Town of Surfside, FL 33154
smccreedy@townofsurfsidefl.gov

Any written inquiry or request for interpretation or clarification must be sent by e-mail or written correspondence and received by the Town no later than Thursday, March 18, 2021 at 5:00pm.

All such interpretations or clarifications will be made in writing in the form of an Addendum to this RFP issued by the Town to all known and/or registered prospective proposers. Each prospective proposer shall acknowledge receipt of such Addenda by including it in the Proposal Form. All Addenda shall be a part of this RFP and a part of the Agreement and each proposer will be bound by such Addenda, whether or not received. It is the responsibility of each prospective proposer to verify that it has received all Addenda issued before proposals are submitted and opened.

1.7 EVALUATION PROCESS.

1.7.1 Evaluation Committee.

The Town shall be sole judge of its best interests in evaluating proposals deemed most advantageous to the Town, and the resulting Agreement to be entered into between the Town and the Contractor. The Town Manager shall select and appoint an Evaluation Committee to evaluate proposals.

1.7.2 Initial Screening (Step 1).

Minimum Qualifications and Responsiveness: The Evaluation Committee will review proposals for an initial determination on minimum qualifications, responsiveness and responsibility. The proposals initially determined to be responsive and submitted by responsible proposers will proceed to Step 2.

1.7.3 Evaluation of Proposals (Step 2).

The Evaluation Committee may interview proposers, request additional information or clarification of proposals and information submitted, and will evaluate proposals using the criteria herein. Due to the multi-task nature of the Services, the evaluation of all proposals will not be based solely on quantity and price. All of the factors contained herein and demonstrated in each proposal will be taken into consideration and evaluated. Proposals will be scored and ranked in accordance with the following criteria:

<u>CRITERIA</u>	<u>MAXIMUM POINTS</u>
Qualification and experience of key personnel who will be directly involved in all elements of the Services.	10

Firm's experience providing Street Sweeping Services or similar services	20
Safety record.	10
Proposal Pricing or fees for Services.	60
Total	100

The three (3) highest ranked proposals will be identified and those firms may be requested to make a formal presentation before the Evaluation Committee and/or the Town Commission. The Evaluation Committee will score and rank the proposers and provide same to the Town Manager. The Town Manager will then make a recommendation to the Town Commission, which reserves the right to reject any or all proposals or parts thereof, select and award proposer(s) for all or any of the Services, to waive any informality, irregularity, or technicality in any proposal, to cancel or re-advertise for proposals, or take any other such actions that may be deemed to be in the best interests of the Town.

The Town Commission, in its sole discretion, shall select and approve one or more proposals and shall authorize the award of an Agreement(s) to the Successful Proposer(s).

1.8 TOWN'S RIGHTS.

The Town reserves the right to accept or reject any and/or all proposals or parts of proposals, to workshop or negotiate any and all proposals, to select and award proposer(s) for all or any of the Services, waive irregularities in proposals, to cancel or discontinue this RFP process, and to request new proposals on the required work or Services. The Town Commission shall make the final determination and award of proposal(s).

All materials submitted in response to this Request for Proposals become the property of the Town and will be returned only at the option of the Town. The Town has the right to use any or all ideas presented in any proposals or responses to the RFP, whether amended or not, and selection or rejection of Proposals does not affect this right.

1.9 AWARD OF PROPOSAL.

The Town anticipates entering into an Agreement(s) with the Successful Proposer(s) determined by the Town to be in compliance with the requirements of this RFP and in the best interest and most advantageous to the Town. The Town reserves the right to accept or reject any and/or all proposals or parts of proposals, to workshop or negotiate any and all proposals, to waive any irregularities, to cancel or discontinue this RFP, and to request new proposals on the required materials or Services. The Town also reserves the right to waive minor variations to the Specifications (interpretation of such to be made by the applicable Town department personnel). Final determination and award of proposal(s) shall be made by the Town Commission.

Neither this RFP, nor the notice of award of the Agreement(s) constitutes an agreement or contract with the Successful Proposer(s). An agreement or contract is not binding until a written agreement or contract, in substantially the form attached hereto as Exhibit "C," has been executed by the

Town and the Successful Proposer(s) and approved as to form, content, and legal sufficiency by the Town Manager and Town Attorney.

END OF SECTION 1

SECTION 2

TERMS AND CONDITIONS

INTRODUCTION

All proposals submitted in response to this RFP and any Agreement(s) awarded to the Successful Proposer(s) must conform to the following terms and conditions.

2.1. PURPOSE OF PROPOSAL.

The Town of Surfside, Florida (“Town”), requests proposals from qualified firms to provide Street Sweeper Services on a non-exclusive basis. The frequency, nature, scope and definition of the Services desired or required by the Town may change from time to time, at the Town’s discretion. Although this RFP identifies specific locations to be serviced in the Town Streets and Avenues Map, attached hereto as Exhibit “A,” the Town reserves the right, in its sole discretion, to add additional locations or delete locations to be serviced.

The Town intends to secure a source of supply(s) for the Services from the most qualified Proposer(s) that conform to the requirements of this RFP and whose proposal is most advantageous to and in the best interests of the Town. The Town reserves the right to award the proposal(s) considered to best serve the Town’s interests.

In the event of any conflicts between provisions contained in the General Conditions and Specifications, the provisions contained in the Specifications shall govern and prevail.

2.2. SUBMISSION OF PROPOSALS.

Proposers must use the proposal form(s) furnished by the Town with this RFP, as well as provide any information requested by this RFP. Failure to do so may cause the proposal to be rejected. Removal of any part of the proposal may invalidate the proposal. Incomplete, unresponsive, irresponsible, vague, or ambiguous responses to this RFP may be just cause for rejection, as determined by the Town.

Proposer warrants that the terms and conditions quoted in the proposal, including pricing, will be firm for a period of one hundred eighty (180) days from the date of the proposal opening unless otherwise stated by the Town.

2.3. DELIVERY.

All materials and goods provided in connection with the Services shall be delivered F.O.B. destination (i.e., at a specific Town address), and delivery costs and charges (if any) will be included in the proposal pricing. Exceptions must be noted.

2.4. MATERIALS.

Any materials or products delivered by a Proposer pursuant to this RFP shall remain the property of the Proposer or Contractor until accepted to the satisfaction of the Town. In the event material(s)

or products supplied to the Town are found to be defective or do not conform to the requirements of this RFP or the Specifications, the Town reserves the right to return the materials or product(s) to the Proposer or Contractor, at the Proposer or Contractor's expense.

2.5. PRICING. The price schedule forms attached to this RFP under Section 4 and to be included with each proposal shall specify the Proposer's pricing and/or fees for the materials and Services requested herein. Proposer should include any and all applicable taxes in proposal prices. If the proposer is awarded an Agreement pursuant to this RFP, the prices and fees quoted in the proposal shall remain fixed and firm during the term of the Agreement.

2.6. PROPOSAL COSTS.

Proposers submitting proposals do so entirely at their own cost and expense. There is no expressed or implied obligation by the Town to reimburse any individual or firm for any costs or expenses incurred in preparing or submitting proposals, providing additional information when requested by the Town, or for participating in any selection interviews.

2.7. LICENSES AND PERMITS.

Proposer shall secure any and all necessary and required licenses, certifications, and permits to conduct the Street Sweeper Services, including but not limited to, all Federal (Environmental Protection), State, County, and Town licenses and permits. All proposers must provide the necessary documentation to demonstrate that they meet all applicable licensing and permitting requirements, including the following:

2.7.1. Licenses – Successful Proposer(s) must be fully licensed with all applicable and required licenses, certifications and permits for landscaping and fertilization and pest control services, including State, Miami-Dade County and/or Town licenses, certifications and permits.

By submitting a proposal in response to this RFP, Proposer represents and warrants to the Town that it holds all licenses, certifications and permits ("Licenses") required by applicable law and by any other governmental authority or agency to perform the Services. Proposer represents and warrants to the Town that the Licenses shall be in full force and effect on the date of performance of the Services and further represents that it holds and will hold all Licenses throughout the term of the Agreement. Proposer shall provide the Town with copies of all Licenses and any additional permits that may be required for performance of the Services with its proposal and during the term of the Agreement.

Where the Contractor is required to enter onto Town property, public rights-of-way or other property to deliver materials or to perform the Services as a result of a proposal award, the Contractor will assume the full duty, obligation and expense of obtaining all necessary approvals, licenses, permits, inspections and insurance required. The Contractor shall be liable for any damages or loss to the Town, property or person occasioned by the acts or omissions, or the negligence of the proposer, (or their agent) or any person the proposer has designated in the completion of the Services, as a result of the proposal.

2.8. INSURANCE.

2.8.1 Contractor shall secure and maintain throughout the duration of this RFP and agreement, if selected, insurance of such types and in such amounts not less than those specified below as satisfactory to Town, naming the Town as an Additional Insured, underwritten by a firm rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary insurance with respect to the Town, its officials, employees, agents and volunteers naming the Town as additional insured. Any insurance maintained by the Town shall be in excess of the Contractor's insurance and shall not contribute to the Contractor's insurance. The insurance coverages shall include at a minimum the amounts set forth in this section and may be increased by the Town as it deems necessary or prudent. Copies of Contractor's actual Insurance Policies as required herein and Certificates of Insurance shall be provided to the Town, reflecting the Town as an Additional Insured. Each Policy and certificate shall include no less than (30) thirty-day advance written notice to Town prior to cancellation, termination, or material alteration of said policies or insurance. All coverage forms must be primary and non-contributory and the Contractor shall provide a waiver of subrogation for the benefit of the Town. The Contractor shall be responsible for assuring that the insurance policies and certificates required by this Section remain in full force and effect for the duration of the Services.

2.8.1.1. Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor. The General Aggregate Liability limit and the Products/Completed Operations Liability Aggregate limit shall be in the amount of \$2,000,000 each.

2.8.1.2. Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 each accident. No employee, subcontractor or agent of the Contractor shall be allowed to provide Services pursuant to this RFP who is not covered by Worker's Compensation insurance.

2.8.1.3. Business Automobile Liability with minimum limits of \$1,000,000.00 per Occurrence, combined single limit for Bodily Injury and Property Damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Service Office, and must include Owned, Hired, and Non-Owned Vehicles.

2.8.2 The Contractor agrees to indemnify, defend and hold harmless the Town from and against any and all claims, suits, judgments, losses, damages, executions and/or liabilities as to bodily injuries and/or property damage which arise or grow out of the Agreement or Contractor's performance of the Services required by this RFP.

2.8.3 The Contractor shall also, upon request by the Town, provide copies of all official receipts and endorsements as verification of Contractor's timely payment of each insurance policy premium as required by the Agreement.

2.9. COMPLIANCE WITH LAW AND OTHER REQUIREMENTS.

Proposer(s) shall conduct its operations in compliance with all applicable federal, State, County and Town laws in providing the Services required by this RFP, including specifically Section 54-78, "Prohibited Noises," of Chapter 54 of the Town's Code of Ordinances, regulating inter alia noise, power tools, and vehicle horns and signals.

2.10. ASSIGNMENT.

The Proposer(s) shall not transfer or assign the performance of the Services required by this RFP and the Agreement without the Town's prior written consent. Any award issued pursuant to this RFP and monies which may be payable by the Town, are not assignable except with the Town's prior written approval.

2.11. ATTORNEY'S FEES.

If the Town incurs any expense in enforcing the terms of the Agreement, whether suit be brought or not, Proposer(s) agrees to pay all such costs and expenses including, but not limited to, court costs, interest and reasonable attorney's fees.

2.12. CONTRACTOR'S RELATION TO THE TOWN.

It is expressly agreed and understood that the Contractor is in all respects an independent contractor as to all Services hereunder, and that the Contractor is in no respect an agent, servant or employee of the Town. This RFP specifies the Services to be performed by the Contractor, but the method to be employed to accomplish the Services shall be the responsibility of the Contractor, unless otherwise provided in the Agreement or by the Town.

2.13. DISCRIMINATORY PRACTICES.

The Contractor shall not discriminate or deny service, deny access, or deny employment to any person on the basis of race, color, creed, sex, sexual orientation, religion or national origin. The Contractor will strictly adhere to the equal employment opportunity requirements and any applicable requirements established by the State of Florida or the Federal Government.

2.14. TIME IS OF THE ESSENCE; DELIVERY OF SERVICES.

The Proposer(s) acknowledges and agrees that time is of the essence in the performance and delivery of the Services hereunder.

2.15. CANCELLATION.

Failure on the part of the Proposer(s) to comply with the conditions, specifications, requirements and terms as determined by the Town, shall be just cause for cancellation of the award, with the Proposer(s) holding the Town harmless.

2.16. DISPUTES.

If any dispute concerning a question of fact arises under the resulting Agreement, other than termination for default or convenience, the dispute will be handled by the Town Manager.

2.17. TERMINATION FOR DEFAULT.

In the event of default by the Proposer or Contractor, the Town may terminate the Agreement, procure the Services from other sources and hold the Proposer or Contractor responsible for any excess costs occasioned or incurred thereby.

2.18. TERMINATION FOR CONVENIENCE.

The Town may terminate the Agreement, in whole or in part, for convenience upon five (5) days prior written notice to the Contractor. Upon such termination, the Town shall be responsible to the Contractor only for payment in accordance with the payment provisions of the Agreement for those Services rendered prior to and through the date of termination.

2.19. INDEMNIFICATION.

The Proposer(s) shall indemnify, save harmless and defend the Town, its officers, agents and employees from and against any claims, demands or causes of action of whatsoever kind or nature arising out of any act, error, omission, negligent act, conduct or misconduct of the Proposer(s), its agents, servants or employees, in the performance of the Services pursuant to this RFP and/or from any procurement decision of the Town including without limitation, awarding the Agreement to a Proposer(s).

2.20. MULTIPLE /OTHER VENDORS.

The Town reserves the right to select and award multiple Proposer(s) to provide one, some or all of the Services. If the selected Proposer(s) are unavailable, the Town reserves the right to seek and obtain other sources.

As tasks and schedules are identified, substantial completion times will be mutually agreed upon between the Contractor(s) and the Town.

2.21. PUBLIC ENTITY CRIME/DISQUALIFICATION.

Pursuant to Section 287.133(3)(a), Florida Statute, all Proposers are advised as follows:

“A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a

public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity and may not transact business with any public entity in excess of the threshold amount provided in s.287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.”

2.22. NO CONTINGENT FEE.

Proposer shall warrant that it has not employed or retained any company or person, other than a bona fide employee working solely for the Proposer, to solicit or secure the 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 the Proposer, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making the Agreement. For the breach or violation of this provision, the Town shall have the right to terminate the Agreement, without liability, at its discretion.

2.23. PUBLIC RECORDS; CONFIDENTIALITY.

Proposers are hereby notified that all information submitted as part of or in support of proposals submitted pursuant to this RFP are public records subject to public disclosure in accordance with Chapter 119, Florida Statutes. If there is any apparent conflict between Florida’s Public Records Law and this RFP, Florida Law will govern and prevail.

All proposals submitted in response to this RFP shall become the property of the Town. Unless the information submitted is proprietary, copyrighted, trademarked, or patented, the Town reserves the right to utilize any or all information, ideas, conceptions, or portions of any proposal in its best interest. Acceptance or rejection of any proposal shall not nullify the Town’s rights hereunder.

2.24. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION COMPLIANCE.

2.24.1. The Successful Proposer shall be solely and completely responsible for conditions of the job site, including safety of all persons (including employees) and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours. Job site safety provisions shall conform to U.S. Department of Labor (“OSHA”) standards and all other applicable federal, state, county, and local laws, ordinances, codes, and regulations. The Successful Proposer’s failure to thoroughly familiarize himself with the aforementioned safety provisions shall not relieve him from compliance with the obligations and penalties set forth therein.

2.24.2. The Town reserves the right, but is not obligated to make safety inspections at any time the Successful Proposer is on Town property and to ensure safety rules are not being violated.

2.24.3. In compliance with Chapter 442, Florida Statutes, any items included in the latest edition of “Florida Substance List” which are delivered from a Contract resulting from this Proposal must be accompanied by a Material Safety Data Sheets (“MSDS”) The MSDS sheets must be maintained by the user agency and must include the following information:

- (a) The chemical name and the common name of the toxic substance.
- (b) The hazards or other risks in the use of the toxic substance, including:
 - 1. The potential for fire, explosion, corrosiveness, and reactivity;
 - 2. The known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by exposure to the toxic substance; and
 - 3. The primary routes of entry and symptoms of overexposure.
- (c) The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the toxic substances, including appropriate emergency treatment in case of overexposure.
- (d) The emergency procedure for spill, fire, disposal, and first aid.
- (e) A description in lay terms of the known specific potential health risks posed by the toxic substances intended to alert any person reading this information.
- (f) The year and month, if available, that the information was compiled and the name, address, and the emergency telephone number of the manufacturer responsible for preparing the information.

ALL TOXIC SUBSTANCES MUST BE LABELED FOR IDENTIFICATION IN ACCORDANCE WITH OSHA STANDARDS.

2.25. FEMA REQUIREMENTS; HURRICANE/STORM PREPARATION AND RECOVERY SERVICES

2.25.1. This procurement shall conform in all respects to the *Federally Required Clauses* including, but not limited to, the clauses found on Form 12 under Section 4.

2.25.2. The Contractor is bound by and must comply with the requirements of the April 2018 FEMA Public Assistance Program and Policy Guide, which is hereby incorporated by reference and available online at this link: <https://www.fema.gov/media-library/assets/documents/111781>.

END OF SECTION 2

SECTION 3

SCOPE OF SERVICES

3.1 INTRODUCTION.

The Town is seeking proposals from qualified firms to provide all materials and services necessary to provide Street Sweeper Services (“Services”). The Successful Proposer(s) shall be able to provide the Services in accordance with the terms, conditions, and specifications contained in this Request for Proposals (“RFP”) and in this Scope of Services (“Specifications”). The Town reserves the right to award some or all Services to one or more qualified firms on a non-exclusive basis.

3.2 SCOPE OF WORK

3.2.1 Summary.

3.2.1.1 Services will consist of the collection and removal of paper, leaves, dirt, sand, spills of concrete, rocks, gravel, accident debris and other visible debris that collects on roadways, gutters, curbs, or swale roads. Contractor shall clean all spilling, scattering or dropping of debris / refuse which results during sweeping activity. Services performed on roadways must cover the entire cross section of the road, including any turning lane, regardless of whether it is in the middle or side of the cross section, designated bus bay pullouts, and loading zones.

3.2.1.2 At all times, the Contractor shall use good sweeping practices and will be responsible to adjust the schedule from inclement weather, equipment, as when directed by the work Town. The Contractor shall exercise due care to prevent spilling, scattering, or dropping of refuse throughout sweeping activity and shall immediately clean up such spillage, dropping or scattering. Sweeping practices include, but are not limited to:

- (1) Adjusting spray nozzles to keep dust caused by sweeping to a minimum;
- (2) Centering dirt reflectors, main drag shoes, or any other device designed to direct debris or dirt into the path of the rear broom;
- (3) Maintaining sweeping speed to a maximum speed of six (6) miles per hour on ordinary roadways, adjusting as required by environmental conditions;
- (4) Maintaining sweeping speed on brick crosswalks to a maximum speed of three (3) miles per hour; and
- (5) Operating street sweepers as close to parked cars or other obstacles as safety allows.

3.2.1.3 All street sweeping is to occur at a speed of 75% under the posted speed limit, but never higher than six (6) miles per hour.

- 3.2.1.4 The Contractor shall provide Services for the approximately 25 curb miles, as outlined in the Town Streets and Avenues Map attached hereto as Exhibit “A.”
- 3.2.1.5 Emergency call-outs or assignments requested by the Town shall be performed by the Contractor on an as needed basis. Contractor shall have the capability to respond to any emergency request within the time frame provided in the schedule of values.
- 3.2.1.6 Inspections of the work by the Town may be performed within forty-eight (48) hours of Street Sweeper Services for a location; any length of road found to have more than ten (10) pounds of debris in a distance of 660 feet will be considered defective.
- 3.2.1.7 Contractor shall comply with all applicable local, state and federal health and safety requirements, including the latest revisions to the Occupational and Safety and Health Administration (OSHA) standards, and State of Florida Department of Transportation (“FDOT”) vehicle safety and traffic control requirements) in providing the Services.
- 3.2.1.8 Contractor shall be responsible for promptly notifying the Town of any damage to roadways, gutters, drains, irrigation systems, buildings, vehicles or other public or private properties or possessions, which occur as a result of all Services performed pursuant to this RFP, or improper or negligent activities, as defined in these Specifications.
- 3.2.1.9 The Contractor must have a supervisor available at all times that may be contacted by the Town in case of an emergency. Emergency services include post storm recovery phase during a declared disaster period. Emergency services post heavy rain events. The Contractor is to provide scope of services in compliance with Federal Regulations for Federal Grant Reimbursement Programs.

3.2.2 Service Areas.

- 3.2.2.1 Contractor shall be responsible for providing service to the areas shown in the Town Streets and Avenues Map, attached hereto as Exhibit “A,” provided that the Town may delete, add, or otherwise modify the areas identified by the Town for service. All Contractors shall visit the site(s) and inspect all Service areas prior to submitting a proposal.

3.2.3 Service Scheduling.

3.2.3.1

- 3.2.3.2 All non-emergency Services on residential streets shall be performed between 7:00 A.M. and 4:00 P.M., Monday through Friday, in accordance with the Town Service Calendar attached hereto as Exhibit “B.” Services on County and State roads shall be performed between 7:00 A.M. and 10:00

A.M. No sweeping will occur on New Year's Day, Fourth of July, Labor Day, Thanksgiving, Christmas Eve, and Christmas.

3.2.3.3 The days and times listed above for the Services may be modified after a contract is awarded at the Town's sole discretion.

3.2.4 Removal of Debris.

3.2.4.1 It shall be the sole responsibility of the Contractor to remove, haul, and/or dump all debris collected in providing the Services in accordance with all federal, state, county, and municipal laws, rules, and regulations. Contractor shall not dump fuels, oils, solvents, or similar materials into any Catch Basins.

3.2.4.2 The Contractor shall be solely responsible for all costs and fees associated with the transportation, tipping, or disposal of debris.

3.2.4.3 The Contractor must strictly comply with all federal, state, county, and municipal regulations or laws for disposal of debris, especially those requirements imposed by the Environmental Protection Agency ("EPA"), including but not limited to the requirements imposed by the EPA's National Pollutant Discharge Elimination System. Contractor shall be solely responsible for any and all violations of federal, state, county, and/or municipal regulations or laws resulting from its provisions of the Services.

3.2.4.4 Contractor shall be an individual or firm of established capability, experience and reputation, which is regularly engaged in, and which maintains a regular force of workers skilled in performing the Services as outlined in this RFP.

3.2.4.5 No Services are to be subcontracted without the prior written consent of the Town.

3.2.4.6 Dirt and debris carried onto streets from identifiable construction sites is not considered the responsibility of the Contractor if located within 50 feet of the construction site. However, the Contractor shall be responsible for making a single pass in front of each site at a speed below the contract limit, regardless of the condition. The Contractor is required to report problematic construction areas to the Town immediately. Night sweeping shall be permitted for normal storm clean up, at no additional cost to Town of Surfside.

3.3 LABOR, EQUIPMENT, PRODUCTS AND MATERIALS.

3.3.1 Contractor shall be responsible for providing all labor, materials, supplies, tools, services and equipment, and all other incidentals required to complete the Services, as needed to completely and accurately perform the Services outlined in these Specifications.

- 3.3.2 The Town Manager or his designee reserves the right to inspect and approve all materials, labor, products, and equipment delivered and used according to these Specifications.
- 3.3.3 Employees performing the Services shall possess a valid Commercial Driver's License issued by the State of Florida.
- 3.3.4 Contractor shall designate a competent supervisor or foreman to oversee all Services described in these Specifications, and who is available at all times to communicate with Town staff as necessary.
- 3.3.5 Contractor shall ensure that at least one (1) member of each maintenance crew (preferably the supervisor) speaks English fluently. Contractor shall supply each employee with a uniform shirt with the firm name and employee name clearly identified, to be worn at all times during the performance of Services. Contractor's employees' clothing must be neat and clean.
- 3.3.6 The hourly rates quoted for labor shall include full compensation for labor, equipment, materials, travel time, and any other cost to the proposer.
- 3.3.7 Contractor shall use only street sweepers of industrial and municipal size with the capacity to transport debris. At minimum, street sweeper vehicles and equipment must
 - 3.3.7.1 Municipal size vacuum or regenerative air type preferred– minimum six (6) cubic yard hopper capacity (mechanical sweepers may be considered, but are not preferred);
 - 3.3.7.2 Minimum eight (8) foot sweep path;
 - 3.3.7.3 Equipped with continuous water spray for dust control;
 - 3.3.7.4 Registered and insured with the Motor Vehicle Laws of the State of Florida;
 - 3.3.7.5 Back-up support equipment with above specifications must be available in case of equipment downtime or servicing.
 - 3.3.7.6 The sweeper(s) shall have working amber lights visible for a minimum of one (1) mile and mounted in such a way to provide three hundred sixty (360) degree visibility and must otherwise comply with the requirements set forth by Chapter 316 State Uniform Traffic Control of the Florida Statutes; and
 - 3.3.7.7 The sweeper(s) must also be equipped with a working arrow board.
- 3.3.8 During the performance of the Services, water use is required during the entire operation.
- 3.3.9 Contractor shall be responsible for providing all safety gear, equipment, and traffic control devices for employees and maintenance personnel. Equipment and materials furnished shall be of the appropriate quality, type, size and quantity needed to adequately accomplish the Services. Contractor shall provide sufficient numbers and types of equipment to handle the work load, including street sweeper(s) and utility vehicle(s).
- 3.3.10 Every commercial vehicle operated on the streets of the Town shall at all times display, permanently affixed and plainly marked on both sides, the Contractor's name and telephone number. If a vehicle is rented, the information may be affixed

to signs made of magnet and attached at all times while operating within the boundaries of the Town. No other advertising shall be permitted on the vehicles.

- 3.3.11 Contractor's vehicles shall be in good working condition, free from leaking fluids, and properly registered. The Town may require the repair or replacement of equipment as reasonably necessary.
- 3.3.12 Contractor shall be responsible for regularly inspecting all equipment to be used in the provision of the Services and for providing scheduled preventative maintenance, so as to prevent any damage to roadways, gutters, drains, irrigation systems, buildings, vehicles, or other public or private properties.
- 3.3.13 In the event of mechanical failure, the Town and/or Project Managers must be contacted within two (2) hours in writing and arrangements be made for the work to be completed within forty eight (48) hours. Contractor shall have a backup street sweeper(s) if the primary sweeper is not available due to required repairs or maintenance.
- 3.3.14 The Town will provide contractor with a meter for use at fire hydrants approved for filling.

3.4 TRAFFIC CONTROL AND PROTECTION

- 3.4.1 Contractor shall be required to follow the "State of Florida Manual on Traffic Control and Safe Practices."
- 3.4.2 In case of any street or lane closures, Contractor must provide the Town a Maintenance of Traffic (MOT).
- 3.4.3 MOTs must conform to the current edition of the FDOT Roadway and Traffic Design Standards Indexes (600 Series), the Standard Specifications for Road and Bridge Construction and the Manuals on Uniform Traffic Control Devices, as a minimum criterion. The Contractor shall be responsible for the plans for traffic control around or through work sites and shall be developed with safety as the primary concern. The plans shall include protection at work site when work is in progress and when operations have been halted (such as during the night). Provisions for the protection of work crews, traffic control personnel, pedestrians and motorists shall be addressed. In all cases the operation plan for traffic control and protection shall include provisions for the following:
 - (a) Advance warning
 - (b) Clear view of work site
 - (c) Roadway delineation
 - (d) Regulatory information
 - (e) Hazard warning
 - (f) Barriers
 - (g) Pedestrians safety
 - (h) Access
 - (i) Location of vehicle and equipment

- (j) Night safety
 - (k) Personnel
 - (l) Traffic control and protection devices (see the Florida Department of Transportation Manual on Traffic Controls and Safe Practices for Street and Highway Construction, Maintenance and Utility Operations.)
- 3.4.4 Contractor will be required to furnish traffic control and/or barricades as needed or as required by the Florida. Barricading and detouring of the traffic shall be accomplished in conformance with the State of Florida Manual of Uniform Traffic Control Devices for Highway Construction and Maintenance Operations, latest edition. A flagman is required when two-way traffic is obstructed by the removal operation.
- 3.4.5 Contractor will be responsible for adequate barricades, warning devices, and the necessary safety equipment according to FDOT standards while working on Town, County, or State roads as a sub-Contractor of the Town.

3.5 SAFETY

- 3.5.1 The Contractor will be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the “ROADWAY AND TRAFFIC DESIGN STANDARDS SERIES 600 TRAFFIC CONTROL THROUGH WORK ZONES, 2014”. Contractor must take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury, or loss to:
- (a) All employees and other persons whom may be affected thereby.
 - (b) Other property at the work area or adjacent thereto, including trees, shrubs, lawns, walkways, roadways, structures and utilities not designated for removal, relocation or replacement.
 - (c) All the work and all materials or equipment to be incorporated therein, whether in storage on or off the work area.
- 3.5.2 No work shall be done under these specifications except by permission of the Town when the weather is unfit for good and careful work to be performed. Should the severity of the weather continue, the Contractor upon the direction of the Town, shall suspend all work instructed to resume operations by the Town.
- 3.5.3 The Contractor will be responsible for following the Florida Underground Facility Damage Prevention & Safety Act (556), OSHA Standard 1926.651, Florida Trench and Safety Act (Chapter 90-96) and obtaining utility locations by calling Sunshine State One-Call of Florida Inc. at 1-800-432-4700. Contractor will have full responsibility for reviewing and checking all information and data for locating all underground facilities.
- 3.5.4 The operations will be conducted in many areas where overhead electric, telephone, and cable television facilities exist. The Contractor must protect all utilities from damage, will immediately contact the appropriate utility if damage has occurred, and will be responsible for all claims for damage due to his operations. The Contractor must make arrangements with the utility for the removal of necessary limbs and branches, which may conflict with, or create a personal injury hazard in

the removal of the tree. Delays encountered by the Contractor in waiting for the utility to complete its work will not be the responsibility of the Contractor.

- 3.5.5 During the street sweeping process a speed limit of 15mph shall be observed at all times. All sweeping activities shall be done under the speed limit mentioned above. If the Contractor operates street sweeping vehicles at over 15 mph, the Contractor will not be compensated for the corresponding segment swept.
- 3.5.6 Contractor shall initiate and maintain policies and measures to protect the Town's building, its contents and any surrounding areas against damage by the elements. The contractor will assume full responsibility for any damage to any property including but not limited to walls, floors, tables, chairs, trees, shrubs, lawns, walks, roadways, structures, utilities, and underground facilities, resulting from the performance of the work.
- 3.5.7 Further, the awarded Contractor must at all times guard against damage or loss to the property of the Town or of other vendors or contractors and will be held responsible for replacing or repairing any such loss or damage. The Town may withhold payment or make such deductions from payments as it deems necessary to insure reimbursement or replacement for loss or damage to property through negligence of the awarded contractor or his agents.
- 3.5.8 Contractor shall provide adequate protection for both curbs/sidewalks/grass areas over which trucks and equipment pass to reach the project site and repair/replace all damaged areas, at no cost to the owner.
- 3.5.9 The contractor upon receipt of either written or oral notice must immediately discontinue any practice obviously hazardous in the opinion of the Project Manager. The contractor must comply with all OSHA and other Federal and State safety standards. Blocking of the public street, except under extreme emergency conditions, will not be permitted unless prior arrangements have been made with the Project Manager and the Town Police and Fire Departments and other agencies having jurisdiction over the street to be closed.

3.6 INSPECTIONS, DOCUMENTATION, AND INVOICES

- 3.6.1 A representative from the Town must approve the work and related costs prior to commencement of work. The Town will determine if the work performed is acceptable. If the work does not meet the Town's requirements, the Contractor must take whatever remedial action is necessary to meet the requirements. Work that is determined to be defective shall be remedied by the Contractor at no additional cost to the Town within a period of twenty four (24) hours. The Town and/or Project Managers reserve the right to stop the work.
- 3.6.2 A digital file consisting of the work done must be submitted on a monthly basis to the Town on the tenth of each month.
- 3.6.3 As a minimum, daily management reports on all the street sweepers shall be provided by the Contractor, including:
 - 3.6.3.1 Routes cleaned,
 - 3.6.3.2 Time of day the routes were cleaned

- 3.6.3.3 Occurrences when street sweepers was in excess of 6 miles per hour
 - 3.6.3.4 Duration of occurrence when street sweeper traveled in excess of 6 miles per hour; and
 - 3.6.3.5 Total monthly volume and weight of collected materials.
- 3.6.4 Contractor must provide a Global Positioning System (“GPS”) that is able to record all work conducted (Example: Track stick or equivalent device). A digital file will be provided to the Town at no additional cost. The digital file will be used to evaluate all invoices. The following attributes will be standard in the file:
- (a) Date
 - (b) Start Time
 - (c) End Time
 - (d) Driver’s Name
 - (e) Truck Number
 - (f) Speed
- 3.6.5 Contractor shall provide all dump tickets to the Town, which shall include a GPS file. Copies of dump tickets shall be included with monthly invoice; failure to submit dump tickets or submission of incomplete dump tickets will result in non-payment.
- 3.6.6 The Contractor must report to the Town the tonnage and cubic yards swept in accordance with the Environmental Protection Agency’s National Pollutant Discharge Elimination System permit reporting requirements. Failure to submit monthly disposal reports will result in no payment for the work completed for that month.
- 3.6.7 The Contractor shall pay all sales, consumer use, and other similar taxes under the laws and regulations of the State of Florida, Miami Dade County, and the Town. The Town’s State Tax exempt status shall not be used by the Contractor at any time.
- 3.6.8 Complaints. Town will notify the Contractor by telephone and/or in writing of each contract complaint reported. Daily complaints and deficiency reports prepared by the Town will be submitted to the Contractor by 2:00 p.m. on the next Town workday. Inspection reports of unsatisfactory performance will include description of the deficiency, location, and the center line miles (or fractions thereof), to be corrected. If the Contractor receives a complaint, the Contractor shall submit said complaint to the Town.

END OF THIS SECTION

SECTION 4
PROPOSAL FORM PACKAGE

In addition to the requirements listed in this RFP, Proposers must complete and attach the following items, collectively the “Proposal Form Package,” for inclusion in their Proposal:

FORMS	STATUS
Form 1 – Proposal Form Package Acknowledgement	<input type="checkbox"/>
Form 2A. Proposer’s Certification (if Company or Corporation)	<input type="checkbox"/>
Form 2B. Proposer’s Certification (if Partnership)	<input type="checkbox"/>
Form 3. Single Execution Affidavits	<input type="checkbox"/>
Form 4. Dispute Disclosure	<input type="checkbox"/>
Form 5. Certification Regarding Debarment, Suspension, & Other Responsibility Matters Primary Covered Transactions	<input type="checkbox"/>
Form 6. Proposer’s Qualifications Survey	<input type="checkbox"/>
Form 7. Street Sweeper Fee Schedule	<input type="checkbox"/>
Form 8. Reference List	<input type="checkbox"/>
Form 9. Federally Required Clauses Affidavit	<input type="checkbox"/>

FORM 1
PROPOSAL FORM PACKAGE ACKNOWLEDGEMENTS

I hereby propose to furnish the goods and services specified in the Request for Proposals, RFP No. 2021-01. I agree that my proposal will remain firm for a period of 180 days after opened by the Town in order to allow the Town adequate time to evaluate the proposals.

I certify that all information contained in this proposal is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this proposal on behalf of the Firm named as the Proposing Firm and that said Firm is ready, willing, and able to perform if awarded the Agreement.

I further certify, under oath, that this proposal is made without prior understanding, agreement, connection, discussion, or collusion with any other person, firm or corporation submitting a proposal; no officer, employee or agent of the Town of Surfside or any other proposer has an interest in said proposal. Furthermore, I certify that the undersigned executed this Proposal Form with full knowledge and understanding of matters therein contained and was duly authorized.

I further certify that the Proposer acknowledges receipt of all Addenda issued by the Town in connection with the RFP (Check the box next to each addendum received).

_____ Addendum 1	_____ Addendum 6
_____ Addendum 2	_____ Addendum 7
_____ Addendum 3	_____ Addendum 8
_____ Addendum 4	_____ Addendum 9
_____ Addendum 5	_____ Addendum 10

Attached hereto are the following forms/documents which form a part of this proposal:

- | | |
|----------|---|
| Form 1. | Proposal Form Package Acknowledgement. |
| Form 2A. | Proposer's Certification (if Company or Corporation) |
| Form 2B. | Proposer's Certification (if Partnership) |
| Form 3. | Single Execution Affidavits |
| Form 4. | Dispute Disclosure |
| Form 5. | Certification Regarding Debarment, Suspension, & Other Responsibility
Matters Primary Covered Transactions |
| Form 6. | Proposer's Qualifications |
| Form 7. | Street Sweeper Fee Schedule |
| Form 8. | Reference List |
| Form 9. | Federally Required Clauses Affidavit |

**FORM 2A
PROPOSER'S CERTIFICATION
(if Company or Corporation)**

CERTIFICATE

STATE OF _____)
) SS
 COUNTY OF _____)

I HEREBY CERTIFY that a meeting of the Board of Directors of _____
 a corporation or company existing under the laws of the State of _____,
 held on _____, 2021, the following resolution was duly passed and adopted:

RESOLVED, that, as _____ of the Corporation/Company, be and is hereby authorized to execute the proposal dated, _____, 2021 to the Town of Surfside for RFP No. 2021-01 Street Sweeper Services, and that this execution thereof, attested by the Secretary of the Corporation/Company, and with the Corporate/Company Seal affixed, shall be the official act and deed of this Corporation/Company.

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of corporation/company on this the _____ of _____, 2021.

Secretary

(SEAL)

FORM 3
SINGLE EXECUTION AFFIDAVITS
THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC
OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

THIS FORM COMBINES SEVERAL AFFIDAVIT STATEMENTS TO BE SWORN TO BY THE PROPOSER OR BIDDER AND NOTARIZED BELOW. IN THE EVENT THE PROPOSER OR BIDDER CANNOT SWEAR TO ANY OF THESE AFFIDAVIT STATEMENTS, THE PROPOSER OR BIDDER IS DEEMED TO BE NON-RESPONSIBLE AND IS NOT ELIGIBLE TO SUBMIT A PROPOSAL/BID. THESE SINGLE EXECUTION AFFIDAVITS ARE SUBMITTED TO THE TOWN OF SURFSIDE AND ARE STATEMENTS MADE:

By: _____

For (Name of Proposing or Bidding Entity): _____

Whose business address is: _____

And (if applicable) its Federal Employer Identification Number (FEIN) is: _____

(if the entity does not have an FEIN, include the Social Security Number of the individual signing this sworn statement. SS#: _____)

Americans with Disabilities Act Compliance Affidavit

The above named firm, corporation or organization is in compliance with and agrees to continue to comply with, and assure that any subcontractor, or third party contractor under this project complies with all applicable requirements of the laws listed below including, but not limited to, those provisions pertaining to employment, provision of programs and services, transportation, communications, access to facilities, renovations, and new construction.

- The American with Disabilities Act of 1990 (ADA), Pub. L. 101-336, 104 Stat 327, 42 USC 1210112213 and 47 USC Sections 225 and 661 including Title I, Employment; Title II, Public Services; Title III, Public Accommodations and Services Operated by Private entities; Title IV, Telecommunications; and Title V, Miscellaneous Provisions.
- The Florida Americans with Disabilities Accessibility Implementation Act of 1993, Section 553.501-553.513, Florida Statutes:
- The Rehabilitation Act of 1973, 229 USC Section 794;
- The Federal Transit Act, as amended 49 USC Section 1612;
- The Fair Housing Act as amended 42 USC Section 3601-3631.

Proposer Initials

Public Entity Crimes Affidavit

I understand that a “public entity crime” as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any

other state or of the United States, including but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentations.

I understand that “convicted” or “conviction” as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

I understand that an “affiliate” as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

1. A predecessor or successor of a person convicted of a public entity crime; or
2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term “affiliate” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm’s length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

I understand that a “person” as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term “person” includes those officers, directors, executives, and partners, shareholders, employees, members, and agents who are active in management of an entity.

Based on information and belief, the statement, which I have marked below, is true in relations to the entity submitting this sworn statement.

(INDICATE WHICH STATEMENT APPLIES.)

- Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.
- The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.
- The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing

Officer of the State of Florida , Division of Administrative Hearings and the final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list (attach a copy of the final order).

I understand that the submission of this form to the contracting officer for the public entity identified in paragraph 1 above is for that public entity only and that this form is valid through December 31 of the calendar year in which it is filed. I also understand that I am required to inform the public entity prior to entering into a contract in excess of the threshold amount provided in Section 287.017, Florida Statutes for category two of any change in the information contained in this form.

Proposer Initials

No Conflict of Interest or Contingent Fee Affidavit

Proposer warrants that neither it nor any principal, employee, agent, representative nor family member has paid or will pay any fee or consideration that is contingent on the award or execution of a contract arising out of this solicitation. Proposer also warrants that neither it nor any principal, employee, agent, representative nor family member has procured or attempted to procure this contract in violation of any of the provisions of the Miami-Dade County and Town of Surfside conflict of interest or code of ethics ordinances. Further, Proposer acknowledges that any violation of these warrants will result in the termination of the contract and forfeiture of funds paid or to be paid to the Proposer should the Proposer be selected for the performance of this contract.

Proposer Initials

Business Entity Affidavit

Proposer hereby recognizes and certifies that no elected official, board member, or employee of the Town of Surfside (the " Town") shall have a financial interest directly or indirectly in this transaction or any compensation to be paid under or through this transaction, and further, that no Town employee, nor any elected or appointed officer (including Town board members) of the Town, nor any spouse, parent or child of such employee or elected or appointed officer of the Town, may be a partner, officer, director or proprietor of Proposer or Vendor, and further, that no such Town employee or elected or appointed officer, or the spouse, parent or child of any of them, alone or in combination, may have a material interest in the Vendor or Proposer. Material interest means direct or indirect ownership of more than 5% of the total assets or capital stock of the Proposer. Any exception to these above described restrictions must be expressly provided by applicable law or ordinance and be confirmed in writing by Town. Further, Proposer recognizes that with respect to this transaction or bid, if any Proposer violates or is a party to a violation of the ethics ordinances or rules of the Town, the provisions of Miami-Dade County Code Section 2-11.1, as applicable to Town, or the provisions of Chapter 112, part III, Fla. Stat., the Code of Ethics for Public Officers and Employees, such Proposer may be disqualified from furnishing the goods or services for which the bid or proposal is submitted and may be further disqualified from submitting any future bids or proposals for goods or services to Town.

Proposer Initials

Anti-Collusion Affidavit

1. Proposer/Bidder has personal knowledge of the matters set forth in its Proposal/Bid and is fully informed respecting the preparation and contents of the attached Proposal/Bid and all pertinent circumstances respecting the Proposal/Bid;
2. The Proposal/Bid is genuine and is not a collusive or sham Proposal/Bid; and
3. Neither the Proposer/Bidder nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including Affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other Proposer/Bidder, firm, or person to submit a collusive or sham Proposal/Bid, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Proposer/Bidder, firm, or person to fix the price or prices in the attached Proposal/Bid or of any other Proposer/Bidder, or to fix any overhead, profit, or cost element of the Proposal/Bid price or the Proposal/Bid price of any other Proposer/Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Town or any person interested in the proposed Contract.

Proposer Initials

Scrutinized Company Certification

1. Proposer certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the Town may immediately terminate the Agreement that may result from this RFP at its sole option if the Proposer or its subcontractors are found to have submitted a false certification; or if the Proposer, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
2. If the Agreement that may result from this RFP is for more than one million dollars, the Proposer certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. pursuant to Section 287.135, F.S., the Town may immediately terminate the Agreement that may result from this RFP at its sole option if the Proposer, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Proposer, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
3. The Proposer agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under the Agreement that may result from this RFP. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

Proposer Initials

Drug-Free Workplace Affidavit

Proposer hereby recognizes that, pursuant to F.S. § 287.087, preference shall be given to businesses with drug-free workplace programs when two bids/proposals are equal with respect to price, quality, and service. Proposer understands that in order to qualify as a drug-free workplace, proposer must:

- a) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

- b) Inform employees about the dangers of drug abuse in the workplace, the Proposer’s policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
 - 1) Give each employee engaged in providing commodities or contractual services under the RFP a copy of the statement specified in subsection (1).
 - 2) Notify employees that, as a condition of working on the commodities or contractual services under the RFP, the employee must abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
 - 3) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee’s community, by any employee who is so convicted.
 - 4) Make a good faith effort to continue to maintain a drug-free workplace through the implementation of this section.

Based on information and belief, the statement, which I have marked below, is true in relations to the entity submitting this sworn statement.

(INDICATE WHICH STATEMENT APPLIES.)

- The entity submitting this sworn statement is a drug-free workplace and is in full compliance with the requirements set forth under F.S. § 287.087.

- The entity submitting this sworn statement is not a drug-free workplace.

Proposer Initials

Town Non-Discrimination Requirements Affidavit

Proposer understands that pursuant to Section 3-1.1 of the Code of the Town of Surfside, the Town will not enter into or award a contract to an entity engaged in a boycott.

Proposer understands that “Boycott” as defined under Section 3-1.1 of the Code of the Town of Surfside means to blacklist, divest from, or otherwise refuse to deal with a nation or country, or to

blacklist or otherwise refuse to deal with a person or entity when the action is based on race, color, national origin, religion, sex, gender identity, sexual orientation, marital or familial status, age, or disability in a discriminatory manner. The term boycott does not include a decision based upon business or economic reasons, or boycotts, embargoes, trade restrictions, or divestments that are specifically authorized or required by federal law or state law.

Proposer certifies that it is not engaged in a boycott, and is in full compliance with Section 3-1.1 of the Code of the Town of Surfside.

Proposer Initials

Acknowledgment, Warranty, and Acceptance

1. Contractor warrants that it is willing and able to comply with all applicable state of Florida laws, rules and regulations.
2. Contractor warrants that it has read, understands, and is willing to comply with all requirements of **RFP No. 2020-01** and any addendum/addenda related thereto.
3. Contractor warrants that it will not delegate or subcontract its responsibilities under an agreement without the prior written permission of the Town Commission or Town Manager, as applicable.
4. Contractor warrants that all information provided by it in connection with this Proposal is true and accurate.

Proposer Initials

In the presence of:

Signed, sealed and delivered by:

Witness #1 Print Name: _____

Print Name: _____

Witness #2 Print Name: _____

Title: _____

ACKNOWLEDGMENT

State of Florida
County of _____

On this _____ day of _____, 20____, before me the undersigned, personally appeared _____, whose name(s) is/are subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

Witness my hand and official seal:

Notary Public (Print, Stamp, or Type as Commissioned)

- _____ Personally known to me; or
- _____ Produced identification (Type of Identification: _____)
- _____ Did take an oath; or
- _____ Did not take an oath

**FORM 4
DISPUTE DISCLOSURE**

Answer the following questions by placing an “X” after “Yes” or “No”. If you answer “Yes”, please explain in the space provided, or on a separate sheet attached to this form.

1. Has your firm or any of its officers, received a reprimand of any nature or been suspended by the Department of Professional Regulations or any other regulatory agency or professional associations within the last five (5) years?

YES _____ NO _____

2. Has your firm, or any member of your firm, been declared in default, terminated or removed from a contract or job related to the services your firm provides in the regular course of business within the last five (5) years?

YES _____ NO _____

3. Has your firm had against it or filed any requests for equitable adjustment, contract claims, Bid protests, or litigation in the past five (5) years that is related to the services your firm provides in the regular course of business?

YES _____ NO _____

If yes, state the nature of the request for equitable adjustment, contract claim, litigation, or protest, and state a brief description of the case, the outcome or status of the suit and the monetary amounts of extended contract time involved.

I hereby certify that all statements made are true and agree and understand that any misstatement or misrepresentation of falsification of facts shall be cause for forfeiture of rights for further consideration of this Proposal or Bid for the Town of Surfside.

Signature

Print Name & Title

Sworn to and subscribed before me this _____ day _____, 20_____.

Personally known

OR

Produced identification

Type of identification

Notary Public – State of _____
My commission expires: _____

Printed, typed or stamped commissioned name of notary public

FORM 5
CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS
PRIMARY COVERED TRANSACTIONS

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 13 CFR Part 145. The regulations were published as Part VII of the May 26, 1988 *Federal Register* (pages 19160-19211). Copies of the regulations are available from local offices of the U.S. Small Business Administration.

- (1) The prospective primary participant certifies to the best of its knowledge and belief that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective primary participant shall attach an explanation to this Statement of Qualifications.

Business Name _____

Date _____

By: _____
Signature of Authorized Representative

Name and Title of Authorized Representative

FORM 6
PROPOSER'S QUALIFICATIONS SURVEY

NOTE: This statement of Proposer's Qualification must be completely filled out, properly executed, and returned as part of your Proposal.

[Provide documentation evidencing the experience of the Proposer and demonstrating that the Proposer has successfully provided services similar to those specified herein to other agencies of similar size and needs as the Town. The proposer firm shall be currently engaged in landscaping and maintenance services on a full time basis and shall have been in existence and continuous operation providing these services for a minimum of five (5) years]

1. List the true, exact and proper names of the company, partnership, corporation, and trade or fictitious name under which you do business and principals by names and titles:

Name of Firm: _____

Address: _____

Principals: _____ Titles: _____

2. a. Are you licensed, as may be required, in the designated area(s) of Miami-Dade County, Florida?

YES _____ NO _____

- b. List Principals Licensed:

Name(s): _____ Title: _____

Remarks: _____

3. How long has your Firm been in business and so licensed? _____

4. If Proposer is an individual, corporation, company or a partnership, answer the following:

a. Date of Organization _____

b. Name, address and ownership units of all directors, officers, members, principals or partners:

Form 6 – Proposer’s Qualifications Survey (continued)

- c. State whether general or limited partnership: _____
- d. State whether a corporation or company _____. Date and State of incorporation_____.

If Proposer is other than an individual, corporation, company or partnership, describe the organization and give the name and address of principals.

- 5. If Proposer is operating under a fictitious name, submit evidence of compliance with the Florida Fictitious Name Statute.
- 6. How many years has your firm been in business under its present business name?

- a. Under what other former names has your firm operated?

- b. Is the firm or its principals now or in the past five (5) years been involved as a defendant in litigation concerning the performance of your Firm’s services or operations? If so list:

- 7. a. List the pertinent experience of the key individuals of your Firm (continue on insert sheet, if necessary).

- b. State the name of the individual(s) who will have personal supervision and key roles for the Services:

Form 6 – Proposer’s Qualifications Survey (continued)

8. List name and title of persons in your Firm who are authorized to enter into an Agreement with the Town of Surfside, Florida for the proposed Services should your Firm be the successful Proposer.

Name _____

Title _____

10. Describe your Firm's experience in providing services to other municipalities or governmental agencies similar to the services to be provided herein.

Attach additional sheets if necessary.

FORM 7
STREET SWEEPER FEE SCHEDULE

Proposer shall provide Street Sweeper Services in accordance with the rate schedule below, which shall include the cover the cost of all expenses, including, but not limited to the costs of labor, materials, fees, taxes, permits, and other costs:

Item Number	Item Description / Location	Quantity	Units	Unit Cost (per curb feet)	Total Line Item Cost
1.0.0	<u>ITEMS</u>	<i>Leave Blank</i>	<i>Leave Blank</i>	<i>Leave Blank</i>	<i>Leave Blank</i>
1.1.1	Sweeping of Curb along Residential Roadway	101,050	Curb Feet	\$	\$
1.1.2	Sweeping of Curb along State Road	21,172	Curb Feet	\$	\$
1.1.3	Sweeping of Roadway 100 / 200 block	8,768	Curb Feet	\$	\$
1.1.4	Sweeping of Curb along Residential Roadway (Emergency Response post storm) (RECOVERY)	101,050	Curb Feet	\$	\$
1.1.5	Sweeping of Curb along State Road (Emergency Response post storm) (RECOVERY)	21,172	Curb Feet	\$	\$
1.1.6	Sweeping of Roadway 100 / 200 block (Emergency Response post storm) (RECOVERY)	8,768	Curb Feet	\$	\$
Total cost of service per visit (Per visit)					\$
2.0.0	<u>ITEMS</u>	<i>Leave Blank</i>	<i>Leave Blank</i>	<i>Leave Blank</i>	<i>Leave Blank</i>
2.1.1	Emergency Response due to vehicle accident (mobilize to sweep debris caused by vehicular incident)	1	each time	\$	\$

THE CONTRACTOR SHALL HONOR THE RATES SET FORTH ABOVE FOR A PERIOD OF THREE (3) YEARS, AND SHALL THEREAFTER INCREASE BY THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U) RATE YEARLY.

**FORM 8
REFERENCE LIST**

**IN ADDITION TO THE INFORMATION REQUIRED ON THIS FORM,
CONTRACTOR TO PROVIDE A MINIMUM OF THREE REFERENCE LETTERS.**

REFERENCE #1

Public Entity Name: _____

Reference Contact Person/Title/Department: _____

Contact Number & Email _____

Public Entity Size/Number of Residents/Square Mileage: _____

**Event(s) Completed (include Name of Project/Event, Date of Event Start/Completion, Details on Size/Scope of
Work/Complexity)** _____

Total Reimbursement Requested from FEMA, State, Insurance or Other Sources: _____

Final Reimbursement (if available) Approved by FEMA, State, Insurance or Other Sources: _____

Is the Contract still Active? Yes _____ **No** _____

REFERENCE #2

Public Entity Name: _____

Reference Contact Person/Title/Department: _____

Contact Number & Email _____

Public Entity Size/Number of Residents/Square Mileage: _____

Event(s) Completed (include Name of Project/Event, Date of Event Start/Completion, Details on Size/Scope of Work/Complexity) _____

Total Reimbursement Requested from FEMA, State, Insurance or Other Sources: _____

Final Reimbursement (if available) Approved by FEMA, State, Insurance or Other Sources: _____

Is the Contract still Active? Yes _____ **No** _____

REFERENCE #3

Public Entity Name: _____

Reference Contact Person/Title/Department: _____

Contact Number & Email _____

Public Entity Size/Number of Residents/Square Mileage: _____

Event(s) Completed (include Name of Project/Event, Date of Event Start/Completion, Details on Size/Scope of Work/Complexity) _____

Total Reimbursement Requested from FEMA, State, Insurance or Other Sources: _____

Final Reimbursement (if available) Approved by FEMA, State, Insurance or Other Sources: _____

Is the Contract still Active? Yes _____ **No** _____

FORM 9
FEDERALLY REQUIRED CLAUSES AFFIDAVIT
THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC
OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

THIS PROCUREMENT SHALL CONFORM IN ALL RESPECTS TO THE “FEDERALLY REQUIRED CLAUSES” INCLUDING, BUT NOT LIMITED TO THOSE CLAUSES LISTED BELOW. PROPOSER SHALL WARRANT THAT IT HAS READ, UNDERSTANDS, AND IS WILLING TO COMPLY WITH ALL THE “FEDERALLY REQUIRED CLAUSES” LISTED BELOW. IN THE EVENT THE PROPOSEE FAILS TO SWEAR TO ANY PART OF THIS AFFIDAVIT, THE PROPOSER SHALL BE DEEMED TO BE NON-RESPONSIBLE AND IS NOT ELIGIBLE TO SUBMIT A PROPOSAL. THIS AFFIDAVIT IS SUBMITTED TO THE TOWN OF SURFSIDE AND ARE STATEMENTS MADE:

By: _____

For (Name of Proposing or Bidding Entity): _____

Whose business address is: _____

And (if applicable) its Federal Employer Identification Number (FEIN) is: _____

(if the entity does not have an FEIN, include the Social Security Number of the individual signing this sworn statement. SS#: _____)

A. 2 C.F.R. §200.213 - Suspension and debarment

Non-federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations restrict awards, sub awards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

Proposer Initials

B. 2 C.F.R. §200.317 - Procurements by states

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with §200.322 Procurement of recovered *materials* and ensure that every purchase order or other contract includes any clauses required by section §200.326 Contract provisions. All other non-Federal entities, including sub recipients of a state, will follow §§200.318 General procurement standards through 200.326 Contract provisions.

Proposer Initials

C. 2 C.F.R. §200.318 - General procurement standards

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. (d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.213 Suspension and debarment.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)(1) The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:

- (i) The actual cost of materials; and
- (ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

Proposer Initials

D. 2 C.F.R. §200.319 - Competition

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations.

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that **prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals**, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
- (2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

Proposer Initials

E. 2 C.F.R. §200.320 - Methods of procurement to be followed

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

- (i) A complete, adequate, and realistic specification or purchase description is available;
- (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

- (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publically advertised;
- (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of

A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- (1) The item is available only from a single source;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (4) After solicitation of a number of sources, competition is determined inadequate.

Proposer Initials

F. 2 C.F.R. §200.321 - Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using 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; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

Proposer Initials

G. 2 C.F.R. §200.322 - Procurement of recovered materials

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors 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 during 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.

Proposer Initials

H. 2 C.F.R. §200.323 - Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

(e) Reserved

Proposer Initials

I. 2 C.F.R. §200.324 - Federal awarding agency or pass-through entity review

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a “brand name” product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2)The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

Proposer Initials**J. 2 C.F.R. §200.325 - Bonding requirements**

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A

“performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

Proposer Initials**K. §200.326 Contract provisions.**

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

Proposer Initials**L. 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses**

Requirements under the Uniform Rules. A non-Federal entity's contracts must contain the applicable contract clauses described in Appendix II to the Uniform Rules (Contract Provisions for non-Federal Entity Contracts Under Federal Awards), which are set forth below. 2 C.F.R. §200.326. For some of the required clauses we have included sample language or a reference a non-Federal entity can go to in order to find sample language. Please be aware that this is sample language only and that the non-Federal entity alone is responsible ensuring that all language included in their contracts meets the requirements of 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II. We do not include sample language for certain required clauses (remedies, termination for cause and convenience, changes) as these must necessarily be written based on the non-Federal entity's own procedures in that area.

1. Remedies.

a. Standard: Contracts for more than the simplified acquisition threshold (\$150,000) must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract

terms, and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II, A.

b. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

2. Termination for Cause and Convenience.

a. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II, B.

b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

3. Equal Employment Opportunity.

a. Standard. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, ¶ C.

b. Key Definitions.

(1) Federally Assisted Construction Contract. The regulation at 41 C.F.R.

§ 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

(2) Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

c. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

d. The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract clause:

“During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The 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. The 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) The 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) The 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) The 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) The 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, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes 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 as 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) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (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 interests of the United States."

4. Davis Bacon Act and Copeland Anti-Kickback Act.

a. Applicability of Davis-Bacon Act. The Davis-Bacon Act only applies to the emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. **It does not apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program.**

- (1) All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). See 2 C.F.R. Part 200, Appendix II, ¶ D.
- (2) 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.
- (3) The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- (4) In contracts subject to the Davis-Bacon Act, the contracts must also include a provision

for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. 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 Copeland Anti- Kickback Act provides that each contractor or subrecipient 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. The non-Federal entity must report all suspected or reported violations to FEMA.

- (5) The regulation at 29 C.F.R. § 5.5(a) does provide the required contract clause that applies to compliance with both the Davis-Bacon and Copeland Acts. However, as discussed in the previous subsection, the Davis-Bacon Act does not apply to Public Assistance recipients and subrecipients. **In situations where the Davis-Bacon Act does not apply, neither does the Copeland “Anti-Kickback Act.”** However, for purposes of grant programs where both clauses do apply, FEMA requires the contract clause listed under section 4(b), “Compliance with the Copeland “Anti-Kickback” Act.”

b. “Compliance with the Copeland “Anti-Kickback” Act.

- (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 clauses 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.”

5. Contract Work Hours and SafetyStandards Act.

a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E.

c. Under 40 U.S.C. § 3702, each 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 workweek.

d. 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. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

“Compliance with the Contract Work Hours and Safety Standards Act.

- (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. The (write in the name of the Federal agency or the loan or grant recipient) 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. Rights to Inventions Made Under a Contract or Agreement.

a. Stafford Act Disaster Grants. This requirement **does not apply to the Public Assistance**, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of “funding agreement.”

b. If the FEMA award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the non-Federal entity 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 non-Federal entity must comply with the requirements of 37 C.F.R. 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 FEMA. See 2 C.F.R. Part 200, Appendix II, ¶ F.

c. The regulation at 37 C.F.R. § 401.2(a) currently defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

7. Clean Air Act and the Federal Water Pollution Control Act. Contracts of amounts in excess of \$150,000 must contain a provision that requires the contractor to agree 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). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II, ¶ G.

a. The following provides a sample contract clause concerning compliance for contracts of amounts in excess of \$150,000:

(1) “Clean Air Act

(a) 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.

(b) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(c) 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.

(2) Federal Water Pollution Control Act

(a) 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.

(b) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(c) 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.”

8. Debarment and Suspension.

a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

b. Non-federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security’s regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).

c. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II, ¶ H; and *Procurement Guidance for Recipients and Subrecipients Under 2 C.F.R. Part 200 (Uniform Rules): Supplement to the Public Assistance Procurement Disaster Assistance Team (PDAT) Field Manual* Chapter IV, ¶ 6.d, and Appendix C, ¶ 2 [hereinafter *PDAT Supplement*]. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that 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. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530; *PDAT Supplement*, Chapter IV, ¶ 6.d and Appendix C, ¶ 2.

d. In general, an “excluded” party cannot receive a Federal grant award or a contract within the meaning of a “covered transaction,” to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a “covered transaction,” which is any nonprocurement transaction (unless excepted) at either a “primary” or “secondary” tier. Although “covered transactions” do not include contracts awarded by the Federal Government for purposes of the nonprocurement common rule and DHS’s implementing regulations, it does include some contracts awarded by recipients and subrecipient.

e. Specifically, a covered transaction includes the following contracts for goods or services:

(1) The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.

(2) The contract requires the approval of FEMA, regardless of amount.

- (3) The contract is for federally-required audit services.
- (4) A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.

d. The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified:

“Suspension and Debarment

- (1) 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).
- (2) 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.
- (3) This certification is a material representation of fact relied upon by (insert name of subrecipient). 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 (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2C.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.”

9. Byrd Anti-Lobbying Amendment.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Contractors that apply or bid for an award of \$100,000 or more must file the required certification. See 2 C.F.R. Part 200, Appendix II, ¶ I; 44 C.F.R. Part 18; PDAT Supplement, Chapter IV, 6.c; Appendix C, ¶ 4.
- c. 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. See PDAT Supplement, Chapter IV, ¶ 6.c and Appendix C, ¶ 4.

d. The following provides a Byrd Anti-Lobbying contract clause:

“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.”

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date"

10. Procurement of Recovered Materials.

a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

b. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965)

(codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). See 2 C.F.R. Part 200, Appendix II, ¶ J; 2 C.F.R. § 200.322; *PDAT Supplement*, Chapter V, ¶ 7.

c. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. 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.

d. The following provides the clause that a state agency or agency of a political subdivision of a state and its contractors can include in contracts meeting the above contract thresholds:

“(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- designate items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.”

11. Additional FEMA Requirements.

a. The Uniform Rules authorize FEMA to require additional provisions for non- Federal entity contracts. FEMA, pursuant to this authority, requires or recommends the following:

b. Changes.

To be eligible for FEMA assistance under the non-Federal entity’s FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

c. Access to Records.

All non-Federal entities must place into their contracts a provision that all contractors and their successors, transferees, assignees, and subcontractors acknowledge and agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff. See DHS Standard Terms and Conditions, v 3.0, ¶ XXVI (2013).

d. The following provides a contract clause regarding access to records:

“Access to Records. The following access to records requirements apply to this contract:

(1) The contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), the FEMA Administrator, 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 this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.”

12. DHS Seal, Logo, and Flags.

a. All non-Federal entities must place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. See DHS Standard Terms and Conditions, v 3.0, ¶ XXV (2013).

b. The following provides a contract clause regarding DHS Seal, Logo, and Flags: “The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval.”

13. Compliance with Federal Law, Regulations, and Executive Orders.

a. All non-Federal entities must place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives.

b. The following provides a contract clause regarding 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 will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.”

14. No Obligation by Federal Government.

a. The non-Federal entity must include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

b. The following provides a contract clause regarding no obligation by the Federal Government:
“The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.”

15. Program Fraud and False or Fraudulent Statements or Related Acts.

a. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.

b. The following provides a contract clause regarding Fraud and False or Fraudulent or Related Acts:
“The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor’s actions pertaining to this contract.”

Proposer Initials

[SIGNATURE PAGE FOLLOWS.]

In the presence of:

Signed, sealed and delivered by:

Witness #1 Print Name: _____

Print Name: _____

Witness #2 Print Name: _____

Title: _____

ACKNOWLEDGMENT

State of Florida

County of _____

On this _____ day of _____, 20____, before me the undersigned, personally appeared _____, whose name(s) is/are subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

Witness my hand and official seal:

Notary Public (Print, Stamp, or Type as Commissioned)

_____ Personally known to me; or

_____ Produced identification (Type of Identification: _____)

_____ Did take an oath; or

_____ Did not take an oath

Exhibit "A"

Town Streets and Avenues Map

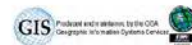


Town of Surfside Roadway Classifications

Print Date: 1/7/2021



500 250 0 500 Feet



Calvin, Giordano & Associates, Inc.
A SAFELINK COMPANY

Exhibit "B"
Town Service Calendar

Month	Day
November	3
November	10
November	17
November	24
December	1
December	8
December	15
December	22
December	29
January	5
January	12
January	19
January	26
February	2
February	9
February	16
February	23
March	2
March	9

Month	Day
March	16
March	23
March	30
April	6
April	13
April	20
April	27
May	4
May	11
May	18
May	25
June	1
June	8
June	15
June	22
June	29

Exhibit "C"
Sample Agreement

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF SURFSIDE
AND
NAME OF ENTITY**

THIS AGREEMENT (this “Agreement”) is made effective as of the _____ day of _____, 2021 (the “Effective Date”), by and between the **TOWN OF SURFSIDE**, a Florida municipal corporation, (hereinafter the “Town”), and **NAME OF ENTITY**, a Florida [type of entity], (hereinafter, the “Consultant”).

WHEREAS, the Town issued Request for Proposals (RFP) No. 2021-01 seeking qualified firms for Street Sweeper Services, which RFP is incorporated herein by reference; and

WHEREAS, the Consultant will perform services on behalf of the Town, all as further set forth in the **Proposal dated _____, 2021**, attached hereto as Exhibit “A” (the “Services”); and

WHEREAS, the Consultant and Town, through mutual negotiation, have agreed upon a fee for the Services; and

WHEREAS, the Town desires to engage the Consultant to perform the Services and provide the deliverables as specified below.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Consultant and the Town agree as follows:

1. Scope of Services.

- 1.1.** Consultant shall provide the Services on a non-exclusive basis as set forth in the Proposal attached hereto as Exhibit “A” and incorporated herein by reference (the “Services”), along gutters and roadways identified in the Town Streets and Avenues Map, attached hereto as Exhibit “B.”
- 1.2.** Consultant shall furnish all reports, documents, and information obtained pursuant to this Agreement, and recommendations during the term of this Agreement (hereinafter “Deliverables”) to the Town.

2. Term/Commencement Date.

- 2.1.** The term of this Agreement shall commence on the Effective Date through three (3) years thereafter, unless earlier terminated in accordance with Paragraph 8. Additionally, the Town Manager may renew this Agreement for three (3) additional one (1) year periods on the same terms as set forth herein upon written notice to the Consultant.
- 2.2.** Consultant agrees that time is of the essence and Consultant shall complete the Services within the term of this Agreement, unless extended by the Town Manager.

3. Compensation and Payment.

- 3.1. Compensation for Services provided by Consultant shall be based on the corresponding Unit Pricing for the Services as set forth in the Street Sweeper Fee Schedule, which is attached hereto as Exhibit “C,” and incorporated herein by reference.
- 3.2. Consultant shall deliver an invoice to Town no more often than once per month detailing Services completed and the amount due to Consultant under this Agreement. Fees shall be paid in arrears each month, pursuant to Consultant’s invoice, which shall be based upon the percentage of work completed for each task invoiced. The Town shall pay the Consultant in accordance with the Florida Prompt Payment Act after approval and acceptance of the Services by the Town Manager.

4. Subconsultants.

- 4.1. The Consultant shall be responsible for all payments to any subconsultants and shall maintain responsibility for all work related to the Services.
- 4.2. Consultant may only utilize the services of a particular subconsultant with the prior written approval of the Town Manager, which approval may be granted or withheld in the Town Manager’s sole and absolute discretion.

5. Town’s Responsibilities.

- 5.1. Town shall make available any maps, plans, existing studies, reports, staff and representatives, and other data pertinent to the Services and in possession of the Town, and provide criteria requested by Consultant to assist Consultant in performing the Services.
- 5.2. Upon Consultant’s request, Town shall reasonably cooperate in arranging access to public information that may be required for Consultant to perform the Services.

6. Consultant’s Responsibilities; Representations and Warranties.

- 6.1. The Consultant shall exercise the same degree of care, skill and diligence in the performance of the Services as is ordinarily provided by a consultant under similar circumstances. If at any time during the term of this Agreement or within two (2) years from the completion of this Agreement, it is determined that the Consultant’s Deliverables or Services are incorrect, not properly rendered, defective, or fail to conform to Town requests, the Consultant shall at Consultant’s sole expense, immediately correct its Deliverables or Services.
- 6.2. The Consultant hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under Federal, State and local laws applicable to and necessary to perform the Services for Town as an independent contractor of the Town. Consultant further warrants

and represents that it has the required knowledge, expertise, and experience to perform the Services and carry out its obligations under this Agreement in a professional and first class manner.

6.3. The Consultant represents that is an entity validly existing and in good standing under the laws of Florida. The execution, delivery and performance of this Agreement by Consultant have been duly authorized, and this Agreement is binding on Consultant and enforceable against Consultant in accordance with its terms. No consent of any other person or entity to such execution, delivery and performance is required.

7. Conflict of Interest.

7.1. To avoid any conflict of interest or any appearance thereof, Consultant shall not, for the term of this Agreement, provide any consulting services to any private sector entities (developers, corporations, real estate investors, etc.), with any current, or foreseeable, adversarial issues in the Town.

8. Termination.

8.1. The Town Manager, without cause, may terminate this Agreement upon five (5) calendar days written notice to the Consultant, or immediately with cause.

8.2. Upon receipt of the Town's written notice of termination, Consultant shall immediately stop work on the project unless directed otherwise by the Town Manager.

8.3. In the event of termination by the Town, the Consultant shall be paid for all work accepted by the Town Manager up to the date of termination, provided that the Consultant has first complied with the provisions of Paragraph 8.4.

8.4. The Consultant shall transfer all books, records, reports, working drafts, documents, maps, and data pertaining to the Services and the project to the Town, in a hard copy and electronic format within fourteen (14) days from the date of the written notice of termination or the date of expiration of this Agreement.

9. Insurance.

9.1. Consultant shall secure and maintain throughout the duration of this agreement insurance of such types and in such amounts not less than those specified below as satisfactory to Town, naming the Town as an Additional Insured, underwritten by a firm rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary insurance with respect to the Town, its officials, employees, agents, and volunteers naming the Town as additional insured. Any insurance maintained by the Town shall be in excess of the Consultant's insurance and shall not contribute to the Consultant's insurance. The insurance coverages shall include at a minimum the amounts set forth in this section and may be increased by the Town as it deems necessary or prudent.

- 9.1.1. Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Consultant. The General Aggregate Liability limit and the Products/Completed Operations Liability Aggregate limit shall be in the amount of \$2,000,000 each.
- 9.1.2. Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 each accident. No employee, subcontractor or agent of the Consultant shall be allowed to provide Services pursuant to this Agreement who is not covered by Worker's Compensation insurance.
- 9.1.3. Business Automobile Liability with minimum limits of \$1,000,000 per occurrence, combined single limit for Bodily Injury and Property Damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Service Office, and must include Owned, Hired, and Non-Owned Vehicles.
- 9.1.4. Professional Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, single limit.

9.2. Certificate of Insurance. Certificates of Insurance shall be provided to the Town, reflecting the Town as an Additional Insured (except with respect to Professional Liability Insurance and Worker's Compensation Insurance), no later than ten (10) days after award of this Agreement and prior to the execution of this Agreement by Town and prior to commencing Services. Each certificate shall include no less than (30) thirty-day advance written notice to Town prior to cancellation, termination, or material alteration of said policies or insurance. The Consultant shall be responsible for assuring that the insurance certificates required by this Section remain in full force and effect for the duration of this Agreement, including any extensions or renewals that may be granted by the Town. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The Town reserves the right to inspect and return a certified copy of such policies, upon written request by the Town. If a policy is due to expire prior to the completion of the Services, renewal Certificates of Insurance shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Town before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the Town.

9.3. Additional Insured. Except with respect to Professional Liability Insurance and Worker's Compensation Insurance, the Town is to be specifically included as an Additional Insured for the liability of the Town resulting from Services performed by or on behalf of the Consultant in performance of this Agreement. The Consultant's insurance, including that

applicable to the Town as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the Town shall be in excess of and shall not contribute to the Consultant's insurance. The Consultant's insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured (for applicable policies) in the same manner as if separate policies had been issued to each.

9.4. Deductibles. All deductibles or self-insured retentions must be declared to and be reasonably approved by the Town. The Consultant shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

9.5. The provisions of this section shall survive termination of this Agreement.

10. Nondiscrimination. During the term of this Agreement, Consultant shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination.

11. Attorneys Fees and Waiver of Jury Trial.

11.1. In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and all appellate levels.

11.2. IN THE EVENT OF ANY LITIGATION ARISING OUT OF THIS AGREEMENT, EACH PARTY HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO TRIAL BY JURY.

12. Indemnification.

12.1. Consultant shall indemnify and hold harmless the Village, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising from Consultant's performance or non-performance of any provision of this Agreement, including, but not limited to, liabilities arising from contracts between the Consultant and third parties made pursuant to this Agreement. Consultant shall reimburse the Village for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising from Consultant's performance or non-performance of this Agreement.

12.2. Nothing herein is intended to serve as a waiver of sovereign immunity by the Town nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. The Town is subject to section 768.28, Florida Statutes, as may be amended from time to time.

12.3. The provisions of this section shall survive termination of this Agreement.

13. Notices/Authorized Representatives. Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the addresses listed on the signature page of this Agreement or such other address as the party may have designated by proper notice.

14. Governing Law and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any proceedings arising out of this Agreement shall be proper exclusively in Miami-Dade County, Florida.

15. Entire Agreement/Modification/Amendment.

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

15.2. No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

16. Ownership and Access to Records and Audits.

16.1. Consultant acknowledges that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports, compiled information, and all similar or related information (whether patentable or not) which relate to Services to the Town which are conceived, developed or made by Consultant during the term of this Agreement (“Work Product”) belong to the Town. Consultant shall promptly disclose such Work Product to the Town and perform all actions reasonably requested by the Town (whether during or after the term of this Agreement) to establish and confirm such ownership (including, without limitation, assignments, powers of attorney and other instruments).

16.2. Consultant agrees to keep and maintain public records in Consultant’s possession or control in connection with Consultant’s performance under this Agreement. The Town Manager or her designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any records of the Consultant involving transactions related to this Agreement. Consultant additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. Consultant shall 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 the Agreement, and following completion of the Agreement until the records are transferred to the Town.

16.3. Upon request from the Town’s custodian of public records, Consultant shall provide the Town 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 by Chapter 119, Florida Statutes, or as otherwise provided by law.

- 16.4. Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the Town.
- 16.5. Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the Consultant shall be delivered by the Consultant to the Town Manager, at no cost to the Town, within seven (7) days. All such records stored electronically by Consultant shall be delivered to the Town in a format that is compatible with the Town's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the Consultant shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.
- 16.6. Any compensation due to Consultant shall be withheld until all records are received as provided herein.
- 16.7. Consultant's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the Town.
- 16.8. **Notice Pursuant to Section 119.0701(2)(a), Florida Statutes. IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS.**

Custodian of Records: Sandra McCready, MMC

**Mailing address: 9293 Harding Avenue
Surfside, FL 33154**

Telephone number: 305-861-4863

Email: smccready@townofsurfsidefl.gov

- 16.9. Consultant shall comply with the following FEMA records access requirements:
- 16.9.1. The Consultant agrees to provide the Town, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Consultant which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- 16.9.2. The Consultant agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- 16.9.3. The Consultant agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed pursuant to or in connection with this Agreement.

16.9.4. In compliance with the Disaster Recovery Act of 2018, the Town and the Consultant acknowledge and agree that no language in this Agreement is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

- 17. Nonassignability.** This Agreement shall not be assignable by Consultant unless such assignment is first approved by the Town Manager. The Town is relying upon the apparent qualifications and expertise of the Consultant, and such firm's familiarity with the Town's area, circumstances and desires.
- 18. Severability.** If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.
- 19. Independent Contractor.** The Consultant and its employees, volunteers and agents shall be and remain an independent contractor and not an agent or employee of the Town with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.
- 20. Compliance with Laws.**
- 20.1.** The Consultant shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities in carrying out Services under this Agreement, including federal, State of Florida, Miami-Dade County, the Town of Surfside, and in particular shall obtain all required permits from all jurisdictional agencies to perform the Services under this Agreement at its own expense.
- 20.2.** The Consultant acknowledges that FEMA financial assistance will be used to fund all or a portion of this Agreement. The Consultant will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.
- 21. 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.
- 22. Survival of Provisions.** Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.
- 23. Prohibition of Contingency Fees.** The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, 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 the Consultant, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

24. **Public Entity Crimes Affidavit.** Consultant shall comply with Section 287.133, Florida Statutes (Public Entity Crimes Statute), notification of which is hereby incorporated herein by reference, including execution of any required affidavit.
25. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.
26. **Conflicts.** In the event of a conflict between the terms of this Agreement and any exhibits or attachments hereto, the terms of this Agreement shall control.
27. **Boycotts.** The Consultant is not currently engaged in, and will not engage in, a boycott, as defined in Section 3-1.1 of the Town of Surfside Code of Ordinances.
28. **Federal Requirements.** Consultant agrees to comply with the contract provisions listed under FHWA-1273 Form, attached hereto Exhibit "D" and incorporated herein by reference, and the following terms and provisions for all federally funded and reimbursable Services provided:
 - 28.1. **Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.** In accordance with 2 C.F.R. § 200.321, Consultant shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps for the Consultant to take regarding subcontractors must include:
 - 28.1.1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - 28.1.2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - 28.1.3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - 28.1.4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - 28.1.5. Using 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.
 - 28.2. **Debarment and Suspension.** The Town and the Consultant are subject to the debarment and suspension regulations set forth under Executive Order 12549, Debarment and Suspension (1986) and Executive Order 12689, Debarment and Suspension (1989) at 2 C.F.R. Part 3000.

28.2.1. This Agreement is a covered transaction for purposes of 2 C.F.R. part 180 and 2 C.F.R. part 3000. As such, Consultant is required to verify that the Consultant, 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).

28.2.2. Consultant must comply with 2 C.F.R. part 180, subpart C and 2 C.F.R. part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

28.2.3. This certification is a material representation of fact relied upon by the Town. If it is later determined that the Consultant did not comply with 2 C.F.R. part 180, subpart C and 2 C.F.R. part 3000, subpart C, in addition to remedies available to the Town, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

28.2.4. Consultant agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, sub-part 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.

28.3. Procurement of recovered materials. The Town and the Consultant agree to comply with 2 C.F.R. § 200.322:

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors 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 during 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.

28.4. Methods of procurement to be followed.

28.5. Davis-Bacon Act.

28.5.1. All transaction regarding this contract shall be done in compliance with the Davis-Bacon Act, 50 U.S.C. 3141-3144 and 3146-3148, and the requirements of 29 C.F.R. pt. 5 as may be applicable. The Consultant shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt 5 as applicable.

28.5.2. Consultant is required to pay wages to laborers at a rate not less than the prevailing wages specified in the a wage determination made by the U.S. Secretary of Labor.

28.5.3. Consultants must pay wages not less than once a week.

28.6. Copeland Anti-Kickback Act.

28.6.1. Consultant 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 Agreement.

28.6.2. . The Consultant shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Consultant shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

28.6.3. A breach of the contract clauses 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.

28.7. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Consultants who apply or bid for an award of \$100,000 or more shall file the required certification attached hereto as Exhibit “E”. 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 who in turn will forward the certification(s) to the awarding agency.

28.8. Compliance with the Contract Work Hours and Safety Standards Act.

28.8.1. The Consultant or its subcontractors contracting for any part of the Services under this Agreement 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.

28.8.2. In the event of any violation of the clause set forth in paragraph (b)(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 (b)(1) of this section, in the sum of \$26 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 (b)(1) of this section.

28.8.3. The Town 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 Consultant or its subcontractors 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 (b)(2) of this section.

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

28.9. Clean Air Act.

28.9.1. The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42U.S.C. § 7401 et seq.

28.9.2. The Consultant agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

28.9.3. The Consultant agrees to include these requirements in each subcontract exceeding \$150,000 that is financed in whole or in part with Federal assistance provided by FEMA.

28.10. Federal Water Pollution Control Act.

28.10.1. The Consultant 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.

28.10.2. The Consultant agrees to report each violation to the Town, and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

28.10.3. The Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

- 28.11. DHS Seal, Logo, and Flags.** The Consultant shall not use the Department Homeland Security seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- 28.12. No Obligation by Federal Government.** The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from this Agreement.
- 28.13. Program Fraud and False or Fraudulent Statements or Related Acts.** The Consultant acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Agreement.
- 28.14. Change or Modification.** To be eligible for FEMA assistance under a FEMA grant or cooperative agreement, the cost of a change, modification, change order, or constructive change must be allowable, allocable, within the scope of the grant or cooperative agreement, and reasonable for the completion of the project scope. Accordingly, the Consultant shall comply with the following:
- 28.14.1. Without invalidating the Agreement, Town reserves and shall have the right, from time to time to make such increases, decreases or other changes in the character or quantity of the work as may be considered necessary or desirable to fully and properly complete the project in a satisfactory manner in accordance with the scope of the FEMA grant or cooperative agreement. Any extra or additional work within the scope of this Agreement must be accomplished by means of appropriate Field Orders or Change Orders.
- 28.14.2. The Agreement Administrator shall have the right to approve and issue Field Orders setting forth written interpretations of the intent of the project documents and ordering minor changes in work execution, providing the Field Order involves no change in the Agreement Price or the Agreement Time.
- 28.14.3. Changes in the quantity or character of the Work within the scope of the Project which are not properly the subject of Field Orders, including all changes resulting in changes in the Agreement Price, or the Agreement Time, shall be authorized only by Change Orders approved in advance and issued in accordance with the provisions of Town's Procurement Code, as amended from time to time.

[Remainder of page intentionally left blank. Signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year as first stated above.

TOWN OF SURFSIDE

CONTRACTOR

By: _____
Jason Greene
Interim Town Manager

Attest:

By: _____
Sandra McCready, MMC
Town Clerk

Approved as to form and legal sufficiency:

By: _____
Weiss Serota Helfman Cole & Bierman, P.L.
Town Attorney

Addresses for Notice:

Town of Surfside
Attn: Interim Town Manager
9293 Harding Avenue
Surfside, FL 33154
305-861-4863 (telephone)
305-993-5097 (facsimile)
JGreene@townofsurfsidefl.gov (email)

With a copy to:

Weiss Serota Helfman Cole & Bierman, P.L.
Attn: Lillian Arango, Esq.
Town of Surfside Attorney
2525 Ponce de Leon Boulevard, Suite 700
Coral Gables, FL 33134
larango@wsh-law.com (email)

By: _____

Name: _____

Title: _____

Entity: _____

Addresses for Notice:

_____ (telephone)
_____ (facsimile)
_____ (email)

With a copy to:

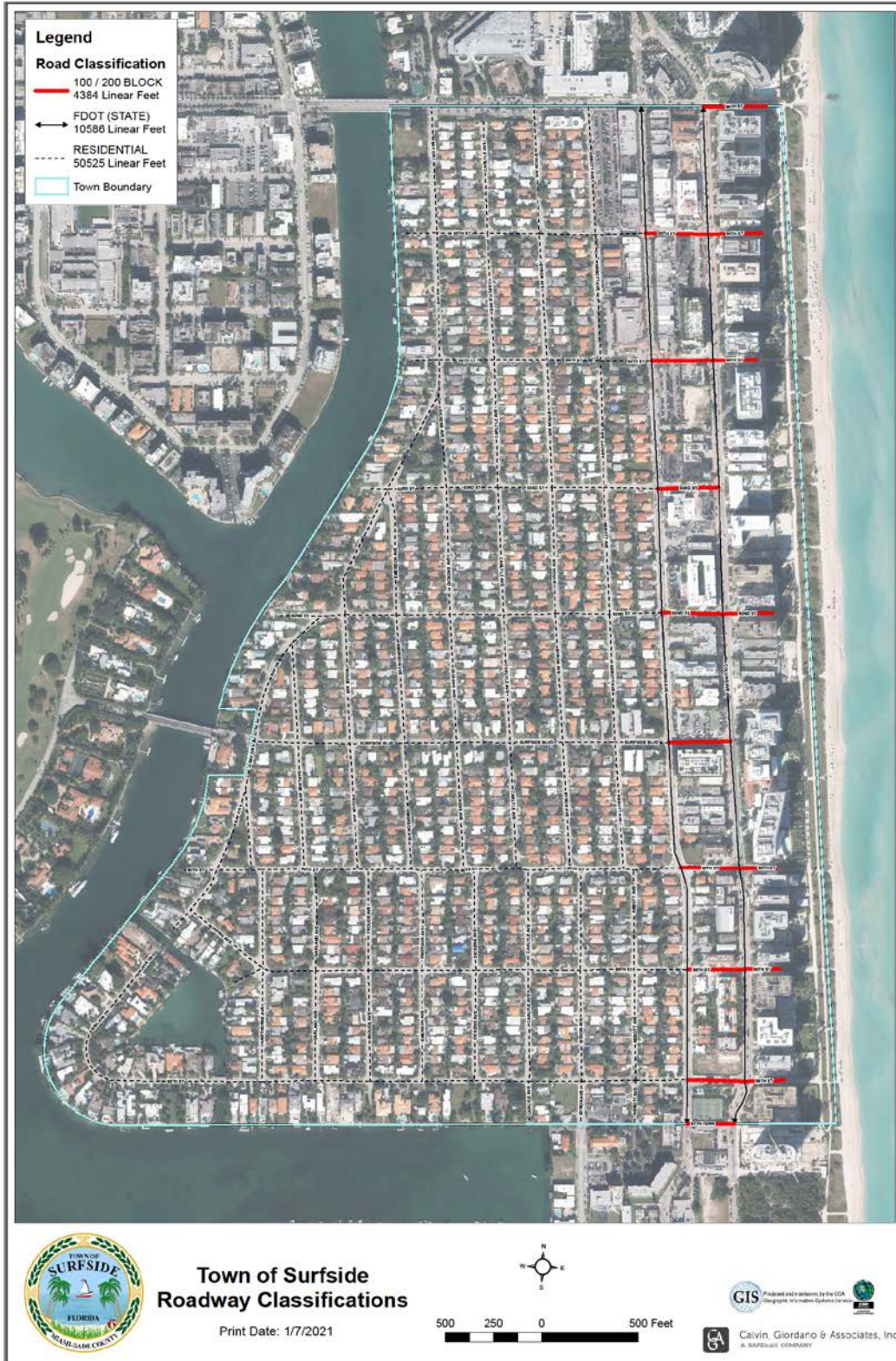
_____ (telephone)
_____ (facsimile)
_____ (email)

EXHIBIT “A”
SCOPE OF SERVICES

The Scope of Services are those contained in RFP No. 2021-01 and the Proposal dated _____, 2021, attached hereto and incorporated herein by reference.

EXHIBIT "B"

Town Streets and Avenues Map



**EXHIBIT “C”
Street Sweeper Fee Schedule**

[Insert Consultant’s Completed Street Sweeper Fee Schedule Form]

Exhibit "D"
FHWA-1273