

RESOLUTION NO. 2018- 2491

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH MUNILYTICS, INC. FOR INTERIM FINANCE DIRECTOR SERVICES; PROVIDING FOR AUTHORIZATION AND IMPLEMENTATION OF THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (“Town”) wishes to engage Munitytics, Inc. (“Consultant”) to provide interim Finance Director professional services for the Town’s Finance Department, including the specific services and functions set forth in the Consultant’s Proposal attached hereto as Exhibit “A” (“Services”); and

WHEREAS, the Services are exempt from competitive bidding pursuant to Section 3-13(2) of the Town’s Purchasing Code as professional services; and

WHEREAS, Consultant has agreed to provide the Services pursuant to the Proposal attached hereto as Exhibit “A” and in accordance with the terms and conditions of the Professional Services Agreement attached hereto as Exhibit “B” (the “Agreement”); and

WHEREAS, the Town Commission finds that the Agreement is in the best interest and welfare of the Town and wishes to approve same in substantially the form attached hereto as Exhibit “B.”

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AS FOLLOWS:

Section 1. Recitals. That the above and foregoing recitals are true and correct and are hereby incorporated by reference.

Section 2. Approval and Authorization. The Agreement between the Town and Consultant, substantially in the form attached hereto as Exhibit “B”, is hereby approved. The Town Commission authorizes the Town Manager to execute the Agreement on behalf of the Town, together with such non-substantive changes as may be approved by the Town Manager and Town Attorney as to legal sufficiency.

Section 3. Implementation. The Town Manager is authorized to take all action necessary to implement the purposes of this Resolution and the Agreement.

Section 4. Effective Date. This Resolution will become effective upon adoption.

PASSED AND ADOPTED this 13th day of March, 2018.

Motion by Commissioner Karukin.
Second by Commissioner Paul.

FINAL VOTE ON ADOPTION

Commissioner Daniel Gielchinsky	<u>yes</u>
Commissioner Michael Karukin	<u>yes</u>
Commissioner Tina Paul	<u>yes</u>
Vice Mayor Barry Cohen	<u>yes</u>
Mayor Daniel Dietch	<u>yes</u>




Daniel Dietch, Mayor

ATTEST:



Sandra Novoa, MMC,
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:**



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



Monday, March 5, 2018

Mr. Guillermo Olmedillo, Town Manager
Town of Surfside
9293 Harding Avenue
Surfside, Florida 33154

Subject: Proposal for Interim Finance Director Professional Services

Dear Mr. Olmedillo,

Thank you for the opportunity to provide the Town of Surfside with Interim Finance Director Services. We appreciate the time you and your staff spent discussing the issues facing the Town and how Munilytics can assist with your needs.

Specific Duties and Responsibilities

Our basic services shall consist of the provision of traditional Finance Director services for the administration of the Finance Department of the Town as directed by the Town Manager. We shall perform the Scope of Services solely as an independent contractor and not as an employee of the Town. In addition to other work assigned by the Town Manager, we would be expected to perform the following functions:

1. Develop and maintain a comprehensive accounting and financial management system for the Town in accordance with generally accepted accounting principles applicable to local government units, the financial reporting requirements of the State Auditor Generals' office and the Town's Charter.
2. Assist with the current conversion of the Town's ERP.
3. Plan, coordinate and develop the preparation of the Comprehensive Annual Financial Report.
4. Submit required information to apply for the Government Finance Officers Association (GFOA) Certificate of Achievement for Excellence in Financial Reporting.
5. Submit required information to apply for Government Finance Officers Association (GFOA) Distinguish Budget Presentation Award.
6. Submit required information to apply for the Public Pension Coordinating Council Award.
7. Supervise and manage the finance department, its personnel and systems.
8. Monitor the Town's financial system in order to ensure that all Town personnel are following the financial management system and the methods and practices incorporated therein.
9. Report to Town Manager any deviations from the Town's financial system or from the methods and practices established thereby.
10. Manage payroll, risk management, treasury and debt management programs.

11. Gather, organize, and maintain whatever financial information may be requested or required by the Town Manager or department heads.
12. Provide and implement a method of coding allocations of revenues and expenditures.
13. Plan, develop, and coordinate preparation of the annual operating budget.
14. Identify and obtain funding for Town projects, including TRIM and Miami Dade County processes.
15. Analyze accounts and provide to the Town Manager and department heads a monthly report showing comparison of the budgeted amounts in relation to actual revenues and expenses.
16. Assist in the FY2016-2017 audit and act as liaison to external auditors or in performing audit functions.
17. Supervise the completion of various reports required by numerous outside agencies, including surveys, progress reports and general statistical information.
18. Work with the public.
19. Attend Commission and Pension Board meetings.
20. Assist in the recruitment and hiring of a permanent Finance Director.
21. Includes all duties customary to a municipal finance director.

Our History Specific To Municipal Finance Operations

We have served as municipal finance officials since employed as the Budget and Finance Director for the Town of Davie; as the inception contractual finance director for the City of Miami Gardens; as the interim finance director for the Town of Miami Lakes; as the contractual finance director for the Village of Bal Harbour, as the contractual finance officials for the City of Lauderdale Lakes, as the finance department for the City of West Park; and for various special districts. We will be glad to provide references and contact information for each of these engagements or assignments. We have previously provided to the Town of Surfside an *Evaluation of the Solid Waste Department Operations and Consideration of Alternatives*, in 2008, but have otherwise not been engaged.

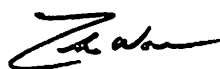
Our Proposal

We believe the best solution for the Town is to engage us on a month- to-month fixed-fee basis. We would be on-site generally three days per week and would be available to you 24-7 by phone or computer. Additionally, we would also be working as necessary from our offices in Davie. We will require secured remote access, preferably through Microsoft's Terminal Services protocols and programs. We will oversee and assist in the FY2017 audit and see that it is completed as quickly as possible. We have extensive experience in converting application software and will devote significant efforts towards making this transition successful and timely. We will develop, in conjunction with your direction, the FY2019 budget and will make sure all statutory requirements are timely completed. We will attend all the Town Council and Pension Board meetings that are scheduled, except any that occur on the first or third Wednesday of each month, owing to existing commitments. Further, we will not be available from June 23rd to July 5th, though we will be available by phone or computer. When necessary, we will bring on at our own expense additional personnel to assist with whatever duties we may find necessary to meet your expectations.

This proposal does not include any work necessary for publicly offered debt issues, special assessment methodologies, impact or permit fee studies, management analyses and studies, rate studies, or other extraordinary efforts that are not routinely incurred in the Town's ordinary course of business. If requested, we would be happy to provide supplementary proposals for such efforts. Our monthly fixed fee for this option is \$8,700.00. The fee includes all of our routine expenses and travel costs. Our hourly fee for finance director work outside the scope of services, which would be approved separately by the Town Manager should the need arise, is \$140.00/hour. The rate is billed on each quarter hour or fraction thereof and is portal-to-portal, if travel is necessary or required.

We appreciate the opportunity to provide you this outline of our proposal for the services we believe you are needing and we will be happy to further discuss this with you or other Town officials.

Cordially,

A handwritten signature in black ink, appearing to read "C. Wallace", written in a cursive style.

**Christopher Wallace
President**

PROFESSIONAL SERVICES AGREEMENT

BETWEEN

TOWN OF SURFSIDE, FLORIDA

AND

MUNILYTICS, INC.

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made effective as of the 13th day of March, 2018 (the "Effective Date"), by and between the **TOWN OF SURFSIDE, FLORIDA**, a Florida municipal corporation, whose principal address is 9293 Harding Avenue, Surfside, Florida 33154 (hereinafter the "Town"), and **MUNILYTICS, INC.**, a Florida Corporation, whose principal address is 7320 Griffin Road, Suite 102, Fort Lauderdale, Florida 33314 (hereinafter the "Consultant").

WHEREAS, the Town is a Florida municipal corporation who employs a Finance Director, who also serves as Director of the Finance Department responsible for the oversight and management of the Department; and

WHEREAS, the Consultant will provide interim Finance Director professional services for the administration of the Town's Finance Department and will provide the specific services and functions set forth in the Proposal dated March 5, 2018 attached hereto as Exhibit "A" (the "Services"); and

WHEREAS, the Consultant and Town, through mutual negotiation, have agreed upon a scope of services and 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 set forth in the Proposal attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter "Services").
- 1.2 Consultant shall furnish all reports, documents and information to be performed pursuant to this Agreement and during the term of this Agreement (hereinafter "Deliverables").

2. **Term/Commencement Date.**

- 2.1 This Agreement shall be effective upon the Effective Date and shall remain in effect for twelve (12) months thereafter, unless earlier terminated in accordance with Paragraph 8. The Town Manager may request that this Agreement be extended on a month-to-month basis for up to six (6) additional months, as needed, by providing written notice to Consultant at least 10 days prior to the expiration of the Term and any applicable monthly extension thereafter.
- 2.2 Consultant agrees that time is of the essence and Consultant shall timely perform and complete the Services in compliance with all applicable deadlines and 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 on a monthly fixed fee in the amount of \$8,700.00 (inclusive of routine expenses and travel expenses and costs incurred in performing the Services) and in accordance with the Proposal attached hereto as Exhibit "A." Fees for additional work or services outside the Scope of Services detailed in the Proposal attached hereto as Exhibit A" would be billed at an hourly rate of \$140.00 per hour, provided, said additional work or services are first approved in writing by the Town Manager.
- 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. 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 shall be in Town Manager's sole and absolute discretion.

5. Town's Responsibilities

- 5.1 Town shall make available any staff and/or representatives reasonably requested by Consultant to assist Consultant in the provision of 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

- 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 professional accountant and 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.

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 Services unless directed otherwise by the Town Manager.

- 8.3 In the event of termination by the Town, the Consultant shall be paid for all Services accepted by the Town Manager up to the date of termination, and prorated for the month, 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, 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 and agents 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.
- a. 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.
 - b. 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 RFP who is not covered by Worker's Compensation insurance.
 - c. 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.

- d. Professional Liability Insurance in an amount of not less than Two Million Dollars (\$2,000,000.00) 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.**

10.1 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 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 Town, 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 the Services or 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 Town 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 The provisions of this section shall survive termination of this Agreement.

13. **Notices/Authorized Representatives.**

13.1 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 following addresses:

For the Town: Guillermo Olmedillo
Town Manager
Town of Surfside
9293 Harding Avenue
Surfside, Florida 33154

With a copy to: Lillian M. Arango, Esq.
Town Attorney
Weiss Serota Helfman Cole & Bierman, P.A.
2525 Ponce de Leon Blvd., Suite 700
Coral Gables, FL 33134

For the Consultant: MUNILYTICS, INC.
c/o Christopher Wallace, Director/President
7320 Griffin Road, Suite 102
Fort Lauderdale, Florida 33314

14. **Governing Law and Venue.**

14.1 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; Representations and Warranties of Consultant.**

15.1 This writing contains the entire Agreement of the parties and supercedes 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.

15.3 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.

- 15.4 Consultant, and its employees and/or subcontractors, shall maintain in good standing all required licenses, certifications and permits required under federal, state and local laws necessary to perform the Services hereunder. Consultant 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.

16. **Ownership and Access to Records and Audits.**

- 16.1 Consultant acknowledges that all inventions, innovations, improvements, developments, methods, analyses, 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. 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, 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.

Section 119.0701(2)(a), Florida Statutes

IF THE CONTRACTOR 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 Novoa, MMC
Mailing address: 9293 Harding Avenue
Surfside, Florida 33154
Telephone number: (305) 861-1302 Ext. 226
Email: snovoa@townofsurfsidefl.gov

17. Non-Assignability; Key Personnel; Staffing.

- 17.1 This Agreement shall not be assigned or transferred by Consultant unless such assignment is first approved in writing by the Town Manager, in his sole and absolute discretion. The Town is relying upon the apparent qualifications and expertise of the Consultant, and, specifically, Christopher Wallace, and the firm's and principal's familiarity with the Town's finances, circumstances and needs. Christopher Wallace shall be the key and primary professional assigned to perform the Services, and no

changes to such shall occur without the proper written approval of the Town Manager.

17.2 Consultant agrees to provide the personnel and staff necessary to perform each of the Services set forth in Section 1 above. Specifically, and at a minimum, the level of staffing at the commencement of this Agreement shall be as set forth on "Exhibit A" to this Agreement. Adjustments thereto shall be made based upon the needs and demands of the Town, as approved by the Town Manager.

17.3 All employees and personnel of Consultant assigned to provide the Services and Deliverables to the Town pursuant to this Agreement shall be subject to the prior approval of the Town, and will not be deemed Town employees. All work and Services provided by employees and personnel of the Consultant shall be authorized and coordinated through the Town Manager.

17.4 If at any time during the term of this Agreement, the Town becomes dissatisfied with the performance of any of Consultant's employees or personnel assigned to perform Services under this Agreement, the Town Manager may request that Consultant remove the employee or personnel immediately upon notification by the Town. Consultant agrees to act in good faith and to use its best efforts to replace same with personnel acceptable to the Town and resolve any problems experienced by the Town.

17.5 Consultant shall not hire or use any subcontractors or sub-consultants to perform the Services pursuant to this Agreement without the prior written approval of the Town Manager, in its sole and absolute discretion.

18. **Severability.**

18.1 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.**

19.1 The Consultant and its employees 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. Unless expressly provided for

otherwise in this Agreement or authorized by the Town Manager. Consultant shall not act or attempt to act or represent itself, directly or indirectly or by implication, as an employee of Town or in any manner assume or create, or attempt to assume or create, any obligations on behalf or in the name of Town. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, and other similar administrative procedures applicable to Services rendered under this Agreement shall be the sole responsibility of Consultant.

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, and in particular shall obtain all required permits from all jurisdictional agencies to perform the Services under this Agreement at its own expense.

21. **Waiver**

21.1 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**

22.1 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.**

23.1 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**

24.1 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**

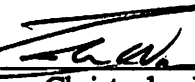

25.1 This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date written below their signatures.

CONSULTANT:

MUNILYTICS, INC., a Florida Corporation


By: 
Name: Christopher Wallace
Title: Director/President 

Date Executed: 3/21/2018


IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and date first above written.

TOWN:

**TOWN OF SURFSIDE, a
Florida Municipal Corporation**


By: _____
Guillermo Olmedillo, Town Manager

Date Executed: 3/13/18

Attest: 

Sandra Novoa, MMC, Town Clerk

Approved as to Form and Legal Sufficiency:



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