

RESOLUTION NO. 2019- 2622

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) AND ADDENDUM WITH THE AMERICAN FLOOD COALITION FOR A FLOOD ADAPTATION ASSESSMENT; AUTHORIZING THE TOWN MANAGER TO ENTER INTO THE MOU AND ADDENDUM FOR SUCH PURPOSE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, as a member of the American Flood Coalition, the Town of Surfside (“Town”) has been provided with the opportunity for a no-cost pilot program to conduct a Flood Adaptation Assessment using a city simulator tool developed by the firm of Atkins; and

WHEREAS, the Town wishes to enter into a Memorandum of Understanding (MOU) with the American Flood Coalition, and the attached Addendum, for such pilot program and the delivery of a Flood Adaptation Assessment, in substantially the form attached as Exhibit “A.”; and

WHEREAS, the Town Commission wishes to authorize the Town’s Manager to execute the MOU on behalf of the Town, together with the Addendum thereto, as deemed necessary by the Town Manager and Town Attorney; and

WHEREAS, the Town finds that this Resolution is in the best interest of the Town and will assist in the development of flood mitigation efforts and improvements.

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. The Town Commission hereby approves the MOU with the American Flood Coalition, and Addendum, in substantially the form attached hereto as Exhibit “A.” The Town Commission authorizes the Town Manager to execute the MOU and Addendum on behalf of the Town, together with such amendments s may be approved by the Town Manager and Town Attorney as to form and legal sufficiency.

Section 3. Implementation. The Town Manager and/or designee are authorized to take all action necessary to implement the MOU and the purposes of this Resolution.

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

PASSED AND ADOPTED this 10th day of September, 2019.

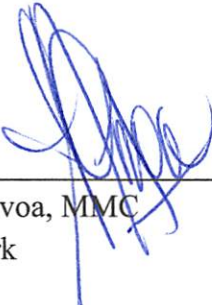
Motion by Vice Mayor Gielchinsky
Second by Commissioner Karukin

FINAL VOTE ON ADOPTION

| | |
|-------------------------------|---------------|
| Commissioner Barry Cohen | <u>Absent</u> |
| Commissioner Michael Karukin | <u>Yes</u> |
| Commissioner Tina Paul | <u>Absent</u> |
| Vice Mayor Daniel Gielchinsky | <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

**ADDENDUM TO MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN
OF SURFSIDE, FLORIDA AND
AMERICAN FLOOD COALITION**

THIS ADDENDUM TO MEMORANDUM OF UNDERSTANDING (“Addendum”) is made and entered into as of this ___ day of _____, 2019, by and between **TOWN OF SURFSIDE, FLORIDA**, a Florida municipal corporation (hereinafter referred to as “Town”) and **AMERICAN FLOOD COALITION** (hereinafter referred to as “American Flood Coalition”).

WITNESSETH:

WHEREAS, the Town and American Flood Coalition wish to enter into certain Memorandum of Understanding for a Flood Adaptation Assessment (“Services”) Memorandum of Understanding attached hereto and incorporated herein by reference (hereinafter the “MOU”); and

WHEREAS, the Town and American Flood Coalition wish to amend the MOU to add and provide for insurance requirements and compliance with Chapter 119, Florida Statutes (Florida Public Records Law).

NOW, THEREFORE, for and in consideration of the mutual promises herein contained, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Town and American Flood Coalition desiring to be legally bound, do hereby agree and covenant, notwithstanding the terms and conditions of the MOU, as follows:

1. **Defined Terms.** All initial capitalized terms used in this Addendum shall have the same meaning as set forth in the MOU unless otherwise provided.

2. **Recitals.** The recitals set forth above are incorporated herein and made a part of this Addendum.

3. **Insurance.**

3.1 American Flood Coalition shall secure and maintain throughout the duration of this MOU 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 American Flood Coalition’s insurance and shall not contribute to American Flood Coalition’s insurance. The insurance coverages shall include at a minimum the amounts set forth in this Section 3 and may be increased by the Town as it deems necessary or prudent.

- 3.2 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 American Flood Coalition shall be allowed to provide Services pursuant to the MOU who is not covered by Worker's Compensation insurance.
- 3.3 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.
- 3.4 **Certificate of Insurance.** Certificates of Insurance shall be provided to the Town, reflecting the Town as an Additional Insured, no later than five (5) days prior to the execution of the MOU by Town and prior to commencing any 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. American Flood Coalition shall be responsible for assuring that the insurance certificates required by this Section remain in full force and effect for the duration of the MOU, 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 the MOU and shall state that such insurance is as required by the MOU. 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.
- 3.5 **Additional Insured.** 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 American Flood Coalition in performance of the MOU. American Flood Coalition'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 American Flood Coalition's insurance. The American Flood Coalition'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.

3.6 **Deductibles.** All deductibles or self-insured retentions must be declared to and be reasonably approved by the Town. American Flood Coalition shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

3.7 The provisions of this section shall survive termination of the MOU.

4. **Ownership and Access to Records; Public Records.** Notwithstanding anything to the contrary in the MOU, the MOU and all deliverables and services provided by American Flood Coalition are subject to Florida's Public Records Law (Chapter 119, Florida Statutes), including but not limited to the following:

4.1 All records, books, documents, maps, data, deliverables, papers and financial information (the "Records") that result from American Flood Coalition providing the Services to the Town under the MOU shall be the property of the Town.

4.2 American Flood Coalition agrees to keep and maintain public records in its possession or control in connection with American Flood Coalition's performance under the MOU. American Flood Coalition additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. American Flood Coalition 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 MOU, and following completion of the MOU until the records are transferred to the Town.

4.3 Upon request from the Town custodian of public records, American Flood Coalition 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.

4.4 Upon completion of this MOU or in the event of termination by either party, any and all public records relating to the MOU in the possession of American Flood Coalition shall be delivered by American Flood Coalition to the Town Manager, at no cost to the Town, within seven (7) days. All such records stored electronically by American Flood Coalition 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 MOU, American Flood Coalition shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

4.5 Any compensation due to American Flood Coalition shall be withheld until all records are received as provided herein.

4.6 American Flood Coalition failure or refusal to comply with the provisions of this section shall result in the immediate termination of the MOU by the Town.

Section 119.0701(2)(a), Florida Statutes

IF AMERICAN FLOOD COALITION HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS MOU, CONTACT THE CUSTODIAN OF PUBLIC RECORDS.

**Custodian of Records: SANDRA NOVOA, MMC,
TOWN CLERK**

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

Telephone number: 305-887-9541

Email: snova@townofsurfsidefl.gov

5. **Counterparts.** This Addendum may be executed in counterparts and any counterpart evidencing signature by one party may be delivered by telecopy, facsimile or electronic mail. Each executed counterpart of this Addendum will constitute an original document and all executed counterparts, together, will constitute the same MOU.

6. **Ratification; Addendum Controls.** Except as expressly amended herein, all of the terms and provisions of the MOU remain unmodified and in full force and effect. In the event of any conflict between the terms of the MOU and the terms of this Addendum, the terms of this Addendum shall govern as necessary to resolve any such conflict.

7. **Notices/Authorized Representatives.** The following provision is added to the Agreement: Any notices required by the 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: Town of Surfside
Town Manager
9293 Harding Avenue
Surfside, Florida 33154

With a copy to: Town Attorney
Town of Surfside
9293 Harding Avenue
Surfside, Florida 33154

For American
Flood Coalition: American Flood Coalition
1342 Florida Avenue NW
Washington, DC 20009
Attn: Melissa Roberts, Executive Director

8. **Compliance with Laws.** American Flood Coalition shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities in carrying out the deliverables or services under the MOU, and in particular shall obtain all required permits from all jurisdictional agencies to perform the services under the MOU.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, the parties hereto have caused this Addendum on the dates set forth below their respective signatures.

TOWN:

TOWN OF SURFSIDE, FLORIDA, a Florida municipal corporation

By: _____

Name: _____

Title: _____

Date: _____

ATTEST:

Town Clerk

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

Town Attorney

AMERICAN FLOOD COALITION

By: _____

Name: _____

Title: _____

Date: _____

Memorandum of Understanding

Between

American Flood Coalition

and

Town of Surfside, Florida

This Memorandum of Understanding (MOU) sets forth the terms and understanding between the American Flood Coalition and the Town of Surfside, Florida (“Municipality”) to undertake a Flood Adaptation Assessment.

Background

As a member of the American Flood Coalition, the Municipality has been provided with the opportunity for a no-cost pilot project to conduct a Flood Adaptation Assessment using the City Simulator Tool developed by Atkins (“Firm”).

The Atkins City Simulator Tool builds a virtual model of a community including buildings and infrastructure, based on the available GIS data. Once the virtual “city” is built, users simulate the “city” growing over time. The tool incorporates rainfall forecasts, sea level rise projections, and other disaster modeling to assess the vulnerability of the municipality to different types of flooding over time. Beyond inundation depth, trained users can select metrics such as productivity and dollars lost due to flooding, number of commutes affected, impact on natural assets, and more.

From there, the tool enables users to explore specific adaptation measures including policy and planning changes, physical countermeasures, and general infrastructure improvements. For example, an adaptation planning measure may consist of raising the required Finished Floor Elevation (FFE) in certain areas to 2 feet above the Base Flood Elevation (BFE) or raising a section of coastal roadway. The American Flood Coalition will work with the Municipality to decide on the set of adaptation measures to test. Municipalities will build an adaptation scenario, consisting of a series of these measures, which will be compared to a “do nothing” case across the selected metrics.

Based on this analysis, the municipality will be able to view a set of high-level options to address flood risk, along with a sense of relative effectiveness. The output of this tool will be provided in an agreed-upon format and constitutes the Flood Adaptation Assessment. This assessment will provide a foundation, from which the Municipality can undertake later efforts to engage the community and develop a roadmap to adapt to changing flood risks.

Roles

For this project, the Municipality and the American Flood Coalition will each designate a representative, who will interact in the manner described below. The Firm will be responsible for the analysis and creation of final deliverable.

- **Role of American Flood Coalition.** The selected representative for the American Flood Coalition will serve as the Project Manager coordinating team members, ensuring deadlines are met, and acting as the central point of contact for the project. This representative will also work with the Municipality to decide exposure thresholds, metrics, and the set of adaptation measures to test. This selected representative will be Dr. Alec Bogdanoff for the American Flood Coalition.
- **Role of the Municipality.** The representative from the Municipality will work with the representative from the American Flood Coalition to provide data and other requested Municipality information; select adaptation measures, exposure thresholds, and metrics; and respond to other requests needed by the Firm to complete the assessment. The expected average time commitment from this representative is 3-4 hours a week. The selected representative will be Calvin, Giordano & Associates for the Municipality.
- **Role of the Firm.** The Firm will be responsible for the analysis and final deliverable. The Firm will provide a specific representative to be the main point of contact for both the Municipality and American Flood Coalition. The scope of the work of the Firm has been pre-arranged with the American Flood Coalition and any changes must be approved by the Municipality, American Flood Coalition, and Firm.
- **Notification of change in representative.** All parties will be notified if there is any change in the representative.
- **Responsiveness.** It is expected that each representative shall respond to a request of the other party within 2 business days. Should either representative be unavailable for more than 5 business days, an alternate representative will be designated with all authority as representative.

Activities

This MOU will provide for the expectations of each party, and set a clear understanding of the required effort, data, and deliverables for each party with the goal of completing the pilot Flood Adaptation Assessment. This goal will be accomplished by undertaking the following activities:

- The Municipality will provide all data available and needed for the analysis in GIS format, including, but not limited to:
 - Parcels
 - Building Footprints
 - Digital Elevation Model (DEM)

- Stormwater System
- Wastewater System
- Public Critical Facilities
- Roads and Parking Lots
- Land Use
- Soils
- Zoning plan
- Capital Improvement Projects (CIP)
- Major business areas including ports, airports, Central Business Districts (CBD), etc.
- The Municipality will assist in obtaining the following data in GIS format, from the appropriate agency or utility:
 - Water Supply System
 - Power System
 - Telecommunications System
- The Project Manager will coordinate with the Municipality and Firm to determine the appropriate exposure thresholds, metrics (to evaluate benefit), and adaptation planning scenarios.

Deliverable

The firm performing the analysis, in coordination with the American Flood Coalition, will be responsible for providing the final deliverable.

- **Content.** The deliverable will include a list of adaptation planning scenarios and associated benefits based on selected metrics, and cost estimates, if available.
- **Format.** This information will be provided as a PowerPoint presentation or different agreed upon medium that adequately details the results of the analysis. A report will not be provided.
- **Sharing.** The firm and American Flood Coalition will have the ability to share the deliverable. The deliverable will be the version approved by the Municipality.
- **Testimonial.** The Municipality, as appropriate, will be provided with the opportunity to share their experience, results, and outcomes in written or video format that can be used by all parties, including the firm.

Timelines and touchpoints

- **6-8 week project duration.** Expected project timeline is 6-8 weeks once data has been received by the Firm, but may adjust based on data availability and responsiveness of the Municipality.
- **Project kickoff meeting.** Within 3 weeks of signing the MOU for the assessment, the project will begin with a kickoff meeting. This kickoff will include key

stakeholders and senior decision makers from the Municipality (i.e., Manager, Mayor, and others as needed). This kickoff will also include the project leads from the Firm and the contact from the American Flood Coalition. During the kickoff week, slightly greater time from municipal staff (~8 hours) will be needed.

- **Average of 3-4 hours of Municipal staff time per week.** While the pilot process is largely conducted by the Firm, an average of 3-4 hours of time per week will be required by the Municipal representative. Greater time investment will be required during the kickoff, at the midpoint when adaptation measures are selected, and at the end as the deliverable is finalized.
- **Bi-weekly status calls.** A bi-weekly status call will be scheduled at the outset of the project and will continue throughout the project. The selected representative from the American Flood Coalition and Municipality will be present on the call, along with appropriate staff for both parties, and the firm performing the analysis, if needed.

Cost

The Flood Adaptation Assessment will be provided to the Municipality at no cost.

Other Considerations

This MOU and project, in no way, precludes the municipality from working with either the Firm or American Flood Coalition on any other project or activity.

Duration of MOU

This MOU is at-will and may be modified by mutual consent of authorized officials from the American Flood Coalition and the Municipality. This MOU shall become effective upon signature by the authorized officials from the American Flood Coalition and the Municipality and will remain in effect until modified or terminated by any one of the partners by mutual consent. In the absence of mutual agreement by the authorized officials from American Flood Coalition and the Municipality this MOU shall end on September 30, 2019.

Disclaimer of Liability

All parties (American Flood Coalition, Town of Surfside, and Atkins) specifically **DISCLAIM LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES** and assume no responsibility or liability for any loss or damage suffered by any person as a result of the use or misuse of any of the information or content provided under this Memorandum of Understanding and its deliverables.

Signature

Date

For: American Flood Coalition

Melissa Roberts

Executive Director

1342 Florida Ave NW

Washington, DC 20009

P: (833) 827-5224

E: melissa@floodcoalition.org

Signature

Date

For: Town of Surfside, Florida

Guillermo Olmedillo

Town Manager

9293 Harding Avenue

Surfside, FL 33154

P: (305) 861-4863

E: golmedillo@townofsurfsidefl.gov