

TOWN OF SURFSIDE

**REQUEST FOR
QUALIFICATIONS**



RFQ No. 2024-02

**SURFSIDE UNDERGROUNDING
OVERHEAD/UNDERGROUND CONVERSION PROGRAM
(AREA 1- SOUTH, AREA 2 – CENTRAL, AREA 3 - NORTH)**

CONSTRUCTION MANAGER AT RISK

The Town of Surfside Commission:

**Mayor Charles W. Burkett
Vice Mayor Tina Paul
Commissioner Ruben Coto
Commissioner Nelly Velasquez
Commissioner Gerardo Vildostegui**

Town of Surfside
9293 Harding Ave
Surfside, Florida 33154

ISSUE DATE: AUGUST 7, 2024

RFQ OPENING DATE: SEPTEMBER 12, 2024

RFQ OPENING TIME: 2:00 PM

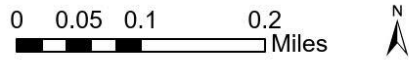
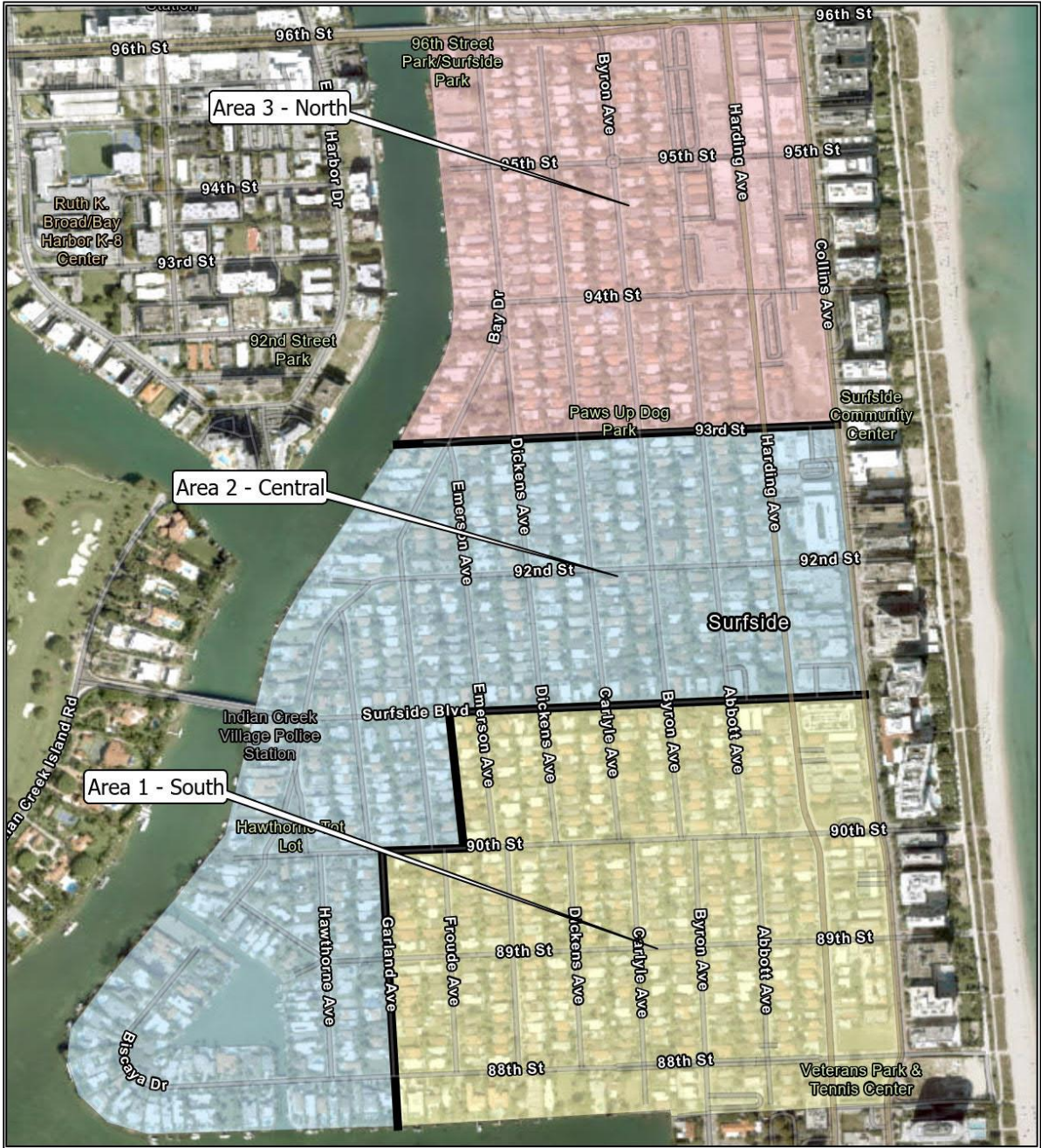


PUBLIC NOTICE

REQUEST FOR QUALIFICATIONS (RFQ) No. 2024-02 **SURFSIDE UNDERGROUNDING** **OVERHEAD/UNDERGROUND CONVERSION PROGRAM** **(AREA 1- SOUTH, AREA 2 – CENTRAL, AREA 3 - NORTH)** **CONSTRUCTION MANAGER AT RISK**

NOTICE IS HEREBY GIVEN that the Town of Surfside (“Town”) is soliciting responses from a qualified Construction Manager at Risk (“CMAR”) to perform related services in connection with the Surfside Undergrounding Overhead/Underground Conversion Program. Interested firms (“Respondents”) may pick-up a copy of the Request for Qualifications (“RFQ”) No. 2024-02 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.townofsurfsidefl.gov. The RFQ contains detailed and specific information about the scope of services, submission requirements, and evaluation and selection procedures. One (1) original, three (3) hard copies, and one (1) electronic copy on a USB drive of the completed and executed qualifications must be delivered no later than **September 12, 2024, at 2:00 PM**, to the following address: **Town of Surfside, Town Hall, Town Clerk’s Office, 9293 Harding Avenue, Surfside, FL 33154.**

The Town reserves the right to reject late submissions, in the sole discretion of the Town Manager or his/her designee. The envelope containing the sealed Response must be clearly marked as follows: **“SEALED RESPONSE, RFQ NO. 2024-02 SURFSIDE UNDERGROUNDING OVERHEAD/UNDERGROUND CONVERSION PROGRAM (AREA 1- SOUTH, AREA 2 – CENTRAL, AREA 3 - NORTH) CONSTRUCTION MANAGER AT RISK, OPENING DATE AND TIME/SUBMISSION DEADLINE: SEPTEMBER 12, 2024, at 2:00 PM.”** The Town Clerk shall certify the time of acceptance.



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 PHONE: 561-845-0665 FAX: 561-863-8175
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PHASING MAP
SURFSIDE
UNDERGROUNDING



SURFSIDE, FLORIDA 1/22/2024 TOWN OF SURFSIDE

The Town of Surfside seeks experienced CMARs capable of overseeing all aspects of a comprehensive municipality-wide overhead/underground conversion program (electric, telephone, and cable TV) including preconstruction and construction management services. The selected Respondent will be responsible for providing all necessary labor, permits, and supervision to execute various tasks including construction of conduit/splice boxes/hand holes/cabling/electrical equipment, directional drilling, switching/energizing of electric equipment, service connections (both public and private), electrical works, as well as paving and grading improvements and utility relocations associated with the transition from overhead to underground utilities. **Respondent shall be a Florida Power & Light Company approved vendor for electric distribution work or shall have the ability to subcontract such a vendor.** Additionally, the Respondent will ensure the fulfillment of all other requirements outlined in the project plans and technical specifications, resulting in a fully functional system. The Respondent will oversee the work and provide final restoration of private property areas impacted by the work.

The CMAR will control the schedule of the work performed by their own forces and subcontractors as well as coordinate the schedules and installation activities of the utility providers and monitor the progress and schedule the work. Existing local traffic must be maintained. Specific Maintenance of Traffic Plans will be required to be developed by the CMAR based on their plan to execute the projects. Furthermore, the chosen Respondent will undertake the crucial task of coordinating with various stakeholders and franchise utility owners. This includes but is not limited to, liaising with entities such as the Town of Surfside, Florida Power & Light Company (FPL), AT&T, and Breezeline to ensure seamless integration and compliance throughout the program's duration. The Respondent will initially be awarded Area 3 - North of the program, with the possibility of extending their services to two, additional projects upon mutual agreement. Each construction project is estimated to require 24-36 months for completion. Overlap in the project construction schedules is anticipated.

A **Mandatory Pre-Response Submittal Conference** will be held virtually on **August 28, 2024, at 2:00 PM EST**. To participate, please use the following Zoom link:
<https://us06web.zoom.us/j/83420597603?pwd=w5eWRAvuwX7Qus58ZQD5QlZ6oNvij6.1>
Meeting ID: 834 2059 7603/ Passcode: 797367

Attendance at this virtual meeting is mandatory for all Respondents intending to submit a Response. Prior to the meeting, Respondents must verify their ability to access the link and ensure they have the necessary technology to join seamlessly. The Town will not have in-person availability.

All persons attending the mandatory Pre-Response Submittal Conference may ask questions or seek clarification regarding this RFQ via the procedures outlined below. Any questions or clarifications concerning the Response specifications must be received by Sandra McCready, M.M.C., Town Clerk, no later than **September 5, 2024 at 5:00 PM EST**. Any questions regarding RFQ No. 2024-02 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 RFQ and circulated to all registered Respondents.

The Town shall solicit, evaluate and award an agreement in a manner consistent with requirements set forth in this RFQ. The Town reserves the right to cancel this solicitation, reject any or all submissions, with or without cause, to waive technical errors and informalities, and to accept any response from a Respondent which is qualified and best serves the interests of or represents the best value to the Town.

The Town hereby provides notice to all Respondents 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 ("RFQ") between (1) A potential respondent, vendor, service provider, proposer, contractor, 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: August 7, 2024

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SECTION 1

INFORMATION FOR RESPONDENTS

1.1 INTRODUCTION. The Town of Surfside (referred to as the "Town"), a municipality situated in Miami-Dade County, Florida, invites submissions from qualified firms ("Respondents") for the selection of a competent entity (the "CMAR," "Contractor," or "Respondent") to provide Construction Manager at Risk ("CMAR") Services for the Surfside Undergrounding Overhead/Underground Conversion Program. The Town aims to pre-qualify CMARs and engage one proficient firm capable of delivering the required Services within the Town's jurisdiction.

The Town of Surfside seeks experienced CMARs capable of overseeing all aspects of a comprehensive municipality-wide overhead/underground conversion program (electric, telephone, and cable TV) including preconstruction and construction management services. The selected Respondent will be responsible for providing all necessary labor, permits, and supervision to execute various tasks including construction of conduit/splice boxes/hand holes/cabling/electrical equipment, directional drilling, switching/energizing of electric equipment, service connections (both public and private), electrical works, as well as paving and grading improvements and utility relocations associated with the transition from overhead to underground utilities. Respondent shall be a Florida Power & Light Company approved vendor for electric distribution work or shall have the ability to subcontract such a vendor. Additionally, the Respondent will ensure the fulfillment of all other requirements outlined in the project plans and technical specifications, resulting in a fully functional system. The Respondent will oversee the work and provide final restoration of private property areas impacted by the work.

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1.2 SCHEDULE OF EVENTS. The following schedule shall govern this RFQ. The Town reserves the right to change the scheduled dates and times at its sole discretion.

	DESCRIPTION	DATE	TIME (EST)
1	Advertisement/ Distribution of RFQ	August 7, 2024	N/A
2	Mandatory Pre-Response Submittal Conference Virtual Meeting via Zoom Link: https://us06web.zoom.us/j/83420597603?pwd=w5eWRAvuWx7Qus58ZQD5QlZ6oNvij6.1 <i>Meeting ID: 834 2059 7603/ Passcode: 797367</i>	August 28, 2024	2:00 PM
3	Deadline to Submit Questions / Requests for Clarifications	September 5, 2024	5:00 PM
4	Deadline to Submit RFQ Response	September 12, 2024	2:00 PM
5	RFQ Opening	September 12, 2024	2:00 PM
6	RFQ Evaluation and Selection	TBD	TBD

1.3 CONE OF SILENCE. Notwithstanding any other provision of these specifications, the provisions of the Town “Cone of Silence” are applicable to this transaction. The “Cone of Silence”, as used herein, means a prohibition on any communication regarding a particular Request for Proposal (RFP), Request for Qualification (RFQ), or bid, between a potential vendor, service provider, contractor, bidder, lobbyist, or consultant, and the Town Commission, Town’s professional staff including, but not limited to, the Town Manager and his or her staff, any member of the Town’s selection or evaluation committee. The Cone of Silence shall be imposed upon each RFP, RFQ, and bid after the advertisement of said RFP, RFQ, or bid.

The Cone of Silence shall terminate at time the Town Manager makes his or her written recommendation to the Town Commission. However, if the Town Commission refers the Town’s Manager’s recommendation back to the Town Manager or staff for further review, the Cone of Silence shall be re-imposed until such time as the Town Manager makes a subsequent written recommendation.

The Cone of Silence shall not apply to:

1. Oral communications at pre-response/pre-bid conferences.
2. Oral presentations before selection or evaluation committees.
3. Public presentations made to the Town Commission during any duly noticed public meeting.

4. Communications in writing at any time with any town employee, unless specifically prohibited by the applicable RFP, RFQ, or bid documents. The bidder or Respondents 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. Communications regarding a particular RFP, RFQ, or bid between a potential vendor, service provider, contractor, bidder, lobbyist or consultant and the Town's Purchasing Agent or Town employee designated responsible for administering the procurement process of such RFP, RFQ or bid, 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.
7. Duly noticed site visits to determine the competency of bidders regarding a particular bid during the time period between the opening of bids and the time the Town Manager makes his or her written recommendation.
8. Any emergency procurement of goods or services pursuant to Town Code.
9. Responses to the Town's request for clarification or additional information.
10. Contract negotiations during any duly noticed public meeting.
11. Communications to enable Town staff to seek and obtain industry comment or perform market research, provided all communications related thereto between a potential vendor, service provider, contractor, bidder, lobbyist, or consultant and any member of the Town's professional staff including, but not limited to, the Town Manager and his or her staff are in writing or are made at a duly noticed public meeting.

Please contact the Town Attorney for any questions concerning the Cone of Silence compliance.

Violation of the Cone of Silence by a particular bidder or Respondents shall render any RFP award, RFQ award, or bid award to said bidder or Respondents voidable by the Town Commission and/ or Town Manager.

- 1.4 DISADVANTAGED BUSINESS OR SMALL BUSINESS ENTERPRISE (DBE/SBE), MINORITY BUSINESS ENTERPRISE (MBE) AND WOMEN BUSINESS ENTERPRISE (WBE).** The Town of Surfside is committed to increasing contracting and subcontracting opportunities with disadvantaged, minority-owned, and women-owned enterprises, to promote their growth, capacity-building, and economic success. In accordance with 2 C.F.R. § 200.321, the successful Respondent 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

Successful Respondent to take regarding subcontractors must include: Placing qualified small and minority businesses and women's business enterprises on solicitation lists; Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; 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; Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; 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.

- 1.5 **ADDENDA.** If the Town finds it necessary to add to, or amend this RFQ prior to the Response submittal deadline, the Town will issue written addenda/addendum. Each Respondent must acknowledge receipt of each addendum by signing the corresponding acknowledgement and providing it with its Response.
- 1.6 **CERTIFICATION.** By submitting a Response to this RFQ, the signer of the Response declares that the person(s), firm(s) and parties identified in the Response are interested in and available for providing the Services; that the Response is made without collusion with any other person(s), firm(s) and parties; that the Response is fair in all respects and is made in good faith without fraud; and that the signer of the cover letter of the Response has full authority to bind the person(s), firm(s) and parties identified in the Response. By submitting a Response, the Respondent shall certify that it has fully read and understood this RFQ and the Response method and has full knowledge of the scope, nature, and quality of work to be performed.
- 1.7 **ECONOMY OF PREPARATION.** Responses should be prepared simply and economically, providing a straightforward, concise description of the Respondent's ability to fulfill the requirements of the RFQ.
- 1.8 **INTERVIEWS.** The Town reserves the right to short-list Respondents and conduct personal interviews or require presentations by any or all Respondents prior to ranking, or at any time during the evaluation process, or at the Town Commission Meeting where selection and award is made.
- 1.9 **RESPONSES BINDING.** All Responses submitted shall be binding upon the Respondent for 365 calendar days following opening.

- 1.10 PUBLIC RECORDS.** Florida law provides that municipal records should be open for inspection by any person under Chapter 119, F.S. Public Records law. All information and materials received by the Town in connection with Responses shall become property of the Town and shall be deemed to be public records subject to public inspection.
- 1.11 RESPONSE DISCLOSURE.** Upon opening, Responses become “public records” and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes, to the extent applicable. Respondents are required to *identify specifically* any information contained in their Response which they consider confidential and/or proprietary and which they believe to be exempt from disclosure, citing specifically the applicable exempting law. All Responses received from Respondents in response to this RFQ will become the property of the Town and will not be returned to the Respondents. In the event of contract award, all documentation produced as part of the contract will become the exclusive property of the Town.
- 1.12 RESPONSE WITHDRAWAL.** Respondents may withdraw their Responses by notifying the Town Clerk in writing at any time prior to the scheduled opening. Respondents may withdraw their Responses in person or through an authorized representative. Respondents and authorized representatives must disclose their identity and provide written receipt for the returned Responses. Responses, once opened, become the property of the Town and will not be returned to the Respondents.
- 1.13 RETENTION OF RESPONSE.** The Town reserves the right to retain all Responses submitted and use any ideas contained in any Response, regardless of whether that Respondent is selected.
- 1.14 REQUESTS FOR INFORMATION/CLARIFICATION.** The Town, independently or upon request, may furnish additional information related to this RFQ to clarify any provision contained herein and/or to facilitate Responses. The Town has made efforts to provide accurate and complete information in this RFQ. The Town shall not be penalized in any way for the lack of any information deemed necessary by any responding firm. Accuracy of this data is not guaranteed. It is the sole responsibility of responding Respondents to assure that they have all information necessary for submission of their Responses. Any and all questions or requests for information or clarification pertaining to this RFQ must be made in writing via email to Sandra McCreedy, Town Clerk, smccready@townofsurfsidefl.gov, by no later than **September 5, 2024, by 5:00 PM EST**, as described in the Schedule of Events. Requests may be submitted in person or via email. Once all requests have been received a summary of all questions and responses will be sent to all Respondents.

1.15 IRREGULARITIES & RESERVATION OF RIGHTS. Responses will be selected at the sole discretion of the Town. The Town reserves the right to waive any irregularities in the request process, to reject any or all Responses, reject a Response which is in any way incomplete or irregular, re-bid the entire solicitation or enter into agreement with more than one Respondent. Responses received after the deadline provided in this RFQ will not be considered.

The Town reserves the right to award one or more contract(s) to the Respondent who will best serve the interests of the Town and whose is considered by the Town to be the most qualified Respondent whose bid meets the requirements and criteria set forth in this RFQ. Notwithstanding, the Town may, at its sole discretion, reject all Responses and cancel the solicitation, in which case no award will be made.

The Town reserves the right to accept or reject any or all Responses, based upon its deliberations and opinions. In making such determination, the Town reserves the right to investigate the financial capability, integrity, experience and quality of performance of each Respondent, including officers, principals, senior management and supervisors, as well as the staff identified in the Response.

Respondents shall furnish additional information as the Town may require. This includes information that indicates financial resources as well as ability to provide the requisite services. The Town reserves the right to make investigations of the qualifications of the firm as it deems appropriate, including but not limited to background investigations and checking of references.

1.16 LOBBYIST REGISTRATION. Respondents must comply with the Town's lobbyist regulations after Cone of Silence has been lifted. Please contact the Town Clerk for additional information.

1.17 RESPONSE/PRESENTATION COSTS. The Town shall not be liable for any costs, fees, or expenses incurred by any Respondent in responding to this RFQ, nor subsequent inquiries or presentations relating to its Response.

1.18 LATE SUBMISSIONS. Responses received by the Town after the time specified for receipt will not be considered. They will be marked "LATE" and returned unopened. Responses received after the closing time and date, for any reason whatsoever, will not be considered. Any disputes regarding timely receipt of Responses shall be decided in the favor of the Town. Respondents shall assume full responsibility for timely delivery at the location designated for receipt of Statements of Qualifications. The Town shall not be responsible for Statements of Qualifications received after the submittal deadline and encourages early submittal.

1.19 COMPLETENESS. All information required by this RFQ must be supplied to constitute an acceptable and complete Response.

1.20 PERMITS, TAXES, LICENSES. The successful Respondent(s) shall, at their own expense, obtain all necessary permits, pay all licenses, fees and taxes, required to comply with all local ordinances, state and federal laws, rules and regulations applicable to business to be carried out under the contract. Respondents, both corporate and individual must be fully licensed and certified in the State of Florida at the time of RFQ submittal. The Response of any Respondent that is not fully licensed and certified shall be rejected.

1.21 LAWS, ORDINANCES. The Respondent shall observe and comply with all federal, state, and local laws, including ordinances, rules, regulations and professional standards that would apply to the contract.

1.22 FAMILIARITY WITH LAWS. The Respondent is assumed to be familiar with all federal, state and local laws, ordinances, rules and regulations that may in any manner affect the work. The failure to familiarize themselves with applicable laws will in no way relieve them from responsibility.

1.23 TERMS OF ENGAGEMENT; CONTRACTUAL AGREEMENT. The selected Respondent(s) should be prepared to execute an agreement in substantially the form of the Contractual Agreement provided in Attachment "A" to this RFQ (the "Contract"), provided that the Town may elect a different form of contract. The terms of the Contract/Agreement may be negotiated upon selection of a Respondent. Any additional contract or agreement requested for consideration by the Proposer must be attached and enclosed as part of the proposal. Please include as the last document after all RFQ forms in the Response package. If desired, add a final tab "O" to the Response package that reads as, "Alternate Proposed Agreement."

The Respondent will be awarded Area 3 - North of the program, with the option to expand its services to two additional projects upon mutual agreement. Each construction project is estimated to require 24-36 months for completion. Overlap in the project construction schedules is anticipated. Any extension of the project scope will necessitate explicit written consent from all involved Parties and will adhere to the original terms and conditions outlined in the agreement. Guaranteed Maximum Price (GMP) shall be developed and negotiated per each project separately.

1.24 ADDITION OR DELETION OF SERVICES. The Town reserves the right to add to the services specified, or to delete any portion of the scope of services at any time during the agreement term.

1.25 PRESS RELEASES. The Respondent shall obtain the prior approval of the Town Manager's Office of all news releases or other publicity pertaining to this RFQ, the service, or project to which it relates.

1.26 INSURANCE. The Respondent (Contractor) shall provide at its own cost and expense during the life of the contract, the following insurance coverages to the Town of Surfside (30) thirty business days prior to the commencement of any work. All contractors including any independent contractors and subcontractors utilized must comply with these requirements. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The insurance shall be evidenced by certificates and/or policies to include premiums as determined by the Town of Surfside. It shall be an affirmative obligation upon the Service Provider to advise the Town's Risk Manager at e-mail mvargas@townofsurfsidefl.gov within 24 hours or the next business day of cancellation, non-renewal or modification of any stipulated insurance and failure to do so shall be construed to be a breach of this agreement/contract. The Town of Surfside reserves the right to require additional insurance coverage and limits based upon the particular service or change order requested by the Contractor.

If the Contractor maintains higher limits than the minimums shown below, the Town requires and shall be entitled to coverage for the higher limits maintained by the Contractor.

Comprehensive General Liability Insurance coverage with limits of liability not less than \$5,000,000 Each Occurrence/\$10,000,000 Aggregate or a per project aggregate of \$5,000,000. The Certificate of Insurance shall indicate an Occurrence Basis. The Town of Surfside shall be endorsed as an additional insured under the General Liability including Completed Operations coverage. Products & completed operations coverage to be provided for a minimum of 10 years from the date of possession by owner or completion of contract. A waiver of subrogation shall be in the favor of the Town. The contractor's General Liability coverage shall be primary and non-contributory.

For policies written on a Claims-made basis, service provider shall maintain a retroactive date prior to or equal to the effective date of the contract. In the event the policy is canceled, non-renewed, switched to an occurrence form or there is a change in retroactive date, or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract, the service provider shall agree to purchase a SERP with a minimum reporting period of not less than three (3) years. Coverage is to apply on a primary basis.

This insurance shall indicate on the certificate of insurance the following coverages:

- a. Premises-Operation

- b. Independent Contractor and Subcontractors
- c. Products and Completed Operations
- d. Broad Form Contractual

Contractors Pollution Liability coverage may be required depending on scope of services.

Professional Liability. Architects and engineers must maintain professional liability or equivalent errors & omissions liability with limit of not less than \$1,000,000 per occurrence. For policies written on a claims-made basis, architect or engineer shall maintain a retroactive date prior to or equal to the effective date of this contract. In the event the policy is canceled, non-renewed, switched to an occurrence form or there is a change in retroactive date, architect or engineer must purchase an extended reporting period rider during the life of this contract of not less than 3 years. Coverage is to apply on a primary basis.

Business Auto Liability coverage for any auto (all owned, hired, and non-owned autos) with limits not less than \$1,000,000 each occurrence combined single limit each accident.

Workers' Compensation coverage with statutory limits pursuant to Florida State Statute 440. Should the scope of work performed by contractor qualify its employee for benefits under federal workers' compensation statute (example, U.S. Longshore & Harbor Workers Act or Merchant Marine act), proof of appropriate federal act coverage must be provided. A waiver of subrogation must be provided.

Employers Liability coverage with limits not less than \$100,000 for each accident, \$100,000 disease (each employee) and \$500,000 disease (policy limit).

If Builder's Risk coverage is required, the Town shall obtain the coverage through their insurance agent at 100% of the estimated completion value. The Contractor shall provide a completed Builder's Risk application, which will be provided by the Town's insurance agent, in addition to the following:

1. Draw schedule or construction timeline
2. Breakdown of Hard costs (from GMP), if applicable vs. Soft costs
3. Diagram or plot plan
4. Geo/Soil testing report

The above information and Builder's Risk application must be provided to the Risk Manager at least 30 days in advance of commencement of any work in order for the Builder's Risk policy to be obtained. The cost of the Builder's Risk policy shall be included as a line item in the project budget by the Public Works Department.

If any of the property or casualty insurance requirements are not complied with at their renewal dates, payments to the Contractor will be withheld until those

requirements have been met or at the option of the Town, the Town may pay the renewal premium and withhold such payments for any monies due the Contractor.

All property losses shall be payable to and adjusted with the Town.

In the event that claims in excess of the insured amounts provided herein are filed by reason of any operations under the contract, the amount excess of such claims or any portion thereof may be withheld from any payment due or to become due the Contractor until such time the Contractor shall furnish such additional security covering such claims as may be determined by the Town of Surfside.

All policies and certificates of insurance of the Contractor shall contain the following clauses:

1. Insurers shall have no right of recovery or subrogation against the Town (including its agents, officers, past and present employees, elected officials and representatives), it, being the intention of the parties, the insurance policy in effect shall protect both parties and be the primary coverage and non-contributory for all losses covered by the above-described insurance.
2. The clause "other insurance provisions" in a policy in which the Town is endorsed as an additional insured shall not apply to the Town, its agents, officials, past and present employees, elected officials and representatives if these provisions conflict with or otherwise limit the obligations of the contractor under the terms of this agreement.
3. Insurance companies issuing the policy or policies shall have no recourse against the Town, (including its agents, officers, past and present of any premiums or assessments under any form of policy.
4. All deductibles or self-insured retentions in the above-described insurance policy shall be assumed by and be for the account of and at the sole risk of the contractor. The amount of the deductible or self-insured retention must be accepted by the Town Manager.

Umbrella or Excess Liability is required up to the minimum limit of liability if the limits of liability shown on the Certificate of Insurance under General Liability do not meet the minimum limit of liability as required.

Damage to Persons or Property:

The Contractor shall at all times guard against damage or loss to the property of the Town of Surfside, other contractors, and other parties including, without limitation, Town residents and the general public, and shall be responsible for repairing, replacing or otherwise satisfying in full all claims for loss or damage which may be claimed to have been caused during the contract performance ("Contractor Damage Claims"). The Contractor Damage Claims shall be settled directly by the Contractor within fourteen (14) business days of receipt of the claim or shall be submitted to the Contractor's insurance carrier(s) within five (5)

business days from receipt of claim being filed with the Contractor and in the event, the insurance carrier determines liability on the Contractor, the claim for such damage shall be paid within thirty (30) days of such determination by the contractor's insurance carrier.

Claims status shall be an item which is placed on every agenda for the periodic progress meetings between the Project Engineer/Project Manager and the Contractor. In addition, Contractor shall provide the Town with a written status report for any new or outstanding Contractor Damage Claims submitted with every pay request. The name, title, phone number, e-mail address and mailing address of the Contractor's representative responsible for handling Contractor Damage Claims shall also be provided with every pay request. Should there be no new or outstanding Contractor Damage Claims the contractor shall state the same in the required written status report.

The Town may withhold payment or make such deductions as the Town deems necessary or appropriate, to ensure prompt reimbursement, repair or replacement of loss or damage to persons or property in the settlement of Contractor Damage Claims resulting from the actions of Contractor, Contractor's subcontractors, sub subcontractors, from material men and suppliers of any tier and their employees and agents.

The responsibility for all damages to person or property arising out of or on account of the Work done under this Contract shall rest on the Contractor and the Contractor shall indemnify the Town and others as provided by the provisions of paragraph 1-26 herein.

The foregoing provisions of this paragraph are for protection of the Town are not intended to, and shall not inure to the benefit of any actual or alleged claimant or any other party, or obligate the Town to repair, replace or make reimbursement any alleged such damage or to adjust, settle or pay any Contract Damage Claims or other claims that are the obligation of the Contractor under this Contract.

1.27 PERFORMANCE, PAYMENT AND BID BOND REQUIREMENTS. Within ten (10) business days of the award of the Guaranteed Maximum Price by the Town, the Construction Manager shall furnish a Performance and Payment Bond consisting of:

- a) Performance Bond in the form specified by the Owner;
- b) Labor and Materials Payment Bond in the form specified by the Owner;
and
- c) Bid Bond of 5% will be required upon approval of GMP Negotiations.

Bond Requirement: The Construction Manager shall furnish bonds in the amount of 100% of the contract amount and shall maintain throughout the duration of the Project until one (1) year after Final Completion and acceptance of the Work as provided in Florida Statutes 255.05 et seq, covering the faithful

performance of the Contract and payment of all obligations arising thereunder. Bonds shall be secured by the Construction Manager from a surety company licensed in the State of Florida with a best rating of A Class V or higher according to the most recent edition of the rating guide published by A.M. Best Company.

The successful Construction Manager shall be required to provide Surety Bonds in the amount of 100% of the Contract amount. The required premiums shall be paid for by the successful Contractor and shall be included in the Guaranteed Maximum Price.

In addition to the above minimum qualifications, the Surety Company must meet at least one of the following additional qualifications specified.

The Surety Company shall hold a current certificate of authority as acceptable surety on federal bonds in accordance with the United States Department of Treasury Circular 570, Current Revisions. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular, and the excess risks must be protected by coinsurance, reinsurance, or other methods in accordance with Treasury Circular 297, revised September 1, 1978 (31 DFR Section 223.10 Section 223.111). Further the surety company shall provide the Owner with evidence satisfactory to the Owner, that such excess risk has been protected in an acceptable manner.

Time of Delivery and Form of Bonds: The Construction Manager shall deliver the required bonds to the Owner within ten (10) business days, after the award of the Guaranteed Maximum Price by the Town of Surfside.

The Performance Bond and Labor and Materials Payment Bond shall be written in the amount of the Guaranteed Maximum Price and shall continue in effect for one (1) year after completion and acceptance of the Work. The Bonds shall be dated on or before the Notice to Proceed Date.

The Construction Manager shall require the Attorney-In-Fact who executes the required Bonds on behalf of the Surety to affix thereto a certified and current copy of the Power of Attorney.

Pursuant to the requirements of Chapter 255.05 (1)(s), Florida Statutes, Construction Manager shall ensure that the Bond or Bonds referenced above shall be recorded in the public records of Miami-Dade County. Proof of recordation must be submitted to the Town prior to issuance of a purchase order. One (1) set of originals is required.

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[END OF SECTION 1]

SECTION 2 **SCOPE OF SERVICES**

2.1 INTRODUCTION. The Town of Surfside is soliciting proposals from a qualified Construction Manager at Risk for the SURFSIDE UNDERGROUNDING OVERHEAD/UNDERGROUND CONVERSION PROGRAM (AREA 1 - SOUTH, AREA 2 – CENTRAL, AREA 3 - NORTH).

Kimley-Horn and their project team have been retained by the Town of Surfside to provide design and program management support services and documents for the program. A summary of the work is provided below.

SCOPE OF SERVICES.

The Town of Surfside seeks experienced CMARs capable of overseeing all aspects of a comprehensive municipality-wide overhead/underground conversion program (electric, telephone, and cable TV) including preconstruction and construction management services. The selected Respondent will be responsible for providing all necessary labor, permits, and supervision to execute various tasks including construction of conduit/splice boxes/hand holes/cabling/electrical equipment, directional drilling, switching/energizing of electric equipment, service connections (both public and private), electrical works, as well as paving and grading improvements and utility relocations associated with the transition from overhead to underground utilities. Respondent shall be a Florida Power & Light Company approved vendor for electric distribution work or shall have the ability to subcontract such a vendor. Additionally, the Respondent will ensure the fulfillment of all other requirements outlined in the project plans and technical specifications, resulting in a fully functional system. The Respondent will oversee the work and provide final restoration of private property areas impacted by the work.

The CMAR will control the schedule of the work performed by their own forces and subcontractors as well as coordinate the schedules and installation activities of the utility providers and monitor the progress and schedule the work. Existing local traffic must be maintained. Specific Maintenance of Traffic Plans will be required to be developed by the CMAR based on their plan to execute the projects. Furthermore, the chosen Respondent will undertake the crucial task of coordinating with various stakeholders and franchise utility owners. This includes but is not limited to, liaising with entities such as the Town of Surfside, Florida Power & Light Company (FPL), AT&T, and Breezeline to ensure seamless integration and compliance throughout the program's duration. The Respondent will initially be awarded Area 3 - North of the program, with the possibility of extending their services to two additional projects upon mutual agreement. Each construction project is estimated to require 24-36 months for completion. Overlap in the project construction schedules is anticipated.

The purpose and intent of this RFQ is to provide CMAR Services for the following work:

- Provide pre-construction services which include, but are not limited to, defining value engineering opportunities to minimize project costs and work with Town staff and design consultant in the design phase;
- Provide design input for Project efficiency and effectiveness;
- Competitively bid the project to qualified sub-contractors, according to the policies and procedures determined by the Town, and develop a guaranteed maximum price (GMP) and project schedule;
- Manage the construction of the improvements that constitute the Project.
- Serve as a Lead Member of the project team and coordinate project meetings.
- Provide required records and documentation for the Town.
- Communicate, in conjunction with the Town, to the residents in the project area regarding progress and coordination of the work on private property. This includes one-on-one discussions with property owners, coordination of the service conversion process, attendance at public meetings, and providing information regarding the progress of the work. ****The intent is not to have the CMAR have personnel allocated for public outreach that coordinates with Town and design team.***
- Manage and coordinate with all utility owners (FPL, AT&T, Breezeline, and others).
- Manage and coordinate as needed any underground franchise utilities owners such as: Florida Public Utilities, TECO, Miami-Dade County, and State of Florida Departments, that may have work within the project limits to minimize impact to the schedule.

Preconstruction Phase: The CMAR shall function as an agent of the Town, shall be paid a fixed fee for services performed and shall be a part of the design team. The CMAR shall attend selected remaining design team meetings and review construction drawings and specifications. Preconstruction services shall include developing and updating a master construction phase bar chart schedule incorporating estimated construction phase time; constructability review to identify defects, omissions, and recommendations for alternatives value engineering for all phases of the project; prepare a quantity survey and schedule of values for use by sub-trades during bidding; prepare bid packages for the various sub-trades; procure bids from the sub-trades in accordance with Town of Surfside requirements; prepare design development estimate and the development of a Guaranteed Maximum Price (GMP) for the construction of this project. Method of cost estimating shall be the Quality Survey Method. It is understood that development of the GMP will not occur until the

Preconstruction Phase of the work has been completed. The CMAR shall provide written constructability analyses of the Project, including items to be addressed with the Town Consultants such as accessibility, construction methods, assembly, installation, materials handling, expandability, phasing and other construction phase related activities.

Construction Phase: The CMAR shall become the single point of responsibility for performance of the construction contract for the Town. Phases for construction will be awarded separately. The CMAR shall function in the role as the general contractor providing all necessary services including but not limited to the following:

- Prepare an overall Construction Management Plan for the project, including a procurement plan with a recommended procurement schedule to coordinate and expedite the procurement of materials and equipment;
- Recommend contracting strategies for the project;
- Should the Construction Manager desire to self-perform any of the portions of the Work, this intention must be clearly conveyed to the Owner prior to the receipt of any other bids for the same scope of work. The Construction Manager shall not self-perform more than 20% of the Work. CMAR is to present pricing that is competitive and provide a plan.
- Competitively bid subcontract work, in accordance with Town established purchasing procedures, and share the results with the Town and its consultants, manage the bidding process with oversight by the Town for all the construction work, enter into subcontracts and administer such subcontracts with the understanding that the Town has the right to review and reject any subcontractor. Contracts are to be between the contractor and subcontractor;
- Prepare shop drawings, RFI's and other documents necessary to accomplish the work;
- Manage the construction site and provide for the administration and supervision of the project;
- Establish and maintain the construction schedule including identifying variances, delays or early completion of tasks, and the maintenance of the schedule;
- Develop a system for cost control;
- Develop and manage the pay application and change order process, including coordination with the design staff and Town personnel;
- Provide the means and methods of construction;

- Provide jobsite safety and security;
- Provide continuous monitoring and inspection of work to determine progress and conformance with design documents documenting same;
- Schedule and coordinate all required inspections with appropriate disciplines including the Town Inspectors;
- Maintain written project progress records and provide written reports of project progress and status at least once a month relating to budget, progress payments, change orders, performance and schedule adherence;
- Guarantee the quality of construction;
- Perform or cause to be performed, all required remedial work identified through the inspection process and at direction of the Town's appointed project manager;
- Participate in meetings on the project with the Town and design staff or public individuals or groups as may be directed by the Town's project manager;
- Work in cooperation with the Town's public outreach professionals in keeping those in the work zone informed of construction activities including specific coordination with property owners when work is to occur on private property or when any interruptions in utility service are anticipated;
- Develop plan, coordinate, and assist in the start-up testing and certification of any building systems and equipment, replaced and/or affected by the construction;
- Provide project close out coordination and commissioning;
- Provide Certificate of Completion and all documents of record to Town staff and/or consultants for archiving;
- Provide all other services generally provided by Construction Manager on a project of like magnitude, scope, use, and complexity;
- Keep written minutes of all meetings, decisions and discussions pertaining to this project and submit copies of same to the Town and/or Town designees for archiving;
- Coordinate the activities and required field work of the electric, cable, telephone and/or other communications service providers as required to facilitate the project.

- Coordinate with third party entities which are not under the control of this project, but may be performing work within the project boundaries, such as Florida Public Utilities and private homeowners.

Scheduled Completion Date: The scheduled completion date will be determined at time of GMP contract. The selected Construction Manager is expected to work with any other contractors working within the vicinity. The Construction Manager shall work around Town observed holidays. Schedules shall be provided indicating the start/completion dates of the overall construction project.

Design Documents: The construction plans and technical specifications are being prepared by Kimley-Horn.

Time of Completion and Liquidated Damages: The construction work to be performed under this project shall commence on the date of Notice to Proceed with such extensions of time as are provided for in the General Terms and Conditions. If said work is not substantially completed by the specified date, the Contractor shall be liable and hereby agrees to pay to the Owner as liquidated damages, and not as a penalty, the sum of Three-Thousand Dollars (\$3,000.00) per calendar day for each and every day or part of a day thereafter that said work remains incomplete.

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[END OF SECTION 2]

SECTION 3
RESPONSE SUBMISSION REQUIREMENTS

Careful attention must be given to all requested items contained in this RFQ. Respondents are required to submit qualifications in accordance with the requirements of this RFQ.

Respondents shall complete all required forms and information as set forth in this RFQ. The entire set of documents, together with all attachments hereto, constitutes the RFQ. Each Respondents must return these documents with all information required and necessary for the Town to properly analyze the response in total and in the same order in which it was issued. Respondents' notes, exceptions, and comments may be rendered on an attachment, provided the same format of this RFQ text is followed. All responses to this RFQ shall be returned in a sealed envelope or package with the RFQ number and opening date clearly noted on the outside of the envelope, prior to the stated deadline. Respondents must provide a response to each requirement of the RFQ. Responses should be prepared in a concise manner with an emphasis on completeness and clarity.

3.1 INSTRUCTIONS FOR PROPOSAL RESPONSES. Proposer shall submit one (1) original and three (3) copies on 8 ½ " x 11" paper in a clear, concise format, in English with one (1) electronic copy (USB flash drive). The proposal shall contain tabbed sets of the information required herein to be considered for award. Omission of required data may be cause for disqualification. Any other information thought to be relevant, but not applicable to the enumerated sections, should be provided as an appendix to the proposal. If publications are supplied by a Respondent to respond to a requirement, the response should include reference to the document number and page number. Proposals not providing this reference will be considered to have no reference materials included in the additional documents.

Proposal responses must be properly signed in ink by the owner/principal having the authority to bind the Respondent to this agreement.

In order to maintain comparability and facilitate the review process, it is strongly recommended that submittals be organized in the manner specified below, with proper section dividers and tabs. The Town reserves the right to reject and not consider any proposal not organized and not containing all the information outlined herein.

The proposal must name all persons or entities interested in the proposal as principals. The proposal must declare that it is made without collusion with any other person or entity submitting a proposal pursuant to this RFQ.

Response submittals must be received no later than **2:00 PM EST on September 12, 2024**, and be clearly marked on the outside, **“RFQ NO. 2024-02 PROJECTSURFSIDE UNDERGROUNDING OVERHEAD/UNDERGROUND CONVERSION PROGRAM (AREA 1- SOUTH, AREA 2 – CENTRAL, AREA 3 - NORTH) CONSTRUCTION MANAGER AT RISK.”** The outside of the sealed envelope shall also show the name of the Respondent. All responses must be received by the Office of the Town Clerk, in the Town Hall located at 9293 Harding Avenue, Surfside, FL 33154, by **2:00 PM EST on September 12, 2024**, at which time their receipt will be publicly documented by the Town Clerk or her designee(s).

Sealed Qualification Packages will be received at:

Town of Surfside
Office of the Town Clerk
9293 Harding Avenue
Surfside, Florida 33154

3.2 SUBMISSION OF PROPOSALS. An original (so marked) and three (3) copies with one (1) electronic copy (USB flash drive) to include the following shall be submitted for a responding firm to be considered:

(TAB 1) Title Page: This section should minimally show the "Request for Qualifications" project title, project number, the name of the Applicant Firm, address, telephone number, name of contact person and date. The Title Page should also include a complete listing of all companies, if any, that form the Applicant Firm team and their principals.

(TAB 2) Table of Contents: The table of contents of the proposal should include a clear and complete identification of the materials submitted by section and page number.

(TAB 3) Transmittal Letter: A Transmittal and introduction letter should be included introducing the Company with the corporate name (if applicable), address and telephone number of principal office, number of years in business and size of staff. Include a reproduction of Corporate Charter Registration, if applicable. This letter will summarize in a brief and concise manner that the Respondent understands the scope of the work to be performed, the commitment to perform the work within the anticipated time period, a statement why the firm believes itself to be best qualified to provide the services, and a statement that the proposal remains in effect for one-hundred and eighty (180) days and a statement acknowledging receipt of each addendum issued by the Town, if any. An authorized agent of the Respondent must sign the Letter of Transmittal indicating the agent's title or authority.

(TAB 4) Experience of Firm/Past Performance: This section should include the name and type of firm or organization (corporation, partnership, joint venture, etc.) that will serve as the Applicant Firm, and provide the name of the single-entity responsible for the Project. The history, ownership, organization, and background of the Applicant

Firm shall be provided. If the Applicant Firm is a joint venture, the required information shall be submitted for each member of the joint venture firm details of the organizational structure of the joint venture shall be given. Include a general statement describing the types of services offered by the firm, location of main and branch offices, number of years in business and number of employees in each department and the location of the office from which this work will be performed.

The firm should demonstrate how it interacts with municipal clients and provides and exchanges information relative to the requirements.

The Applicant Firm should provide examples of projects similar in complexity and value to those stated in the scope of work on behalf of a municipal client. The firm should include the number of Construction Manager at Risk (CMAR) projects completed over the last seven (7) years.

List all completed and active projects that Vendor has managed within the past seven years. In addition, list all projected projects that Vendor will be working on in the near future. Projected projects will be defined as a project(s) that Vendor is awarded a contract but the Notice to Proceed has not been issued. Identify any projects that Vendor worked on concurrently. Describe Vendor's approach in managing these projects. Were there or will there be any challenges for any of the listed projects? If so, describe how Vendor dealt or will deal with the projects' challenges.

Provide a list of at least five (5) client references for which the Applicant firm provides similar services to those outlined in this request for qualifications.

- a. Name and address of client.
- b. The nature of the firm's contract.
- c. The owner's representative's name, addresses, and phone number.
- d. Date contract started and ended.
- e. Scope or nature of contract
- f. Present status of the contract.

(TAB 5) Experience/Ability of Personnel: This section should present the general and specified project related capability of the staff and indicate the adequate depth and abilities of the organization which it can draw upon as needed. The staff qualifications of management, technical and support staff, should highlight their experience as a construction manager at risk for work similar in complexity and value in the public and private sectors. It is the intent of the Town to insist that those indicated as the Project Team in this RFQ response actually execute the project. Applicant Firm hereby acknowledges that its key assigned employees, along with subcontractors and their key employees included in the RFQ, will be used as part of the basis for selecting Applicant Firm teams. Therefore, changes to Applicant Firms, including any sub-consultants and key employees, will not be allowed except as approved by the Town. Within this section please be sure to outline experience and ability of personnel across two key areas: 1) Pre-Construction Service

Experience/Ability and 2) Construction Management Experience/Ability.

In addition, include a brief resume of key persons to be assigned to the project including, but not limited to:

- a. Name and title
- b. Percentage of time to be assigned full time to this project.
- c. Number of years with this firm
- d. Number of years with other firms.
- e. Experience detailing types of projects and what was the specific project involvement.
- f. Education
- g. Active registration
- h. Other experience and qualifications that is relevant to this project.

(TAB 6) Project Organization Chart: A Project organization chart with the sub-consultants and individuals assigned to key project positions identified by name. Show the organization chart as it relates to this project indicating key personnel and their relationship. Attach evidence of licenses and certifications to perform the required services.

(TAB 7) Sub-Consultants: Provide names and experience of all sub-consultants to be used by the firm in relation to this project.

(TAB 8) Insurance Capability: Provide a statement from the firm's insurance agency confirming total insurance capability of the firm.

(TAB 9) Technical Approach: The firm should present their approach to accomplishing the strategies to be implemented in delivering the services outlined in the scope of service for the project.

(TAB 10) Variations/Exceptions: Provide a list of services which are not included in the firm's proposal to the required services as outlined in the Scope of Services along with any exceptions or variations to any section of the proposal and explanation.

(TAB 11) Litigation Statement: A statement that no litigation or regulatory action has been filed against your firm (s) in the last three (3) years shall be included in the proposal. If an action has been filed against your firm(s) within the last three years, state and describe the litigation or regulatory action filed against your firm and identify the court or agency before which the action was instituted, the applicable case or file number, and the status or disposition for such reported action. Describe all litigation (include the court and location) of any kind involving proposer or proposer's team members within the last five years.

(TAB 12) Financial Information: The Town requires an indication of the resources and the necessary working capital available and how it will relate to the Applicant Firm's financial stability through the completion of the project, including bonding capacity for single project and aggregate if applicable. Include 3 years audited or reviewed financial statements, prepared by a C.P.A. including Contractor's latest balance sheet and income statement showing the following items:

- a. Current assets, i.e., cash, joint venture account, accounts receivable, notes receivable, accrued income, deposits, materials inventory, and prepaid expenses.
- b. Net fixed assets.
- c. Other assets.
- d. Current liabilities, i.e., accounts payable, notes payable, accrued expenses, provision for income taxes, advances, accrued salaries, and accrued payroll taxes.
- e. Other liabilities, i.e., capital, capital stock, authorized and outstanding shares par values, earned surplus, and retained earnings.
- f. Name of firm preparing financial statement and date thereof.
- g. A Dun and Bradstreet report with agreement to pay for additional reports may be required by the Town if the Proposer is selected as a finalist.

Any claim of confidentiality on financial statements should be asserted at the time of submittal. Confidential financial statements should be submitted in a separate bound document labeled "Name of Firm, Attachment to Proposal Package, RFQ# - Confidential Matter." The firm must identify the specific statute that authorizes the exemption from the Public Records Law. Please note that the financial statement exemption provided for in Section 119.071(1) c, Florida Statutes only applies to submittals in response to a solicitation for a "public works" project. Failure to provide this information at the time of submittal may result in a recommendation by the Purchasing Manager that the response is non-responsive.

(TAB 13) List of Professional References: Provide a list of professional references (commercial or government) that the proposer has supplied services as described herein during the past 24 months. The Town may contact these firms in relation to Proposer's qualifications, financial stability, and experience.

(TAB 14) RFQ Forms: This section should include completed and executed copies of the following forms

- a. Proposer's Certification Form
- b. Sworn Statement regarding Public Entities Crimes
- c. Americans with Disabilities Act Non-Discrimination Statement,
- d. Business Entity Affidavit
- e. Certification Regarding Debarment, Suspension & Other Responsibility Matters Primary Cover Transactions
- f. W-9

- g. Statement of Qualifications Checklist Form
- h. Contact Information Form
- i. Certificate of Authority (Complete Form 3A or 3B as applicable)
 - a. Certificate of Authority (for Corporations or Partnerships) Certificate of Authority (for Individuals)
- j. Company Qualifications' Questionnaire
- k. Key Personnel
- l. Client References
- m. Dispute Disclosure
- n. Acknowledgment of Addendum
- o. Alternate Proposed Agreement (optional)

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[END OF SECTION 3]

SECTION 4

EVALUATION OF RESPONSES

4.1 EVALUATION AND AWARD. The Town will select proposals deemed most qualified based on the submittal criteria. The Selection Committee will rank those Respondents whose proposals are deemed most qualified.

The Town reserves the right to select the proposal response which in the opinion and sole discretion of the Town will be in the best interest of and/or most advantageous to the Town. The Town reserves the right to waive any irregularities and technicalities and may at its discretion request re-submittal of proposals.

4.2 SELECTION PROCESS. Interested Respondents shall submit their qualifications and any other information required herein to the Town on or before the date and the time specified. A Selection Committee, consisting of Town personnel, will convene, review and discuss all proposals submitted. The Town Clerk or designee will chair the committee.

Respondent(s) selection and award of contract shall be done in accordance with the State of Florida CCNA (Consultants' Competitive Negotiation Act), and Town policies and procedures. A Selection Committee will review the submittals and rank qualified Respondent(s) for the projects based on the selection criteria detailed below. The Applicant Firms will be ranked on their submittals and selection criteria. Highest ranking scores will be presented to the Town Commission for recommendation to contract.

A short list of finalists shall be established based upon the written submissions. Interviews, per State Statute, will be conducted with minimum of three best-ranked firms. These interviews of the finalists shall be used to identify the top-rated Respondent(s). Composite scores will rank responses from 1 (1st place), 2 (2nd place), and so on, for the total number of finalists under consideration. If there is a tie for first place after ordinal scoring, the tied firm with the highest rank from the initial Selection Committee scoring will be recommended.

A copy of the interview materials (hard-copy, DVD, CD or a combination of both) should be given to the Clerk at the meeting to retain in the Town files.

The Town is not bound to accept any Submittal Package to the RFQ or further proceed with the process if the Respondents do not meet Town requirements and standards.

Further, the Town reserves the right, at its sole discretion, to:

1. Accept or reject any and all submittals, in whole or in part;
2. Discuss different or additional terms to those included in this RFQ or received in any response;
3. Amend or modify any terms of this RFQ;
4. Reject this RFQ and issue a second RFQ;
5. Request clarification of the information submitted as part of the RFQ; and/or
6. Extend the date for receipt of RFQ's.

4.3 EVALUATION CRITERIA. The criteria and weights as shown herein shall be utilized in the evaluation of the proposals. The evaluation criteria will be based on 1. Experience of Firm/Past Performance, 2. Experience/Ability of Personnel, 3. Technical Approach, 4. Financial Information, and 5. Other Information. The Selection Committee will evaluate all responsive written proposals to determine which proposals best meet the needs of the Town, based on the evaluation criteria. It is expected that a contract will be executed between both parties for the services as may be necessary.

4.4 FINAL SELECTION. The Town Selection Committee will evaluate the qualifications of all proposers and rank them accordingly. The top-ranked firms will be recommended to the Town Commission. The Town will then negotiate a contract with the approved firm. Subsequently, the final contract negotiation details will be presented to the Town Commission for authorization. If negotiations with the approved firm are unsuccessful, the Town will formally terminate negotiations and commence negotiations with the next highest-ranked firm. Upon successful contract negotiations with the selected firm, the recommendation for award will be presented to the Town Commission for final approval. Once approved, the remaining firms will be notified that the process has been completed, and they were not selected.

4.5 CONTRACT AWARD AND AGREEMENT. The selected Respondent will be expected to enter into a formal agreement at the time of contract award. The selected Respondent will also be expected to submit a scope of services for the purpose of entering into a formal contract. Scope of services and pricing shall be negotiated and decided prior to award of contract and become part of the contract document at award. A sample agreement is provided as Attachment "A" within this RFQ. The agreement shall be in the form as approved by the Town Attorney for legal form and sufficiency, and shall include, but not be limited to, the following matters:

- a. The services to be provided by the Respondent pursuant to the Agreement shall be nonexclusive, and nothing therein shall preclude the Town from engaging other firms to perform the same or similar services for the benefit of the Town within the Town's sole and absolute discretion.
- b. The Respondent shall warrant that it has not employed or retained any company or person, other than a bona fide employee working solely for the Respondent, to solicit or secure a contract pursuant to this Request for Qualifications. Also, 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 Respondent any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award of a contract pursuant to this RFQ.
- c. The Agreement will include provisions for termination by either party and for termination for convenience by the Town.
- d. The Respondent shall be required to warrant and represent that at all times during the term of the Agreement it shall maintain in good standing all required licenses, certifications and permits required under federal, state and local laws necessary to perform the services.

- e. It is anticipated that the Agreement shall be a continuing contract. All work of a specified nature to be performed by Respondent shall be outlined in the Agreement.
- f. The Agreement will provide for the rates/fees for services, which Respondent shall charge the Town and shall be scope specific.
- g. The Respondent shall at all times carry professional liability insurance, workers' compensation insurance, public liability and property damage insurance, and automotive public liability and property damage insurance as specified in this RFQ.
- h. Each Respondent shall be required, pursuant to Chapter 287, Florida Statutes, to execute a "Sworn Statement on Public Entity Crimes" prior to the execution of a contract resulting from this Request for Qualifications. By executing this sworn statement, the Respondent is affirmatively stating that neither it nor an affiliate (as defined in the statute) has been convicted of a public entity crime, and that it is not barred from entering into the contract. The Respondent shall further acknowledge that any misstatement or misrepresentation of fact, lack of compliance with the statute, or subsequent conviction of a public entity crime shall result in the contract being null and void and/or subject to immediate termination by the Town. In the event of such termination, the Town shall not incur any liability for any work or materials furnished by the Respondent.
- i. Respondent shall invoice the Town for each project or assignment, as negotiated. Each invoice shall identify the project or assignment, detail the contract price, payments made to date, percentage of completion of the assignment, project or phase, payment due this invoice, remaining balance due. Invoices shall itemize hours, hourly wage, or other unit agreed upon as measurement of payment during negotiations, if requested. If hourly, invoices shall identify the name and title of personnel who performed the work.
- j. Respondent shall indemnify and hold harmless the Town, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentional wrongful conduct of the Respondent and persons employed or utilized by the Respondent in the performance of the services under this Agreement.
- k. The Respondent shall pay all royalties and assume all costs arising from the use of any invention, design, process materials, equipment, product or device which is the subject of patent rights or copyrights. Respondent shall, at its own expense, hold harmless and defend the Town against any claim, suit or proceeding brought against the Town which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished under the contract, constitute an infringement of any patent or copyright of the United States. The Respondent shall pay all damages and costs awarded against the Town in such matter.
- l. An understanding and agreement, by and between the Respondent and the Town, that the completion time will be as specified in approved work authorizations and that all work shall be prosecuted regularly, diligently, and uninterrupted at such rate of progress as will ensure full completion thereof as specified in the Scope of Services.

m. The Agreement will provide for the Town to designate a Contract Administrator for each project or assignment, who shall be responsible for the project or assignment. The Contract Administrator may prepare a scope of services for each new assignment, upon which the selected firms in that category may be required to submit a Statement of Qualifications for performance of the work of a specified nature which has been outlined in the continuing contract.

4.6 EVALUATION CRITERIA TABLE. Responses will be evaluated according to the following criteria and respective weight:

Criteria	Weight
<p><u>Experience of Firm/Past Performance</u></p> <ul style="list-style-type: none"> • Success at executing projects where GMP and final construction costs were equal • Success at achieving cost savings and schedule efficiencies • Success at meeting project schedule and budget • Success at executing projects with multiply 3 parties outside of the control of the CMAR 	30%
<p><u>Experience/Ability of Personnel</u></p> <ul style="list-style-type: none"> • Time with Company • Direct applicable experience to CMAR projects • Project Manager experience and success managing CMAR projects 	25%
<p><u>Technical Approach</u></p> <ul style="list-style-type: none"> • Technical approach to achieving multiply bids • Technical approach to using CMAR to achieve lower bids • Technical approach to staying on budget and on schedule • Technical approach to working transparent with client • Technical soundness of the proposal 	30%
<p><u>Financial Information</u></p> <ul style="list-style-type: none"> • Annual Report submitted and determined adequate by Town • Financial resources and capabilities • Financial Statement certified by a CPA 	10%
<p><u>Other</u></p> <ul style="list-style-type: none"> • Overall completeness, clarity and quality of proposal • Bonding and Insurance • Communications with property owners within the project area as part of construction team 	5%

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[END OF SECTION 4]

SECTION 5
ATTACHMENTS

ATTACHMENT "A"
SAMPLE CONTRACTUAL AGREEMENT



CONSTRUCTION MANAGER-AT-RISK CONTRACT

THIS Contract made and entered into this _____ day of _____, 202X, between THE TOWN OF SURFSIDE, a political subdivision of the State of Florida (“Owner”), and XXXXXX. (“Construction Manager”).

WITNESSETH:

That the said Construction Manager having been awarded the Contract for the:

TOWN-WIDE UTILITY UNDERGROUNDING AREA 3-NORTH,

SURFSIDE, FLORIDA

RFQ NO. 2024-02, OPTION TO EXTEND ADDITIONAL PHASES EXERCISED

In accordance with the Request for Qualifications therefore, and for and in consideration of the promises and of the covenants and agreements, and of the payments herein specified, to be made and performed by the Construction Manager and the Owner, the Construction Manager hereby covenants and agrees to and with the Owner to undertake and execute all of the said named work, in a good, substantial and workmanlike manner, and to furnish and pay for all materials, labor, supervision, equipment, supplies, fees, expertise, incidentals and services necessary to fully complete all Work, as defined in Article 1.4.8 below, in accordance with all requirements of the Contract Documents, and in accordance with all applicable codes and governing regulations. The Contract Documents consist of this Contract, the General Conditions GC-1 through and including GC-77, and the following **Attachments** and **Exhibits**:

Attachments:

1. Certificate of Insurance- Workers’ Compensation, General Liability and Automobile Liability Coverage;
2. Performance and Payment Bonds;
3. The Request for Qualifications RFQ NO. 2024-02;
4. XXXXXXXX. CM at Risk Proposal Dated
5. Pre-construction Services
6. Guaranteed Maximum Price Summary Sheet;
7. Specifications Log, Drawings Log, Project Schedule; and

Burkhardt - Guaranteed Maximum Price “Exhibits”:

- A. Direct Construction Costs (11 pages);
- B. General Conditions (7) pages);
- C. Construction Phase Management (2 page);

- D. Exceptions & Clarifications (5 pages);
- E. Guaranteed Maximum Price (3 pages)

ARTICLE 1

The Construction Team and Extent of Contract

1.1 The Construction Manager accepts the relationship of trust and confidence established with the Owner by this Contract, and agrees to furnish the Construction Manager's best skill and judgment, and to cooperate with the Design Consultant in furthering the interests of the Owner. The Construction Manager agrees to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to use Construction Manager's best efforts to perform and complete the Project in an expeditious and economical manner consistent with the interests of the Owner. Notwithstanding any provisions of this contract to the contrary, nothing in this contract creates a fiduciary relationship between the Owner and the Construction Manager.

1.1.1 Construction Manager understands and agrees that a material inducement for the Owner entering into this Contract, following a competitive award process authorized under Florida law, was Construction Manager's representations about its expertise in the scheduling, sequencing and construction of the Town-Wide Overhead Utility Undergrounding Phase 4-South; Utility Undergrounding Conduit Installation as well as its superior familiarity with the unique local conditions and geography of the Town of Surfside, and the project limits. Construction Manager understands that time is of the essence in connection with the performance of the Work set forth in this Contract, and that even a minor breach of its terms may have a substantial, adverse impact upon the Owner, adjacent merchants, and the seasonal nature of Town of Surfside's economy, including the lifestyles of its residents and visitors. Accordingly, Construction Manager hereby affirms that the foregoing is true and correct, and that all anticipated costs to achieve the schedule and design intent have been included in the GMP for the Project.

1.2 The Construction Team. The Construction Manager, the Owner, and the Design Consultant (the "Construction Team") will cooperate together through the completion of construction. The Construction Manager shall provide leadership to the Construction Team on all matters relating to construction. The Design Consultant will provide leadership to the Construction Team on all matters relating to design. Nothing herein is intended to make the Owner liable for the acts or deeds of the Construction Manager, it being understood that Construction Manager at all times is an independent contractor.

1.3 Extent of Contract. This Contract is complementary to the Specifications, Drawings, and the General Conditions of the Contract, and together represents the entire integrated agreement between the Owner and the Construction Manager, superseding all prior negotiations, representations or agreements, either written or oral. Where this Contract is expressly in conflict with the General Conditions of the Contract, this Contract will prevail. Where this Contract is silent, the General Conditions of the Contract, and the requirements of the Specifications and Drawings and will prevail, in that order. This Contract may be amended only by written instrument signed by the Owner and the Construction Manager.

1.4 Terms used in the Contract shall have the following meanings:

1.4.1 “Owner” means The Town of Surfside, Florida, or “Town,” and the terms may be used interchangeably.

1.4.2 “Project” means the Town-Wide Overhead Utility Undergrounding Phase 4-South; Utility Undergrounding Conduit Installation, located as noted above;

1.4.3 “Design Consultant” shall mean Kimley-Horn and Associates, Inc.

1.4.4 “Contractor” means Construction Manager, and the terms may be used interchangeably;

1.4.5 “Subcontractor” means one who takes a portion of the contract from the construction manager or from another subcontractor;

1.4.6 “Contract Sum” means Guaranteed Maximum Price (“GMP”), and the terms may be used interchangeably;

1.4.7 “Construction Team” means Owner, Design Consultant and Construction Manager; and

1.4.8 “Work” means the totality of the obligations, including construction and other services, imposed on the Construction Manager by the Contract Documents, whether completed or partially completed, and including all labor, materials, equipment, services, fees, expertise and incidentals provided or to be provided by the Construction Manager to fulfill the Construction Manager’s obligations.

ARTICLE 2

Construction Phase

2.0 Unless otherwise authorized by the Owner, in writing, all Work shall be performed under Contracts with the Construction Manager. THE CONSTRUCTION MANAGER SHALL, WITHOUT LIMITATION:

1. Administer the Construction Phase as provided herein and in the General Conditions of the Contract.
2. Commence actual construction of the Work on ~~xxx,xx1, 20xx~~, and the acquisition of materials, subcontractor and supplier commitments within ten (10) days after receipt of a written Notice to Proceed from the Owner;
3. Maintain exclusively for this Project a competent staff at the Project site to coordinate and direct the Work and progress of the Sub-Contractors on the Project; provided however, that one or more of Construction Manager’s project team shall be at the jobsite at all times when work is being performed by its subcontractors or others for whom Construction Manager is directly or vicariously responsible under this Contract. The Construction Manager shall maintain sufficient off-site support staff, and competent full time staff at the Project site authorized to act on behalf of the Construction Manager to coordinate, inspect and provide general direction of the work and progress of the Subcontractors and shall provide no less than those personnel during the respective phases of construction that are set forth in **Exhibit “C”** to this Contract. Construction Manager shall not change any of those persons agreed to by Owner for the positions set forth in **Exhibit “C”** unless mutually agreed to by the Owner and Construction Manager, in writing. In such case, the Owner shall have the right of approval of the

qualifications of replacement personnel. All of the Construction Manager's on-site management and supervisory personnel shall be consistent with the RFP presentation that preceded the execution of this Contract, and shall not be removed or replaced without the Owner's written consent. The Owner shall have the right to direct the Construction Manager to remove or replace any on-site personnel whose performance becomes unsatisfactory to the Owner. In such event, the Construction Manager shall promptly replace such personnel, without entitlement to additional compensation or additional time for the replacement.

- a) It is expressly understood and agreed that the amount of \$xxxx.xxx for the line-item personnel set forth in **Exhibit "C"** is a lump sum amount and covers the entire duration of the project, and shall be paid in equal monthly installments, but subject to retainage. It is not subject to audit. To the extent that Construction Manager exceeds said amount, or requires additional personnel to properly and timely discharge its obligations and duties under the Contract, there shall be no entitlement to additional compensation, unless the Contract time is extended due to excusable and compensable changes in the Work or contract duration.

2.1 Establish and maintain a) on-site organization and lines of authority in order to carry out the overall plans of the Construction Team; b) Identify an on-site staff member to represent the Construction Manager, on a daily basis, with authority to negotiate Change Orders and contract modifications with Sub-Contractors that do not create changes in project design or specifications; c) Make available such executive personnel as necessary to execute Change Orders or other contract modifications on behalf of the Construction Manager so as not to delay the progress of the Work.

2.2 Establish and maintain a) procedures for coordination among the Owner, Design Consultant, Sub-Contractors and Construction Manager with respect to all aspects of the Work; b) Implement such procedures, incorporate them into a Project resource manual, and distribute manuals to the Construction Team.

2.3 Require of the various Sub-Contractors such Coordination Drawings as may be necessary to properly coordinate the Work among the Sub-Contractors.

2.4 In collaboration with the Design Consultant, establish and implement procedures for tracking and expediting the processing of shop drawings, samples, Requests for Information ("RFI's"), and other submittals as required by the General Conditions of the Contract.

2.5 Schedule and conduct bi-weekly or more frequent progress meetings with Sub-Contractors to review such matters as job procedures, job safety, construction progress, schedule, shop drawing status and other information as necessary. Construction Manager shall provide prior notice to Owner and Design Consultant of all such meetings, and prepare and distribute minutes. Additionally, Construction Manager shall schedule and attend Team meetings with the Design Consultant and Owner.

2.6 Review the Project schedule with the various Sub-Contractors and review, or expand the level of detail to incorporate specific Sub-Contractor input consistent with the overall completion requirements. Construction Manager shall regularly monitor and update the Project Schedule and various sub-networks as construction progresses; identify potential variances between scheduled and probable completion dates, review schedule for Work not started, or incomplete, and make adjustments in the schedule to meet the scheduled completion date. Construction Manager shall provide summary

reports of each monitoring and document all changes in schedule, and prepare regular schedule updates and reporting which shall be included as part of the monthly Project report.

2.7 Determine the adequacy of the Sub-Contractors' personnel and equipment, and the availability of materials and supplies to meet the schedule. In consultation with the Owner and the Design Consultant, take necessary corrective actions when requirements of a Sub-Contract or a Sub-Contract Schedule are not being met.

2.8 If applicable, whenever Owner-Furnished Contractor-Installed ("OFICI") materials or equipment are shipped to the Project site, the Construction Manager shall notify the Owner and shall be responsible for their inspection and proper storage (unless purchase in connection with **Attachment "8"**), and incorporation into the Work.

2.9 Develop and maintain an effective system of Project cost control which is satisfactory to the Owner. Revise and refine the initially approved Project Construction budget, incorporate approved changes as they occur, and develop cash flow reports and forecasts as needed. Identify variances between actual and budgeted or estimated costs and advise Owner and Design Consultant whenever projected costs exceed budgets or estimates. Cost Control reports shall be included as part of the monthly Project report.

2.10 Maintain a system of accounting satisfactory to Owner and consistent with generally accepted construction accounting principles. The Construction Manager shall preserve all accounting records for a period of four (4) years after final acceptance of the Work or as otherwise requested in writing by the Owner. The Owner, or the Owner's auditors shall have access to all such accounting records, supporting documentation, correspondence, subcontracts, purchase orders, and other things relating to this Contract, at any time during regular business hours, both throughout the performance of the Work, and for a period of four (4) years after final payment of the Work.

2.11 Develop and implement a system for the preparation, review and processing of Change Orders. Without assuming any of the Design Consultant's responsibilities for, among other things, design, recommend necessary or desirable changes to the Owner and the Design Consultant, review requests for changes and submit recommendations to the Owner and Design Consultant for approval.

2.12 When requested by the Owner or Design Consultant, promptly prepare and submit informal estimates of probable cost for changes proposed in the Work including similar estimates from the Sub-Contractors. If directed by the Owner, promptly secure formal written Change Order Proposals from such Sub-Contractors.

2.13 Be responsible for initiating, maintaining and supervising effective safety programs and require similar programs of the Sub-Contractors. The OSHA guidelines shall serve as the basis for the construction safety program

2.14 Promptly notify the Owner and, where applicable, the Owner's Risk Manager, in writing, upon receiving notice of filing of any charge of non-compliance from OSHA, or upon receiving notification that a federal or state inspector shall visit or is visiting the Project site.

2.15 At progress meetings with Sub-Contractors, conduct a review of job safety and accident prevention, and prepare minutes of such meetings that will be available to the Owner's Representative

on request. The minutes of job safety and accident prevention portion of such progress meetings shall be made available to the Owner's Risk Manager, where applicable, upon request.

2.16 Designate a full-time staff member as the Project safety director who shall oversee job safety and accident prevention for the Construction Manager and Sub-Contractors involved in the Work, in addition to any other responsibilities assigned to such staff member.

2.17 Make provisions for Project security acceptable to the Owner, to protect the Project site and materials stored off-site, or on-site, against theft, vandalism, fire and accidents, damage, or injury to person(s) or property, etc., as required by job and location conditions.

2.18 Record the progress of the Project. Submit written monthly progress reports to the Owner and the Engineer including information on the Sub-Contractors' Work, the percentage of completion, current estimating, computerized updated monthly Bar Chart scheduling and Project accounting reports, including Estimated Time to Completion and Estimated Cost to Complete. Keep a daily log available to the Owner and the Design Consultant. Report and record such additional information related to construction as may be requested by the Owner.

2.19 The Construction Manager shall be responsible for the removal, encapsulation, transportation and disposal of any hazardous material, including, without limitation, lead-based paint, and any asbestos or asbestos-related products as may be required in connection with the Work. Hazardous material, described by federal guidelines brought by the Construction Manager or the Sub-Contractors shall remain their responsibility for proper disposal. Any hazardous material not specifically shown on the documents, or which was not discovered or should have been discovered during performance of the Pre-Con Agreement, shall be considered a concealed condition and may become the responsibility of the Construction Manager in a Change Order increasing the Guaranteed Maximum Price for any additional costs incurred in connection therewith. Such Change Order shall be submitted in as timely a manner as is reasonably possible after discovery of the concealed condition, as more particularly set forth in the General Conditions.

ARTICLE 3

Additional Services

3.1 Upon the mutual agreement of the Owner and the Construction Manager, and upon written authorization from the Owner, the Construction Manager may provide additional services that are beyond the scope of the Basic Services described in Article 2 herein. The Construction Manager shall be compensated for such additional services by Change Order to be negotiated by the Owner and the Construction Manager at the time of the additional service request, as set forth in the General Conditions.

ARTICLE 4

Owner's Responsibilities

4.1 The Owner will designate a representative to act in its behalf. This representative, or his/her designee will receive progress reports of the Work from the Construction Manager, serve as liaison with the Construction Manager and the Design Consultant, receive and process communications and paperwork, and represent the Owner in the day-to-day conduct of the Project. The Construction Manager will be notified in writing of the representative and of his/her designee or any changes thereto.

ARTICLE 5

Schedule

5.1 The performance of the Work under the Construction Phase of this Contract shall be **Substantially Completed** by the Construction Manager on or before **XXX, 20XX** time being of the essence in this Contract, as more particularly set forth in **Attachment "7"** hereto attached and made a part hereof, and receipt of permits, as may be later adjusted by Change Order(s), if any, and subject to adjustment for delays as otherwise provided for in this Contract.

5.2 The Construction Manager agrees to complete the Work in accordance with the agreed upon substantial completion date and final completion date set forth in **Attachment "7."** The Construction Manager acknowledges that time is of the essence throughout this Contract, and that failure to complete the Project within the time set forth in the approved schedule will result in substantial damages to the Owner that are impossible to precisely ascertain. Upon failure of the Construction Manager to substantially complete the Project within the specified period of time, plus approved time extensions, Construction Manager shall pay to the Owner, as liquidated damages and not as a penalty, the sum of **\$1000.00** for each calendar day in excess of the established substantial contract completion date, plus approved time extensions. After achieving substantial completion, should Construction Manager fail to complete the remaining Work within the time specified for final completion in **Attachment "7"**, plus approved time extensions, if any, and after providing Construction Manager with seven (7) days advance written notice, Owner shall have the right to complete the work through other means, and the costs therefore shall be set-off against retainage remaining in the contract balances, which, if insufficient, the balance shall be paid to Owner by Construction Manager, or its performance bond Surety.

5.3 Construction Manager shall expedite the Work by whatever means the Construction Manager may use, including, without limitation, increasing staffing or working overtime to bring the Work back within the agreed construction schedule. If expediting the Work is required due to reasons within the control or responsibility of the Construction Manager, then the additional costs incurred shall be chargeable to the Cost of the Work as part of, and subject to the GMP. If the expediting of the Work is required due to reasons outside the control or responsibility of the Construction Manager, then in such event, the additional costs incurred shall be the subject of an appropriate adjustment by Change Order, as elsewhere provided for in the General Conditions.

5.4 The Owner shall have the right to occupy, or use, any portion of the Work prior to completion of the Project. If use or occupancy ahead of schedule affects the cost of the Project or the schedule for

the Work, the Construction Manager shall so notify the Owner, in writing, and the use or occupancy will be treated as a Change to the Work in accordance with Article 9, herein.

ARTICLE 6

Guaranteed Maximum Price

6.1 The “Guaranteed Maximum Price” (GMP) includes Cost of the Work required by the Contract Documents as defined in Article 8 herein, and the Construction Manager’s Fee as defined in Article 7 below. The sum of the Cost of the Work and the Construction Manager’s Fee is guaranteed by the Construction Manager not to exceed the amount of **XXC million XXXX hundred XXXX hundred XXX dollars (\$XXXX)**, subject to additions and deductions by Change Order as provided for in the Contract Documents. Costs which would cause the GMP to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

6.2 The GMP includes those taxes in the cost of the Work that are legally enacted at the time that this Contract is fully executed by the parties hereto.

6.3 All savings within the GMP shall inure to the benefit of the Owner exclusively. An adjusting Change Order shall be issued either when a final accounting is submitted upon Final Completion of the Work, or at such earlier time as agreed to by the Owner and the Construction Manager. “Savings” are the net difference obtained by deducting from the GMP (as adjusted by Change Orders, if any), the unexpended portions of the Construction Contingency, and the actual expenditures representing the Cost of the Work, as defined in Article 8, herein, including, without limiting the generality hereof, any units quantified in Exhibit “A” not furnished and installed. Liquidated damages, if any, are not a part of this calculation.

6.4 The GMP does not include a “Construction Contingency”, however an owner expense budget of Two Hundred thousand dollars may be utilized, upon written approval beforehand by Owner, for the purpose of defraying the expenses due to unforeseen circumstances relating to construction such as, but not necessarily limited to, increases in subcontractor costs due to insolvency, correction of defective work (provided that such defective Work was not caused by the negligence or failure to fulfill a specific responsibility of the Construction Manager), and only to the extent that the costs therefore are not recoverable by Construction Manager from insurance, sureties, Subcontractors or suppliers), overtime ordered by the Owner to improve the schedule but not to make up for lost time due to Construction Manager’s delays, field issues/conditions which were not anticipated and which result in documented costs to the Work, Owner Furnished/Contractor Installed (“OFCI”) material or OFCI equipment failures, and any other cost agreed to mutually by the parties, in writing. The Contractor shall furnish documentation evidencing expenditures charged to this Contingency prior to the release of funds by the Owner. The necessary documentation, and the sufficiency thereof, required for invading the Construction Contingency fund shall be reasonably determined by the Owner. The Design Consultant shall verify the actual costs, if requested by Owner.

6.5 By execution of this Contract, the Construction Manager certifies that costs supporting the fees specified in this Contract are accurate, complete and current at the time of negotiations; and that any other costs that may be furnished the Owner in the future to support any additional fees that may be authorized will also be accurate and complete. The fees specified in this Contract, and any additional

fees that may be authorized in the future, may be adjusted to the extent of any increase due to inaccurate, incomplete, or non-current factual unit costs.

ARTICLE 7

Payments to Construction Manager

7.1 In consideration of the performance of the Contract, the Owner agrees to pay the Construction Manager, as compensation for its services, as set forth below:

7.1.1 Preconstruction services, for a total amount of ~~XXXX,XXX~~, were completed prior to this agreement within a different contract; therefore, it is excluded from the GMP.

7.1.2 In consideration of the performance of the Work arising out of and in connection with this Contract, Owner agrees to pay the Construction Manager, as total compensation for its labor materials, equipment, management, and services, a Construction Manager at Risk fee (“CMAR”) in the amount of ~~XXXX,XXX~~, to be paid monthly on a percentage of completion basis, and subject to the retainage provisions set forth in the General Conditions. The CMAR includes Construction Manager’s overhead, profit, and the items enumerated in Article 7.2 through and including 7.2.9 below.

Overhead, profit and bond allowance for compensable Change Orders not funded from the Construction Contingency: Subcontractor overhead and profit not to exceed 10%; Construction Manager overhead and profit not to exceed 10%.

7.1.2.1 As required by Section 255.073, F.S., within ten (10) days from receipt of payment from the Owner, the Construction Manager shall pay each Sub-Contractor out of the amount paid to the Construction Manager on account of such Sub-Contractor’s Work, the amount to which said subcontractor is entitled reflecting the percentage actually retained, if any, from payments to the Construction Manager on account of said Sub-Contractor’s Work. The Construction Manager shall, by appropriate agreement with each Sub-Contractor, require each Sub-Contractor to make payments to its Sub-subcontractors in a similar manner, pursuant to the above Florida statute. Make payments to its Subcontractors in a similar manner, as set forth in the above-cited Florida statute.

7.1.3 Pay requests for the Construction Phase shall be documented in accordance with the General Conditions.

7.1.4 Except for the costs enumerated in **Exhibit “C,”** applications for payment shall be predicated on a percentage of completion basis. All payments are subject to retainage as elsewhere provided for in the Contract Documents.

7.2 Construction Manager’s CMAR Fee includes, without limitation, the following:

7.2.1 The cost of its home or branch office employees or consultants not at the Project site, including the cost of all benefits, insurance, and taxes attributable to wages and salaries and other company overhead expenses for said home office employees.

7.2.2 General operating expenses of the Construction Manager’s principal and branch offices other than the field office.

7.2.3 Any part of the Construction Manager’s capital expenses, including interest on the Construction Manager’s capital employed for the Work.

7.2.4 Overhead and profit, or general expenses of any kind, except as may be expressly Included in Article 8, herein, as Cost of the Work.

7.2.5 All travel and per diem costs of Construction Manager’s employees and consultants.

7.2.6 Those services set forth in Article 2 and its subparts.

7.2.7 Expenses such as long distance telephone calls, internet service, web sites, and cell phones provided to or by Construction Manager’s personnel, telephone service at the site, postage, office supplies, courier and express delivery services, and similar items in connection with the Work, unless otherwise provided for in **Exhibit “B.”**

7.2.8 Cost of equipment such as typewriters, cameras, radios, computers, pagers, copiers, facsimile equipment, telephones, cell phones, dictating units, trailers, vehicles, and furniture purchased or rented by the Construction Manager, unless otherwise provided for in **Exhibit “B.”**

7.2.9 All costs incurred during the guarantee period following Final construction of the Project.

7.3 Adjustments in the Construction Manager’s Fixed Fee will only be made, as follows:

7.3.1 Adjustments due to Changes in the Work shall be made as described in the Contract Documents.

ARTICLE 8

Cost of the Work

8.1 The term “Cost of the Work” shall mean costs, including General Conditions costs, as identified in **Exhibit “B”** and the Construction Management Services Fee (CMSF, **Exhibit “C”**) ((**Exhibits “B”** and **“C”** costs, however, are guaranteed hard and not subject to audit), incurred specifically in and about the performance of the Work as described and defined in Paragraph 8.2, below, and paid or incurred by the Construction Manager, which are not included in Paragraph 7.2, less any reimbursement for scrap value and cash or trade discounts, subject to Article 10, herein. The term “wages” used herein shall include the straight time and overtime pay authorized in writing by the Owner, and the cost of associated employee benefits. Employee benefits include, but are not limited to, unemployment taxes, social security taxes, compensated absences not including vacation time (under limited circumstances, such as extended self –performance by Construction Manager due to subcontractor default or jobsite emergency, “vacation time” may be compensable, provided self-performance is approved by Owner beforehand, in writing), and other mandatory and customary contributions and fringe benefits insofar as such costs are based on wages, salaries, or other remuneration paid to employees of the Construction Manager, excluding bonuses.

8.1.1 The GMP includes the amounts set forth in **Exhibits “B” (\$XXXX,XX) and “C” (\$XXX,XXX)** for General Conditions and CM services, respectively. These numbers are lump sum, and not subject to audit; provided, however, that it is expressly understood and agreed by the parties that the amounts for the line items in said **Exhibits “B” and “C”** are lump sums and intended to cover the entire duration of the project. To the extent that Construction Manager exceeds said amounts, or requires additional personnel, materials, services and equipment to properly and timely discharge its obligations and duties under the Contract, there shall be absolutely no entitlement to additional compensation, unless the Contract time is extended due to excusable and compensable changes in the Work that increase the GMP and/or contract duration.

8.1.2 Subject to the GMP, the Owner agrees to pay the Construction Manager for the Cost of the Work as defined in Article 8, herein, and its subparts, through completion of the Work, plus the Construction Management Services Fee (“CMSF”, **Exhibit “C”**) which shall be paid in equal monthly installments, and subject to retainage as elsewhere provided for herein.

8.2 Cost of the Work includes, and is limited to, actual documented expenditure for the following cost items:

8.2.1 Subject to prior written approval by the Owner, wages paid for labor in the direct employ of the Construction Manager at the construction site other than those provided under Paragraph 7.2, herein, as a part of the CMAR, and those provided for in **Exhibit “C,”** in the performance of the Work under applicable collective bargaining agreements, or under a salary or wage schedule agreed upon by the Owner and Construction Manager, and including benefits, if any, as may be payable with respect thereto.

8.2.2 As and only to the extent not expressly or impliedly included in **Exhibits “A” “B” and “C,”** the cost of all materials, supplies and equipment incorporated into the Work or stored on site, including cost of transportation and storage thereof. At the Owner’s sole discretion, the Owner may make payment for materials, supplies and/or equipment stored off-site and insured.

8.2.3 Payments made by the Construction Manager to Trade Contractors for their Work performed pursuant to Sub-Contracts with the Construction Manager.

8.2.4 **As and only to the extent not expressly or impliedly included in Exhibits “A” “B” and “C,”** sales, use, gross receipt, or similar taxes related to the Work imposed by any governmental authority and for which the Construction Manager is liable.

8.2.5 **As and only to the extent not expressly or impliedly included in Exhibits “A” “B” and “C,”** building and operating permit fees, inspection and filing fees, sewer and water fees.

8.2.6 **As and only to the extent not expressly or impliedly included in Exhibits “A” “B” and “C,”** cost of removal and disposal of all debris including clean-up and trash removal.

8.2.7 Cost incurred due to an emergency affecting the safety of persons and/or property.

8.2.8 Subject to prior written approval by Owner, legal costs reasonably, and properly, resulting from prosecution of the Work for the Owner provided, however, that they are not the result of the Construction Manager’s own negligence or malfeasance. Legal costs incurred in connection with

disputes solely between the Construction Manager and the Owner or incurred in connection with disputes solely between the Construction Manager and Sub-Contractors are the responsibility of the Construction Manager and shall not be included in the Cost of the Work.

8.2.9 As and only to the extent not expressly or impliedly included in Exhibits “A” “B” and “C,” cost to the Construction Manager of temporary electric power, lighting, water, sanitary facilities, and heat required for the performance of the Work, or required to protect the Work from weather damage.

8.2.10 As and only to the extent not expressly or impliedly included in Exhibits “A” “B” and “C,” cost to the Construction Manager of temporary safety-related protection including barricades and safety equipment, temporary roads and parking, dust control, pest control, installation and operation of temporary hoists, scaffolds, ladders and runways, and temporary Project signs and costs of permits and fees pursuant to the General Conditions of the Contract.

8.2.11 As and only to the extent not expressly or impliedly included in Exhibits “A” “B” and “C,” cost of watchmen or similar security services, if approved in writing by Owner.

8.2.12 As and only to the extent not expressly or impliedly included in Exhibits “A” “B” and “C,” cost of surveys, measurements and layout work reasonably required for the execution of the Work or the requirements of the Contract.

8.2.13 As and only to the extent not expressly or impliedly included in Exhibits “A” “B” and “C,” cost of preparation of shop drawings, coordination plans, photographs, or as-built documents not included in Sub-Contracts.

8.2.14 As and only to the extent not expressly or impliedly included in Exhibits “A” “B” and “C,” all costs for reproduction of documents to directly benefit the work.

8.2.15 As and only to the extent not expressly or impliedly included in Exhibits “A” “B” and “C,” testing laboratory costs, except relating to defective or non-conforming work for which reimbursement is otherwise excluded by the Contract Documents.

8.2.16 Deposits lost for causes other than Construction Manager’s or any Sub-Contractor’s negligence or failure to fulfill a specific responsibility to the Owner under the Contract Documents.

8.2.17 As and only to the extent not expressly or impliedly included in Exhibits “A” “B” and “C,” cost, including transportation and maintenance, of all materials, supplies, equipment, temporary facilities and hand tools not owned by the workmen that are consumed in the performance of the Work.

8.2.18 As and only to the extent not expressly or impliedly included in Exhibits “A” “B” and “C,” rental charges of all necessary machinery and equipment, including hand tools used in the performance of the Work, whether rented from the Construction Manager (upon prior written approval of the Owner, at the standard rate paid at the place of the Project) or others, including installation, repairs and replacements, dismantling, removal, costs of lubrication, transportation and delivery costs thereof.

8.2.19 **As and only to the extent not expressly or impliedly included in Exhibits “A” “B” and “C,”** costs associated with setting up and demobilizing tool sheds, Project field offices, temporary fences, temporary roads, and temporary fire protection.

8.2.20 **As and only to the extent not expressly or impliedly included in Exhibits “A” “B” and “C,”** Cost of the premiums for all insurance or bonds which the Construction Manager is required to procure by this contract, or other insurance or bonds subsequently deemed necessary by the Construction Manager, and agreed upon by the owner, in writing..

8.3 Costs not to be reimbursed include:

8.3.1 Those costs enumerated in Article 7.2.1 through 7.2.9 above.

8.3.2 Except as provided in Article 8.2.8 above, costs due to the negligence or failure of the Construction Manager, Sub-Contractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract.

8.3.3 Any cost not specifically and expressly described in Article 8.2 and its subparts, above.

8.3.4 Costs, other than costs included in Change Orders approved by the Owner, in writing, that would cause the GMP to be exceeded.

ARTICLE 9

Changes in the Work

9.1 The Owner, without invalidating this Contract, may order Changes in the Work within the general scope of this Contract consisting of additions, deletions, or other revisions. All changes in the Work shall be authorized as described in the General Conditions of the Contract. Except in cases of emergency endangering life or property, the Construction Manager shall allow no Changes in the Work without the prior written approval of the Owner.

ARTICLE 10

Discounts

10.1 All quantity and early payment discounts shall accrue to the Owner if (i) before making the payment, the Contractor included them in an Application for Payment and received payment from the Owner, or (ii) the Owner has deposited funds with the Contractor with which to make payments; otherwise, cash discounts shall accrue to the Contractor. All trade discounts, rebates and refunds, and all returns from the sale of surplus materials and equipment shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 11

Insurance

11.1 The Construction Manager shall provide insurance as required in section GC 31 of the general conditions.

ARTICLE 12

Other Provisions

12.1 In the event that the terms and provisions of **Exhibit “D”** conflict with or are omitted from the terms and provisions of this Contract and the General Conditions, the terms and provisions of **Exhibit “D”** shall govern with respect to the performance of the Work.

12.2 Included in the GMP is the cost of purchasing all materials and equipment necessary for the Project including, without limitation, federal, state, and local taxes, shipping, handling, loading, unloading, storage, insurance, suretyship, risk of loss, and related product warranties and guaranties. At the Owner’s exclusive option, Owner may elect to implement its Direct Purchase Program, which at the time of executing this Contract is set forth in **Attachment “8”**; provided however, following execution of this Contract, the **Attachment “8”** provisions may be revised by the Owner in order to be compliant with regulations promulgated by the State of Florida regarding tax-exempt purchases by a public entity. In the event that the Owner exercises this direct purchase option, in either the **Attachment “8”** format, or a revised format for compliance reasons, Construction Manager will prepare a deductive Change Order reflecting, at a minimum, the adjustments noted in Part 1.04, **Attachment “8.”** In such event, the provisions of GC 39.2 shall thereafter govern.

(THIS SPACE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the Town Manager of The Town Surfside, Florida, has made and executed this Contract on behalf of the said Town and caused the seal of the said Town to be affixed hereto, and the Construction Manager has hereunto set its hand and seal the day and year first written. The Construction Manager represents that it is authorized to execute this Contract on behalf of itself and its Surety.

WITNESS and ATTEST:

**CONSTRUCTION MANAGER
XXXXXXX, INC.**

By: _____

(Corporate Seal)

Printed Name: _____

Title: _____

ATTEST:

**OWNER
THE TOWN OF SURFSIDE, FLORIDA**

By: _____

Town Clerk

By: _____

Sandra N. McCready
(Town Clerk printed Name)

Printed Name: _____

Title: Town Manager

Approved as to form:

Recommended by:

Mark Blumstein, Town Attorney

ATTACHMENT "B"
FORMS



RFQ No. 2024-02
TOWN-WIDE UTILITY UNDERGROUNDING
AREA 3 - NORTH
Construction Manager at Risk Services

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PROPOSERS QUALIFICATIONS

Each proposer must complete the following information and submit with their RFQ in order for the proposal to be considered:

1. Legal Name and Address:

Name: _____

Address: _____

City, State, Zip: _____

Phone/Fax: _____ Email: _____

2. Check One: Corporation () Partnership () Individual ()

3. If Corporation, state: Date of Incorporation: _____ State in which Incorporated: _____

4. If an out-of-state Corporation, currently authorized to do business in Florida, give date of such authorization: _____

5. Name and Title of Principal Officers

Date Elected:

6. The Vendor's length of time in business: _____ years

7. The Vendor's length of time (continuous) in business as a service organization in Florida: _____ years

8. All bidders must disclose with their bid the name of any officer, director or agent who is also an employee of the Town. Further, all bidders must disclose the name of any Town employee who owns, directly or indirectly, an interest in the bidder's firm or any of its branches.

Name _____ Percentage of Interest: _____

9. A copy of County and/or Municipal Tax Receipt (Occupational License) in the area of their fixed business location.

10. A current, signed copy of your firm's IRS form W-9.

Note: Information requested herein and submitted by the Proposers will be analyzed by the Town and will be a factor considered in awarding any resulting contract. If there are any terms and/or conditions that are in conflict, the most stringent requirement shall apply.



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REFERENCES

The following is a list of current and pertinent professional references that the Town can contact in relation to Proposer's qualifications, financial stability, and experience. Failure to furnish this information may be grounds for rejection of the proposal.

1. Name and Address of Firm, City, County, or Agency	Scope of Work:	
	Date(s):	
	Amount:	
	Contact:	
	Telephone No:	
	Email:	
For Town Use Only: Reference Verified: Yes ___ No ___		Comments:

2. Name and Address of Firm, City, County, or Agency	Scope of Work:	
	Date(s):	
	Amount:	
	Contact:	
	Telephone No:	
	Email:	
For Town Use Only: Reference Verified: Yes ___ No ___		Comments:

3. Name and Address of Firm, City, County, or Agency	Scope of Work:	
	Date(s):	
	Amount:	
	Contact:	
	Telephone No:	
	Email:	
For Town Use Only: Reference Verified: Yes ___ No ___		Comments:

4. Name and Address of Firm, City, County, or Agency	Scope of Work:	
	Date(s):	
	Amount:	
	Contact:	
	Telephone No:	
	Email:	
For Town Use Only: Reference Verified: Yes ___ No ___		Comments:

5. Name and Address of Firm, City, County, or Agency	Scope of Work:	
	Date(s):	
	Amount:	
	Contact:	
	Telephone No:	
	Email:	
For Town Use Only: Reference Verified: Yes ___ No ___		Comments:

Company Name: _____



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DRUG-FREE WORKPLACE CERTIFICATION

Whenever two (2) or more bids/proposals, which are equal with respect to price, quality, and service, are received by the Town of Surfside for the procurement of commodities or contractual services, a bid/proposal received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of controlled substances is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business'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.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in number (1).
4. In the statement specified in number (1), notify the employees that as a condition for working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction on or plea of guilty or nolo contendere to any violation of Chapter 893, Florida Statutes or of any controlled substance law of the United States or any singular state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. 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.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of Section 287.087, Florida Statutes.

This Certification is submitted by _____ the
(Individual's Name)

_____ of _____
(Title/Position with Company/Vendor) **(Name of Company/Vendor)**

Who does hereby certify that said Company/Vendor has implemented a drug-free workplace program, which meets the requirements of Section 287.087, Florida Statutes, which are identified in numbers (1) through (6) above.

Date _____

Signature _____



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LIST OF PROPOSED SUBCONTRACTORS

The undersigned Proposer hereby designates, as follows, all major subcontractors whom they propose to utilize for the major areas of work for the project. The bidder is further notified that all subcontractors shall be properly licensed, bondable and shall be required to furnish the Town with a Certificate of Insurance in accordance with the contract general conditions. Failure to furnish this information shall be grounds for rejection of the bidder's proposal. (If no subcontractors are proposed, state "None" on first line below.)

Name and Address of Subcontractor	Scope of Work	License #
1.		
2.		
3.		
4.		
5.		

Signature and Date _____

Title/Company _____



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ATTACHMENT A
2021 Florida Statutes (Including 2021B Session)

[Title X PUBLIC OFFICERS, EMPLOYEES, AND RECORDS](#)

[Chapter 119 PUBLIC RECORDS Entire Chapter](#)

SECTION 0701

Contracts; public records; request for contractor records; civil action.

119.0701 Contracts; public records; request for contractor records; civil action.—

(1) DEFINITIONS.—For purposes of this section, the term:

(a) “Contractor” means an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency as provided under s. [119.011](#)(2).

(b) “Public agency” means a state, county, district, authority, or municipal officer, or department, division, board, bureau, commission, or other separate unit of government created or established by law.

(2) CONTRACT REQUIREMENTS.—In addition to other contract requirements provided by law, each public agency contract for services entered into or amended on or after July 1, 2016, must include:

(a) The following statement, in substantially the following form, identifying the contact information of the public agency’s custodian of public records in at least 14-point boldfaced type:
IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (telephone number, e-mail address, and mailing address).

(b) A provision that requires the contractor to comply with public records laws, specifically to:

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency’s custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

3. 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 contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or



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confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

(3) REQUEST FOR RECORDS; NONCOMPLIANCE.—

(a) A request to inspect or copy public records relating to a public agency's contract for services must be made directly to the public agency. If the public agency does not possess the requested records, the public agency shall immediately notify the contractor of the request, and the contractor must provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.

(b) If a contractor does not comply with the public agency's request for records, the public agency shall enforce the contract provisions in accordance with the contract.

(c) A contractor who fails to provide the public records to the public agency within a reasonable time may be subject to penalties under s. [119.10](#).

(4) CIVIL ACTION.—

(a) If a civil action is filed against a contractor to compel production of public records relating to a public agency's contract for services, the court shall assess and award against the contractor the reasonable costs of enforcement, including reasonable attorney fees, if:

1. The court determines that the contractor unlawfully refused to comply with the public records request within a reasonable time; and

2. At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the contractor has not complied with the request, to the public agency and to the contractor.

(b) A notice complies with subparagraph (a)2. if it is sent to the public agency's custodian of public records and to the contractor at the contractor's address listed on its contract with the public agency or to the contractor's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.

(c) A contractor who complies with a public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.

History.—s. 1, ch. 2013-154; s. 1, ch. 2016-20.