

RESOLUTION NO. 18 - 2520

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING AN AGREEMENT WITH DRC EMERGENCY SERVICES, LLC FOR STORM DEBRIS COLLECTION AND DISPOSAL SERVICES; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE PROCUREMENT PURSUANT TO SECTION 3-13(3) OF THE SURFSIDE CODE OF ORDINANCES; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is the responsibility of the Town of Surfside (Town”) to provide emergency assistance and debris collection and disposal services to its residents and business owners in the event of a storm event or natural disaster (the “Services”); and

WHEREAS, the City of Lighthouse Point, Florida issued a Request for Proposal (“RFP”) No. 2018-001 for Storm Debris Collection and Disposal in order to obtain competitive procurement of services and prices for debris collection and disposal services, selected the proposal of DRC Emergency Services, LLC (“Contractor”), and entered into an agreement dated June 1, 2018 for the Services (the “City of Lighthouse Point Agreement”); and

WHEREAS, in accordance with Section 3-13(3) of the Town of Code, the Town elects to utilize the terms and pricing obtained by the City of Lighthouse Point through the competitive procurement process under RFP No. 2018-001 and the existing City of Lighthouse Point Agreement; and

WHEREAS, the Town desires to enter into an agreement with the Contractor for the Services in substantially the form attached hereto as Exhibit “A” (the “Agreement”), including or adopting the terms and pricing set forth in the City of Lighthouse Point Agreement; and

WHEREAS, the Town Council wishes to engage the Contractor to provide the Services pursuant to Section 3-13(3) of the Town Code authorizing contracts procured through other governmental entities where the contract resulted from a formal competitive process; and

WHEREAS, the Town Commission wishes to authorize the Town Manager to enter into an Agreement with the Contractor for the Services, substantially in the form attached hereto as Exhibit “A” (the “Agreement”), subject to final approval as to form, content, and legal sufficiency by the Town Manager and Town Attorney; and

WHEREAS, the Town Commission finds that it is in the best interest of the Town to approve the Agreement with the Contractor for the Services, and proceed as indicated in this Resolution.

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

Section 1. Recitals Adopted. Each of the above stated recitals are hereby adopted, confirmed and incorporated herein.

Section 2. Town Manager Authorized; Agreement Authorized. The Town Manager is hereby authorized to enter into the Agreement with the Contractor for the Services, substantially in the form attached hereto as Exhibit “A”, including and adopting the terms and pricing set forth in the City of Lighthouse Point Agreement, subject to final approval as to form, content, and legal sufficiency by the Town Manager and Town Attorney.

Section 3. Implementation of Agreement. The Town Manager and Town Officials are authorized to take any and all necessary action to implement the Services, the Agreement and the purposes of this Resolution.

Section 4. Effective Date. This Resolution shall be effective immediately upon adoption.

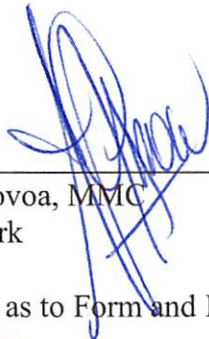
PASSED AND ADOPTED this 10th day of July, 2018.

Motion By: Vice Mayor Gielchinsky
Second By: Commissioner Paul

FINAL VOTE ON ADOPTION

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

Attest:




Sandra Novoa, MMC
Town Clerk

Approved as to Form and Legal Sufficiency:



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



Daniel Dietch, Mayor

AGREEMENT FOR STORM DEBRIS COLLECTION AND DISPOSAL

TOWN OF SURFSIDE, FLORIDA

AND

DRC EMERGENCY SERVICES , LLC

THIS AGREEMENT FOR STORM DEBRIS COLLECTION AND DISPOSAL (this "Agreement") is made effective as of July 10, 2018 (the "Effective Date"), by and between the **TOWN OF SURFSIDE, FLORIDA**, a Florida municipal corporation, with an address of 9293 Harding Avenue, Surfside, Florida 33154 (hereinafter the "Town"), and **DRC EMERGENCY SERVICES, LLC**, aa Alabama Limited Liability Company, with an address of 110 Veterans Memorial Blvd., Suite 515, Metairie, LA 70005 (hereinafter the "Contractor").

RECITALS

WHEREAS, the City of Lighthouse Point, Florida issued a Request for Proposals No. 2018-001 ("RFP"), Emergency Push and Storm Debris Collection and Disposal ("Project"), which was advertised on February 28, 2018, in order to obtain competitive procurement of services and prices for storm debris collection and disposal services, selected the proposal of Contractor for the Project, and entered into an Agreement dated June 1, 2018 for the Project services (the "Lighthouse Point Agreement") attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, pursuant to Section 3-13(3) of the Town's Procurement Code, the Project services are exempt from competitive procurement or bidding procedures as a purchase made under governmental contracts or competitive bids with other governmental agencies, authorizing the Town to piggyback onto and rely upon the terms and pricing of the existing Lighthouse Point Agreement, including approval of the Unit Pricing provided in the RFP and the Lighthouse Point Agreement; and

WHEREAS, the Unit Prices for the Project services, are set forth in Exhibit "B" attached hereto, and were submitted by the Contractor as part of the RFP and agreed to and included in the Lighthouse Point Agreement; and

WHEREAS, the Town wishes to enter into this Agreement with the Contractor for the Project services, and substantially adopt the terms and pricing of the Lighthouse Point Agreement, and the Contractor has agreed to provide the Project services to the Town in accordance with the terms and conditions of the Lighthouse Point Agreement and this Agreement.

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

1. **Recitals Adopted.** The preceding recitals are true and correct and are incorporated into this Contract by reference.

2. **Adoption and Incorporation of City of Lighthouse Point Agreement.** The terms and pricing of the Lighthouse Point Agreement attached hereto as Exhibit "A" are hereby adopted by the parties and incorporated herein as the agreement of the parties for the Project services, subject to the amendments set forth and agreed to in this Agreement. The following Definitions in Article 2 of the Lighthouse Point Agreement are hereby amended and replaced as follows:

2.1. **Owner Representative.** Any references in the Lighthouse Point Agreement to the "Owner Representative" or "City Administration" shall mean and be amended to "Town Manager and/or designee."

2.4 **City.** Any references in the Lighthouse Point Agreement to the "City of Lighthouse Point" or "City" shall mean and be amended to the "Town of Surfside" or "Town." Any references in the Lighthouse Point Agreement to the "City Commission" shall mean and be amended to "Town Commission."

2.7. **Contractor Representative.** Contractor's Representative shall be Jay Gunter or designee, who shall have such duties and responsibilities as provided herein.

3. **Contract Period.** Section 5.1 of the Lighthouse Point Agreement is hereby amended and replaced with the following: "The initial contract period is for three (3) years beginning on July 1, 2018 and expiring on June 30, 2021. The Agreement may be extended for three (3) additional one (1) year periods with the written approval of the Town Manager and the Contractor executed no less than sixty (60) days prior to the expiration date. The Town Manager can negotiate and approve any reasonable price adjustments in the subsequent contract years as long as acceptable within FEMA guidelines."

4. **Contract Price and Payment.** Section 6.0 of the Lighthouse Point Agreement is hereby amended and replaced with the following: "The Town agrees to pay Contractor unit pricing for the faithful performance of this Agreement. Prices for work, completed by the Contractor are reflected in Contractor's Proposal included as part of the RFP submitted to the City of Lighthouse Point. Mobilization, stand-by costs, and reduction in productivity are included in the Contract Price. Contractor will be paid Unit Pricing for the work as reflected in the Unit Pricing Sheets attached hereto as Exhibit "B." All work will be paid on unit prices and in accordance with the Unit Pricing Sheets attached hereto as Exhibit "B." Payment will be made only for work that FEMA determines eligible for reimbursement. Payments will be made pursuant to Article 17 of the Agreement."

5. **Public Records.** Section 13.0 of the Lighthouse Point Agreement is hereby amended to replace the Town Clerk as follows:

IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF
CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO

PROVIDE PUBLIC RECORDS RELATING TO THE PROJECT, CONTACT THE CUSTODIAN OF THE PUBLIC RECORDS AT:

Sandra Novoa, MMC Town Clerk
Town of Surfside
9293 Harding Avenue
Surfside, Florida 33154
Telephone: (305) 861-4863 Ext. 226
snovoa@townofsurfsidefl.gov

6. **Termination of Agreement.** The first sentence of Section 18.3 of the Lighthouse Point Agreement is hereby amended and replaced with the following: “Upon seven (7) calendar days written notice to Contractor, the Town Manager may, without cause and without prejudice to any other right or remedy, terminate this Agreement for Town’s convenience, without any reason and at anytime, whenever Town determines that such termination is in the best interests of Town.”

7. **Notice; Computation of Time.** Section 19.0 of the Lighthouse Point Agreement is hereby amended and replaced with the following: All notices required by any of the Contract Documents shall be in writing and shall be deemed delivered if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

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

With a copy to: Town Attorney
Weiss Serota Helfman Cole & Bierman, P.L.
2525 Ponce de Leon Blvd., Suite 700
Coral Gables, Florida 33134

For The Contractor: DRC Emergency Services, LLC
Attention: Jay Gunter
110 Veterans Memorial Blvd., Suite 515
Metairie, LA 70005

8. **Attorneys’ Fees; Prevailing Party.** The Lighthouse Point Agreement is hereby amended to add the following provision as Section 20.10: “In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys’ fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.”

10. **Insurance.** Section 10 of the Lighthouse Point Agreement is hereby amended to provide that this Agreement must appear on each Certificate of Insurance and/or listing the Town as Additional Insured to read as follows:

Town of Surfside
9293 Harding Avenue
Surfside, Florida 33154
Agreement for Storm Debris Collection and Disposal

On or before execution of this Agreement and before performing any services, Contractor shall deliver to the Town, a Certificate of Insurance evidencing that the required coverages are in effect as well as naming the Town of Surfside as an Additional Insured. An Additional Insured Endorsement must accompany the Certificate of Insurance. Such coverage will not be canceled or materially changed without thirty (30) days written notice.

11. **Counterparts.** The Lighthouse Point Agreement is hereby amended to add the following provision as Section 20.11: “This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument. Each party represents and warrants that the representative signing this Agreement on its behalf has all right and authority to bind and commit that party to the terms and conditions of this Agreement.”

12. **Effect of this Agreement on City of Lighthouse Point Agreement.** Except as expressly amended or modified by the terms of this Agreement, all terms and pricing of the Lighthouse Point Agreement shall remain in full force and effect. In the event of a conflict between the terms of this Agreement and the Lighthouse Point Agreement, the terms of this Agreement shall prevail and control.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date written above.

TOWN:

**TOWN OF SURFSIDE, FLORIDA a
Florida municipal corporation**

By: _____
Guillermo Olmedillo, Manager

Date Executed: _____

Attest: _____
Sandra Novoa, MMC, Town Clerk

Approved as to Form and Legal Sufficiency:



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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date written above.

CONTRACTOR:

**DRC EMERGENCY SERVICES, LLC,
an Alabama Limited Liability Company**

By: _____

Name: _____

Title: _____

Date Executed: _____

EXHIBIT "A"

(ATTACH CITY OF LIGHTHOUSE POINT AGREEMENT)

EXHIBIT "B"

(ATTACH UNIT PRICING SHEETS)