

RESOLUTION NO. 2011-1992

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING THE CONTRACT RENEWAL WITH O'BRIEN'S RESPONSE MANAGEMENT, INC. FOR TWO YEARS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT RENEWAL; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT RENEWAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (the "Town") awarded O'Brien's Response Management Inc. a contract for disaster debris monitoring services; and

WHEREAS, O'Brien' Response Management Inc. has been providing debris monitoring services for the Town since 2008; and

WHEREAS, O'Brien's Response Management Inc. has the experience and expertise necessary to provide these services; and

WHEREAS, it is in the best interest of the Town to approve the Contract Renewal in substantial form with O'Brien's Response Management to provide disaster debris monitoring for two (2) additional years.

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

Section 1. Recitals. The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Approval of Contract Renewal. The Contract Renewal between O'Brien's Response Management and the Town of Surfside to provide disaster debris monitoring services, a copy of which is attached as Exhibit "A", together with such non-material changes as may be acceptable to the Town Manager and approved as to form and legality by the Town Attorney, is approved.

Section 3. Authorization of Town Officials. The Town Manager and/or his designee and the Town Attorney are authorized to take all actions necessary to implement the terms and conditions of the Contract Renewal.

Section 4. Authorization of Fund Expenditure. Notwithstanding the limitations imposed upon the Town Manager pursuant to the Town's Purchasing Procedures Ordinance, the Town Manager is authorized to expend funds to implement the terms and conditions of the Contract Renewal.

Section 5. Execution of Agreement. The Town Manager is authorized to execute the Contract Renewal on behalf of the Town, to execute any required agreements and/or documents to implement the terms and conditions of the Contract Renewal and to execute any extensions and/or amendments, subject to the approval as to form and legality by the Town Attorney.

Section 6. Effective Date. This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 18th day of January, 2011.

Motion by Commissioner Kopelman, second by Commissioner Karukin.


FINAL VOTE ON ADOPTION

Commissioner Michael Karukin	<u>Yes</u>
Commissioner Edward Kopelman	<u>Yes</u>
Commissioner Marta Olchyk	<u>No</u>
Vice Mayor Joseph Graubart	<u>Yes</u>
Mayor Daniel Dietch	<u>Yes</u>



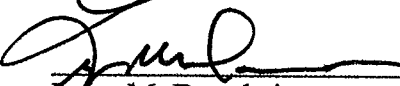
Daniel Dietch, Mayor

ATTEST:



Debra E. Eastman, MMC
Town Clerk

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



Lynn M. Dannheisser
Town Attorney

CONTRACT

For the Provision of

DISASTER DEBRIS MONITORING SERVICES

Between

TOWN OF SURFSIDE, FLORIDA

And

SOLID RESOURCES, INC.

Dated: 10-13-08

**CONTRACT FOR THE PROVISION
OF DISASTER DEBRIS MONITORING SERVICES**

This Contract for the Provision of Disaster Debris Monitoring Services ("Contract") is entered into this ____ day of _____, 2008 ("Effective Date"), by and between the Town of Surfside, Florida ("Town") and Solid Resources, Inc. ("Contractor" or "SRI"), each of which may be referred to individually as "Party" or collectively as the "Parties".

The Parties agree to the following:

1. **Engagement.** The Town hereby engages Contractor, and Contractor hereby accepts such engagement, to provide Disaster Debris Monitoring Services (as defined herein) in accordance with the terms, and subject to the conditions, of this Contract.
2. **Services/Scope of Work.** During the Term (as defined herein), the Contractor shall provide the Town with disaster debris monitoring services that shall include those services described in Attachment "A", which is

incorporated herein ("Disaster Debris Monitoring Services" or "Services") in addition to other professional service as described in the original SRI proposal dated June 30, 2008, incorporated by reference herein. The Town shall create a scope of work when it desires to purchase from the Contract, and the scope of work shall be incorporated into a task order that shall be issued to Contractor ("Task Order"). The Task Order shall set forth a timetable for the Services, the compensation in accordance with the Contract, and any special conditions.

3. Term. The term of this Contract shall commence on the Effective Date, and shall be in effect for a period of two (2) years from the Effective Date ("Term"), unless otherwise terminated earlier as provided herein. At the end of the Term, the Parties may mutually agree to renew the Contract provided the renewal is in writing and signed by both Parties.

4. Independent Contractor. It is expressly acknowledged by the Parties that Contractor is an "independent contractor" and nothing contained in this Contract is intended, or shall be construed, to create a partnership between the Parties, to cause either Party to be responsible in any way for the debts, liabilities, or obligations of the other Party, or to constitute an employer-employee relationship between the Parties.

5. Compensation. The Town shall pay Contractor for rendering Services upon the satisfactory completion of each work assignment as accepted and approved by the Town. The compensation for each work assignment shall be in accordance with the fee schedule in Attachment "B", which is incorporated herein. The compensation for Services may not be modified, unless otherwise agreed upon by the Parties in writing. The estimated hours required to complete each work assignment shall be itemized by task and total time. The Town shall render payment to Contractor upon request by Contractor as work progresses. The payment shall be made upon receipt of an invoice ("Invoice") from Contractor, and in compliance with Section 218.70, F.S., otherwise known as the "Florida Prompt Payment Act". The Invoice shall contain the Contract number, and the Task Order number. The Town may request, and the Contractor shall provide to the Town, any information that is reasonable and necessary to verify any Task Order placed under the Contract. Unless as otherwise agreed to by the Parties in writing, no additional expenses shall be charged to the Town for rendering of Services.

6. Insurance. During the Term, Contractor agrees to maintain at its sole cost and expense, a policy of commercial general liability insurance with limits of not less than \$500,000 per occurrence, and workers' compensation in accordance with statutory limits as required by law. Further, Contractor agrees to maintain automobile liability insurance with limits of not less than \$500,000 per occurrence; \$500,000 per accident for bodily injury; and \$500,000 per accident for property damage. The Contractor agrees to submit to the Town, prior to the signing of the Contract, a certificate of insurance naming the Town as an additional insured.

7. Notice. All notices from the Contractor to the Town, or from Town to the Contractor must be in writing, and, shall be deemed duly served if mailed by U.S. mail, e-mailed, or faxed to the other Party at the following:

Town: Town of Surfside, Florida
Gary Word
Town Manager
9293 Harding Avenue
Surfside, Florida 33154
Telephone: (305) 993-1051
Fax Number: (305) 993-5097

Contractor: Solid Resources, Inc.
Gary Stankovich, President

2201 Cantu Court
Suite 119
Sarasota, Florida 34232
Telephone: (941) 379-8100
Fax Number: (941) 379-8113
E-mail: gstankovich@solid-resources.com

The Parties may change the above addresses or fax numbers at any time upon giving the other Party written notice.

8. Termination.

8.1 For Cause.

8.1.1 Failure to Perform. The Town may terminate the Contract if (1) Contractor fails to perform under the terms of this Contract, (2) Town provides Contractor with a written notice of the default, and (3) Contractor fails to cure the default within thirty (30) days. Upon termination, the Contractor shall continue work on any Task Orders not terminated. Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control of, and without the fault or negligence of, the Contractor.

8.1.2 Bankruptcy/Insolvency. The Town may terminate the Contract by providing written notice to the Contractor in the event the Contractor files any petition or proceeding for bankruptcy relief, or is adjudicated to be bankrupt or insolvent or fails to pay just debts as ordinarily due.

8.1.3 Town Vendor List. If the Contract is terminated for cause, the Town shall remove the name of the Contractor from the Town's vendor list.

8.2 Without Cause. The Town may terminate this Contract without cause by providing Contractor with 7 days written notice of the termination.

8.3 Effects of Termination. Upon receipt of any notice of termination, Contractor shall discontinue providing Services except as otherwise provided in Section 8.1.1. To the extent that the termination of this Contract is not due to Contractor's breach of its obligations under the Contract, Town shall reimburse Contractor for all Services properly furnished in accordance with the requirements of this Contract up and through the date of the notice of termination (or such other time specified in the notice). Notwithstanding any other provisions in the Contract to the contrary, the Contractor shall have no further obligations under this Contract after the effective date of the termination.

9. Indemnification/Liability.

9.1 Contractor agrees to indemnify and hold harmless, and pay on behalf of the Town, for any liability and/or legal costs arising out of claims and litigation related to the rendering of Services, including any actions that may arise from allegations regarding determinations of appropriateness or inappropriateness of care or any acts, errors, or omissions related to the Services, by Contractor and its officers, partners, agents, or employees; provided, however, that Contractor shall not indemnify

for that portion of any loss or damages caused by the negligent or intentional acts or wrongful omissions of the Town, and its officers, partners, agents, or employees.

9.2 For all claims against Contractor under any individual Task Order, and regardless of the basis on which the claim is made, the Contractor's liability under a purchase order for direct damages shall be limited to the greater of \$100,000, the dollar amount of the Task Order, or the amount of the charges rendered by Contractor under the Task Order. This limitation shall not apply to claims arising under Section 9.1 of this Contract. Unless otherwise specifically enumerated in the Contract, or in the Task Order, no Party shall be liable to the other for any special, indirect, punitive or consequential damages, including lost data or records (unless the Task Order requires Contractor to back-up data or records), even if a Party has been advised that such damages are possible. No Party shall be liable for lost profits, lost revenue, or lost institutional operating savings.

10. Force Majeure. The Contractor shall not be responsible for any delay resulting from its failure to perform if neither the fault nor the negligence of Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing if no alternate source of supply is available to Contractor. In case of any delay Contractor believes is excusable, Contractor shall notify the Town in writing of the delay or potential delay and describe the cause of the delay either (1) within 10 days after the cause that creates or will create the delay first arose, if Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within 5 days after the date Contractor first had reason to believe that a delay could result. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist Contractor shall continue to perform in accordance with the Contract. The Parties shall mutually determine whether additional compensation is warranted.

11. General Provisions.

11.1 Agreement. Except as otherwise provided in this Section 11.1, this Contract constitutes the entire agreement between the Parties. The content of the Request for Proposal ("RFP") issued by the Town, and all written provisions of the Contractor relating to the rendering of Services under this Contract deemed pertinent by the Town, may be incorporated into an agreement and become legally binding. This Contract may not be terminated by Contractor unless as provided for in this Contract.

11.2 Assignment. The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any purchase order issued pursuant to the Contract, without the prior written consent of the Town.

11.3 Dispute Resolution. Any dispute concerning performance of the Contract shall be decided by the Town's designated contract manager, who shall reduce the decision to writing and serve a copy on the Contractor. The Parties may employ the alternative dispute resolution procedures, as outlined in Chapter 120 of the Florida Statutes. Without limiting the foregoing, the exclusive venue of any legal or equitable action that arises out of or relates to the Contract shall be the appropriate state court in Miami-Dade County, Florida. In any such action, Florida law shall apply and the Parties waive any right to jury trial.

11.4 Safety. The Contractor agrees that it shall comply with all Occupational Safety and Health Administration (OSHA), State and City Safety and Occupational Health Standards and any

other applicable rules and regulations relating to occupational safety.

11.5 **Modification of Terms.** The Contract contains all the terms and conditions agreed upon by the Parties, which terms and conditions shall govern all transactions between the Town and Contractor. The Contract may only be modified or amended upon mutual written agreement of the Parties. No oral agreements or representations shall be valid or binding upon the Parties.

11.6 **Execution in Counterparts.** The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

11.7 **Severability.** If a court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

11.8 **Authority.** Each person signing the Contract represents that he or she is duly authorized to do so and to bind the respective Party to the Contract.

-SIGNATURE PAGE FOLLOWS-

AGREEMENT FOR DISASTER DEBRIS MONITORING SERVICES BETWEEN THE TOWN OF SURFSIDE AND SOLID RESOURCES, INC.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement for Disaster Debris Monitoring Services on the respective dates under each signature: Town of Surfside through its Town Commission, signing by and through its Town Manager, authorized to execute same by Commission action on the 13th date of Oct, 2008; and Gary Stankovich authorized to execute the same.

Town of Surfside, Florida
Gary Word
Town Manager

Solid Resources, Inc.
Gary Stankovich
President

Signature: Gary L Word
Date: 10/13/08

Signature: [Signature]
Date: 10/13/08

ATTEST:

[Signature]
13th October day of September, 2008
Beatris M. Arguelles, Town Clerk

Approved as to form and legality by
Office of the Town Attorney

[Signature]
By: Lynn Dannheisser
Town Attorney

14 October day of September, 2008

(TOWN SEAL)

A. Daily Meetings

SRI will facilitate daily meetings between Surfside, SRI staff and the debris removal contractors' management staff to review collection strategies, coordinate efforts, resolve problematic issues and make any necessary adjustments and improvements to the operational procedures.

B. Debris Removal Program Management

SRI will provide core management personnel responsible for all facets of debris management and will provide a Project Manager to be in constant contact with Surfside's Debris Manager, Emergency Operation Center, collection contractors, field monitors and work crews. The accurate recording of information on load tickets is crucial as the majority of errors tend to occur in the beginning of a project.

SRI generally assigns Quality Control staff to each TDSR tower at the beginning of a project, who have the responsibility of reviewing each load ticket that comes in for accuracy, legibility and completeness. Field supervisors and roadway monitors are immediately contacted in the event load ticket errors are identified, in order to quickly rectify them with the correct information, alert field monitors to performance deficiencies and ensure overall ticket accuracy is maintained. All load tickets will be scanned and cataloged in sequential order for storage and archival purposes.

C. Equipment Certification

The measurement, certification and placarding of the debris removal contractor's trucks and other equipment will begin as soon as the machinery has been mobilized to Surfside. Solid Resources, Inc. will initiate the truck certification program in coordination with the debris removal contractor (s) to accurately measure the volumetric capacity of each truck. The Equipment Certification Specialist will photograph each truck showing the certification number and type of equipment (side view), attach a certification placard to it and inspect the trucks to make sure they comply with all local, State and Federal standards. The SRI Equipment Certification Specialist will also perform random spot-checks and re-certify trucks on a weekly basis at the TDSR in order to prevent alteration of the volumetric capacity of the trucks by subcontractors post-certification.

D. Temporary Debris Staging and Reduction Site (TDSR) & Residential Debris Drop-off Site (RDDS) Monitoring

SRI will manage the monitoring of the TDSR, RDDS and/or final disposal sites by providing monitors qualified to verify load volume in order to ensure accurate documentation and record keeping. At least two disposal site monitors will be assigned to each entrance tower at all TDSR/RDDS or final disposal sites the Town designates. All monitoring staff will be acquired from either SRI's standby listing or selected from local residents of the Town of Surfside. TDSR services include:

- Provide disposal site monitoring and inspector personnel;
- Perform random volume capacity certifications on collection vehicles, and once every two weeks on all vehicles;
- Verify each truck that delivers debris to the TDSR matches its manifest load ticket including truck number, type of debris and truck volume;
- Accurately complete and sign each load ticket before permitting a truck to proceed from the check-in/inspection area to the tipping area;
- Ensure that each truck bed has been fully emptied prior to departure from the TDSR;
- Identify, address and troubleshoot any questions or problems that could impact work area safety and eligibility for cost reimbursement;

- Maintain accurate daily logs of tickets inventoried and/or voided;
- Assist the debris removal contractor with the opening and closing of TDSR and/or RDDS ensuring proper documentation of restoration requirements;
- Perform quality control and assurance checks on all load tickets; and
- Immediately contact field monitors and supervisors when errors are detected at the TDSR, in order to promptly remedy the errors and maintain satisfactory field monitor performance.

E. Field Monitoring

SRI will perform on-site, street-level work area inspection and documentation of the debris cleanup and collection crews. SRI will provide an adequate number of field monitors to inspect and control debris removal (dependent on the severity of the event) utilizing load tickets, field logs and other documentation as required. Field monitoring services include:

- Provide loading site monitors for each debris removal crew;
- Monitoring the daily collection activity of trucks and other equipment;
- Issue load tickets at loading sites or choke points for each load;
- Properly monitor and record performance and productivity of debris removal crews;
- Verify and sign each load ticket, certifying that truck is fully loaded with eligible storm debris before allowing truck to proceed to temporary or final disposal site;
- Survey and record the 'special needs' areas in which larger items such as tree stumps and root balls, hazard trees, leaners and hangers, hazardous materials, construction and demolition debris that require specialized removal equipment and documentation;
- Prepare reports for the Town on the 'special needs' areas; and
- Perform additional duties as directed by the Town's Debris Manager

F. Field and TDSR/RDDS Monitor Supervisors

SRI will provide Surfside with experienced Field and TDSR/RDDS Supervisors to oversee and coordinate the activities of all SRI Field and TDSR/RDDS monitors. These supervisory staff will provide the following services:

- Verify that only eligible debris, as defined by FEMA policy guidelines, is being collected by the debris removal contractor from the public rights-of-way and public property within the Town's legal jurisdiction;
- Coordinate the daily activities between SRI field monitors and the debris removal contractor;
- Compile all necessary and requested reports from the field;
- Coordinate and manage the mapping of debris collection activities;
- Document, report and track damages caused by debris removal contractor crews;

- Respond to any issues regarding complaints, damages, accidents or incidents involving SRI or debris removal contractors' personnel and ensure that they are fully documented and reported to the Town;
- Ensure that all monitors and the debris removal contractor crews maintain positive public relations and that all citizen complaints are followed up on and resolutions achieved in a timely fashion;
- Make recommendations to Surfside's Debris Manager about how best to resolve issues arising from damage complaints and follow up to ensure all repairs are completed as soon as possible;
- Verify that the removal of stumps, hangers and leaners are adequately documented and photographed, and that eligibility criteria and contracted agreements regarding their removal are adhered to;
- Act as Quality Control and Assurance officers;
- Ensure that first pass debris collection from FHWA-ER eligible roads is documented accurately; and
- Assist in setting up the TDSR/RDDS sites.

G. Damage Claims Reporting

SRI will assist Surfside in the establishment of a Contractor Damage Reporting and Remediation Program. Our monitors are trained to document and immediately report any damages that occurs during the removal of debris. Each incident is documented with photographs, logged on field reports and called into SRI Field Supervisors, who in turn alert the debris removal contractor (s) and the Town to the incident. A report of each incident will be given to the Town and the debris removal contractor (s); and Field Supervisors will follow up to verify that remedial action was taken by the contractor in a timely fashion. All damage complaints and corresponding photographs will be placed in a GIS geodatabase and provided to Surfside staff for confirmation that all issues have been resolved.

H. Debris Mapping

All SRI monitors and Field Supervisors can greatly facilitate the debris removal program by mapping out where debris remains, locating 'hot spots' for immediate collection, marking ineligible debris piles and tracking progress for pass completions and zone closures. This information will be entered into a GIS geodatabase and provided to Surfside staff to track the progress of the debris removal operations.

I. Special Debris Assistance

Certain types of hazardous debris, such as hanging tree limbs, leaning trees and tree stumps require special validation and documentation procedures in order to be eligible for cost reimbursement from FEMA. SRI is experienced in these procedures and employs the latest FEMA methodologies and guidelines to ensure maximum cost reimbursements to our clients. SRI staff are also experienced in FEMA and NRCS canal debris removal programs and criteria. SRI also has extensive familiarity with administering the removal of storm debris from private roads and gated communities, Right-of-Entry programs and can guide our clients through the often complex maze of gaining FEMA authorization for these locations.

J. Ineligible Debris Notification

SRI is also prepared to initiate a program of notification and documentation of all ineligible debris in a collection area. Field monitors and Supervisors may document, photograph, map and mark ineligible debris, providing detailed reasoning for its ineligibility, and if requested may place 'door hanger' notification of the ineligible debris at the residence in conjunction with the roving monitors (if activated).

K. Data Management and Reporting

As fieldwork is completed, SRI will produce, collect, and organize all paperwork such as load tickets and daily logs and then enter all data into the SRI Debris Tracker database. This will occur throughout the project but with particular focus early in the project to establish good practices of field personnel and a superior process. SRI will implement and maintain a Debris Tracker Database that is self-reconciling, provides quality assurance/quality control as well as its unique capabilities to:

- Ensures proper storage and organization of debris collection debris data;
- Links load tickets to any parameter – contractors, trucks, TDSR information, etc.;
- Streamlines record reconciliation of each load of eligible debris; and
- Provides daily, weekly, monthly and project-wide customized reports as required by Surfside's Project Manager showing recovery status, schedule updates, and project completion forecasts.

L. Invoice Reconciliation Process for Initial Payment Approval

- All contractor invoices received are date/time stamped, a hard copy file folder is created, an electronic record of the invoice is created and the invoice can also be scanned for electronic viewing (optional).
- Invoices are screened to ensure that all required information is present and that all work is within the contracted scope-of-work.
- If information is missing, the contractor is advised that the invoice will be held pending receipt of the missing information.
- Supporting details, such as load tickets are electronically matched to identify and create a report of duplicates, overcharges and other discrepancies.
- Costs, invoices and supporting documentation are reviewed and compared against original Work Orders to ensure accuracy. A quality review of the documents is completed by our invoicing specialist.
- An invoice pre-approval summary report is prepared, including any retainage and submitted to the Town.
- The target dates for invoice initial payment approval and reconciliation are established based

on applicable payment terms and monitored to ensure timely completion.

- A Pre-Approval Report is provided to Surfside.
- The debris removal contractor is provided a detailed discrepancy report in addition to the amount of the partial payment for the invoice.

ATTACHMENT B
FEE SCHEDULE FOR SERVICES

<u>Positions*</u>	<u>Hourly Rates</u>
Project Manager	\$120.00
Administrative Supervisor	\$75.00
Debris Management Consultant	\$100.00
Debris Operations Manager	\$110.00
Field Monitor Supervisor	\$75.00
TDSR Site Supervisor	\$75.00
Damage Claims Supervisor	\$75.00
Debris Planning & Training Supervisor	\$75.00
Field Monitor	\$55.00

*For the positions referenced above, the Contractor shall select personnel that it determines are appropriately trained and qualified to perform the duties and responsibilities of the positions; provided that Contractor complies in such selection with applicable federal and state laws, rules, and regulations, and with the terms and conditions of this Contract.