

RESOLUTION NO. 2021- 2840

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING AN AGREEMENT WITH CRS MAX CONSULTANTS, INC. FOR COMMUNITY RATING SYSTEM CONSULTANT SERVICES; PROVIDING FOR AUTHORIZATION AND IMPLEMENTATION OF THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (“Town”) has adopted and applied floodplain management policies that exceed the minimum criteria of the National Flood Insurance Program; and

WHEREAS, communities can apply under the Community Rating System Program (“CRS Program”) and if deemed eligible may receive discounts on flood insurance premiums; and

WHEREAS, CRS Max Consultants, Inc. (“CRS Max”) specializes in assisting municipalities with CRS Program participation requirements and maximizing municipal efforts to secure an improved classification in the CRS Program (“Services”); a

WHEREAS, CRS Max has assisted the Town with CRS Program participation and aided the Town in achieving CRS rating improvements from Class 8 to Class 7 in 2016 and from Class 7 to Class 6 in 2021, resulting in discounts to flood insurance premiums for the entire Town; and

WHEREAS, CRS Max has agreed to provide the Services, pursuant to the Agreement as attached hereto as Exhibit “A” (“Consulting Agreement”); and

WHEREAS, the Town Commission finds that the use of CRS Max’s Services is necessary and is in the best interest and welfare of the Town and wishes to approve the Consulting Agreement, in substantially the form attached hereto as Exhibit “A.”

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

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

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

Section 3. Implementation. The Town Manager and/or Building Official are authorized to take all action necessary to implement the purposes of this Resolution and the Consulting Agreement.

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

PASSED AND ADOPTED on this 14th day of December, 2021.

Motion By: Commissioner Velasquez

Second By: Commissioner Kesl

FINAL VOTE ON ADOPTION:


Commissioner Charles Kesl Yes

Commissioner Eliana R. Salzhauer Yes

Commissioner Nelly Velasquez Yes

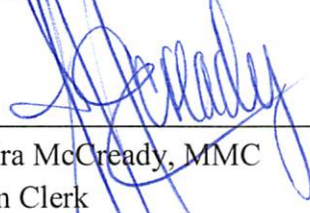
Vice Mayor Tina Paul Yes

Mayor Charles W. Burkett Yes




Charles W. Burkett, Mayor

ATTEST:



Sandra McCready, MMC
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



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

**COMMUNITY RATING SYSTEM (CRS) CONTINUING CONSULTANT
SERVICES 2021-2022**

This is an Agreement made on _____ 2021 (Effective Date), between **THE TOWN OF SURFSIDE**, a political subdivision of the State of Florida, with an address of 9293 Harding Avenue, Surfside, Florida 33154, hereinafter referred to as TOWN, and **CRS MAX CONSULTANTS, INC.**, a Florida corporation, with an address of 3331 N.W. 71 Street, Coconut Creek, Florida 33073, hereinafter referred to as CONSULTANT :

WITNESSETH, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, TOWN and CONSULTANT agree as follows:

ARTICLE 1

SCOPE OF SERVICES

TOWN intends to utilize CONSULTANT for Community Rating System Continuing Services when duly authorized by TOWN, through this Agreement.

1.1 CRS CONTINUING CONSULTANT SERVICES

The following services shall be included in CRS Continuing Consulting Services as requested by the TOWN:

- a. Review current CRS program
- b. Provide answers to questions pertaining to the CRS program
- c. Review Elevation Certificates for correctness
- d. Assist with annual CRS recertification
- e. Interface with ISO/CRS Specialist as required
- f. Assist with efforts to improve TOWN's CRS classification, as directed by TOWN

1.2 CONSULTANT'S AND TOWN'S RESPONSIBILITIES

CONSULTANT shall have responsibility for:

- a. Advising the TOWN of CRS-related responsibilities
- b. Notifying the TOWN of scheduling deadlines in time to meet scheduling requirements
- c. Reviewing the TOWN'S documentation and advising TOWN staff of any required or recommended documentation improvements
- d. Answering CRS-related questions TOWN may have and providing consultation whenever requested
- e. Identifying all CRS requirements for recertifications and working together with staff to complete and submit recertification package

TOWN is responsible to process and maintain all elevation certificates in accordance with State and NFIP requirements. CONSULTANT is not responsible for the CRS score of the County's floodplain management plan. TOWN is ultimately responsible for implementation of the TOWN's CRS program.

ARTICLE 2

2.1 NOTICE OF MEETING

CONSULTANT anticipates providing most services from its offices in Coconut Creek, Florida. However, if onsite visit is requested by TOWN and deemed by CONSULTANT to be advisable, CONSULTANT will visit TOWN. In such a case, CONSULTANT agrees to meet with TOWN at reasonable times and with reasonable notices.

2.2 TERM OF AGREEMENT

This Agreement shall remain in effect twelve months from the Effective Date or date of complete execution of this Agreement by both parties.

2.3 COMMENCEMENT OF WORK AND TIME TO COMPLETE

The Agreement shall take effect upon execution by both parties. The authorized work as described in the Agreement will commence immediately upon receipt of notice to proceed issued by the TOWN. CONSULTANT agrees that time is of the essence and CONSULTANT shall diligently accomplish and complete the Services within the term of this Agreement, unless extended, in writing, by the TOWN Manager and/or his designee.

2.4 OWNER FURNISHED SERVICES

It is understood and agreed that TOWN will furnish:

- a. The reasonable services of its officials and staff to assist CONSULTANT in obtaining background information to perform its duties.
- b. To assist CONSULTANT in the proper and timely performance of its duties, reasonable access to existing records of TOWN, where available, including, but not limited to, previous reports.
- c. To grant to CONSULTANT access to available TOWN records of Repetitive Loss Properties and Insurance Services Office/Community Rating System (ISO/CRS) Specialist.
- d. TOWN shall give prompt written notice to CONSULTANT whenever TOWN observes or otherwise becomes aware of any development which affects the scope or timing of CONSULTANT'S services or any defect in the work of the CONSULTANT.

ARTICLE 3

COMPENSATION AND METHOD OF PAYMENT

3.1 COMPENSATION

The TOWN agrees to pay CONSULTANT as compensation for its services provided under the terms of this Agreement amounts calculated in accordance with the following schedule:

CRS Continuing Consultant Services	\$ 6,000.00
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3.1.1 There will not be any fees charged to TOWN by CONSULTANT for travel, per diem, or subsistence expenses, or travel time, unless specifically authorized in writing in advance by TOWN.

3.1.2 All required copies of documents will be furnished to TOWN at no additional cost.

3.1.3 CONSULTANT will work diligently to improve the CRS class rating of TOWN. As an incentive to be successful in its efforts, a bonus of \$5,000 will be invoiced for every class rating improvement achieved.

3.2 METHOD OF BILLING AND PAYMENT

3.2.1 Payment shall be due within 30 days after date of invoice in accordance with the Florida Prompt Payment Act, provided the invoice is accepted for payment. Payment shall be made only for approved invoices. The TOWN retains the right to delay or withhold payment for services, which have not been accepted by the TOWN.

3.2.2 Invoices for CRS Continuing Consultant Services shall be submitted on a quarterly basis. Each invoice shall be \$1,500.

3.2.3 Invoice for bonus shall be submitted as follows:

Receipt of ISO/CRS Specialist recommendation for class improvement	\$2,500.00
Receipt of NFIP advisement of class improvement	\$2,500.00

ARTICLE 4

MISCELLANEOUS PROVISIONS

4.1 BOOKS OF ACCOUNT

CONSULTANT will maintain books and accounts of all expenses charged to TOWN. Said books shall be available at all reasonable times for examination by TOWN or authorized agent at the corporate office of CONSULTANT.

4.2 INSURANCE

4.2.1 CONSULTANT shall secure and maintain throughout the duration of this Agreement, if selected, insurance of such types and in such amounts not less than those specified below as satisfactory to TOWN, naming the TOWN as an Additional Insured, underwritten by a firm rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary insurance with respect to the TOWN, its officials, employees, agents and volunteers naming the TOWN as additional insured. Any insurance maintained by the TOWN shall be in excess of the CONSULTANT'S insurance and shall not contribute to the CONSULTANT'S insurance. The insurance coverages shall include at a minimum the amounts set forth in this section and may be increased by the TOWN as it deems necessary or prudent.

- a. Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of CONSULTANT. The General Aggregate Liability limit and the Products/Completed Operations Liability Aggregate limit shall be in the amount of \$2,000,000 each.
- b. Workers Compensation and Employer's Liability insurance, (unless exempt in accordance with State of Florida provisions) to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 each accident. No employee, subcontractor or agent of the CONSULTANT shall be allowed to provide Services pursuant to this Agreement who is not covered by Worker's Compensation insurance (unless exempt in accordance with State of Florida provisions).
- c. Business Automobile Liability with minimum limits of \$1,000,000 per Occurrence, combined single limit for Bodily

Injury and Property Damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Service Office, and must include Owned, Hired, and Non-Owned Vehicles.

- d. Professional Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, single limit.

4.2.2 **Certificate of Insurance.** Certificates of Insurance shall be provided to the TOWN, reflecting the TOWN as an Additional Insured (except with respect to Professional Liability Insurance and Worker's Compensation Insurance), no later than ten (10) days after award of this Agreement and prior to the execution of this Agreement by TOWN and prior to commencing Services. Each certificate shall include no less than (30) thirty-day advance written notice to TOWN prior to cancellation, termination, or material alteration of said policies or insurance. The CONSULTANT shall be responsible for assuring that the insurance certificates required by this Section remain in full force and effect for the duration of this Agreement, including any extensions or renewals that may be granted by the TOWN. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The TOWN reserves the right to inspect and return a certified copy of such policies, upon written request by the TOWN. If a policy is due to expire prior to the completion of the Services, renewal Certificates of Insurance shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the TOWN before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the TOWN.

4.2.3 **Additional Insured.** Except with respect to Professional Liability Insurance and Worker's Compensation Insurance, the TOWN is to be specifically included as an Additional Insured for the liability of the TOWN resulting from Services performed by or on behalf of the CONSULTANT in performance of this Agreement. The CONSULTANT'S insurance, including that applicable to the TOWN as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the TOWN shall be in excess of and shall not contribute to the CONSULTANT 's insurance. The CONSULTANT'S insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured (for applicable policies) in the same manner as if separate policies had been issued to each.

4.2.4 **Deductibles.** All deductibles or self-insured retentions must be declared to and be reasonably approved by the TOWN. CONSULTANT shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

4.2.5 The provisions of this section shall survive termination of this Agreement.

4.3 **OWNERSHIP AND ACCESS TO RECORDS AND AUDITS.**

4.3.1 CONSULTANT acknowledges that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports, compiled information, and all similar or related information (whether patentable or not) which relate to Services to the TOWN which are conceived, developed or made by CONSULTANT during the term of this Agreement (“Work Product”) belong to the TOWN. CONSULTANT shall promptly disclose such Work Product to the TOWN and perform all actions reasonably requested by the TOWN (whether during or after the term of this Agreement) to establish and confirm such ownership (including, without limitation, assignments, powers of attorney and other instruments).

4.3.2 CONSULTANT agrees to keep and maintain public records in Consultant’s possession or control in connection with CONSULTANT’S performance under this Agreement. CONSULTANT additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. CONSULTANT shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the TOWN.

4.3.3 Upon request from the TOWN’S custodian of public records, CONSULTANT shall provide the TOWN with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.

4.3.4 Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the TOWN.

4.3.5 Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the CONSULTANT shall be delivered by the CONSULTANT to the TOWN Manager, at no cost to the TOWN, within seven (7) days. All such records stored electronically by CONSULTANT shall be delivered to the

TOWN in a format that is compatible with the TOWN'S information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the CONSULTANT shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

- 4.3.6 Any compensation due to CONSULTANT shall be withheld until all records are received as provided herein.
- 4.3.7 CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the TOWN.

Section 119.0701(2)(a), Florida Statutes

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT 'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS:

Custodian of Records: Sandra McGready, MMC
Mailing address: 9293 Harding Avenue,
Surfside, Florida 33154
Telephone number: 305-861-4863

Email : smccready@townofsurfsidefl.gov

4.4 TERMINATION OR ABANDONMENT

Either party may terminate this Agreement without cause upon giving thirty (30) days written notice. CONSULTANT will be paid for all work performed prior to termination.

4.5 SUCCESSORS AND ASSIGNS; ASSIGNMENT

All of the terms, conditions and provisions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns provided, however, that no assignment of the Agreement shall be made without written consent of the parties to the Agreement.

4.6 CONFLICT OF INTEREST

CONSULTANT agrees not to accept employment during the time this Agreement is in effect from any builder, land developer, utility company, or others which might be construed as a conflict of interest with CONSULTANT 's work for the TOWN. The CONSULTANT shall conscientiously avoid a conflict of interest with regard to work for TOWN, but when unavoidable, the CONSULTANT shall forthrightly take the following action:

- a. Disclose in writing to TOWN the full circumstances of possible conflict of interest; and
- b. Assure in writing that the conflict will in no manner influence his judgment or the quality of his services to TOWN; and

CONSULTANT shall promptly inform TOWN of any business association, interest or circumstances, which may be influencing his judgment or the quality of his services to TOWN.

CONSULTANT shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.

CONSULTANT shall not solicit or accept gratuities directly or indirectly, from contractors, their agents or other parties dealing with TOWN in connection with work for which it is responsible.

4.7 NOTICES

Whenever either party desires to give notice unto the other, it must be given by written notice, sent by nationally recognized courier service or registered United States mail with return receipt requested, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

FOR TOWN
Andrew Hyatt, TOWN Manager
9293 Harding Avenue
Surfside, FL 33154

FOR CONSULTANT
Cathy King, President
CRS Max CONSULTANTS, Inc.
3331 NW 71st Street
Coconut Creek, Florida 33073

4.8 ALL PRIOR AGREEMENTS SUPERSEDED; AMENDMENTS

This document incorporates and includes all prior negotiations, correspondence, agreements or understandings between the parties applicable to the matters contained herein. The parties agree there are not commitments, agreements or understanding between the parties concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree no deviation from the terms shall be predicated upon any prior representations or agreements between the parties, whether oral or written. No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document. CONSULTANT represents that is an entity validly existing and in good standing under the laws of Florida. The execution, delivery and performance of this Agreement by CONSULTANT have been duly authorized, and this Agreement is binding on CONSULTANT and enforceable against CONSULTANT in accordance with its terms.

4.9 OBSERVANCE OF LAWS

CONSULTANT shall keep fully informed of all federal and state laws, all local laws, ordinances and regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which, in any manner, affect work or services authorized under the terms of this Agreement. CONSULTANT shall at all times observe and comply with all such laws and regulations.

4.10 TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which TOWN determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit's costs.

4.11 PROHIBITION AGAINST CONTINGENT FEES

CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONSULTANT any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award of making of this Agreement. For the breach or violation of this provision, TOWN shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

4.12 SUBCONSULTANTS.

CONSULTANT shall be responsible for all payments to any Subconsultant and shall maintain responsibility for all work related to the Services. CONSULTANT may only utilize the services of a particular Subconsultant with the prior written approval of the TOWN Manager, which approval shall be in the TOWN Manager's or his/her designee's sole and absolute discretion.

4.13 INDEPENDENT CONTRACTOR.

CONSULTANT and its employees, volunteers and agents shall be and remain an independent contractor and not an agent or employee of the TOWN with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

4.14 ATTORNEYS FEES AND WAIVER OF JURY TRIAL.

4.14.1 In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

4.14.2 IN THE EVENT OF ANY LITIGATION ARISING OUT OF THIS AGREEMENT, EACH PARTY HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO TRIAL BY JURY.

4.15 WARRANTIES; COMPLIANCE WITH LAWS.

4.15.1 CONSULTANT shall exercise the same degree of care, skill and diligence in the performance of the Services as is ordinarily provided by a consultant under similar circumstances, and all work under this Agreement shall be CONSULTANT'S original work and will not infringe, misappropriate, or violate any intellectual property or other right of any person or entity. If at any time during the term of this Agreement or within two (2) years from the completion of this Agreement, it is determined that the CONSULTANT'S deliverables or Services are incorrect, not properly rendered, defective, or fail to conform to Town requests, the CONSULTANT shall at CONSULTANT'S sole expense, immediately correct its Deliverables or Services.

4.15.2 CONSULTANT hereby warrants and represents that at all times during the Term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under Federal, State and local laws applicable to and necessary to perform the Services for TOWN as an independent contractor of the TOWN.

4.16 GOVERNING LAW AND VENUE.

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any proceedings arising out of this Agreement shall be in Miami-Dade County, Florida.

4.17 COUNTERPARTS.

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.

ARTICLE 5

EQUAL OPPORTUNITY EMPLOYMENT

CONSULTANT agrees not to discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, handicapped status or national origin.

IN WITNESS WHEREOF, the parties have signed this agreement as of the day and year first above written.

TOWN:

**TOWN OF SURFSIDE, a Florida
corporation**

By: _____
Andrew Hyatt, Town Manager

Date Executed: _____

ATTEST:

Sandra N. McCready, Town Clerk

Approved as to Form and Legal Sufficiency:

Town Attorney

CONSULTANT:

CRS MAX CONSULTANTS, INC., a
Florida Corporation

By: _____
Cathy L. King, President

Date Executed: _____