

RESOLUTION NO. 2024-3309

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, ACKNOWLEDGING THE TRANSFER OF WITT O'BRIEN'S, LLC TO GOODWYN MILLS CAWOOD, LLC FOR THE TOWN'S DISASTER DEBRIS MONITORING SERVICES; AND ENTERING INTO A NOVATION AGREEMENT WITH GOODWYN MILLS CAWOOD, LLC; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside ("Town"), by and through the Town Commission, selected Witt O'Brien's, LLC ("Contractor") and awarded it an agreement pursuant to Request for Proposals (RFP) No. 2022-01; and

WHEREAS, on June 28, 2022, the Town entered into an agreement with Contractor ("Agreement") for Disaster Debris Monitoring Services ("Services"); and

WHEREAS, Contractor has since sold its company to Goodwyn Mills Cawood, LLC ("GMC"); and

WHEREAS, GMC now seeks to serve the Town in place of Contractor and provide the Services to the Town pursuant to a Novation Agreement; and

WHEREAS, GMC has now assumed all obligations and liabilities of Contractor pursuant to the Agreement dated 28 June 2022; and

WHEREAS, the Town Commission finds that the transfer of the Agreement from Contractor to GMC for the Services to the Town, by and through the Novation Agreement, is in the best interest and welfare of the Town.

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

Section 1. Recitals. The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Selection of Contractor and Award of Agreement. The Town Commission hereby approves of GMC to provide the Services to the Town in accordance with the Novation Agreement in substantially the form attached hereto as Exhibit "A."

Section 3. Authorization to Execute Agreement. The Town Manager is hereby authorized to execute the Novation Agreement, in substantially the form attached hereto as Exhibit "A," on behalf of the Town, subject to the approval as to form and legal sufficiency by the Town Attorney.

Section 4. Implementation. The Town Manager and Town Officials are hereby authorized to take all actions necessary to implement the Novation Agreement and the Services referenced therein, and for the purposes of this Resolution.

Section 5. Effective Date. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED this 13th day of August 2024.

Motion By: Commissioner Velasquez

Second By: Vice Mayor Paul

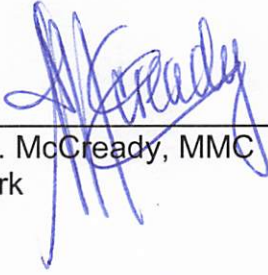
FINAL VOTE ON ADOPTION:

Commissioner Ruben A. Coto	<u>Yes</u>
Commissioner Nelly Velasquez	<u>Yes</u>
Commissioner Gerardo Vildostegui	<u>Yes</u>
Vice Mayor Tina Paul	<u>Yes</u>
Mayor Charles W. Burkett	<u>Yes</u>



Charles W. Burkett, Mayor

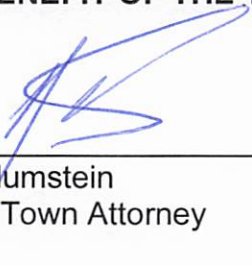
ATTEST:



Sandra N. McCready, MMC
Town Clerk



**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**



Mark Blumstein
Interim Town Attorney

Novation Agreement

The Witt O'Brien's, LLC (Transferor), a limited liability company duly organized and existing under the laws of Delaware with its principal office in 818 Town & Country Blvd, Suite 200 Houston, Texas 77024; Goodwyn Mills Cawood, LLC ("Transferee"), a limited liability company duly organized and existing under the laws of Alabama with its principal office at 2660 Eastchase Lane, Suite 200, Montgomery, Alabama 36117; and Town of Surfside, FL ("Client") enter into this Novation Agreement as of [*insert the date transfer of assets became effective under applicable State law*].

(a) The parties agree to the following facts:

(1) As of _____, 20__, the Transferor has transferred to the Transferee certain assets of the Transferor by virtue of an Asset Purchase Agreement between the Transferor and the Transferee.

(3) The Transferee has acquired certain assets of the Transferor by virtue of the above transfer.

(4) As of the date set out above, the Transferee has assumed all obligations and liabilities of the Transferor under the contract between Client and Transferor for the provision of debris monitoring services, dated the 28th day of June 2022, attached hereto as Annex A and incorporated herein (the "Contract"), by virtue of the above transfer.

(5) The Transferee is in a position to fully perform all obligations that may exist under the Contract.

(6) It is consistent with the Client's interest to recognize the Transferee as the successor party to the Contract.

(b) In consideration of these facts, the parties agree that by this Novation Agreement --

(1) The Transferor confirms the transfer of the Contract to the Transferee, and waives any claims and rights against the Client that it now has or may have in the future in connection with the Contract.

(2) The Transferee agrees to be bound by and to perform the Contract in accordance with the conditions contained in the Contract. The Transferee also assumes all obligations and liabilities of, and all claims against, the Transferor under the Contract as if the Transferee were the original party to the Contract.

(3) The Transferee ratifies the Contract, with the same force and effect as if the Contract was originally undertaken by the Transferee.

(4) The Client recognizes the Transferee as the Transferor's successor in interest in and to the Contract. The Transferee by this Agreement becomes entitled to all rights, titles, and interests of the Transferor in and to the Contract as if the Transferee were the original party to the Contract. Following the effective date of this Agreement, the term {insert term WOB is referred to in contract} as used in the Contract, shall refer to the Transferee.

(5) Except as expressly provided in this Agreement, nothing in it shall be construed as a waiver of any rights of the Client against the Transferor.

(6) All payments and reimbursements previously made by the Client to the Transferor, and all other previous actions taken by the Client under the contract(s), shall be considered to have discharged those parts of the Client’s obligations under the Contract. All payments and reimbursements made by the Client after the date of this Novation Agreement in the name of or to the Transferor shall have the same force and effect as if made to the Transferee, and shall constitute a complete discharge of the Client’s obligations under the Contract, to the extent of the amounts paid or reimbursed.

(7) The Transferor and the Transferee agree that the Client is not obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any related increases, directly or indirectly arising out of or resulting from the transfer or this Agreement, other than those that the Client in the absence of this transfer or Agreement would have been obligated to pay or reimburse under the terms of the Contract.

(8) The Transferor guarantees payment of all liabilities and the performance of all obligations that the Transferee -

- (i) Assumes under this Novation Agreement; or
- (ii) May undertake in the future should these Contract be modified under their terms and conditions. The Transferor waives notice of, and consents to, any such future modifications.

(9) The Contract shall remain in full force and effect, except as modified by this Novation Agreement. Each party has executed this Novation Agreement as set forth below.

Town of Surfside, FL

By _____
 Title _____
 Date _____

Witt O’Brien’s LLC

By _____
 Title _____
 Date _____

Goodwyn Mills Cawood, LLC

By _____

Title _____

Date _____