

TOWN OF ATLANTIC BEACH – EMERGENCY PUMP
RENTAL AGREEMENT

PART I – INSTRUCTIONS TO BIDDERS

NOTICE

Upon receiving this proposal by internet or email, email townclerk@atlanticbeach-nc.com to register as a prospective respondent. Failure to register as a prospective respondent may result in your firm not receiving proposal addenda. Failure to acknowledge proposal addenda with your submittal may cause your proposal to be considered non-responsive.

1.00 DEFINITIONS

- 1.01 Bidding Documents include the Invitation to Bid, Instructions to Bidders, The Bid Form and the proposed Contract including any Addenda issued prior to the receipt of bids.
- 1.02 The Contract Documents (“Contract”) proposed for the work consists of this document Parts I through V and all Addenda issued prior to and all Modifications issued after execution of the Contract.
- 1.03 A Bid is the complete and properly signed proposal to do the work for the sums stipulated therein, as submitted in accordance with the Bidding Documents.
- 1.04 The Unit Price Bid is the sum stated in the Bid for which the Bidder offers to perform the work described in the Bidding Documents as the base to which work may be added or from which work may be deleted for sums stated in Alternate Bids.
- 1.05 As used in this Contract “Town Management” will usually refer to the Mayor, Town Manager and/or Public Works Director of the TOWN acting alone or together.

2.00 BIDDER REPRESENTATIONS

- 2.01 Each Bidder by making his Bid represents that:
 - A. Bidder has read and understands the Bidding Documents and his Bid is made in accordance therewith.
 - B. Bidder has visited the sites (intake and discharge), has familiarized himself with local conditions under which the work is to be performed and has correlated his observations with the requirements of the Contract.
 - C. No consideration will be given any Claim based on lack of knowledge of existing conditions except where Contract makes definite provisions for adjustments of cost or extension of time due to existing conditions that cannot be readily ascertained.

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D. The Bid as submitted is based upon providing the labor, materials, systems and equipment required to complete the “Scope of Work” without exceptions.

3.00 INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS

3.01 Bidders will promptly notify Mr. John O’Daniel, Town Manager, of any ambiguity, inconsistency or error, which they may discover upon examination of the Bidding Documents.

3.02 Bidder requiring clarification or interpretation of the Bidding Documents will make written request which will reach the Town Manager at least four (4) calendar days prior to the date for receipt of bids.

3.03 Any interpretation, correction or change of the Bidding Documents will be made by Addenda issued by the TOWN. Interpretations, corrections or changes of the bidding documents made in any other manner will not be binding, and Bidders will not rely upon such interpretations, corrections, or changes.

4.00 BIDDING PROCEDURE

4.01 Sealed bids will be addressed to Town Clerk and marked “EMERGENCY PUMP RENTAL AGREEMENT” at PO Box 10, 125 West Fort Macon Road, Atlantic Beach, NC 28512. Deadline for submittal of bids will be 1:00PM on Thursday, April 4, 2024, at which time the bid opening will be completed by Town Staff, tabulated and posted on the Town website. Interested parties are recommended to attend the Pre-bid Conference scheduled at 1:30pm on Thursday, March 21, 2024, also in the Town Hall. The Town Council will make the selection during the scheduled meeting following recommendation of Staff, following which the selected bidder will be notified.

4.02 The complete *original proposal and two (2) copies* shall be submitted on a form identical to the form included with the Bidding documents. Copies shall be signed by the person or persons legally authorized to bind the Bidder to a Contract. *A Bid by a Corporation shall further give the state of incorporation and have the corporate seal affixed.*

4.03 The unit Price Bid Sum will be expressed in figures.

4.04 Any interlineations, alteration or erasure must be initialed by the signer of the Bid.

4.05 Failure to submit a Bid in the form requested or inclusion of any alternates,

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conditions, limitations or provisions not called for will render the bid irregular, and will be considered sufficient cause for rejection of Bid.

4.06 Bids will be delivered to reach the address designated in the Invitation to Bid not later than the hour and date established for deadline for acceptance of bids. After that time, no bids will be received, nor may they be withdrawn. **Faxed or E-mailed bids will not be accepted.**

4.07 No Bid may be modified, withdrawn, or canceled by the Bidder for a period of NINETY (90) calendar days following the time designated for receipt of bids, and each Bidder agrees by submitting his Bid.

Negligence or error on the part of any Bidder in preparing his Bid confers no right of withdrawal or modification of his bid after time has been called. Sureties and principals are advised that the TOWN cannot give consideration to any plea of "error" in preparation of the Bid.

5.00 **CONSIDERATION OF BIDS**

5.01 Rejection of Bids: The TOWN will have the right to reject any or all Bids not accompanied by any data required by the Bidding Documents, or to reject a Bid which is in any way incomplete or irregular.

5.02 Acceptance of Bid (Award): It is the intent of the TOWN to award a Contract to the lowest responsible Bidder provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed a fair and equitable rate in the opinion of the TOWN. The TOWN will have the right to reject any or all bids and/or waive any informality or irregularity in any bid or bids received and to accept the Bid or Bids, which in its judgment is in the TOWN'S best interest. A Bidder to whom a Contract is awarded is referred to herein as "CONTRACTOR".

5.03 The Town of Atlantic Beach will make all decisions on which part of the contract to activate.

6.00 **INSURANCE**

6.01 Careful attention is directed to insurance. The CONTRACTOR should carefully review his insurance in order to be completely and adequately covered with regard to special hazards, etc. **Certificates for Worker's Compensation, General Liability and Vehicle/Equipment Insurance will be required and submitted as part of the bid package.** The CONTRACTOR will maintain at minimum the following limits of liability.

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Workman's Compensation and Employer's Liability	Statutory (for the State in which the work is to be performed and the State of domicile of the CONTRACTOR) and \$500,000 Employer's Liability
----------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------

CONTRACTOR'S General Liability Ins. \$ 1,000,000

CONTRACTOR'S Vehicle Ins. \$ 1,000,000
(Combined Single Limit – Bodily Injury and Property Damage)

The CONTRACTOR'S Comprehensive General Liability Insurance will include coverage for premises operations, independent contractors, completed operations, scope of work, products and contractual exposures as will protect the CONTRACTOR from claims arising out of any bodily injury, including accidental death, as well as, claims for property, damages which may arise from operations under this contract, whether such operations be by the CONTRACTOR or by any other subcontractor or any other person directly or indirectly employed by any of them. The Town of Atlantic Beach must be named as an additional insured prior to initiation of the scope of work under the Contractors General Liability Insurance. Automobile Liability Insurance shall include coverage for all owned, hired and non-owned vehicles.

6.02 All Workman's Compensation and Employer's Liability insurances will expressly provide all rights of subrogation against TOWN and its officials and employees are waived. General Liability Insurance and Vehicle Insurance will specifically name TOWN as an additional insured party and will be primary to any and all insurance of TOWN.

7.00 TIME/COMPLETION SCHEDULE

7.01 This Contract will be valid for the period from July 1, 2024 thru June 30, 2026.

7.02 CONTRACTOR must be mobilized, setup and have pumps capable of pumping within 24 hours of notification of the activation of this Contract.

7.03 Following the delivery by the contractor, the Town Public Works Department will setup and operate any pump delivered. The termination of a particular pump rental under this Contract will be as determined by Town Management on telephone or written confirmation by the Town Management when the objective of floodwater removal is met.

8.00 PAYMENT

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8.01 Payment will be made within ten (10) days after submission of weekly pay applications (invoices). **Payment will be based on the rate schedule at the awarded unit prices. Five percent (5%) of all invoices will be retained until the contract is complete to the satisfaction of the Town Manager.**

9.00 **SAFETY**

9.01 CONTRACTOR will be solely responsible for maintaining safety at all work sites during mobilization and demobilization. CONTRACTOR will take all reasonable steps to insure safety for both workers and visitors to the site, to include traffic control, during mobilization, setup and demobilization.

9.02 The TOWN will provide warning signs visible both day and night at all locations where pipes or hoses cross streets to warn the motoring public of the pipes or hoses. CONTRACTOR will install ramps over pipes or hoses that cross streets in such manner as to allow motor vehicles to safely cross such pipes or hoses.

10.00 **LOCATIONS FOR INTAKE AND DISCHARGE**

10.01 CONTRACTOR will deliver a trailer mounted dry self-priming four (4) inch non-clog diesel pump and intake to the Public Works facility at 1400 West Fort Macon Road, Atlantic Beach, NC 28512; however the TOWN reserves the right to request any location for delivery of this pump, where Public Safety permits. Forty (40) feet of four (4) inch camlock intake piping and 300 feet of four (4) inch discharge hose or pipe will be required for this pump.

10.02 Ten (10) additional stormwater pumping sites are found throughout the town. The sites are all ocean side of Fort Macon Rd. (NC Highway 58). The town anticipates up to three (3) centrifugal pumps may be required from the CONTRACTOR to supply the response need. CONTRACTOR to deliver up to three (3) trailer mounted dry self-priming four (4) inch non-clog diesel powered pumps. Each trailer requested will also be equipped with twenty (20) feet of intake and 200 feet of four-inch discharge hose or pipe. These four inch pumps and associated accessories requested: hose, fittings, elbows, camlock connections, converters, etc. will be delivered to the Public Works facility at 1400 West Fort Macon Road, Atlantic Beach, NC 28512; however the TOWN reserves the right to request any location for delivery of these pumps, where Public Safety permits.

11.00 **PERFORMANCE REQUIREMENTS**

11.01 TOWN'S right to carry out the work:

If the CONTRACTOR defaults or neglects to carry out the Work in accordance with

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the Contract and fails within a one (1) day period after receipt of written notice from the TOWN to commence and continue correction of such default or neglect with diligence and promptness, the TOWN may, without prejudice to other remedies, correct such deficiencies. In such case an appropriate Change Order will be issued deducting from payments then or thereafter due the CONTRACTOR the cost of correcting such deficiencies, including compensation for the TOWN'S additional services and expenses made necessary by such default, neglect or failure. If payments then or thereafter due the CONTRACTOR are not sufficient to cover such amounts, the CONTRACTOR will pay the difference to the TOWN.

12.00 TERMINATION BY THE TOWN FOR CAUSE:

- 12.01.1 The TOWN may terminate the Contract if the CONTRACTOR:
- a. persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper equipment to perform in a timely manner as determined by the Town Management;
 - b. fails to make payment to subcontractors or suppliers for materials or labor in accordance with the respective agreements between the CONTRACTOR and subcontractors/suppliers;
 - c. persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
 - d. otherwise is guilty of a substantial or material breach of sections 16.00, 17.00 or other provisions of the Contract.
- 12.01.2 When any of the above reasons exist, the TOWN may without prejudice to any other rights or remedies of the TOWN and after giving the CONTRACTOR and the CONTRACTOR'S surety, if any, one (1) day written notice, terminate employment of the CONTRACTOR and may, subject to any prior rights of the surety:
- a. accept assignment of subcontracts and supplier agreements; and/or
 - b. finish the Work by whatever reasonable method the TOWN may deem expedient.
- 12.01.3 When the TOWN terminates the contract for one of the reasons stated in Subparagraph 12.01.1, the CONTRACTOR will not be entitled to receive further payment until the Work is finished.

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12.01.4 If the unpaid balance of the Contract sum exceeds additional costs incurred while finishing the Work, including compensation for the TOWN'S services and expenses made necessary thereby, such excess will be paid to the CONTRACTOR. If such costs exceed the unpaid balance, the CONTRACTOR will pay the difference to the TOWN. This obligation for payment will survive termination of the Contract.

12.01.5 **Termination for Convenience;** the Town or Contractor may terminate this contract at any time for any reason by giving at least thirty (30) days' notice in writing to the other party. If the contract is terminated by the Town as provided herein, the contractor will be paid a fair payment as negotiated with the Town for the work completed as of the date of termination.

13.00 ESTIMATED QUANTITIES

13.01 The TOWN makes no guarantee of the activation of this Contract or as to the total number of pumps or days the CONTRACTOR will provide the equipment in any activation of the Contract requirements. However, if the termination notice is given as described in Section 7.03, for alleviating flooding conditions and completing all necessary pumping in less than 24 hours of actual pumping operation, TOWN will pay sums of Unit Price #1-2 A for the equipment actually requested and utilized.

14.00 PERSONNEL

14.01 It is mutually agreed that CONTRACTOR is an independent CONTRACTOR and not an agent of the TOWN, and as such the CONTRACTOR'S personnel will not be entitled to any TOWN employment benefits, such as, but not limited to, vacation, sick leave, insurance, workmen's compensation, or pension and retirement benefits.

15.00 CONFLICT OF INTEREST

15.01 No elected or appointed official or paid employee of the TOWN shall have a personal or financial interest, direct or indirect, as a contracting party or otherwise, in the performance of this agreement.

16.00 OTHER LAWS AND REGULATIONS

16.01 The parties acknowledge that FEMA financial assistance may be used to fund the contract. CONTRACTOR will comply with any and all applicable federal, state and local standards, regulations, laws, statutes and ordinances regarding toxic, hazardous and solid wastes and any other pollutants; public and private nuisances; health or safety; and zoning, subdivision or other land use controls. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the

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Clean Air Act (42 U.S.C. 7401- et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- et seq.), and will report violations to the TOWN, FEMA and the Regional Office of the Environmental Protection Agency (EPA).

CONTRACTOR will take all reasonably necessary, proper or required safety, preventative and remedial measures in accordance with any and all relations and directives from the North Carolina Department of Human Resources, the United States Environmental Protection Agency, the North Carolina Department of Environmental Quality, Health Departments, and any other federal, state or local agency having jurisdiction, to insure the prompt prevention or cessation (now or in the future) of violations of either the applicable provisions of such standards, regulations, laws, statutes, and ordinances or any permits or conditions issued thereunder.

- 16.02 CONTRACTOR, and any subcontractor it employs, shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law).
- 16.03 The CONTRACTOR shall comply with all mandatory standards and policies relating to energy efficiency which may be contained within an energy conservation plan issued by the State of North Carolina in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

17.00 NON-DISCRIMINATION - EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the CONTRACTOR agrees as follows:

- 17.01 The CONTRACTOR will not discriminate against any employee or applicant for employment or otherwise illegally deny any person participation in or the benefits of the program which is the subject of this agreement because of race, creed, color, sex, age, disability or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

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- 17.02 The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex or national origin.
- 17.03 The CONTRACTOR will send to each labor union or representative of workers with which he has collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the CONTRACTOR'S commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 17.04 The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 17.05 The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 17.06 In the event of the CONTRACTOR'S noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 17.07 The CONTRACTOR will include the sentence immediately preceding paragraph (17.01) and the provisions of paragraphs (17.01) through (17.07) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order I 1246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States."

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18.00 MINORITY BUSINESS ENTERPRISE (MBE)

The Town desires that minority business enterprises and historically underutilized businesses have the maximum opportunity to participate in the performance of this contract and will:

- 18.01 Promote affirmatively (where feasible) in accordance with North Carolina General Statute 143-129, together with all other applicable laws, statutes and constitutional provisions) the procurement of goods, services in connection with construction projects for minority owned business enterprises.
- 18.02 Insure that competitive and equitable bidding opportunities are followed to afford minority business enterprises participation. Strive to obtain contract and subcontract awards to minority business enterprises.
- 18.03 Identify and communicate to the minority business enterprises community procedures and contract requirements necessary for procurement of goods and services for construction projects and subcontracts.
- 18.04 Provide technical assistance as needed.
- 18.05 Promulgate and enforce contractual requirements that the general contractor or all construction projects shall exercise all necessary and reasonable steps to insure that minority business enterprises participate in the work required in such construction contracts.

The CONTRACTOR shall insure that minority business enterprises have the maximum opportunity to compete for and perform portions of the work included in this contract and shall not discriminate on the basis of race, color, national origin or sex. The CONTRACTOR shall include this special provision, Minority Business Enterprise (MBE), in all subcontracts for this contract. Failure on the part of the CONTRACTOR to carry out the requirements set forth in this special provision may constitute a breach of contract and after proper notification may result in termination of the contract or other appropriate remedy.

A minority business enterprise is defined as a business, with at least fifty-one (51%) percent owned and controlled by minority group members. The minority ownership must exercise actual day-to-day management. Minority group members may consist of Black Americans (an individual of the Black race of African origin), Hispanic Americans (an individual of a Spanish speaking culture and origin at parentage), Asian Americans (an individual of a culture, origin or parentage traceable to the areas of the Far East, Southeast Asia, the Indian subcontinent and the Pacific

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Islands), Indian Americans (an individual who is an enrolled member of a Federally recognized Indian tribe, or recognized by the tribe as being an Indian, as evidenced by a certification of a tribal leader), American Aleuts or any recognized minority group approved by the Town.

A Woman Business Enterprise is a business with at least fifty-one (51%) percent owned and controlled by women who exercise actual day-to-day management.

The CONTRACTOR shall exercise all necessary and reasonable steps to insure that Minority Business Enterprises and Woman Business Enterprises participate in the work required in this contract. The CONTRACTOR agrees by executing this contract that he will exercise all necessary and reasonable steps to insure that this special provision contained herein on Minority Business Enterprise is complied with.

19.00 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION

Compliance with the Contract Work Hours and Safety Standards Act.

19.01 Overtime requirements. No CONTRACTOR or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

19.02 Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (19.01) of this section the CONTRACTOR and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such CONTRACTOR and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (19.01) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (19.01) of this section.

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- 19.03 Withholding for unpaid wages and liquidated damages. FEMA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the CONTRACTOR or subcontractor under any such contract or any other federal contract with the same prime CONTRACTOR, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime CONTRACTOR, such sums as may be determined to be necessary to satisfy any liabilities or such CONTRACTOR or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (19.02) of this section.
- 19.04 Subcontracts. The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (21.01) through (21.04) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (19.01 through (19.04) of this section.
- 19.05 The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market or contracts for transportation or transmission of intelligence.
- 20.00 **ACCESS TO RECORDS, RETENTION AND REVIEW**
- The following access to records requirements applies to this contract:
- 20.01 The CONTRACTOR agrees to provide TOWN, North Carolina Department of Public Safety, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representative's access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- 20.02 The CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- 20.03 The CONTRACTOR agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract."

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20.04 The CONTRACTOR shall retain all records pertaining to the services and the contract for these services and make them available to the TOWN for a period of three (3) years following receipt of final payment for the services referenced herein. Final payment may be payment of any retention for the services.

21.00 NON-WAIVER OF RIGHTS

21.01 It is agreed that the TOWN'S failure to insist upon the strict performance of any provision of this agreement, or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any rights under this agreement.

22.00 INTERPRETATION AND VENUE

All of the terms and conditions contained herein shall be interpreted in accordance with the laws of the State of North Carolina. In the event of a conflict between the various terms and conditions contained herein or between these terms and other applicable provisions, then the more particular shall prevail over the general and the more stringent or higher standard shall prevail over the less stringent or lower standard. The venue for any litigation arising hereunder shall be Carteret County, North Carolina.

23.00 DHS SEAL, LOGO, AND FLAGS

23.01 CONTRACTOR shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without pre-approval by the specific federal agency.

24.00 NO OBLIGATION BY FEDERAL GOVERNMENT

24.01 The TOWN and the CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the TOWN, the CONTRACTOR, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The CONTRACTOR agrees to include the above clause in each subcontract financed in whole or in part with federal assistance. It is further agreed that the clause shall not be modified, except to identify the sub-contractor who will be subject to its provisions.

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25.00 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

The CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR's actions pertaining to this contract. Upon execution of the underlying contract, the CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the Federally assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extent the Federal Government deems appropriate.

The CONTRACTOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the CONTRACTOR, to the extent the Federal Government deems appropriate.

The CONTRACTOR agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clauses shall not be modified, except to identify the sub-contractor who will be subject to the provisions.

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PART II – SCOPE OF WORK

1.00 GENERAL

- A. As used in this Contract, references to “Work” will be synonymous with “Scope of Work”.
- B. The CONTRACTOR will comply with all applicable Federal, State and Local codes, ordinances and requirements of all agencies having jurisdiction.
- C. Performance: The quality, of equipment (pumps and all accessories) concerning this emergency pump agreement must reflect continual equipment reliability and professional work and conduct during mobilization, setup and demobilization.

2.00 SCOPE OF WORK

At the request of the Town Management, the CONTRACTOR will establish Emergency Pumping at any or all the locations specified in the location section, Part 1, Section 10. The number of necessary pumping locations will be discretionary to the Town Management to ensure public safety, protect the public health, public property and maintain emergency services.

- 2.01 CONTRACTOR will mobilize and demobilize emergency pumping at the locations designated in the location section and discharge at the locations allowed within the incorporated limits of the TOWN. Any deviation in location (for intake or discharge) must be approved and/or requested by the Town Management.
- 2.02 The CONTRACTOR will not enter private property without obtaining consent of TOWN Management and be accompanied by TOWN personnel.
- 2.04 The CONTRACTOR will be responsible for damages caused by the CONTRACTOR to both private and public property.

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3.00 UNIT PRICE SCHEDULE

The Contract will be for payment on a unit price basis. Unit prices include all necessary mobilization, insurance, overhead, profit and applicable taxes.

Unit Price No. 1

Provide, mobilize, deliver and demobilize one (1) – trailer mounted four (4) inch non-clog dry self-priming diesel Centrifugal Pump, 1 (one) - 40' - 4" suction hose/pipe with strainer, 300' – 4" discharge hose or pipe (4" camlock) and all required elbows tees, connections for pump to the Public Works Facility 1400 West Fort Macon Road, Atlantic Beach, NC 28512; however the TOWN reserves the right to request any location for delivery of this pump, where Public Safety permits.

- A) Mobilization, demobilization and equipment described above, and 24 hour pump and accessory rental (1 day) (up to 24 hour/day operation)
- B) 24 hour pump and accessory rental (1 day) (up to 24 hour/day operation)
- C) 7 day pump and accessory rental (up to 24 hour/day operation)
- D) 1 month pump rental and accessory rental (up to 24 hour/day operation)

Unit Price No. 2

Provide, mobilize, and demobilization of up to three (3) trailer mounted dry self-priming four (4) inch non-clog diesel powered pumps. Each trailer requested will also be equipped with twenty (20) feet of intake and 200 feet of four-inch discharge hose or pipe. These four inch pumps and associated accessories requested: hose, fittings, elbows, cam lock connections, converters, etc. will be delivered to the Public Works facility 1400 West Fort Macon Road, Atlantic Beach, NC 28512; however the TOWN reserves the right to request any location for delivery of these pumps, where Public Safety permits.

- A) Mobilization, demobilization of one (1) pump and all accessories described above, and 24 hour pump and accessory rental (1 day) (up to 24 hour/day operation) ea.
- B) 24 hour pump and accessory rental (1 day) (up to 24 hour/day operation) ea.
- C) 7 day pump and accessory rental (up to 24 hour/day operation) ea.
- D) 1 month pump and accessory rental (up to 24 hour/day operation) ea.

**TOWN OF ATLANTIC BEACH – EMERGENCY PUMP
RENTAL AGREEMENT**

PART III – FORM OF PROPOSAL

TO: Mr. John O’Daniel, Town Manager
Town of Atlantic Beach
PO Box 10
125 West Fort Macon Road
Atlantic Beach, NC 28512

DATE: _____ FROM: _____
(Bidder/CONTRACTOR)

PHONE: _____ ADDRESS: _____

UNIT PRICE BID: The undersigned, having carefully examined the Instructions to Bidders and Scope of Work (Parts 1 and II) of the ***TOWN OF ATLANTIC BEACH – EMERGENCY PUMP RENTAL AGREEMENT*** dated February 21, 2024 including the following addenda:

ADDENDUM # _____ DATED: _____

ADDENDUM # _____ DATED: _____

As well as the premises and conditions affecting the work, proposes to furnish all services, labor, materials and equipment called for to complete the project in accordance with the Contract for the following unit price amounts.

1) Unit Price No. 1

A) \$ _____ /day rental (up to 24 hour pumping) (1st day to include mobilization and demobilization)

B) \$ _____ /day rental (up to 24 hour pumping)

C) \$ _____ /7 day rental (up to 24 hour pumping)

D) \$ _____ /1 month rental (up to 24 hour pumping)

**TOWN OF ATLANTIC BEACH – EMERGENCY PUMP
RENTAL AGREEMENT**

PART III – FORM OF PROPOSAL

2) Unit Price No. 2 (per pump requested)

A) \$ _____ /day rental (up to 24 hour pumping) (1st day to include mobilization, and demobilization) ea.

B) \$ _____ /day rental (up to 24 hour pumping) ea.

C) \$ _____ /7 day rental (up to 24 hour pumping) ea.

D) \$ _____ /1 month rental (up to 24 hour pumping) ea.

Company Name

Signature

Title

State of Incorporation

(Corporate Seal)

TOWN OF ATLANTIC BEACH – EMERGENCY PUMP
RENTAL AGREEMENT

PART IV – STATEMENT OF ASSURANCES AND
COMPLIANCE

The undersigned, as bidder, certifies that the General Conditions and Instructions to Bidders found in the bidding document dated February 21, 2024 have been read and understood.

The bidder hereby provides assurance that the Firm represented and its principals in this bid, as indicated below:

1.00 Suspension and Debarment

(a) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the CONTRACTOR is required to verify that none of the CONTRACTOR, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(b) The CONTRACTOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(c) This certification is a material representation of fact relied upon by TOWN. If it is later determined that the CONTRACTOR did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to TOWN and North Carolina Department of Public Safety, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(d) The CONTRACTOR agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C throughout the period of this contract that may arise from this offer. The CONTRACTOR further agrees to include a provision requiring such compliance in its lower tier covered transactions.

1.01 Where the bidder is unable to certify to any of these statements in this certification, it will attach an explanation to this proposal.

2.00 Will comply with all requirements, stipulations, terms and conditions as stated in the bid document; and in any Contract entered into as a consequence of this bid.

3.00 Currently comply with all applicable Local, State and Federal Laws.

4.00 Are not guilty of collusion with other CONTRACTORS or vendors possibly interested in this bid or in determining prices to be submitted.

5.00 Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). No Federal

**TOWN OF ATLANTIC BEACH – EMERGENCY PUMP
RENTAL AGREEMENT**

**PART IV – STATEMENT OF ASSURANCES AND
COMPLIANCE**

appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

6.00 Such agent as indicated below is officially authorized to represent the firm in whose name this bid is submitted.

Name of Firm

Name of Firm Representative

Signature

Title

TOWN OF ATLANTIC BEACH – EMERGENCY PUMP
RENTAL AGREEMENT

PART IV – STATEMENT OF ASSURANCES AND
COMPLIANCE

Address of Firm

Telephone Number

Date

State of Incorporation

(Corporate Seal)

**TOWN OF ATLANTIC BEACH – EMERGENCY PUMP
RENTAL AGREEMENT**

PART V – EXECUTION OF CONTRACT

STATE OF NORTH CAROLINA

CONTRACT NO: _____

COUNTY OF CARTERET

CONTRACT BETWEEN
THE TOWN OF ATLANTIC BEACH, NORTH CAROLINA
AND

THIS CONTRACT, made this the _____ day of _____, 2024, by and between the TOWN OF ATLANTIC BEACH, NORTH CAROLINA (hereinafter called "TOWN"), a municipal Corporation located in Carteret County, North Carolina; and _____, a corporation organized under the laws of the State of _____, (hereinafter called "CONTRACTOR").

1. Purpose

The TOWN hereby employs the CONTRACTOR to furnish all labor, materials and equipment to perform all work in manner and form as specified by the attached, PARTS I – V, ***TOWN OF ATLANTIC BEACH – EMERGENCY PUMP RENTAL AGREEMENT CONTRACT***, containing specifications and documents consisting of, but not limited to: Scope of Work, Instructions to Bidders, Proposal and Statement of Assurances and Compliance, which are incorporated as if fully set out, for the following:

CONTRACTOR will mobilize and demobilize emergency pumps at the locations designated in the location section allowed within the incorporated limits of the TOWN. Any deviation in location (for intake or discharge) must be approved and/or requested by the Town Management, as directed in Section 10 of PART I – INSTRUCTIONS TO BIDDERS.

STATEMENT OF AGREEMENT

In consideration of the mutual promises and covenants set out hereinafter, the parties agree as follows:

- 1) AVAILABILITY. CONTRACTOR will make available for use within the TOWN the equipment and manpower necessary to quickly and efficiently mobilize

**TOWN OF ATLANTIC BEACH – EMERGENCY PUMP
RENTAL AGREEMENT**

PART V – EXECUTION OF CONTRACT

and setup the Emergency Pumps and discharge described in the Part I, Instructions to Bidders and Part II, Scope of Work within 24 hours when directed to do so by the Town Management.

- 2) **WORK.** The Work is described in the ***TOWN OF ATLANTIC BEACH – EMERGENCY PUMP RENTAL AGREEMENT*** Bid Documents primarily under Part II “Scope of Work.”
- 3) **INCORPORATION OF BID DOCUMENTS.** The bid documents captioned “***TOWN OF ATLANTIC BEACH – EMERGENCY PUMP RENTAL AGREEMENT***” consisting of twenty-five pages dated February 21, 2024 and consisting of Part I – Instructions to Bidders, Part II – Scope of Work, Part III – Form of Proposal, Part IV - Statement of Assurances and Compliance, Part V – Execution of Contract and all Attachments are incorporated herein as if set out in full as terms of this Contract.
- 4) **COMPENSATION.** CONTRACTOR will be compensated at the unit price rates as set out in Part III – Form of Proposal of the ***TOWN OF ATLANTIC BEACH – EMERGENCY PUMP RENTAL AGREEMENT*** Bid Documents, a signed copy of which is attached as part of this document.
- 5) **AUTHORITY.** CONTRACTOR will be entitled to act upon verbal instructions given by the Town Management, and will not be required to determine whether approval of the full Town Board of Commissioners has been given for any requested work under this Contract.
- 6) **TERM.** This Contract will be effective commencing July 1, 2024 and will remain effective until June 30, 2026.
- 7) **INDEMNITY.** CONTRACTOR indemnifies and saves the TOWN, its officials and employees, harmless from any claims, suits and judgments, including the cost of defending against the same, arising out of or relating to CONTRACTOR’S performance under this Contract.
- 8) **COMPLETE AGREEMENT.** This Contract contains the complete understanding between the parties, and any amendment will be in writing, and executed by the parties hereto.
- 9) **NON-ASSIGNMENT.** CONTRACTOR may not assign this Contract without the express written consent of the TOWN.

TOWN OF ATLANTIC BEACH – EMERGENCY PUMP
RENTAL AGREEMENT

PART V – EXECUTION OF CONTRACT

IN WITNESS WHEREOF, the TOWN has caused this Contract to be duly executed in its name and behalf and the CONTRACTOR has caused this Contract to be duly executed in its name and behalf and its corporate seal to be hereunto affixed, and attested to.

TOWN OF ATLANTIC BEACH, NORTH CAROLINA

BY: _____
Mayor

ATTEST:

TOWN Clerk

APPROVED AS TO FORM:

TOWN Attorney

STATE OF NORTH CAROLINA
COUNTY OF CARTERET

I, _____, a Notary Public of the State and County aforesaid, certify that Katrina Tyer, personally came before me this day and acknowledged that she is Town Clerk for the TOWN of ATLANTIC BEACH, a North Carolina Municipal Corporation, and that by authority duly given and as the act of the TOWN of ATLANTIC BEACH, the foregoing instrument was signed in its name by its Mayor, _____, sealed with its corporate seal and attested by herself as its Clerk.

WITNESS my hand and notarial seal, this the ____ day of _____,
20____.

Notary Public

My Commission Expires:

(SEAL)

TOWN OF ATLANTIC BEACH – EMERGENCY PUMP
RENTAL AGREEMENT

PART V – EXECUTION OF CONTRACT

Name of Company: _____

ATTEST:

BY:

President, Vice President, Assistant
Vice President

Secretary, Assistant Secretary,
Trust Officer

(CORPORATE SEAL)

STATE OF _____
COUNTY OF _____

I, _____, a Notary Public, certify that the corporation's Secretary, Assistant Secretary or Trust Officer, Mr./Mrs./Ms. _____ personally came before me this day and acknowledged that he (she) is the _____ of _____, a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, Vice President, or Assistant Vice President, Mr./Mrs./Ms. _____, sealed with its Corporate Seal, and attested by himself (herself) as its Secretary, Assistant Secretary or Trust Officer.

WITNESS my hand and official seal this the _____ day of _____, 20__.

Notary Public

My commission expires: _____

(SEAL)