



**REQUEST FOR PROPOSAL (RFP)**  
**NORTH BEACH FLOOD PUMP/EQUIPMENT PROJECT**  
**5<sup>TH</sup> STREET**  
**PROPOSALS MUST BE SUBMITTED**  
**MONDAY, JUNE 6, 2022**  
**4:00 PM**

PROPOSALS MUST BE SUBMITTED VIA EMAIL TO:

STACY MILOR, TOWN CLERK

**[EMAILTO: NORTHBEACH@NORTHBEACHMD.ORG](mailto:NORTHBEACH@NORTHBEACHMD.ORG)**

**RFP**

**KEY INFORMATION SUMMARY SHEET**

<b>Request for Proposal:</b>	North Beach Flood Pump/Equipment Project – 5 <sup>th</sup> Street
<b>RFP Issue Date:</b>	May 2, 2022
<b>RFP Issuer/Contact for Clarifications:</b>	Donnie Bowen, Director, Department of Public Works at: dbowen@northbeachmd.org
<b>Proposal Information Available at:</b>	North Beach website: <a href="http://www.northbeachmd.org">www.northbeachmd.org</a> EMaryland Market Place - <a href="https://emma.maryland.gov/page.aspx/en/rfp/request_browse_public">https://emma.maryland.gov/page.aspx/en/rfp/request_browse_public</a> Maryland Municipal League - <a href="https://www.mdunicipal.org/Jobs.aspx?CID=108">https://www.mdunicipal.org/Jobs.aspx?CID=108</a>
<b>Proposals are to be Sent to:</b>	Stacy Milor, Town Clerk at: <a href="mailto:northbeach@northbeachmd.org">northbeach@northbeachmd.org</a>
<b>Pre-Bid Visit:</b>	A mandatory pre-bid meeting will be held on Monday, May 16, 2022, at 11:00 a.m. Meeting location is at 9023 Bay Avenue, North Beach, MD 20714 at the North Beach Welcome Center
<b>Questions Due Date and Time:</b>	By Friday, May 20, 2022 to Stacy Milor, Town Clerk no later than 4:00 PM to <a href="mailto:northbeach@northbeachmd.org">northbeach@northbeachmd.org</a>
<b>Proposal Bid Form Due (Closing) Date and Time:</b>	Proposals are due by Monday, June 6, 2022, at 4:00 p.m.
<b>Contract Type:</b>	Fixed Contract Award
<b>Bid Pricing:</b>	All bids received must be valid up to 120 days from Proposal due date.

## **1 Minimum Qualifications**

### **1.1 Minimum Qualifications**

Bidders must submit three references for projects involving flood pump systems and installation. Bidders must have at least (5) years of applicable experience.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

## 2 Contract Background and Scope of Work, Terms and Other Requirements:

### 2.1 Summary

The Town of North Beach is seeking bids for the purchase and installation of a flood pump system located at 5<sup>th</sup> and Bay Avenue within the Town of North Beach.

### 2.2 Purpose

The Town is seeking to replace the existing pump system with new and more efficient equipment in an existing wet well with a new control panel with variable speed drives or VFD's.

### 2.3 Town Staff and Roles

- A. **Mayor:** Provides oversight of contract terms, conditions, performance and approves all invoices.
- B. **Town Treasurer:** Receives Contractor's invoices and ensures costs are within the budget.
- C. **Town Public Works Director:** Provides in the field review of services to ensure conditions of the contract are met.
- D. **Town Clerk:** Issues the Town's RFPs and receives bids.

### 2.4 Scope of Work

2.4.1 Upgrade of the 5th Street pumping station project will consist of the following:

- demolition of existing piping in existing wet well
- installation of two new 15 hp pumps
- new discharge piping
- installation of a new control panel and all related field wiring
- removal and replacement of tide flex check valve on gravity stormwater/flood discharge outlet
- training of staff on use of new equipment
- two copies of operation and maintenance manuals
- demonstrated start-up of new pump system to verify flow rates and proper operation are required prior to final acceptance of Work.

**Complete mechanical, electrical and technical specifications are included in Attachment A, B, C and D.**

2.4.2 Contractor is responsible for completing the work outlined in the technical specification Attachments and the Scope of Work. Contractor must verify existing conditions and field measurements prior to beginning the work.

2.4.3 This project is being funded, all or in part, through a grant from the Maryland Department of Environment. **Attachment E includes detailed grant requirements that the Contractor must follow.**

Attachments included in this RFP package:

Attachment A - Technical Specifications
Attachment B - IFB SET Specifications
Attachment C - Tideflex Check Valve Technical Specs
Attachment D - Electrical Specifications
Attachment E - Flood Grant State Requirements
Attachment F - Bid Form
Attachment G - Required forms for signature

## 2.5 Pre-Bid Meeting

All Bidders are required to attend a pre-bid meeting with Donnie Bowen, Director, Department of Public Works, scheduled for Monday, May 16, 2022, at 11:00 am at the Welcome Center located at 9023 Bay Avenue, North Beach, MD 20714.

## 2.6 Contract Payment

The Contractor may submit monthly billings in an amount proportional to the quantity of work performed. Billings are payable within 30 days of receipt by the Town of North Beach after the Director of Public Works has approved the billing.

## 2.7 Contractor Personnel

The Contractor shall assign a qualified person or persons to oversee the work under the Contract and will identify the individual or individuals to the Town.

- Information regarding experience of assigned personnel shall be furnished and reviewed by the Town, if requested.
- The Town may refuse to permit any employee of the Contractor to work on the contract if it is found that the employee has engaged in conduct outside the norms of socially and professionally acceptable behavior or has been negligent, or discourteous in the performance of his or her duties, or who has been found to be incompetent.

## 2.8 Contractor Equipment, Materials and Supplies

The Contractor shall furnish and maintain all equipment and materials required to complete the job.

## 2.9 Contractor Use of Premises

If any field equipment is needed to complete the plan, it can be securely stored at the Town Department of Public Works yard.

## 2.10 Time for Contractor Performance of Work

The Contractor shall perform the services as specified in the contract on the schedule below.

### **RFP Schedule (subject to change):**

**Mandatory pre-bid meeting:** Monday, May 16, 2022 at 11:00 am

**Bidder Questions due:** Friday, May 20, 2022 by 4:00 pm

**Bidder Answers to Questions distributed:** Friday, May 27, 2022

**Bids Due:** Monday, June 6, 2022, at 4:00 p.m.

**Notice to Proceed:** Within 30 days of our receipt of MDE Approval. *Note: Maryland Department of Environment must review and approve all bids prior to final award. The review can take up to 12 weeks before approval.*

**Final due date for completion of all work:** Once Notice to Proceed is received work should be completed 60 days from receipt of equipment and materials. (*The Town understands that there may be some lead time required in obtaining pumps and materials needed for the completion of the Work.*) Contractor may request an extension if needed.

## 2.11 Contractor Submission of Prices

Prices must be submitted based on a firm, fixed price basis not subject to escalation. Pricing shall include all costs including, but may not be limited to, labor, materials, equipment, supervision, training, overhead, vehicle fuel, and mileage, airfare, and other travel expenses, etc.

## **3 Information for Bidders**

### **3.1 Bids:**

Bids will only be accepted by the Town if submitted in accordance with these instructions, the General Conditions, and any other attached bid documents.

### **3.2 Qualifications of Bidders:**

The Town may make such an investigation as it deems necessary to determine the ability of the Bidder to furnish the services and the Bidder shall furnish to the Town all such information and data for this purpose that the Town may request. The Town reserves the right to reject any bid if the evidence submitted by the Bidder or an investigation of such Bidder fails to satisfy the Town that such Bidder is properly qualified to conduct the obligations of the contract.

### **3.3 Reservations:**

3.3.1. The Town reserves the right to waive formalities or technicalities in bids as the interests of the Town may require.

3.3.2. The Town may waive minor differences in specifications provided these differences do not violate the intent of the specification or materially affect the operation for which the item is being acquired.

3.3.3. Bids that show omission, irregularity, alteration of forms, or additions not called for, and conditional or unconditional, unresponsive bids or bids obviously unbalanced may be rejected.

3.3.4. The Town reserves the right to award contracts on a lump sum or an individual item basis or such combination thereof as the interests of the Town may require. The way the award will be made is indicated on the Bid Form.

3.3.5. The Town reserves the right to purchase additional like units at the same unit cost.

3.3.6. If in the Town's judgment, the Town's best interest will be served by doing so, the Town reserves the right to reject any and/or all bids; to accept a portion of a bid or bids only; to advertise for new proposals; to proceed to do the work otherwise; or to abandon the work.

3.3.7 The Town reserves the right to check the bidder's references and to perform such investigations as the Town may deem necessary to ensure that competent personnel and management are used in the performance of the Contract.

### **3.4 Required Attachments to Bids:**

Each bid shall be accompanied by the following documents:

- Attachment F – Bid Form (completed and signed)
- References – 3 references which include reference name, company name, email address, phone number.
- Attachment G – 2 Required forms for signature: EEO/Drug Free Workplace and Anti-bribery Affidavit (must be notarized).

### **3.5 Acceptance or Rejection of Bids; Reservations:**

The Town intends to accept or reject bids within 120 days of the date set for bid due date. The Town reserves the right to reject or accept any or all bids or portion thereof where such rejection or acceptance would, in the Town's sole discretion, be in the best interest of the Town, and further reserves the right to reduce or modify the scope of the Project to meet funding limits, budget and scheduling constraints.

### **3.6 Notice of Award, Signing of Contract and Bonds:**

The successful Bidder agrees to sign a contract in substantially the form included in the Request for Proposal (except those certain additional provisions may be required of non-corporate contractors pertaining to their status as sole proprietorships or partnerships and their workers' compensation coverage) binding it to the terms of this bid as set forth in the legal notice inviting proposals and the bid documents and any addenda thereto, within ten (10) days of notice of award. Failure of the Bidder to do so may result in the loss of its bid security and/or his award of bid.

### **3.7 Bid Withdrawals:**

Prior to the time of opening, bids may be withdrawn only upon written request received from Bidder to Stacy Milor, Town Clerk at: [northbeach@northbeachmd.org](mailto:northbeach@northbeachmd.org). No Bidder may withdraw its bid for a period of sixty (60) days after the opening of bids.

### **3.8 Addenda:**

Any addenda issued after the invitation to bid and before the opening of bids shall be covered in the proposal, and in closing the contract they shall become a part thereof. Bidders will be required to submit a signed and dated copy of the addenda as acknowledgement of receipt.

### **3.9 Specifications:**

Bidders must examine the specifications carefully. In case doubt arise as to the meaning or intent of anything shown in the specifications, inquiry shall be made of the Town before the proposal is submitted. The submission of a proposal shall indicate that the Bidder thoroughly understands the terms of the bid and the specifications.



### **3.10 Taxes:**

The Contractor shall pay all sales, consumer, use and other similar taxes required by applicable law with respect to the work performed or the materials or equipment furnished. The Town of North Beach is exempt from the payment of such taxes with respect to items purchased directly.

### **3.11 Bid Forms:**

The Bid Form is attached to this RFP package as Attachment F. Bids shall be submitted on the Bid Form. Bid Form must be clean of alterations or markings. The Bid Form may provide for submission of a price or prices for one or more items, which may be lump sum Bids, alternate prices, or scheduled items resulting in a Bid on a unit of construction or a combination thereof, or other Bidding arrangements. Unless specifically called for, alternate Bids will not be considered. In the case of the Pumps, you are permitted to bid a comparable item, but if so, you must provide the exact make and model of the Pump on your Bid Form so the Town can verify whether the alternate item will be acceptable.

3.11.1. Bids in which the prices are obviously unbalanced may be rejected. Unbalanced prices shall be interpreted to mean that the unit price for any items is such that it is unreasonable for that item when considered by itself and not considered in connection with the bid submitted on any other item or items.

3.11.2. Bids shall be based on products, materials and methods named in the RFP.

3.11.3. The Bidder must complete the attached Bid Form and required attachments and submit electronically. Bids may be modified or withdrawn at any time prior to the bid due date. The Bid Form must be signed.

3.11.4. The Bidder assumes full responsibility for timely delivery of their Bid. Bids received after the designated due date will be returned to the Bidder unopened.

3.11.5. Bids will be opened after the bid due date and time. Thereafter, a spreadsheet will be prepared promptly, showing bid information. The spreadsheet will be made available after verification by the Town. In case of discrepancy between prices in writing and in figures, the writing shall govern. In case of error in the extension of prices in the Bid, unit prices will govern.

### **3.12 Execution of the Contract:**

3.12.1. Copies of the Contract (Agreement Form) are included in the bid RFP package. Changes to the Contract form will not be permitted and the Bidder should not rely on an expectation of changes in the Contract form.

3.12.2. The Bidder to whom the Contract is awarded shall return two copies of the Contract and such other Documents as required by the Contract Documents properly executed to the Town within seven (7) days after the date of issuance of the Notice of Award. The Town will execute the Contract within 7 days after receipt of the Contractor's executed Contract Form.

3.12.3. Failure by the Contractor to execute the Contract and submit such other Documents as required by the Contract Documents and file acceptable insurance and bonds within the time aforesaid shall be just cause for annulment of the Award. Award may then be made to the next lowest responsible Bidder or the Work may be re-advertised and constructed under Contract or otherwise, as the Town may decide.

3.12.4. By executing the Contract, the Contractor represents that it has familiarized itself with, and assumes full responsibility for having familiarized itself with, the nature and extent of the Contract Documents, the work, and the site, and all federal, State, and local laws, ordinances, rules and regulations that may in any manner affect performance of the Work and represents that it has correlated its study and observations with the requirements of the Contract Documents. The Contractor also represents that it has studied all surveys and investigation reports of subsurface and latent physical conditions referred to in the Contract Documents and made such additional surveys and investigations as it deems necessary for the performance of the Work at the Contract Price in accordance with the requirements of the Contract Documents and that it has correlated the results of all such data with the requirements of the Contract Documents.

### **3.13 Affidavit of Non-Collusion and Non-Conviction:**

3.13.1 Pursuant to § 16-311 of the State Finance and Procurement Article of the Annotated Code of Maryland, any person who has (1) been convicted of bribery, attempted bribery or conspiracy to bribe, under laws of any state or of the federal government; (2) been convicted under a State or federal law or statute of any offense enumerated in § 16-203 of this title; or (3) been found civilly liable under a State or federal antitrust statute as provided in § 16-203 of this Title 16 shall be disqualified from entering into a Contract with the Owner.

3.13.2 A Bidder shall complete and submit with its bid the attached notarized Anti-Bribery Affidavit (Attachment G). The affiant shall also swear or affirm under the penalties of perjury that the Bidder has not been a party with other bidders to any agreement to bid a fixed or uniform price and shall also contain an affirmation that the bidder shall not knowingly enter into a contract with the Town under which a person or business debarred or suspended under Title 16, Subtitle 3 will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

3.13.3. The affidavit required by this Section shall also indicate the Bidder's understanding that all documents, information, and data submitted in its Bid/Proposal shall be treated as public information unless otherwise indicated.

**3.14 Bid Submittal Limit:**

A Bidder may submit only one Bid for each Contract. More than one Bid from an individual, firm or partnership, corporation, or association under the same or different names will not be considered and will be considered grounds for disqualification of the Bids involved, and rejection of the Bids.

**3.15 Grant-Funded Contracts:**

This Agreement may be funded, in whole or in part, using federal or State grant funds and is therefore subject to conditions imposed by regulations of the governmental entity providing such funds. Grant funding requirements are identified in Attachment E to this RFP. It is the Bidder's responsibility to determine the scope and requirements of and to comply with the terms of any regulations relating to or governing the use of such grant funds. Such regulations may under certain circumstances include, but are not limited to, payment of prevailing wage rates, the purchase of materials manufactured in the United States, the maintenance of specific records for specific periods of time, and/or approval of subcontracts.

## 4. General Conditions

### 4.1 Disputes:

In cases of disputes as to whether an item or service quoted or delivered meets the specifications, the decision of the Town shall be final and binding on both parties.

### 4.2 Completion of Work:

4.2.1. The Contractor will be expected to deliver the product within the number of calendar days stipulated in the RFP.

4.2.2. If the Contractor is delayed at any time in the delivery of the products by any act or negligence of the Town, or by any act or negligence by separate contractor employed by the Town, or that of any employee of either, or by any changes ordered in the materials or by strike, lockout, fires, unusual delays in transportation, unavoidable casualties, or any causes beyond the Contractor's control, or by delay authorized by the Town, the Town shall decide the permissible extent of such delay.

4.2.3. Failure to complete the Services within the time provided in the contract documents may cause the Town to incur economic and non-economic damages and losses of types and in amounts that are impossible to compute and ascertain with certainty and accuracy. Accordingly, in lieu of actual damages for such delay, when the Town, in its judgment, determines that such circumstances exist, such liquidated damages as are set forth in the contract may be assessed and recovered by the Town as against the Contractor and its Surety, in the event of delayed completion and without the Town being required to present any evidence of the amount or character of actual damages sustained by reason of the delay. It shall be acknowledged by the Contractor that such liquidated damages represent estimated actual damages and are not intended as a penalty and the Contractor shall pay them to the Town without limiting the Town's right to terminate the Agreement for default as provided elsewhere therein. Should a Bidder require specific information about the nature and amount of liquidated damages, if any, to be included in a contract for a project, the Bidder is advised to make inquiry prior to bidding.

### 4.3 Failure to Deliver:

In the event the Contractor fails to deliver the services and materials covered by the Contract and in accordance with the delivery terms stipulated in the contract, then the Town will have the right to purchase on the open market the services and/or materials covered in the Bid Proposal and shall have as damages the cost of obtaining such services and/or materials and any additional costs incurred by the Town as a result thereof.

#### **4.4 Insurance:**

The Contractor shall maintain such the following insurance coverages and shall provide Certificates evidencing such insurance to the Town before beginning work. Certificates of Insurance shall be on an occurrence's basis. The Contractor shall name the Town as additional insured to the required insurance policy and will furnish a Certificate of Insurance or other acceptable evidence of insurance coverage to the Town upon signing the contract.

1. Comprehensive Liability Insurance: Limits of coverage for commercial general liability and broad form property damages coverage are to be no less than One Million Dollars (\$1,000,000.00) occurrence/One Million Dollars (\$1,000,000.00) aggregate personal injury and death and Two Hundred Fifty Thousand Dollars (\$250,000.00) property damage/ Five Hundred Thousand Dollars (\$500,000.00) aggregate, where insurance aggregates apply.

2. Automobile Liability Insurance. Motor vehicle insurance meeting the requirements of Maryland law and covering every vehicle and driver involved in providing the services, in the following amounts:

(1) Bodily injury liability with limits of \$500,000.00 each person and \$1,000,000.00 each accident.

(2) Property damage liability with a limit of \$100,000 each accident.

3. Workers' Compensation: Failure of the Contractor to maintain Worker's Compensation coverage for the duration of the contract will result in the Town deducting from each payment made under this contract, to the Contractor, a pre-determined percentage to defray coverage costs of the Town. Contractor shall comply with the requirements and benefits established by the State of Maryland for the provision of Workers' Compensation.

#### **4.5 Indemnification:**

The Contractor will be required to indemnify, defend, and hold the Town harmless against any and all liability to any person or persons for or by any reason of any condition or malfunction of the materials used, and against any and all claims made or liability to any person or persons by reason of any act or omission or negligence of the Contractor or any of its agents, servants, or employees. This indemnification shall include reasonable attorneys' fees incurred by the Town in connection with such claim or liability.

#### **4.6 Testing and Inspection:**

The Town has the right to inspect and test all services and materials called for by the contract, to the extent practicable always and places during the term of the contract. The Town shall perform inspections and tests in a manner that will not unduly delay the work. If any of the services and/or materials do not conform to contract specifications, the Town may require the Contractor to perform the service or again provide a replacement product in conformity with contract specifications, at no increase in contract amount.

Start-up of the pump is required to verify flow rates and proper operation of the equipment.

**4.7 Guarantee:**

The successful Contractor shall guarantee the work and materials against any defects arising from faulty installation, faulty materials supplied under this contract, or faulty workmanship that may appear within one (1) year from the date of acceptance of the work by the Town. Faulty materials shall be replaced, and any defects discovered or failures that may occur during the guarantee period shall be rectified to the satisfaction of the Town within 72 hours of notification at no cost to the Town.

**BID FORM**  
**CONTRACTOR'S BID**  
**FOR**  
**NORTH BEACH, MARYLAND**

***North Beach Flood Pump/Equipment Project - 5<sup>th</sup> Street***

THIS BID IS SUBMITTED TO:  
THE TOWN OF NORTH BEACH (OWNER)  
8916 CHESAPEAKE AVENUE, PO BOX 99  
NORTH BEACH, MARYLAND 20714

via email to: northbeach@northbeachmd.org

BY: BIDDER'S NAME AND ADDRESS:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Telephone: \_\_\_\_\_

1.01 The undersigned bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER to perform all Work as specified or indicated in the RFP for the prices and within the times indicated in this RFP and in accordance with the other terms and conditions of the RFP.

2.01 Bidder accepts all the terms and conditions of the documents included with the Request for Proposal, including without limitation those dealing with the disposition of Bid security.

3.01 In submitting this Bid, Bidder represents, as set forth in the Agreement, that:

- A. Bidder has examined and carefully studied the RFP documents, all Attachments and all other related data identified in the RFP, receipt of all, which is hereby acknowledged:

Initial Acknowledgement & Date\_\_\_\_\_

- B. Attended the mandatory Pre-Bid Meeting with the Public Works Director

Initial Acknowledgement & Date: \_\_\_\_\_

- C. Bidder is familiar with and is satisfied as to all Federal, State, and local laws and regulations that may affect cost, progress, and performance of the Work.
- D. The bidding documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

4.01 Bidder acknowledges that Bidder's price(s) constitutes Bidder's sole compensation for performing all work required by the Contract Documents and RFP, and if a particular part of the Work is not listed in the Bid Item Descriptions, Bidder has included that part of the Work in the Bid Item Description which it most logically belongs.

5.01 Schedule of Bid Items:

1) Total price for the proposal purchase and complete installation for 5<sup>th</sup> Street Flood/Pump Equipment project:

\$\_\_\_\_\_



5.02 Itemized Schedule of Bid Items:

Make and Model of Pumps. (Bid should be for the specific make/model included in Attachment A. If you are pricing a different make/model pump it must be comparable to the pumps outlined in the specification documents.

Pump make/model: \_\_\_\_\_

Pumps \$ \_\_\_\_\_

Control panel and related wiring \$ \_\_\_\_\_

Existing demolition \$ \_\_\_\_\_

New tideflex check valve \$ \_\_\_\_\_

NOTE: The total in 5.02 Itemized Schedule of Bid Items must match the total price in 5.01. If there are other costs associated with this Bid that do not appear in the Itemized Schedule of Bid Items, please include in the Item that best matches the work.

5.03 Signature of Bid Submission

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

All questions related to this RFP shall be sent to Donnie Bowen at: [dbowen@northbeachmd.org](mailto:dbowen@northbeachmd.org) and questions related to the Bid Form shall be sent to Stacy Milor, Town Clerk, at [northbeach@northbeachmd.org](mailto:northbeach@northbeachmd.org) or by phone at 443-646-2415.

## AGREEMENT

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by the Town of North Beach (“the Town”), a municipal corporation of the State of Maryland, and \_\_\_\_\_ (“the Contractor”) with its principal offices at \_\_\_\_\_.

In consideration of the mutual covenants and obligations contained herein, the sufficiency of which is hereby acknowledged, the Town and the Contractor hereby agree as follows:

### 1. Services Provided:

The Town of North Beach is seeking proposals to upgrade the 5<sup>th</sup> Street Pump Station.

Request for Bids, dated \_\_\_\_\_  
Contractor’s Response to the Request for Bids, dated \_\_\_\_\_  
Non-Collusion Affidavit (will provide)  
Statement Under Oath to Accompany Bid (will provide)  
Reference List provided by Contractor  
Notice of Award (when awarded)  
Certificate of Insurance  
Notice to Proceed (when issued)

The Contractor agrees to perform the work within 60 days of receipt of materials once the Notice to Proceed is received. The Town retains the right to reduce the scope of the Services to accomplish the project within the Town’s established budget and schedule. Time is of the essence in the completion of this contract.

The Contractor will furnish all equipment needed to perform the Services (the “Contractor’s Equipment”).

**2. Fees:** The Town hereby agrees to pay the Contractor as full consideration for the Contractor’s satisfactory performance of its obligations under this Agreement the sum of \_\_\_\_\_

Dollars (\$) payable in a lump sum following the conclusion of the services and acceptance by the Town. The Contractor may submit monthly billings in an amount proportional to the quantity of work performed. Billings are payable with 30 days of receipt by the Town of North Beach after the Director of Public Works has approved the billing.

**3. Binding Effect of Agreement:** This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

**4. Notices:** All notices or other communications required or permitted hereunder shall be in writing and delivered either (a) by hand or (b) by email and by mail , postage prepaid, certified or registered return receipt requested, addressed as follows:

To the Town: Stacy Milor, Town Clerk  
PO Box 99  
8916 Chesapeake Ave  
North Beach, Maryland 20714  
[northbeach@northbeachmd.org](mailto:northbeach@northbeachmd.org)

With a copy to: Elissa D. Levan, Esquire  
Town Attorney  
Funk & Bolton, P.A.  
100 Light Street, Suite 1400  
Baltimore, MD 21202  
Fax: (410) 659-7773  
[elevan@fblaw.com](mailto:elevan@fblaw.com)

**5. Other Payments, Taxes, Expenses:** Except as may be specifically agreed upon by the parties in writing, the Contractor shall be entitled to no fees, bonuses, contingent payments, or any other amount in connection with the services to be rendered or materials provided hereunder. The parties hereto further agree that the Town shall have no obligation to reimburse, pay directly or otherwise satisfy any expenses of the Contractor in connection with the performance of his obligations under this Agreement, including, but not limited to, the cost of any insurance or license fees.

It is expressly understood and acknowledged by the parties hereto that the fees payable hereunder shall be paid in gross amount, without reduction for any Federal or State withholding or other payroll taxes, or any other governmental taxes or charges. The parties hereto further recognize that the Contractor is an independent contractor of the Town and is therefore responsible for directly assuming and remitting any applicable Federal or State withholding taxes, estimated tax payments, or any other fees, taxes, or expenses whatsoever. If the Contractor is deemed not to be an independent contractor by any local, state, or federal government agency, the Contractor agrees to indemnify and hold harmless the Town for any and all fees, costs and expenses, including but not limited to, attorneys' fees, incurred thereby.

**6. Insurance:** The Contractor covenants to maintain the insurance coverages set forth herein for the full term of the Contract. The Contractor further agrees to provide Certificates of Insurance upon signing this Agreement and such Certificates shall be on an occurrences basis and shall either (a) provide that the Town shall be given at least thirty (30) days prior written notice of the cancellation of, intention not to renew, or material change in the coverage or (b) provide that the Town shall be given such notice of the cancellation of, intention not to renew, or material change in the coverage as is

required by the terms of the Contractor's policy or policies of insurance. In the case of construction contracts, insurance shall include completed operations and contractual liability coverage. All Certificates must name the Town as an additional insured.

A. **Workers' Compensation Insurance:** The Contractor shall comply with the requirements and benefits established by the State of Maryland for the provision of Workers' Compensation Insurance and must submit an insurance certificate as proof of coverage prior to contract approval. If the Contractor claims an exemption for any employee of the Contractor, the Contractor must submit to the Town a copy of the relevant filing with the Maryland Workers' Compensation Commission.

B. **Comprehensive General Liability Insurance:** The Contractor shall provide general liability insurance, in the following amounts and shall submit an insurance certificate as proof of coverage prior to contract approval:

1. Personal injury liability insurance with a limit of \$1,000,000.00 for each occurrence and \$1,000,000.00 aggregate, where insurance aggregates apply.
2. Property damage liability insurance with limits of \$250,000.00 for each occurrence and \$500,000.00 aggregate, where aggregates apply.

C. **Automobile Liability Insurance.** Motor vehicle insurance meeting the requirements of Maryland law and covering every vehicle and driver involved in providing the services, in the following amounts:

1. Bodily injury liability with limits of \$500,000.00 each person and \$1,000,000.00 each accident.

1. Professional Liability insurance with a limit of \$100,000 each accident.

**7. Doing Business in Maryland:** The Contractor warrants and represents that it has paid all taxes, fees and charges owed by it to any governmental entity. In addition, it warrants and represents that any parent or subsidiary or other business entity with which it is affiliated or has been affiliated has paid all taxes, fees and charges owed by it to any governmental agency accrued during any period during which the Contractor was affiliated with the entity. The Contractor warrants and represents that it (1) is either (a) incorporated in Maryland or (b) registered or qualified by the Maryland State Department of Assessments and Taxation (SDAT) as required by the Maryland Annotated Code, Corps. & Assocs. Article, to do business in Maryland and (2) is in good standing with SDAT.

**8. Compliance with Laws:** The Contractor shall, without any additional expense to the Town, be responsible for complying with all applicable laws, codes and regulations in connection with the services provided by the Contractor, including but not limited to obtaining any licenses required by the Contractor to perform the Services.

**9. Indemnification:** The Contractor shall be responsible for and indemnify, defend and hold the Town harmless from and against any and all claims for loss, personal injury and/or other forms of damage that may be suffered as a result of the Contractor's negligence or willful misconduct in the Contractor's performance of the Services, or that of its officers, employees, agents, subcontractors and invitees, or for any failure of the materials supplied under this contract or for any failure by the Contractor to perform the obligations of this Agreement, including but not limited to, attorneys fees and any other cost incurred by the Town in defending any such claim. The Contractor shall be responsible for and shall indemnify and hold the Town harmless against any claim for loss, howsoever arising or incurred, for damage that may occur to the Contractor's property or property of third parties that is being stored at the construction site and/or maintained/used by the Contractor in delivery of the Services.

**10. Not Assignable:** The Contractor shall not assign, transfer, or subcontract any interest, obligation or claim under this Agreement except as may be agreed upon and authorized in writing by the Town and no contract shall be made by the Contractor with any other party for furnishing any of the Services without the prior approval of the Town.

**11. Relief:** In the event of a breach or a threatened breach by the Contractor of any provision of the Agreement, the Contractor recognizes the substantial and immediate harm that a breach or threatened breach will impose upon the Town, and further recognizes that in such event monetary damages will be inadequate to fully protect the Town. Accordingly, in the event of a breach or threatened breach of this Agreement, the Contractor consents to the Town's entitlement to such ex parte, preliminary, interlocutory, temporary, or permanent injunctive, or any other equitable relief, protecting and fully enforcing the Town's rights hereunder and preventing the Contractor from further breaching any of his obligations set forth herein. The Contractor expressly waives any requirement based on any statute, rule of procedure, or other source, that the Town post a bond as a condition of obtaining any of the above-described remedies. Nothing herein shall be construed as prohibiting the Town from pursuing any other remedies available to the Town at law or in equity for such breach or threatened breach, including the recovery of damages from the Contractor.

**12. Town's Right to Terminate:** The Services may be terminated immediately by the Town upon written notice in whole or in part, when the Town, in its sole and absolute discretion, determines such action to be in its best interests and shall be terminated whenever adequate funds have not been appropriated by the Town Council in the annual budget for the purpose set forth herein. The Contractor is advised that the Town does not guarantee the appropriation of funds for any subsequent fiscal year (beginning July 1). The Contractor shall not perform services in any fiscal year following the current fiscal year without verification from the Director of Finance that adequate funds have been appropriated for that purpose in the budget for the relevant fiscal

year. Upon termination, the Town shall be liable to the Contractor only for payment for services provided prior to the effective date of the termination.

**13. Entire Understanding:** This Agreement contains the entire understanding between the parties, and any additions or modifications hereto may only be made in writing, executed by both parties.

**14. Liquidated Damages:** It is acknowledged that the Contractor's failure to complete the Services within the time provided for in the Contract Documents will cause the Town to incur economic and non-economic damages and losses of types and in amounts that are impossible to compute and ascertain with certainty and accuracy so as to be a basis for recovery by the Town of actual damages, and that the liquidated damages set forth herein represent a fair, reasonable and appropriate estimate thereof. Accordingly, in lieu of actual damages for such delay, the Contractor agrees that liquidated damages may be assessed and recovered by the Town as against the Contractor and its Surety, in the event of delayed completion and without the Town being required to present any evidence of the amount or character of actual damages sustained by reason of the delay. The Contractor shall be liable to the Town for payment of liquidated damages in the amount of \$1,000 per day for each day that the Services are delayed beyond the time for performance set forth in the Contract Documents. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty and the Contractor shall pay them to the Town without limiting the Town's right to terminate the Agreement for default as provided elsewhere herein.

**15. Applicable Law:** This Agreement shall be interpreted in accordance with the laws of the State of Maryland. Any suit to enforce the terms hereof or for damages or other remedy for breach or anticipated breach hereof shall be brought exclusively in the courts of the State of Maryland for Calvert County and the parties expressly acknowledge that venue is proper therein and consent to the jurisdiction thereof and waive any right that they may otherwise have to bring such action in or, transfer or remove such suit in or to the courts of any other jurisdiction.

**16. Conflict of Interest:** The person executing this Agreement on behalf of the Contractor certifies that he understands the provisions of the Town Charter and Code dealing with conflicts of interest and the prohibition of the solicitation or acceptance of gifts.

**17. Set-Off:** In the event that the Contractor shall owe an obligation of any type whatsoever to the Town at any time during the term hereof, or after the termination of the relationship created hereunder, the Town shall have the right to offset any amount so owed the Contractor against any compensation due to the Contractor for the provision of the Services.

**18. Severability:** If any term or provision of this Agreement shall be held invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be enforced to the fullest extent permitted by law.

**19. Record Retention, Audits, and Inspections:** The Contractor shall:

A. Retain all financial and programmatic records for a period of three (3) years from the date of issuance of final payment hereunder.

B. Permit the Town to have access to all records, including all subcontracts covered by this Agreement for the purpose of making audits, examinations, reproductions, excerpts, and transcripts. Access shall be available at any time during normal business hours and as often as deemed necessary by the Town.

**IN WITNESS WHEREOF**, on the date hereinabove set forth, the parties hereto have executed this Agreement in two duplicate originals, any one of these shall be adequate proof of this Agreement without locating or accounting for the other.

WITNESS:

[CONTRACTOR]

\_\_\_\_\_ By: \_\_\_\_\_  
[Insert name and title of signatory]

WITNESS:

TOWN OF NORTH BEACH

\_\_\_\_\_ By: \_\_\_\_\_  
Stacy Milor, Town Clerk Mike Benton, Mayor

Approved for form and legal sufficiency  
this \_\_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_  
Elissa D. Levan, Town Attorney