

TOWN OF CAPE CARTERET
IMMEDIATE RESPONSE – DEBRIS CLEARING

Upon receiving this proposal by internet or email, email ahuffman@capecarteret.org 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.

STATE OF NORTH CAROLINA

CONTRACT NO:

CARTERET COUNTY

CONTRACT FOR SERVICES

THIS CONTRACT, made this the ____ day of _____, 20____, by and between the TOWN OF CAPE CARTERET, NORTH CAROLINA, a Municipal Corporation located in Carteret County (hereinafter called "TOWN"); and _____, a corporation organized under the laws of the State of _____, with its principal office in _____ hereinafter called "CONTRACTOR").

W I T N E S S E T H:

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 documents consisting of, but not limited to: Advertisement, Instructions to Bidders, General Conditions, Technical Specifications, Scope of Work, Proposal and Affidavit, Contract and Performance and Payment Bonds, which are incorporated as if fully set out, for the following:

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PART I – INSTRUCTIONS TO BIDDERS

1.00 DEFINITIONS

- 1.01 Bidding Documents include the Invitation to Bid, Instructions to Bidders, The Bid Form and the proposed Contract Documents including any Addenda issued prior to the receipt of bids.
- 1.02 The Contract Documents proposed for the work may consist of Drawings, Specifications 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.

2.00 BIDDER REPRESENTATIVES

- 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 familiarized himself with local routes and critical facilities and conditions where the work is to be performed and has correlated his observations with the requirements of the Contract Documents.
 - C. No consideration will be given any Claim based on lack of knowledge of existing conditions except where Contract Documents make definite provisions for adjustments of cost or extension of time due to existing conditions that cannot be readily ascertained.
 - 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 shall promptly notify Mr. Zachary Steffey, Town Administrator, 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 shall

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make written request which shall reach the Public Services Director 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. Interpretations, corrections or changes of the bidding documents made in any other manner will not be binding, and Bidders shall not rely upon such interpretations, corrections, or changes.

4.00 **BIDDING PROCEDURE**

- 4.01 Sealed bids will be addressed to Mr. Zachary Steffey, Town Administrator and marked “IMMEDIATE RESPONSE - DEBRIS CLEARING CONTRACT” at 102 Dolphin St., Cape Carteret, NC 28584. Deadline for submittal of bids will be 1:00PM on Wednesday, June 19, 2019 at which time a bid opening and public reading will take place in a conference room made available in the Town Hall located at 102 Dolphin St., Cape Carteret, NC. Interested parties are recommended to attend the *Pre-bid Conference* scheduled at 10:00AM on Wednesday, June 12, 2019 in a conference room made available in the Town Hall located at 102 Dolphin St., Cape Carteret, NC. Following review of the proposals, a recommendation will be prepared for the Town’s Board of Commissioners.

- 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 shall be expressed in figures.

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

- 4.05 Failure to submit a Bid in the form requested or inclusion of any alternates, conditions, limitations or provisions not called for will render the bid irregular, and shall be considered sufficient cause for rejection of Bid.

- 4.06 Bids shall 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

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NINETY (90) calendar days following the time designed for receipt of bids, and each Bidder agrees in 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.

5.00 CONSIDERATION OF BIDS

5.01 Rejection of Bids: The TOWN shall 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 two (2) Contracts; a primary contract to be awarded to the lowest overall responsible Bidder and a secondary contract to the next overall lowest responsible Bidder, provided the Bid(s) have been submitted in accordance with the requirements of the Bidding Documents and does not exceed a fair and equitable rate. The TOWN shall 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 his judgment is in the TOWN’S best interest.

5.03 The primary Contractor will be the TOWN’S first call for this response phase of operation. The secondary contractor will be called if the primary contractor is not responsive or at the discretion of the TOWN when it is deemed necessary for more than one contractor to assist in this response and Scope of Work.

5.04 The Town of Cape Carteret 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 shall maintain at minimum the following limits of liability.

Workman's Compensation	\$ 500,000
Contractor's General Liability Ins.	\$ 1,000,000
Contractor's Vehicle Ins.	\$ 500,000

(Combined Single Limit – Bodily Injury and Property Damage)

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The contractor's Comprehensive General Liability Insurance shall include coverage for premises operations, independent contractors, completed operations, scope of work, products and contractual exposures as shall 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 subcontractor or any directly or indirectly employed by either of them. The Town of Cape Carteret 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.

7.00 **TIME/COMPLETION SCHEDULE**

7.01 This contract will be for any disaster deemed necessary for enactment of Phase I Debris Clearing by the Town Administrator, for clearing Vegetative and C&D debris from TOWN property, roads and rights-of-way for the period beginning July 1, 2019 and ending June 30, 2020.

7.02 All dates in this schedule are predicated on a contract being awarded. **CONTRACTOR will begin work within 24 hours of written notice to proceed**, as set forth in Part I, Section 32.00, by fax or email and followed by regular mail from the Town Administrator or his designee.

7.03 Completion will be at the discretion of the Town Administrator or his designee, and there will be no guarantee as to the minimum hours or number of pieces of equipment actually utilized. **However, CONTRACTOR will not exceed 70 working hours following initiation of the contract with out a written change order that specifically identifies the continuance of work to a new defined point of termination.**

8.00 **PAYMENT**

8.01 Payment will be made within thirty (30) days after submission of approved weekly pay applications (invoices). **Payment will be based on actual hours worked at the awarded unit price, idle equipment and idle personnel time will not be evaluated nor paid. Five percent (5%) of all invoices will be retained until the contract is complete to the satisfaction of the Town Administrator or his designee.**

8.02 Subcontractor payment verification. All subcontractors must register with the Town of Cape Carteret prior to beginning work for the Contractor. Each listed subcontractor will be required to confirm receipt of payment from Contractor

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through a “Subcontractor’s Final Affidavit, Waiver and Release” prior to the Town issuing final payment to the Contractor. Contractor will also prepare an Affidavit of Payment of Debts and Claims and to be verified with a Consent of Surety Company to Final Payment.

9.00 SAFETY

9.01 CONTRACTOR shall provide a safe working environment and will be solely responsible for maintaining safety, at all work sites. CONTRACTOR shall take all reasonable steps to insure safety for both workers and visitors any work site, to include traffic control.

10.00 LOCATIONS FOR DISPOSAL

10.01 Roadway debris clearing involves the opening of arterial roads and collector streets by moving debris to the shoulders of the road. **There is no attempt to physically remove or dispose of the debris.**

11.00 PERFORMANCE REQUIREMENTS

11.01 Town of Cape Carteret’s right to carry out the work:

If the CONTRACTOR defaults or neglects to carry out the work in accordance with the Contract Documents and fails 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 shall 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 shall 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;
- b. fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the CONTRACTOR and subcontractors;

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- c. persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
 - d. otherwise is guilty of substantial breach of a provision of the Contract Documents.
- 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 written notice, terminate employment of the CONTRACTOR and may:
- a. withhold payment;
 - b. accept assignment of subcontracts; activate secondary contractor; and/or
 - c. 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 shall not be entitled to receive further payment until the work is finished.
- 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 shall be paid to the CONTRACTOR. If such costs exceed the unpaid balance, the CONTRACTOR shall pay the difference to the TOWN. This obligation for payment shall 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 per the contract for work completed as of the date of termination.

13.00 PERSONNEL

- 13.01 It is mutually agreed that CONTRACTOR is an independent CONTRACTOR and not an agent of the TOWN, and as such the CONTRACTOR shall not be entitled to any TOWN employment benefits, such as, but not limited to, vacation, sick

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leave, insurance, workmen's compensation, or pension and retirement benefits.

14.00 CONFLICT OF INTEREST

14.01 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.

15.00 NON-WAIVER OF RIGHTS

15.01 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.

16.00 FINDINGS CONFIDENTIAL

16.01 All of the information, reports, cost estimates, plans, specifications and documents prepared or assembled by the CONTRACTOR under this agreement are the property of the TOWN. The CONTRACTOR agrees that any such documents shall not be made available to any individual or organization other than appropriate TOWN officials without prior written approval of the TOWN. Nothing contained in this paragraph shall be construed to prevent the CONTRACTOR from making information, reports and documents available to those individuals or firms directly concerned with the project involved with prior written agreement of the TOWN.

17.00 ENTIRE AGREEMENT

17.01 This agreement constitutes the entire understanding of the parties.

18.00 BINDING EFFECT

18.01 This agreement shall be binding upon the heirs, successors, assigns, agents, officials, employees, independent contractors, and subcontractors of the parties.

19.00 CONTINUING OBLIGATION

19.01 The parties will make and execute all further instruments and documents required to carry out the purposes and intent of the agreement.

20.00 REFERENCE

20.01 Use of the masculine includes feminine and neuter, singular includes plural; and

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captions and headings are inserted for convenience of reference and do not define, describe, extend or limit the scope of intent of the agreement.

21.00 INTERPRETATION

21.01 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.

22.00 PREAUDIT

22.01 This contract has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act as evidenced by TOWN Purchase Order Number, which will be created at time of need.

23.00 MINORITY BUSINESS ENTERPRISE (MBE) AND HISTORICALLY UNDERUTILIZED BUISNESSES (HUB)

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:

23.01 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.

23.02 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.

23.03 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.

23.04 Provide technical assistance as needed.

23.05 Promulgate and enforce contractual requirements that the general contractor or all construction projects shall exercise all necessary and reasonable steps to ensure that minority business enterprises participate in the work required in such construction

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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) and Historically Underutilized Businesses (HUB), 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 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 ensure 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 ensure that this special provision contained herein on Minority Business Enterprise is complied with.

24.00 IMMUNITY NOT WAIVED

24.01 This agreement is governmental in nature for the benefit of the public and is not intended to be for private profit or gain. Any fees charged hereunder are intended to reflect as closely as possible the TOWN'S actual cost and neither party intends to waive its sovereign immunity by reason of this agreement.

25.00 SAVING CLAUSE

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25.01 If any section, subsection, paragraph, sentence, clause, phrase or portion of this agreement is for any reason held invalid, unlawful, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

26.00 OTHER LAWS AND REGULATIONS

26.01 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 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.

26.02 CONTRACTOR, and any subcontractor it employs, complies 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).

26.03 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).

27.00 AMENDMENTS

27.01 This agreement shall not be modified or otherwise amended except in writing signed by the parties.

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28.00 NON-DISCRIMINATION - EQUAL EMPLOYMENT OPPORTUNITY

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

- 28.01 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
- 28.02 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.
- 28.03 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.
- 28.04 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.
- 28.05 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.
- 28.06 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

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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.

28.07 The CONTRACTOR will include the sentence immediately preceding paragraph (29.01) and the provisions of paragraphs (29.01) through (29.07) 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, 1 965, 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."

29.00 MINORITY BUSINESS ENTERPRISE (MBE) AND HISTORICALLY UNDERUTILIZED BUISNESSES (HUB)

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:

29.01 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.

29.02 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.

29.03 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.

29.04 Provide technical assistance as needed.

29.05 Promulgate and enforce contractual requirements that the general contractor or all

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construction projects shall exercise all necessary and reasonable steps to ensure 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) and Historically Underutilized Businesses (HUB), 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 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 ensure 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 ensure that this special provision contained herein on Minority Business Enterprise is complied with.

30.00 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

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standard. The venue for any litigation arising hereunder shall be Carteret County, North Carolina.

31.00 ACCESS TO RECORDS AND RECORD RETENTION

The following access to records requirements apply to this contract:

- 31.01 The contractor agrees to provide TOWN, North Carolina 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.
- 31.02 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.
- 31.03 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."
- 31.04 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.

32.00 WRITTEN NOTICE TO PROCEED

- 32.01 The TOWN shall issue an official written notice to proceed for the services referenced in this contract. The notice shall be sent via facsimile or email followed by regular mail. Under no circumstances shall the TOWN be liable for any services rendered unless the written notice to proceed has been sent and received by the Contractor. Contractor must acknowledge receipt of the written notice to proceed in writing to Mr. Zachary Steffey, Town Administrator either by email zsteffey@capecarteret.org or by fax (252) 393-6799.

33.00 INDEMNIFICATION

- 33.01 The Contractor agrees to indemnify, hold harmless and defend the Town from and against any and all liabilities, suits, actions, legal proceedings, claims, demands, damages, costs and expenses (including attorney's fees) arising out of any act or omission of the Contractor, its agents, subcontractors or employees in the performance of this Contract.

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34.00 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION

34.01 No subcontractor or lower-tier subcontractor subcontracting for any or part of the subcontract work which may require or involve the employment of laborers or mechanics (see Federal Acquisition Regulation (FAR) 22.300) shall require or permit any such laborers or mechanics in any workweek in which the individual is employed in such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in any workweek. 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

35.00 E-VERIFY CERTIFICATION

35.01 NCGS 143-133.3 prohibits the Town from entering into contracts with contractors and subcontractors who have not complied with the requirement of Article 2 of Chapter 64 of the North Carolina General Statutes. Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if contractor utilizes a subcontractor, contractor shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

36.00 DHS SEAL, LOGO, AND FLAGS

36.01 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.

37.00 NO OBLIGATION BY FEDERAL GOVERNMENT

37.01 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.

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PART I – INSTRUCTIONS TO BIDDERS

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.

38.00 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.

25.00 NO OBLIGATION BY FEDERAL GOVERNMENT

25.01 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.

TOWN OF CAPE CARTERET
IMMEDIATE RESPONSE – DEBRIS CLEARING

PART I – INSTRUCTIONS TO BIDDERS

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.

26.00 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.

27.00 DRUG FREE WORKPLACE REQUIREMENTS

Drug-free workplace requirements in accordance with Drug Free Workplace Act of 1988 (Pub 100-690, Title V, Subtitle D). All contractors entering into federal funded contracts over \$100,000 must comply with Federal Drug Free workplace requirements as Drug Free Workplace Act of 1988.

TOWN OF CAPE CARTERET
IMMEDIATE RESPONSE – DEBRIS CLEARING

PART II – SCOPE OF WORK

1.00 **GENERAL**

- 1.01 The CONTRACTOR shall comply with all applicable Federal, State and Local codes, ordinances and requirements of all agencies having jurisdiction. The CONTRACTOR will be responsible for obtaining all necessary licenses to complete the scope of work. The Town of Cape Carteret will obtain any Right of Entry required to complete the “Scope of Work”.
- 1.02 Performance: The quality, of workmanship concerning the clearing of Vegetative and C&D Debris must reflect professional work and conduct.

2.00 **SCOPE OF WORK**

- 2.01 Town of Cape Carteret will identify critical routes and facilities that are essential to emergency operations and resumption of critical services and prioritize routes and facilities to be cleared.
- 2.02 A daily meeting will be required between CONTRACTOR and the Public Works Supervisor, or his designee. In this meeting a written report is required from the CONTRACTOR on the current status of clearing efforts, location of crews, identifying any problems, and the anticipated completion of clearance of the critical route(s)/facilities assigned. This meeting will be the basis for determining the next route(s) and/or facility(s) to be cleared with the ultimate the goal of completing clearing of all critical route(s) and/or facility(s) and terminating the Immediate Response Debris Clearing efforts.
- 2.03 CONTRACTOR will clear the identified critical route(s)/facilities by moving debris to the shoulders of the road. There is no attempt to physically remove or dispose of the debris, only to clear key access routes.
- 2.04 Special crews equipped with chain saws may be required to cut up downed trees. This activity is hazardous, and common sense safety considerations are necessary to reduce the chance of injury and possible loss of life.
- 2.05 When electric lines are involved, work crews must coordinate with utility companies to insure that power lines are de-energized for safety reasons.
- 2.06 The CONTRACTOR will be responsible for damages caused by the CONTRACTOR to both private and public property.
- 2.07 CONTRACTOR is to be fully aware of the Town of Cape Carteret’s incorporated limits and will not remove debris outside of the limits. CONTRACTOR is solely responsible for any debris removal conducted outside of the incorporated limits or

TOWN OF CAPE CARTERET
IMMEDIATE RESPONSE – DEBRIS CLEARING

PART II – SCOPE OF WORK

determined FEMA ineligible. The Town of Cape Carteret will have no obligation for payment for any work conducted outside of the incorporated limits or determined FEMA ineligible.

3.00 UNIT PRICE SCHEDULE

The contract will be for payment on time of use price basis for clearing critical route(s)/facilities by moving debris to the shoulders of the road. There is no attempt to physically remove or dispose of the debris, only to clear key access routes. Equipment rates will include qualified operator. Unit prices include all necessary, mobilization, insurance, overhead, profit and applicable taxes. Only hours of actual work will qualify for payment; no equipment maintenance time, no idle equipment time or idle personnel time will be evaluated or reimbursed. No minimum or maximum quantity of equipment or hours of operation is implied or inferred by this contract.

TOWN OF CAPE CARTERET
IMMEDIATE RESPONSE – DEBRIS CLEARING

PART III – FORM OF PROPOSAL

TO: Mr. Zachary Steffey, Town Administrator
 Town of Cape Carteret
 102 Dolphin St
 Cape Carteret, NC 28584

DATE: _____ FROM: _____
 (Bidder/CONTRACTOR)

PHONE: _____ ADDRESS: _____

UNIT PRICE BID: The undersigned, having carefully examined the Instructions to Bidders, ***TOWN OF CAPE CARTERET – IMMEDIATE RESPONSE – DEBRIS CLEARING*** dated April 23, 2019 including the following addenda:

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 documents for the following unit price amounts.

Equipment with Operator(s)

<u># Units Available</u>	<u>Type Equipment/Description</u>	<u>Hourly Rate/Unit</u>
	Single Axle Dump Truck, 6-10 cy capacity, w/ Operator	
	Tandem Dump Truck, 12-18 cy capacity, w/ Operator	
	Tri-axle Dump Truck, 19-25 cy capacity, w/ Operator	

TOWN OF CAPE CARTERET
IMMEDIATE RESPONSE – DEBRIS CLEARING

PART III – FORM OF PROPOSAL

<u>Available</u>	<u>Type Equipment/Description</u>	<u>Hourly Rate/Unit</u>
	Tractor Trailer Dump Truck, 26+ cy capacity, w/ Operator	
	Knuckleboom (wheeled), 10 ton lifting capacity, w/ Operator	
	Excavator (wheeled), Hydraulic, 1-2 cy bucket, w/ Operator	
	Excavator (wheeled), Hydraulic, 2-3 cy bucket, w/ Operator	
	Backhoe (wheeled, to include Skid Steers/Bobcats), with loader, 1cy bucket, w/ Operator	
	Backhoe (wheeled), with loader, 1.5cy bucket, w/ Operator	
	Front-end loader (wheeled), 1.5 – 3 cy bucket, w/ Operator	
	Front-end loader (wheeled), 3 - 4 cy bucket, w/ Operator	
	Chainsaw, not less than 16” bar, w/ Operator	

TOWN OF CAPE CARTERET
IMMEDIATE RESPONSE – DEBRIS CLEARING

PART III – FORM OF PROPOSAL

<u># Units Available</u>	<u>Type Equipment/Description</u>	<u>Hourly Rate/Unit</u>
<input type="text"/>	Laborer, with hand tools (i.e. shovels, axes, rakes, traffic control flags, etc.)	<input type="text"/>

Company Name

Signature

Title

State of Incorporation

(Corporate Seal)

TOWN OF CAPE CARTERET
PHASE II - DEBRIS REMOVAL CONTRACT

PART IV – STATEMENT OF ASSURANCES &
COMPLIANCE

The undersigned, as bidder certifies that the General Conditions and Instructions to Bidders found in the bidding document dated April 23, 2019, have been read and understood.

The bidder hereby provides assurance that the Firm represented and it's 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, he or she shall attach an explanation to this application.

2.00 Will comply with all requirements, stipulations, terms and conditions as stated in the bid document:

3.00 Currently complies with all applicable State and Federal Laws:

4.00 Is not guilty of collusion with the vendors possibly interested in this bid or in determining prices to be submitted: and

TOWN OF CAPE CARTERET
PHASE II - DEBRIS REMOVAL CONTRACT

PART IV – STATEMENT OF ASSURANCES &
COMPLIANCE

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

Signature

Name of Firm Representative

Title

TOWN OF CAPE CARTERET
PHASE II - DEBRIS REMOVAL CONTRACT

PART IV – STATEMENT OF ASSURANCES &
COMPLIANCE

Address of Firm Telephone Number

Date

State of Incorporation (Corporate Seal)

TOWN OF CAPE CARTERET
IMMEDIATE RESPONSE – DEBRIS CLEARING

PART V – EXECUTION OF AGREEMENT

STATE OF NORTH CAROLINA

CONTRACT NO: _____

COUNTY OF CARTERET

AGREEMENT BETWEEN

THE TOWN OF CAPE CARTERET, NORTH CAROLINA

AND

THIS AGREEMENT, made this the _____ day of _____, 2019, by and between the TOWN OF CAPE CARTERET, 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 – IV, TOWN OF CAPE CARTERET, IMMEDIATE RESPONSE – DEBRIS CLEARING CONTRACT, containing specifications and documents consisting of, but not limited to: Scope of Services, Advertisement, Instructions to Bidders, General Conditions, Technical Specifications, Proposal and Affidavit, and Performance, which are incorporated as if fully set out, for the following:

CONTRACTOR will clear the identified critical route(s)/facilities by moving debris to the shoulders of the road. There is no attempt to physically remove or dispose of the debris, only to clear key access routes.

STATEMENT OF AGREEMENT

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

- 1) AVAILABILITY. Contractor agrees to make available for use within the Town of CAPE CARTERET the equipment and manpower necessary to quickly and

TOWN OF CAPE CARTERET
IMMEDIATE RESPONSE – DEBRIS CLEARING

PART V – EXECUTION OF AGREEMENT

efficiently perform the Work following a storm event when directed to do so by the authorized officials of the Town of Cape Carteret.

- 2) WORK. The work is described in the TOWN OF CAPE CARTERET, IMMEDIATE RESPONSE – DEBRIS CLEARING CONTRACT Bid Documents under Part II “Scope of Work.”
- 3) INCORPORATION OF BID DOCUMENTS. The instructions to bidders captioned “TOWN OF CAPE CARTERET, IMMEDIATE RESPONSE – DEBRIS CLEARING CONTRACT” consisting of thirty pages dated April 23, 2019 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 and Part V – Execution of Agreement, 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 per hour as set out in Part III – Form of Proposal of the TOWN OF CAPE CARTERET, IMMEDIATE RESPONSE – DEBRIS CLEARING CONTRACT Bid Documents, a signed copy of which is attached as part of this document.
- 5) AUTHORITY. Contractor shall be entitled to act upon verbal instructions given by the Public Works Supervisor, Town Administrator or Mayor of the Town of Cape Carteret, and shall not be required to determine whether approval of the full Board of Commissioners has been given for any requested work under this Contract.
- 6) TERM. This Contract shall be effective commencing July 1, 2019 and shall remain effective until June 30, 2020.
- 7) INDEMNITY. Contractor indemnifies and saves CAPE CARTERET, its officers 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 agreement.
- 8) COMPLETE AGREEMENT. This agreement contains the complete understanding between the parties, and any amendment shall 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 of Cape Carteret.

TOWN OF CAPE CARTERET
IMMEDIATE RESPONSE – DEBRIS CLEARING

PART V – EXECUTION OF AGREEMENT

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

TOWN OF CAPE CARTERET, NORTH CAROLINA

ATTEST: BY: _____
Mayor

TOWN Clerk

FINANCE OFFICER’S CERTIFICATION STATEMENT

This instrument has been pre-audited in the manner required by the Local Government

Finance Officer

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 Ashleigh Huffman personally came before me this day and acknowledged that she is TOWN Clerk for the TOWN of CAPE CARTERET, a North Carolina Municipal Corporation, and that by authority duly given and as the act of the TOWN of CAPE CARTERET, 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

(SEAL)

My Commission Expires: _____

TOWN OF CAPE CARTERET
IMMEDIATE RESPONSE – DEBRIS CLEARING

PART V – EXECUTION OF AGREEMENT

Name of Company: _____

ATTEST:

BY:

TITLE:

TITLE:

(CORPORATE SEAL)

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public, certify that the corporation's Secretary, Assist. 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 _____, Mr./Mrs./Ms. _____, sealed with its Corporate Seal, and attested by himself (herself) as its Secretary, Assist. Secretary or Trust Officer.

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

Notary Public

My commission expires: _____

(SEAL)