983

Robert O. Oakes, Jr.
Mayor

Doug Remaley
Mayor Pro Tem

Cliff Ogburn
Town Manager

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Anna D. Sadler
Commissioner

M. Renée Cahoon
Commissioner

Susie Walters
Commissioner

NORTH CAROLINA
DARE COUNTY

SERVICE CONTRACT
PURCHASE ORDER #

THIS CONTRACT is made and entered into this the **10th day of August, 2012**, by and between the TOWN OF NAGS HEAD, a public body corporate of the State of North Carolina, (hereinafter referred to as "the TOWN") party of the first part and **Environmental Professionals, Inc.** (hereinafter referred to as "CONTRACTOR"), party of the second part.

1. SERVICES TO BE PROVIDED AND AGREED CHARGES

The services and/or material to be furnished under this contract (hereinafter referred to collectively as "SERVICES") and agreed charges are as follows:

Contractor will provide the Labor, Material, Equipment and services to collect and sample per schedule provided to contractor.

Contractor will be paid for these services following provided monitoring schedule.

Total contract price will not exceed more than **$31,556.00** unless otherwise requested or authorized by the Town of Nags Head, and to be paid per invoices received by the Town upon acceptance of work by Town during contract term. (see attached schedule)

Liquidated damages:
For each day in excess of the number of days allowed to complete the project, the contractor shall pay to the Town the sum of $50.00 as liquidated damages reasonably estimated in advance to cover the costs and/or losses incurred by the Town by the failure of the contractor to complete the work in the time specified, such time being of the essence of this contract and a material consideration thereof. Notwithstanding the foregoing, liquidated damages shall not be assessed for delay in services due to acts of God.

2. DESCRIPTION OF PROJECT

To collect and sample water quality monitoring sites per attached schedule (surface water and well monitoring samples) in Nags Head, NC per the Water Quality Monitoring Program (Septic Health Initiative).

Following is a list of field data criteria to be sampled for at all sites:

Oxygen Saturation or Dissolved Oxygen (DO mg/L)
ph- ph Units
Salinity- mg/L*
Specific Conductance- umhos/cm
Field temperature- temp Celsius
Turbidity- NTU

Ammonia Nitrogen (NH3- N mg/L), Nitrate Nitrogen (NO3-N mg/L), Nitrite Nitrogen (NO2-N mg/L) and Total Phosphorous (P mg/L) will be sampled for at all sites and analyzed at the laboratory.
Well depth measurements will be taken at every well monitoring site.
Bacteria indicator types, Fecal Coliforms and Enterococcus (per Col/100ML), will be sampled for at surface water monitoring sites on schedule. Fecal Coliforms, only, will be measured at well **monitoring sites.**

3. TERM OF CONTRACT

The term of this CONTRACT for SERVICES is from **August 10, 2012 to June 30, 2013**. Either party may cancel this contract on thirty (30) days written notice to the other party by certified mail or personal delivery. This contract is subject to the availability of funds to purchase the specified SERVICES and may be terminated at any time if such funds become unavailable.

4. PAYMENT TO CONTRACTOR

The TOWN agrees to pay at the rates specified for SERVICES satisfactorily performed in accordance with this contract. The TOWN will not be responsible for payment of samples not previously authorized nor shall the TOWN pay for samples not gathered and analyzed due to inclement weather, damage, acts of God or any other reason that might cause a site to not be sampled. Unless otherwise specified, the CONTRACTOR shall submit an itemized invoice to the TOWN by the end of the month during which SERVICES are performed. Payment will be processed promptly upon receipt and approval by the TOWN of the invoice.

5. INDEPENDENT CONTRACTOR

Both the TOWN and the CONTRACTOR agree that the CONTRACTOR shall act as an independent contractor and shall not represent itself as an agent or employee of the TOWN for any purpose in the performance of the CONTRACTOR'S duties under this contract. Accordingly, the CONTRACTOR shall be responsible for payment of all Federal, State and local taxes arising out of the CONTRACTOR'S activities in accordance with this contract, including by way of illustration by not limitation, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, and any other taxes or business license fees as required.

In performing the SERVICES, the CONTRACTOR is acting as an independent contractor and shall perform SERVICES in accordance with currently approved methods and practice in the CONTRACTOR'S professional capacity and in accordance with the standards of applicable professional organizations and licensing agencies.

6. INSURANCE AND INDEMNITY

The CONTRACTOR shall indemnify and save harmless the TOWN, its agents and employees from and against all actions, liability, claims, suits, damages, cost or expenses of any kind which may be brought or made against the TOWN or which the TOWN must pay and incur by reason of or in any manner resulting from injury, loss or damage to persons or property resulting from negligent performance of or failure to perform any of its obligations under the terms of this CONTRACT.

The CONTRACTOR shall be fully responsible to the TOWN for the acts and omissions of its sub-contractors and of persons either directly or indirectly employed by it, as the CONTRACTOR is for the acts and omissions of persons directly employed by it.

In addition, the CONTRACTOR shall comply with the North Carolina Worker's Compensation Act and shall provide for the payment of workers' compensation to its employees in the manner and to the extent required by such Act. In the event the CONTRACTOR is excluded from the requirements of such Act and does not voluntarily carry workers' compensation coverage, the CONTRACTOR shall carry or cause its employees to carry adequate medical/accident insurance to cover any injuries sustained by its employees or agents during the performance of SERVICES.

The CONTRACTOR agrees to furnish the TOWN proof of compliance with said Act or adequate medical/accident insurance coverage upon request.

The CONTRACTOR upon request by the TOWN shall furnish a Certificate of Insurance from an insurance company, licensed to do business in the State of North Carolina and acceptable to the TOWN verifying the existence of any insurance coverage required by the TOWN. The Certificate will provide for sixty (60) days advance notice in the event of termination or cancellation of coverage.

7. HEALTH AND SAFETY

The CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. The CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees from the work and other persons who may be affected thereby.

8. NON-DISCRIMINATION IN EMPLOYMENT

The CONTRACTOR shall not discriminate against any employee or applicant for employment because of age, sex, race, creed, or national origin. The CONTRACTOR shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their age, sex, race, creed, or national origin. In the event the CONTRACTOR is determined by the final order of an appropriate agency or court to be in violation of any non-discrimination provision of federal, state or local law or this provision, this Contract may be cancelled, terminated or suspended in whole or in part by the TOWN, and the CONTRACTOR may be declared ineligible for further contracts.

9. GOVERNING LAW

This contract shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this contract shall be brought in the General Court of Justice of the State of North Carolina or in the Federal District Court for the Eastern District of North Carolina.

10. OTHER PROVISIONS

This Contract is subject to such additional provisions as are set forth in any addendum executed separately by each party and attached hereto.

11. CONTRACT DOCUMENTS/AMENDMENTS

This document together with the purchase order and any attached exhibits constitutes the entire Contract between the said two parties and may only be modified by a written mutual agreement signed by the parties and attached hereto.

12. SIGNATURES

Both the TOWN and the CONTRACTOR agree to the above contract.

Witnessed or Attested By:

Carolyn F. Morris

THE TOWN OF NAGS HEAD N.C. 1961

TOWN OF NAGS HEAD

By: [signature]

Title: Town Manager

Date: 8-16-12

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CONTRACTOR

By: [signature]

Title: President

Date: August 10, 2012

"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act."

[signature] 8-16-12

Finance Officer

APPROVED AS TO FORM AND LEGAL SUFFICIENCY.

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TOWN ATTORNEY