



TOWN OF SOUTHERN SHORES
TOWN COUNCIL REGULAR MEETING

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

www.southernshores-nc.gov

PITTS CENTER

Tuesday, July 11, 2023 at 5:30 PM

MINUTES

Call Meeting to Order

Pledge of Allegiance

Moment of Silence

Present

Mayor Elizabeth Morey

Mayor pro tem Matt Neal

Council Member Leo Holland

Council Member Paula Sherlock

Absent: Council Member Batenic

Agenda approval

Motion to approve the agenda as presented: Council Member Holland

Second: Council Member Sherlock

Vite: 4-0

Consent Agenda approval

1. Renewal-Disaster Related Debris Removal Agreement with NCDOT

2. Town Manager Contract Renewal-3 years

Motion to approve the consent agenda as presented: Council Member Sherlock

Second: Council Member Holland

Vote: 4-0

Employee Recognition

Mayor Morey recognized Town Clerk Sheila Kane and Sergeant Cooke for their 15 years of service, and Public Works Technician Frankie Powers for 5 years of service with the town.

Presentation

Jim Gould representing the OBX Bicycle and Pedestrian Safety Coalition presented a brief presentation summarizing, OBX Bicycle and Pedestrian Safety Coalition is "back on the move" spread their mission, "to help facilitate the education and awareness of practical bicycle and pedestrian safety to drivers, pedestrians, cyclists and all those who live or visit the Outer Banks of North Carolina in a positive and proactive manner." [copy of presentation is attached]

Mayor Morey stated in the same area of pedestrian bicycle safety, the town is in the process of supporting an educational video for pedestrian crosswalk safety. The town is also going to pursue grant funding for upgrading all of the pedestrian crosswalks on NC-12, in terms of safety.

Staff Report

Planning Director/ Deputy Town Manager Wes Haskett presented the permit reports for the month of May. He also reported the following updates:

Land Use Plan Update-The consultant is still working on the final draft. If it's completed in time, we may schedule a Special Planning Board meeting by the end of July for the Board to consider the final draft and possibly make a recommendation to Council. Once a recommendation to Council has been made, the plan will be sent to the N.C. Division of Coastal Management for its required review which could take 75 days or longer. Once we've received comments from DCM, the consultant will revise the plan accordingly and the Planning Board will consider it again (if needed) and then the Council can hold a public hearing and consider it.

Planning Board--The Town Planning Board will hold its regular meeting on July 17th at 5:00 p.m. here in the Pitts Center. The purpose of the meeting is for the Board to hold a Public Hearing to consider VA-23-01, a Variance application submitted by Lindsey Lupino to seek relief from Town Code Section 36-165(8) Table C., Permanent Signage in the Commercial District for the property located at 5500 N. Croatan Hwy. The Board may also consider TCA-23-02, a Town Code Amendment to relinquish ETJ over the Martin's Point Commercial properties.

Police Department-Police Chief David Kole presented the Police Department's report for the month of June.

Fire Department- Fire Chief Ed Limbacher presented the Fire Department's report for the month of June.

Town Manager Ogburn presented the following operational highlight:

- Quarterly financial update
- Fred Smith signed the contract for the street pavement project and work can start anytime now in late July or August, the end date on that project is October 13th.
- The town will start to implement the usage of a new financial software, ClearGov, enabling clear transparency of finances that can be posted on the town website.

Public Comment-none

Council Business

Council Member Holland provided the Tourism Board report for April. Occupancy collections were for the month of April down three percent and the current year to date is down one percent. Meals were up .4 percent and year to date up 5.6 percent.

Council Member Sherlock stated the Albemarle Rural Planning Organization is finally meeting in person in August. This is a group that sets legislative priorities for the Seven Counties in northeastern North Carolina.

Mayor Morey stated the next Council Meeting will be August 1st and would like to recognize Jam Media Solutions, which is the conglomerate that owns four of the radio stations here in the area, and they are currently running along with their weekend traffic reports the message that the residents of Southern Shores would like travelers going north to Duck and Corolla to please stay on NC12 and don't use the neighborhood streets of Southern Shores. She also stated staff is pursuing getting grant writing assistance from the North Carolina League of Municipalities and a consultant that another town in Dare County has used to pursue grant funding for projects such as, storm water mitigation projects and additional walking paths, and grant funding for upgrading the safety of the pedestrian crosswalks on NC-12.

Closed Session- pursuant to N.C.G.S. § 143-318.11(a)(3) & N.C.G.S. § 143-318.11(a)(5)

Motion: Council Member Holland moved to go into closed session pursuant to N.C.G.S. § 143-318.11(a)(3) & N.C.G.S. § 143-318.11(a)(5)

Second: Council Member Sherlock

Vote: 4-0

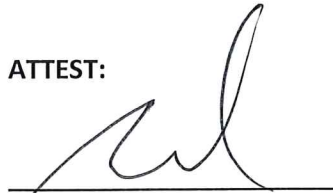
Adjourn

Motion: Council Member Holland moved to adjourn the meeting at 6:40 p.m

Second: Council Member Sherlock

Vote: 4-0

ATTEST:



Matt Neal, Mayor pro tem

Respectfully submitted,



Sheila Kane, Town Clerk

The attached documents are incorporated herewith and are hereby made a part of these minutes.

From: Spear, Caitlin A <caspear@ncdot.gov>
Sent: Friday, June 30, 2023 6:50 PM
To: Cliff Ogburn <cogburn@southernshores-nc.gov>
Cc: Ryder, Jeffrey D <jdryder@ncdot.gov>
Subject: Disaster Related Debris Removal Agreement with NCDOT

Good afternoon, Mr. Ogburn.

I appreciate your time today to discuss the past agreement held between the Department of Transportation and the Town of Southern Shores related to disaster debris removal, and I thank you for showing interest in renewing this agreement. For convenience, both the expired 2016 document and the proposed agreement form have been attached. Once the document is reviewed, please respond with your decision, and if approval is granted, please also return the executed document for further processing.

To provide additional information, the benefits of this agreement may be viewed to include more than just the clearing of debris from the roadway. Since, NCDOT is only allowed to address storm debris on state maintained roads, "white goods" (damaged household items) and all debris on non-state maintained routes remain the responsibility of local government entities. This agreement gives the opportunity for all or selective state roads within a local government's jurisdiction to be requested for release before or during each declared event as per the SSR-01 Form. This releases NCDOT from its authority for FEMA reimbursement to the requesting local government authority for the chosen roads as noted in the agreement. Once executed, this agreement shall remain in effect for five years unless other written action is received. Also, if needed, Raleigh has on-call contracts with various contractors which are available to local entities.

Please feel free to contact me if there are any questions or concerns.

Caitlin Spear, PE
Assistant District Engineer
Division One – District One
NC Department of Transportation

252 621 6400 office
caspear@ncdot.gov

1929 North Road Street
Elizabeth City, NC 27909



NORTH CAROLINA

**DISASTER RELATED DEBRIS REMOVAL
AGREEMENT**

DARE COUNTY

DATE: 9/29/2016

NORTH CAROLINA DEPARTMENT
OF TRANSPORTATION

AND

WBS Element: N/A

TOWN OF SOUTHERN SHORES

THIS SPECIAL AGREEMENT, hereinafter referred to as "AGREEMENT" is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the Town of Southern, Shores hereinafter referred to as the "Municipality," collectively referred to hereinafter referred to as "the Parties."

WITNESSETH:

WHEREAS, this AGREEMENT is made on the last date signed below between the Department and the Municipality for the emergency removal of disaster related debris during a State of Disaster or Imminent Threat of Disaster and/or a State of Emergency declared pursuant to the North Carolina General Statutes, Chapter 14 and Chapter 166A; and,

WHEREAS, during a declared State of Disaster or Imminent Threat of Disaster which implements the North Carolina Emergency Operations Plan, hereinafter referred to as "the NCEOP", the Department may be called upon to perform certain functions, including the removal of debris from the right of way of public roads and streets, pursuant to the NCEOP; and the Robert T. Stafford Disaster Relief and Emergency Assistance Act, herein referred to as the "Stafford Act", as it relates to this AGREEMENT; and,

WHEREAS, in certain instances, the Moving Ahead for Progress in the 21st Century Act, hereinafter referred to as "MAP-21," allows the Federal Emergency Management Agency, hereinafter referred to as "FEMA," to reimburse for debris removal on Federal Highway Administration, hereinafter referred to as "FHWA," routes; and,

WHEREAS, the Municipality has requested and the Department is in agreement that it be allowed the opportunity and responsibility to perform certain Department functions as set forth in the NCEOP, in order to assure that its citizens are served and protected; and,

WHEREAS, the Parties have conferred as to the best methods and practices to allow the Municipality to assume these responsibilities;

NOW, THEREFORE, the Parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

DEFINITIONS

1. For purposes of this AGREEMENT, the following definitions shall apply:
 - A. "State Routes" shall mean those roads maintained by the Department on the National Highway System, including US and NC Routes and Secondary Routes that are identified by a four-digit State Route (SR) number.
 - B. The term "disaster related debris" shall be such debris for which removal costs are considered eligible for reimbursement by FEMA during a particular State of Disaster, Imminent Threat of Disaster or State of Emergency.

DESCRIPTION OF WORK

2. The Municipality shall remove and dispose of disaster related debris on all released State Routes. In so doing, the Municipality shall comply with all State and Federal policies, guidance, and requirements regarding procurement, storm debris removal, monitoring and disposal including landfill quantity calculations and site disposal costs.
3. The Municipality shall remove all disaster related debris even if such removal requires multiple passes on a particular route and shall continue until the mutually agreed upon completion date. All work pursuant to this AGREEMENT shall be completed to the satisfaction of the Department's Division Engineer of the Transportation Division in which Municipality is located. The Division Engineer's decision as to the completeness of the work shall be final.

TIME FRAME

4. This AGREEMENT shall remain in effect for five (5) years from the date of execution included herein. This AGREEMENT may be extended for two (2) additional years, contingent upon the availability funds, if mutually agreed upon in writing by the Parties. On behalf of the Municipality, extensions may be authorized and executed by the City Manager or other official as designated without further resolution of the Municipality.
5. All work pursuant to this AGREEMENT shall be completed by a date mutually agreed to by the Division of Emergency Management (DEM), FEMA, the Department and Municipality.

REIMBURSEMENT FOR ELIGIBLE COSTS

6. The Municipality shall apply directly to FEMA for reimbursement of eligible debris removal costs in accordance with the rules, regulations and procedures of those agencies for such debris removal at that time. Any reimbursement must be governed by the current rules, regulations and procedures of those agencies for the specific State of Disaster, Imminent Threat of Disaster or State of Emergency, and the Department shall not be responsible for any portion of reimbursement costs whatsoever to Municipality.

PROCEDURES FOR REMOVAL OF DISASTER RELATED DEBRIS

7. During a State of Disaster or Imminent Threat of Disaster and/or a State of Emergency declared pursuant to Chapters 14 and 166A of the North Carolina General Statutes and upon a determination by the Parties that is desirable that Municipality be responsible for removal of debris from the right of way of State Routes, the Municipality shall submit a completed Request Release of State System Roads, Form SSR-01, (see Appendix A) to the Department's Division Engineer. This request, if approved, will release the identified State Routes to the Municipality for disaster related debris removal.
8. The Department will review the Municipality's *Request Release of State System Roads*, Form SSR-01 and respond in writing indicating whether the Department has approved or denied the request from the Municipality for removal of disaster related debris under the terms of this AGREEMENT. If approved, this action will be considered the Municipality's "Notice to Proceed" with the work.
9. When the Municipality is approved for the removal of disaster related debris on State Routes under the terms of this AGREEMENT, the Municipality will be responsible for complying with all Department rules, regulations and procedures including, but not limited to, safety, insurance, and traffic control in accordance with the Manual on Uniform Traffic Control Devices when undertaking the work.
10. The Municipality shall provide a written report to the Department's Division Engineer that includes a detailed description and quantities of the work accomplished for each Notice to Proceed issued by the Department within sixty (60) days of the completion of the work.
11. The Municipality shall be responsible for repair of any damages to the state maintained rights of way, which may be caused by debris removal operations undertaken pursuant to this AGREEMENT. All repairs shall be completed to the satisfaction of the Department's Division Engineer of the Transportation Division in which the Municipality is located. The Division Engineer's decision as to the completeness of the work shall be final.

PRINCIPAL REPRESENTATIVE

12. To provide consistent and effective communication between the Parties, each Party shall appoint a Principal Representative to serve as its central point of contact responsible for coordinating and implementing this AGREEMENT. Any notices required by this AGREEMENT shall be in writing and shall be personally delivered or sent by United States mail, First Class postage pre-paid to ensure delivery to the Parties, respectively, at the following addresses, unless a Party has been notified in writing by the other of a change of address:

To the Department:

Michael L. Holder, P.E.
Chief Engineer
North Carolina Department of Transportation
1501 Mail Service Center
Raleigh, North Carolina 27699-1501

To the Municipality:

Peter Rascoe, Town Manager
Town of Southern Shores
5375 N. Virginia Dare Trail
Southern Shores, NC 27949

ADDITIONAL PROVISIONS

13. This AGREEMENT may be amended at any time by mutual agreement of the Parties by a written Supplemental Agreement approved and signed by the Parties.
14. This AGREEMENT may be terminated by either Party upon submission of a thirty (30) day advance written notice of termination to the other Party, except in instances where there is active debris removal. In these instances where active debris removal is ongoing, the termination will be effective no sooner than thirty (30) days after the completion of all active debris removal already underway.
15. This AGREEMENT is solely for the benefit of the identified Parties to the AGREEMENT and is not intended to give any rights, claims, or benefits to third parties or to the public at large.
16. The Municipality shall comply with Title VI of the Civil Rights Act of 1964 (Title 49 CFR, Subtitle A, Part 21). Title VI prohibits discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

17. It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency. By execution of this AGREEMENT, the Municipality certifies, that neither it nor its agents or contractors performing work included in this AGREEMENT are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by a governmental department or agency.
18. The Municipality shall certify to the Department compliance with all State laws and regulations and ordinances that are applicable to the Municipality in connection with the work included in this AGREEMENT and shall indemnify the Department against any fines, assessments or other penalties resulting from noncompliance by the Agency or any entity performing work included in this AGREEMENT under contract with the Municipality.
19. The Municipality is solely responsible for all agreements, contracts, and work orders entered into or issued by the Municipality for the work included in this AGREEMENT. The Department is not responsible under this AGREEMENT for any expenses or obligations incurred for the work included in this AGREEMENT.
20. The Municipality agrees to indemnify and hold harmless the Department, FHWA and the State of North Carolina for any and all claims for payment, damages and/or liabilities of any nature including damage or injury to persons or to private property occurring as a result of the debris removal activities asserted against the Department in connection with this AGREEMENT. The Department shall not be responsible for any damages or claims, which may be initiated by third parties.
21. In compliance with state policy, the Municipality shall have a Conflict of Interest Policy for its employees, in addition to the statutory conflict of interest restrictions applicable to its directors.
22. All terms and conditions of this AGREEMENT are dependent upon, and subject to, the allocation of funds for the purpose set forth in the AGREEMENT and the AGREEMENT shall automatically terminate if funds cease to be available.
23. The Municipality and its agents shall maintain all books, documents, papers, accounting records, Project records and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. Further, the Municipality shall make such materials available at its office and shall require its agent to make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of the final payment, for inspection and audit by the Department's Financial Management Section, the Office of State Management and Budget, the FHWA, or any authorized representatives of the Federal Government.
24. In accordance with OMB Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations" (http://www.whitehouse.gov/omb/circulars_default) and the Federal Single Audit Act Amendments of 1996, the Municipality shall arrange for an

- annual independent financial and compliance audit of its fiscal operations. The Municipality shall verify to the Department that the annual independent audit report has been completed within nine (9) months after the Municipality's fiscal year ends.
25. The Department must approve any assignment or transfer of the responsibilities of the Municipality set forth in this AGREEMENT to other parties or entities.
 26. In no way shall it be construed or implied that either the Department or the Municipality is by this AGREEMENT intending to abrogate its obligation and duty to comply with the regulations promulgated under Federal and state law.
 27. This AGREEMENT contains the entire agreement between the Parties and there are no understandings or agreements, verbal or otherwise, regarding this AGREEMENT except as expressly set forth herein.
 28. The Parties hereby acknowledge that the individual executing the AGREEMENT on their behalf is authorized to execute this AGREEMENT on their behalf and to bind the respective entities to the terms contained herein and that he has read this AGREEMENT, conferred with his attorney, and fully understands its contents.
 29. A copy or facsimile copy of the signature of any Party shall be deemed an original with each fully executed copy of this AGREEMENT as binding as an original, and the Parties agree that this AGREEMENT can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the AGREEMENT.
 30. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).
 31. Pursuant to G.S. 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The Iran Divestment Act of 2015, G.S. 147-55 *et seq.* requires that each vendor, prior to contracting with the State, certify that the contracting party meets the requirements of the Iran Disinvestment Act. The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address www.nctreasurer.com/Iran and will be updated every 180 days.

- By execution of this AGREEMENT each Party certifies that neither it nor its Agents or Contactors/Subcontractors 1) are on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran; 2) shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List; and 3) that the undersigned are authorized by the Parties to make this Certification.
- During the term of this AGREEMENT, should the Parties receive information that a person is in violation of the Act as stated above, the Department will offer the person an opportunity to respond and the Department will take action as appropriate and provided for by law, rule, or contract. Should this Act be voided by NC General Statute, this AGREEMENT will remain valid; however this certification will no longer be required.

IT IS UNDERSTOOD AND AGREED that the approval of the Work by the Department is subject to the conditions of this AGREEMENT.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:
BY: [Signature]
TITLE: Town Clerk
DATE: 10/5/16

TOWN OF SOUTHERN SHORES
BY: [Signature]
TITLE: Town Manager
DATE: Oct 5, 2016

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

(SEAL)

[Signature]
(FINANCE OFFICER)

Federal Tax Identification Number
56-1247392

Remittance Address:
Peter Rascoe, Town Manager
Town of Southern Shores
5375 N. Virginia Dare Trail
Southern Shores, NC 27949

DEPARTMENT OF TRANSPORTATION
BY: [Signature]
(CHIEF ENGINEER)

DATE: 11/20/16

APPROVED BY BOARD OF TRANSPORTATION ITEM O: 11-3-2016

APPENDIX A

Request Release of State System Roads

FEMA - _____ - DR - NC

Requesting Applicant: _____

In accordance with the Agreement on file between the NCDOT and the Requesting Applicant listed above; the local government is hereby requesting the NCDOT to release its authority for FEMA reimbursement for emergency services to the local government authority for the State System Roads listed below.

- I. Release of all State System Roads
or
- II. Selective State System Roads as Follows:

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| Local Government Designated Agent: | |
| Date | |

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| North Carolina Department of Transportation | |
| Release by: | |
| Title: | |
| Date: | |

NORTH CAROLINA

**DISASTER RELATED DEBRIS REMOVAL
AGREEMENT**

DARE COUNTY

DATE:

NORTH CAROLINA DEPARTMENT
OF TRANSPORTATION

AND

WBS Element: N/A

TOWN OF SOUTHERN SHORES

THIS SPECIAL Agreement, hereinafter referred to as "Agreement" is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the Town of Southern Shores hereinafter referred to as the "Local Government," collectively referred to hereinafter referred to as "the Parties."

WITNESSETH:

WHEREAS, this Agreement is made between the Department and the Local Government for the emergency removal of disaster related debris during a State of Disaster or Imminent Threat of Disaster and/or a State of Emergency declared pursuant to the North Carolina General Statutes, Chapter 14 and Chapter 166A; and,

WHEREAS, during a declared State of Disaster or Imminent Threat of Disaster which implements the North Carolina Emergency Operations Plan, hereinafter referred to as "the NCEOP", the Department may be called upon to perform certain functions, including the removal of debris from the right of way of public roads and streets, pursuant to the NCEOP; and the Robert T. Stafford Disaster Relief and Emergency Assistance Act, herein referred to as the "Stafford Act", as it relates to this Agreement; and,

WHEREAS, in certain instances, the Moving Ahead for Progress in the 21st Century Act, hereinafter referred to as "MAP-21," allows the Federal Emergency Management Agency, hereinafter referred to as "FEMA," to reimburse for debris removal on Federal Highway Administration, hereinafter referred to as "FHWA," routes; and,

WHEREAS, the Local Government has requested and the Department is in agreement that it be allowed the opportunity and responsibility to perform certain Department functions as set forth in the NCEOP, in order to assure that its citizens are served and protected; and,

WHEREAS, the Parties have conferred as to the best methods and practices to allow the Local Government to assume these responsibilities;

NOW, THEREFORE, the Parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

DEFINITIONS

1. For purposes of this Agreement, the following definitions shall apply:
 - A. "State Routes" shall mean those roads maintained by the Department on the National Highway System, including US and NC Routes and Secondary Routes that are identified by a four-digit State Route (SR) number.
 - B. The term "disaster related debris" shall be such debris for which removal costs are considered eligible for reimbursement by FEMA during a particular State of Disaster, Imminent Threat of Disaster or State of Emergency.

DESCRIPTION OF WORK

2. The Local Government shall remove and dispose of disaster related debris on all released State Routes. In so doing, the Local Government shall comply with all State and Federal policies, guidance, and requirements regarding procurement, storm debris removal, monitoring and disposal including landfill quantity calculations and site disposal costs.
3. The Local Government shall remove all disaster related debris even if such removal requires multiple passes on a particular route and shall continue until the mutually agreed upon completion date. All work pursuant to this Agreement shall be completed to the satisfaction of the Department's Division Engineer of the Transportation Division in which Local Government is located. The Division Engineer's decision as to the completeness of the work shall be final.

TIME FRAME

4. This Agreement shall remain in effect for five (5) years from the date of execution included herein. This Agreement may be extended for two (2) additional years, contingent upon the availability funds, if mutually agreed upon in writing by the Parties. On behalf of the Local Government, extensions may be authorized and executed by the official as designated without further resolution of the Local Government.
5. All work pursuant to this Agreement shall be completed by a date mutually agreed to by the Division of Emergency Management (DEM), FEMA, the Department and Local Government.

REIMBURSEMENT FOR ELIGIBLE COSTS

6. The Local Government shall apply directly to FEMA for reimbursement of eligible debris removal costs in accordance with the rules, regulations and procedures of those agencies for such debris removal at that time. Any reimbursement must be governed by the current rules, regulations and procedures of those agencies for the specific State of Disaster, Imminent Threat of Disaster or State of Emergency, and the Department shall not be responsible for any portion of reimbursement costs whatsoever to Local Government.

PROCEDURES FOR REMOVAL OF DISASTER RELATED DEBRIS

7. During a State of Disaster or Imminent Threat of Disaster and/or a State of Emergency declared pursuant to Chapters 14 and 166A of the North Carolina General Statutes and upon a determination by the Parties that is desirable that Local Government be responsible for removal of debris from the right of way of State Routes, the Local Government shall submit a completed Request Release of State System Roads, Form SSR-01, (see Appendix A) to the Department's Division Engineer. This request, if approved, will release the identified State Routes to the Local Government for disaster related debris removal.
8. The Department will review the Local Government's *Request Release of State System Roads*, Form SSR-01 (attached as Appendix A) and respond in writing indicating whether the Department has approved or denied the request from the Local Government for removal of disaster related debris under the terms of this Agreement. If approved, this action will be considered the Local Government's "Notice to Proceed" with the work.
9. When the Local Government is approved for the removal of disaster related debris on State Routes under the terms of this Agreement, the Local Government will be responsible for complying with all Department rules, regulations and procedures including, but not limited to, safety, insurance, and traffic control in accordance with the Manual on Uniform Traffic Control Devices when undertaking the work.
10. The Local Government shall provide a written report to the Department's Division Engineer that includes a detailed description and quantities of the work accomplished for each Notice to Proceed issued by the Department within sixty (60) days of the completion of the work.
11. The Local Government shall be responsible for repair of any damages to the state maintained rights of way, which may be caused by debris removal operations undertaken pursuant to this Agreement. All repairs shall be completed to the satisfaction of the Department's Division Engineer of the Transportation Division in which the Local Government is located. The Division Engineer's decision as to the completeness of the work shall be final.

ADDITIONAL PROVISIONS

12. This Agreement may be amended at any time by mutual agreement of the Parties by a written Supplemental Agreement approved and signed by the Parties.
13. This Agreement may be terminated by either Party upon submission of a thirty (30) day advance written notice of termination to the other Party, except in instances where there is active debris removal. In these instances where active debris removal is ongoing, the termination will be effective no sooner than thirty (30) days after the completion of all active debris removal already underway.
14. This Agreement is solely for the benefit of the identified Parties to the Agreement and is not intended to give any rights, claims, or benefits to third parties or to the public at large.
15. The Local Government shall comply with Title VI of the Civil Rights Act of 1964 (Title 49 CFR, Subtitle A, Part 21). Title VI prohibits discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.
16. It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency. By execution of this Agreement, the Local Government certifies, that neither it nor its agents or contractors performing work included in this Agreement are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by a governmental department or agency.
17. The Local Government shall certify to the Department compliance with all State laws and regulations and ordinances that are applicable to the Local Government in connection with the work included in this Agreement and shall indemnify the Department against any fines, assessments or other penalties resulting from noncompliance by the Agency or any Local Government performing work included in this Agreement under contract with the Local Government.
18. The Local Government is solely responsible for all agreements, contracts, and work orders entered into or issued by the Local Government for the work included in this Agreement. The Department is not responsible under this Agreement for any expenses or obligations incurred for the work included in this Agreement.
19. The Local Government agrees to indemnify and hold harmless the Department, FHWA and the State of North Carolina for any and all claims for payment, damages and/or liabilities of any nature including damage or injury to persons or to private property occurring as a result of the debris removal activities asserted against the Department in connection with this Agreement. The Department shall not be responsible for any damages or claims, which may be initiated by third parties.

20. In compliance with state policy, the Local Government shall have a Conflict of Interest Policy for its employees, in addition to the statutory conflict of interest restrictions applicable to its directors.
21. All terms and conditions of this Agreement are dependent upon, and subject to, the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.
22. The Local Government and its agents shall maintain all books, documents, papers, accounting records, Project records and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. Further, the Local Government shall make such materials available at its office and shall require its agent to make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of the final payment, for inspection and audit by the Department's Financial Management Section, the Office of State Management and Budget, the FHWA, or any authorized representatives of the Federal Government.
23. In accordance with OMB Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations" (http://www.whitehouse.gov/omb/circulars_default) and the Federal Single Audit Act Amendments of 1996, the Local Government shall arrange for an annual independent financial and compliance audit of its fiscal operations. The Local Government shall verify to the Department that the annual independent audit report has been completed within nine (9) months after the Local Government's fiscal year ends.
24. The Department must approve any assignment or transfer of the responsibilities of the Local Government set forth in this Agreement to other parties or entities.
25. In no way shall it be construed or implied that either the Department or the Local Government is by this Agreement intending to abrogate its obligation and duty to comply with the regulations promulgated under Federal and state law.
26. This Agreement contains the entire agreement between the Parties and there are no understandings or agreements, verbal or otherwise, regarding this Agreement except as expressly set forth herein.
27. The Parties hereby acknowledge that the individual executing the Agreement on their behalf is authorized to execute this Agreement on their behalf and to bind the respective entities to the terms contained herein and that he has read this Agreement, conferred with his attorney, and fully understands its contents.
28. A copy or facsimile copy of the signature of any Party shall be deemed an original with each fully executed copy of this Agreement as binding as an original, and the Parties agree that this Agreement can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the Agreement.

29. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

IT IS UNDERSTOOD AND AGREED that the approval of the Work by the Department is subject to the conditions of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Local Government by authority duly given.

L.S. ATTEST:

AUTHORIZED OFFICIAL:

BY: _____

BY: _____

PRINT: _____

PRINT: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

(SEAL)

(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:

DEPARTMENT OF TRANSPORTATION

BY: _____

(CHIEF ENGINEER)

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM ON: _____

APPENDIX A, FORM SSR-01

Request Release of State System Roads

FEMA - _____ - DR - NC

Requesting Applicant: _____

In accordance with the Agreement on file between the NCDOT and the Requesting Applicant listed above; the Local Government is hereby requesting the NCDOT to release its authority for FEMA reimbursement for emergency services to the Local Government authority for the State System Roads listed below.

Choose one:

- I. Release of all State System Roads in Local Government jurisdiction;
- or
- II. Selected State System Roads in Local Government jurisdiction as follows:

| | |
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| _____ | _____ |
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|---|
| Local Government Designated Agent: _____ Date: _____ |
|---|

| | |
|--|-------|
| North Carolina Department of Transportation | |
| Release by: | _____ |
| Title: | _____ |
| Date: | _____ |



AGENDA ITEM SUMMARY

Item #2 (consent)

MEETING DATE: July 11, 2023

ITEM TITLE: Town Manager Contract Renewal-3 years

ITEM SUMMARY:

Town Attorney will provide an amendment to Town Manager Cliff Ogburn's contract, renewing it for an additional three years. The term of the agreement shall begin on July 1, 2023 and conclude June 30, 2026, the term may be extended for an additional period of one year.