

Council of the Town of La Plata
La Plata Town Hall
November 13, 2012, 7:00 pm
Council Special Meeting
Agenda

1 Call to Order

2 Pledge of Allegiance

3 Legislation

- a. **Emergency Ordinance No. 12-20 Amendment to Town of La Plata
FY2012-2013 Financial Plan/Budget** (for introduction and consideration
of adoption) - For the purpose of amending the Town of La Plata FY2012-
2013 Financial Plan/Budget; and all matters generally relating thereto.

- b. **Resolution No. 12-7 Award of Bid Caroline Drive Pump Station
Abandonment Project** (for introduction and consideration of adoption) -
For the purpose of accepting and awarding of a certain bid submitted by
Jimmy Richards & Sons for the Caroline Pump Station Abandonment
Project; and all matters relating to acceptance of such bid.

4 Adjourn Special Meeting

COUNCIL OF THE TOWN OF LA PLATA
Emergency Ordinance No. 12-20

Introduced By:	Mayor Roy G. Hale (by request)
Date Introduced:	[scheduled for November 13, 2012]
Town Council Public Hearing:	N/A
Amendments Adopted:	N/A
Date Adopted:	[scheduled for November 13, 2012]
Date Effective:	[if adopted November 13, 2012, effective November 13, 2012]

An Emergency Ordinance concerning

Amendment to Town of La Plata FY2012-2013 Financial Plan/Budget

FOR the purpose of amending the Town of La Plata FY2012-2013 Financial Plan/Budget; and all matters generally relating thereto.

WHEREAS, it is the intention of the Council of the Town of La Plata, by this emergency ordinance, to appropriate a portion of the water and sewer funds unappropriated fund balance for the Caroline Drive Pump Station Abandonment Project; and

SECTION 1: BE IT ENACTED BY THE COUNCIL OF THE TOWN OF LA PLATA that the Town of La Plata FY2012-2013 Financial Plan/Budget be amended as attached hereto as Attachment 1.

SECTION 2: AND BE IT FURTHER ENACTED BY THE COUNCIL OF THE TOWN OF LA PLATA that, at least a majority of the entire Council having determined that an emergency exists, this Ordinance shall become effective on November 13, 2012.

SEAL:

COUNCIL OF THE TOWN OF LA PLATA

Roy G. Hale, Mayor

R. Wayne Winkler, Councilman

C. Keith Back, Councilman

ATTEST:

Paretta D. Mudd, Councilwoman

**Danielle Mandley, CMC
Town Clerk**

Joseph W. Norris, Councilman

Date: _____

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW

((Double Parenthesis)) indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-Out~~ indicates matter stricken from bill by amendment or deleted from the law by amendment.

Town of La Plata
 FY13 Budget Adjustment
 Caroline Drive Pump Station Abandonment and Sewer Line Extension Project

		DR	CR
Caroline Drive Pump Station Abandonment and Sewer Line Extension Project Appropriations			
82-340-001-5353	Sewer-C&C-Prof Svcs-Contractor	111,236.00	
82-000-000-4990	Unappropriated unrestricted fund balance		111,236.00

To appropriate a portion of the unreserved sewer and water fund balance, into the Town's FY13 budget, for the decommissioning and demolition of the existing Caroline Drive sewer pump station and construction of a new gravity sewer line from the location of the Caroline Dive pump station to the new Willow Lane pump station.

COUNCIL OF THE TOWN OF LA PLATA
Resolution 12-7

Introduced By:	Mayor Roy G. Hale (by request)
Date Introduced:	[scheduled for November 13, 2012]
Date Adopted:	[scheduled for November 13, 2012]
Date Effective:	[if adopted November 13, 2012, effective November 13, 2012]

1 **A RESOLUTION** concerning

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Award of Bid Caroline Drive Pump Station Abandonment Project.

FOR the purpose of accepting and awarding of a certain bid submitted by Jimmy Richards & Sons for the Caroline Drive Pump Station Abandonment Project; and all matters relating to acceptance of such bid.

* * * * *

WHEREAS, the Town determined the need to abandon the Caroline Drive pump station and extend a gravity sewer line from the old pump station location to the Willow Lane pump station, and

WHEREAS, the Town desires to contract out for the desired work, a copy of the draft/proposed contract is attached hereto as Attachment 1; and

WHEREAS, the engineers estimated cost for the project is between \$100,000 and \$150,000; and

WHEREAS, Section C8-23 of the La Plata Town Charter provides that all procurements with a value greater than \$20,000 shall be awarded via a competitive, sealed bidding process; and

WHEREAS, the Town requested sealed bids from qualified contractors; and

WHEREAS, five bidders submitted bids in the amounts of \$111,236.00, \$142,218.00, \$149,353, \$244,236.00 and \$268,614.00, a copy of the bid opening sheet attached hereto as attachment 2; and

WHEREAS, The Town staff has reviewed the bids in accordance with the requirements of the Town Charter and determined that Jimmy Richards & Sons is the qualified bidder with the lowest bid price; and

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WHEREAS, the Town staff has determined that hiring Jimmy Richards & Sons to do the required work is in the best interest of the Town; and

WHEREAS, the Council must authorize the execution of all such written contracts in order for them to become effective;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF LA PLATA, Daniel J. Mears, the Town Manager, is hereby authorized to negotiate, execute and deliver, on behalf of the Town of La Plata, a contract for the project with Jimmy Richards & Sons.

ADOPTED AND APPROVED by the Council of the Town of La Plata on November 13, 2012.

SEAL:

COUNCIL OF THE TOWN OF LA PLATA

Roy G. Hale, Mayor

R. Wayne Winkler, Councilman

C. Keith Back, Councilman

ATTEST:

Paretta D. Mudd, Councilwoman

Danielle Mandley, CMC, Town Clerk
Date: November 13, 2012

Joseph W. Norris, Councilman

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ADOPTED AND APPROVED by the Council of the Town of La Plata on
November 13, 2012.

SEAL:

COUNCIL OF THE TOWN OF LA PLATA

Roy G. Hale, Mayor

R. Wayne Winkler, Councilman

C. Keith Back, Councilman

ATTEST:

Paretta D. Mudd, Councilwoman

Danielle Mandley, CMC, Town Clerk
Date: November 13, 2012

Joseph W. Norris, Councilman

TOWN CONTRACT

AGREEMENT

THIS AGREEMENT is made this _____ day of __November__, 2012, by and between **THE TOWN OF LA PLATA**, a municipal corporation of the State of Maryland, hereinafter referred to as the “Town,” and Jimmy Richards and Sons Inc., hereinafter referred to as “Contractor”.

RECITALS

WHEREAS, on _____, 2012, the La Plata Town Council authorized the Town Manager to enter into a contract regarding the Caroline Drive Pump Station Abandonment Project (hereinafter, the “Project”, “Good” or “Service”).

WHEREAS, the Contractor and the Town pursuant to that authorization are entering into this Agreement for the above (Professional Service) pursuant to a response to the Town’s Request for Proposal (hereinafter, the “RFP”), all of the bid documents and responses which are hereby incorporated herein, in exchange for a fee schedule as bid and other valuable consideration.

TERMS

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein and other good and valuable consideration, the sufficiency of which is hereby mutually acknowledged, the Town and Contractor agree as follows:

ARTICLE I. SCOPE OF SERVICES

The professional service shall include all work, items, processes outlined in the recitals above, in the RFP for the service and related documents including the contractors bid, as well as all other work, items, processes as reasonably required by the Town.

ARTICLE II. PERIOD OF PERFORMANCE

Contractor agrees to commence work in accordance with the terms of the RFP immediately upon execution of the Contract and shall perform all other services required by this Agreement or by the Town as expeditiously as is consistent with good professional skill and best industry practice. Time is critical factor in the successful execution of the terms of this Agreement.

ARTICLE III. FEE FOR SERVICES

In exchange for these good and valuable services the Contractor will receive a fee as follows: As Per Bid, \$111,236.00

ARTICLE IV. THE CONTRACT DOCUMENTS

This Agreement and the following enumerated documents form the Contract. The documents identified below are as fully a part of the Contract as if hereto attached. They constitute the entire understanding of the parties and supersede any prior proposals or agreements:

- A. Request for Proposals (RFP)
- B. Town of La Plata Bidding Specifications and Standards for Public Works Construction, Goods or Services.
- C. Town of La Plata Specifications and Standards for Public Works Construction
(when appropriate).
- D. Contractor's Responses

ARTICLE V. CONTRACTOR SERVICES

As directed by the Town, Contractor shall:

- A. Be responsible for the preparation, technical completeness and sufficiency of all submitted proposals.
- B. Comply with the Charles County Code, the Town of La Plata Code and Charter, The Town of La Plata Specifications and Standards for Public Works Construction, when applicable, and all pertinent Federal, State, and County laws and regulations.
- C. Attend hearing/conferences with Town or persons designated by Town as necessary for the successful completion of this Agreement.
- D. Be responsible directly to the Town Manager or their designee, who is the Town's agent and duly authorized representative to whom Contractor shall ordinarily direct communication and submit documents for approval and from whom Contractor shall receive directions concerning the subject of this Agreement and approval of any documents in writing. For the purposes of Agreements dealing with Public Works Construction, Goods or Services, the Town Manager's designee is the Director of Operations (hereinafter, the "Director of Operations"). Any revisions requiring additional compensation to Contractor shall not be

commenced without the Town's written authorization recommended by the Director of Operations and approved by the Town Manager.

E. As directed, in the case of public works construction projects, and prior to final payment to a contractor or a subcontractor, arrange for a final inspection by the Director of Operations and review all outstanding claims which have not been settled during the construction phase of the Project contemplated by this Agreement and prepare a written report outlining the background and status of such claims and making recommendations as to the ultimate disposition of such outstanding claims.

ARTICLE VI. TOWN'S RESPONSIBILITY

The Town shall provide information regarding its requirements, including related budgetary information. However, the Contractor shall notify the Town in writing of any information or requirements provided by the Town, which the Contractor believes to be inappropriate.

ARTICLE VII. COOPERATION

The Contractor agrees to perform its services under this Contract in such manner and at such times so that Town and/or any contractor who has work to perform, or contracts to execute, can do so without unreasonable delay. Contractor further agrees to coordinate its work under this Agreement with any and all other contractors deemed necessary by the Town.

ARTICLE VIII. OWNERSHIP OF DOCUMENTS

A. Town shall have unlimited rights in the ownership of all drawings, designs, specifications, notes and other work developed in the performance of the Agreement, including the right to use same on any other Town Project without additional cost to Town, and with respect thereto Contractor agrees to and does hereby grant to Town an exclusive royalty-free license to all data which he or she may cover by copyright and to all designs as to which he or she may assert any rights or establish any claim under the patent or copyright laws. The Town's rights in ownership of documents under this Article shall include any and all electronic files generated by Contractor in the performance of its duties pursuant to this Agreement.

B. In the case of future reuse of the documents, Town reserves the right to negotiate with Contractor for the acceptance of any professional liability.

ARTICLE IX. SPECIAL PROVISIONS

A. Contractor may not assign or transfer any interest in this Agreement except with Town's written approval.

B. Town may waive specific minor provisions of the Agreement on Contractor's request in the interest of expediting the contract. Waiver shall not constitute a waiver of any liability ensuing there from.

C. Except as otherwise provided in the contract documents, the Town Manager, in consultation with the Director of Operations, shall decide all disputes after consultation with Contractor, and any other appropriate parties. The Town Manager's decision shall be reduced to writing and delivered to Contractor.

D. The Town Manager' decision shall be final and conclusive.

E. Until a dispute is finally resolved, Contractor shall proceed to meet the terms of this Agreement and comply with Town Manager's orders.

F. Contractor shall not hire or pay any employee of the Town or any department, commission agency or branch thereof.

ARTICLE X. TERMINATION

A. This Agreement may be terminated by the Town at the Town's convenience upon not less than thirty (30) days written notice to the Contractor.

B. In the event of termination, which is not, the fault of Contractor, the Town shall pay to Contractor the compensation properly due for services properly performed or goods properly delivered prior to the effective date of the termination and for reasonable reimbursable expenses properly incurred prior to the termination. No expenses for overhead or discontinuation of contract will be payable by the Town.

C. In the event the Contractor, through any cause fails to perform any of the terms, covenants, or provisions of this Agreement on his part to be performed, or if Contractor for any cause, fails to make progress in work hereunder in a reasonable manner, or if the conduct of Contractor impairs or prejudices the interest of the Town, or if Contractor violates any of the terms, covenants, or provisions of this Agreement, the Town shall have the right to terminate this Agreement for cause by giving notice in writing of the termination and date of such termination to Contractor. The Town shall have the sole discretion to permit the Contractor to remedy the cause of the contemplated termination without waiving the Town's right to terminate the Agreement. All drawings, specifications, electronic files and other documents relating to the design of the good, scope of the service or supervision of work, not in the public domain, shall

be surrendered forthwith by Contractor to the Town as required by the Town. The Town may take over work to be done under this Agreement and prosecute the work to completion, or procure the good or service, by contract or otherwise, and Contractor shall be liable to the Town for all reasonable cost in excess of what the Town would have paid the Contractor had there been no termination. The Town shall not be liable for any damages, overhead costs or equitable adjustments in the event of such termination.

ARTICLE XI. APPLICABLE LAW

The laws of the State of Maryland, excluding conflicts of law rules, shall govern this Agreement as if this Agreement were made and performed entirely within the State of Maryland. Any suit to enforce the terms hereof or for damages or other relief as a consequence of the breach or alleged breach hereof shall be brought exclusively in the courts of the State of Maryland in Charles County, and the parties expressly consent to the jurisdiction thereof and waive any right which they have or may have to bring such elsewhere.

ARTICLE XII. CHANGES

A. The Town Manager, through the Director of Operations, may, at any time, by written order designated or indicated to be a change order, make any change in the work within the general scope of this Agreement.

B. Any other written order from Town, which causes any change, shall be treated as a change order under this clause, provided that Contractor gives Town written notice stating the date, circumstance, and source of the order and the Town consents to regard the order as a change order.

C. Except as herein provided, no order, statement, or conduct of the Town shall be treated as a change under this clause or entitle Contractor to an equitable adjustment hereunder.

D. If any change under this clause causes an increase or decrease in the cost of, or the time required for, the performance of any part of this Agreement, whether or not changed by any order, an equitable adjustment shall be made and the Agreement modified in writing accordingly. If Contractor intends to assert a claim for an equitable adjustment under this clause, Contractor shall, within thirty (30) days after receipt of a written change order under (A) above, or the furnishing of written notice under (B) above, submit to the Director of Operations a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the Director of Operations. The statement of claim hereunder may be included in the notice under (B) above.

E. The amount of any adjustment to the contract sum under this clause shall be a negotiated fixed fee.

F. No claim by Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Agreement or if made later than thirty (30) days after receipt as required herein.

H. The provisions of the Agreement shall be governed by the laws of the State of Maryland.

I. This Agreement represents the entire and integrated Agreement between the Town and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by the duly authorized representatives of the Town and the Contractor.

ARTICLE XIII. SUCCESSORS AND ASSIGNS

The parties each binds itself, its partners, successors, assigns and legal representatives to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither party shall assign, sublet or transfer his interest, including but not limited to the proceeds thereof, in this Agreement, without the written consent of the other party.

ARTICLE XIV. INSURANCE

A. All Contractors shall obtain and maintain liability insurance coverage. The Contractor shall, within ten (10) days of the execution of this Agreement, file with the Town Manager, through the Director of Operations, the Certificate from an insurance company authorized to do business in the State of Maryland and satisfactory to the Town showing issuance of liability insurance in the amount of at least One Million Dollars (\$1,000,000.00) coverage with a deductible no greater than Ten Thousand Dollars (\$10,000.00). Contractor shall be fully and completely responsible to pay the deductible. Unless waived in writing by the Town, the Certificate shall bear an endorsement in words exactly as follows:

The insurance company certifies that the insurance covered by this certificate has been endorsed as follows: "The insurance company agrees that the coverage shall not be canceled, changed, allowed to lapse, or allowed to expire until ten days after notice to: Daniel Mears, 305 Queen Anne Street, La Plata, Maryland 20646 (Town's Representative)."

B. In addition, Contractor shall, throughout the term of this Agreement, maintain comprehensive general liability insurance in the following amounts and shall submit an insurance certificate as proof of coverage prior to final Agreement approval:

1. Personal injury liability insurance with a limit of \$1,000,000.00 for each occurrence and \$1,000,000.00 aggregate, where insurance aggregates apply; and

2. Property damage liability insurance with limits of \$1,000,000.00 for each occurrence and \$5,000,000.00 aggregate, where aggregates apply.

C. Comprehensive general liability insurance shall include completed operations and contractual liability coverage. The Certificates of Insurance evidencing this insurance shall provide that the Town shall be given at least thirty (30) days prior written notice of the cancellation of, intention not to renew, or material change in coverage.

D. Contractor shall comply with the requirements and benefits established by the State of Maryland for the provision of Workers' Compensation insurance and shall submit an insurance certificate as proof of coverage prior to beginning work under this Agreement.

ARTICLE XV. INDEMNIFICATION

Each party to this Agreement hereby acknowledges and agrees that each party shall be responsible for and indemnify, and hold the other party harmless against any claim for loss, personal injury and/or damage that may be suffered as a result of their own negligence or willful misconduct in the performance of the services herein contracted for or for any failure to perform the obligations of this Agreement, including, but not limited to, attorneys fees and any other costs incurred by the Town in defending any such claim.

ARTICLE XVI. ADA COMPLIANCE

In performance of this Agreement for public works construction projects, or where there is an ADA component involved, the Contractor acknowledges that it is acting on behalf of the

Town and warrants to the best of its professional information, knowledge, and belief that its design, product or completed infrastructure, will conform to, and comply with, the applicable provisions of the Americans with Disabilities Act. The Contractor hereby indemnifies and holds harmless the Town from damages and costs arising from any claim that the Contractor's has failed to conform to the applicable provisions of the Americans with Disabilities Act.

ARTICLE XVII. CERTIFICATIONS OF CONTRACTOR

The Contractor and the individual executing this Agreement on the Contractor's behalf warrants it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for it, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Agreement.

ARTICLE XVIII. SET-OFF

In the event that the Contractor shall owe an obligation of any type whatsoever to the Town at any time during the term hereof, or after the termination of the relationship created hereunder, the Town shall have the right to offset any amount so owed the Contractor against any compensation due to the Contractor for the provision of Construction, Goods or Services covered by the terms of this Agreement.

ARTICLE XIX. MISCELLANEOUS

A. This Agreement is subject to audit by the Town, and the Contractor agrees to make all of its records relating to the goods or services provided to the Town available to the Town upon request and to maintain those records for six (6) years following the date of substantial completion of this Agreement; or a longer period, if reasonably requested by the Town.

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

C. The person executing this Agreement on behalf of the Contractor hereby covenants, represents and warrants that he/she is duly authorized to execute and deliver this Agreement on behalf of the Contractor.

D. All representations, warranties, covenants, conditions and agreements contained herein which either are expressed as surviving the expiration and termination of this Agreement or, by their nature, are to be performed or observed, in whole or in part, after the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.

This Agreement is entered into as of the day and year first written above.

CONTRACTOR

By: _____

THE TOWN MANAGER OF LA PLATA

By: _____

Town of La Plata
 Caroline Drive Pump Station Abandonment Project
 Bid Tabulation Sheet

Bidder	Complete Bid Package (Signed, Addenda Acknowledgement, Bid Bond)	Item	Unit Bid Price	Extended Price
Jimmy Richards & Sons		Item 1		111,236.00
		Add Alternate		
		Total Bid Price		111,236.00
JLW Associates		Item 1		142,218.00
		Add Alternate		
		Total Bid Price		142,218.00
Johnston Construction		Item 1		244,236.00
		Add Alternate		
		Total Bid Price		244,236.00
Schummer Inc		Item 1		268,614.00
		Add Alternate		
		Total Bid Price		268,614.00
Earnshaw Brothers, Inc.		Item 1		149,353.00
		Add Alternate		
		Total Bid Price		149,353.00
		Item 1		
		Add Alternate		
		Total Bid Price		-
		Item 1		
		Add Alternate		
		Total Bid Price		-