

BILL NO. 23.67

ORDINANCE NO. 23.67

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH 1ST CHOICE SEPTIC PUMPING, LLC FOR ON SEWER ON CALL AND GENERAL MAINTENANCE SERVICES

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF OSAGE BEACH, MISSOURI, AS FOLLOWS:

Section 1. The Board of Aldermen hereby authorizes the Mayor to execute on behalf of the City a Construction Contract with 1st Choice Septic Pumping, LLC., under substantially the same or similar terms and conditions as set forth in "Exhibit A".

Section 2. The City Administrator is hereby authorized to take such further actions as are necessary to carry out the intent of this Ordinance and Contract.

Section 4. This Ordinance shall be in full force and effect from date of passage and approval by the Mayor.

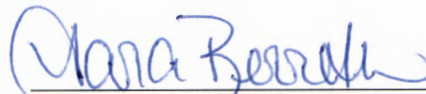
READ FIRST TIME: September 7, 2023 READ SECOND TIME: September 7, 2023

I hereby certify that the above Ordinance No. 23.67 was duly passed on September 7, 2023, by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

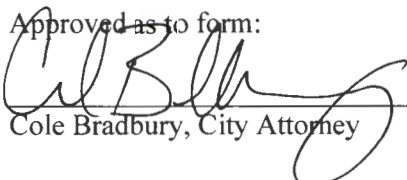
Ayes: 5 Nays: 0 Abstain: 0 Absent: 1

This Ordinance is hereby transmitted to the Mayor for his signature.

September 7, 23
Date


Tara Berreth, City Clerk

Approved as to form:


Cole Bradbury, City Attorney

I hereby approve Ordinance No. 22.67.

September 7, 23
Date


Michael Harmison, Mayor

ATTEST:

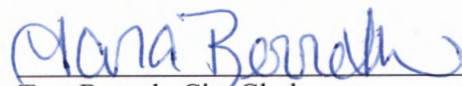

Tara Berreth, City Clerk

Exhibit A – Contracting out Sewer on Call Backup and General Sewer Maintenance Services

The following services and requirements are to be provided by 1st Choice Plumbing on an as needed basis.

1. Contractor will be available to assist with sewer on call backup on an as needed basis between 3:30pm and 7:00am Monday through Friday and on weekends.
2. Contractor will be available to assist the sewer department on an as needed basis between the hours of 7:00am and 3:30 pm Monday through Friday.
3. Contractor will be responsible for assisting the sewer staff members with sewer station maintenance which includes, but is not limited to, station replumbs, removing/replacing pumps, panels and parts, diagnosing/repairing pumps or electrical panels, sewer line or main repair, operating heavy trucks and equipment, and providing work order information for inventory used when necessary.
4. Whenever possible the contractor agrees to use City owned equipment and parts, but when authorized by the primary sewer on call staff member or sewer department management the contractor's equipment may be used as well. Mileage will be calculated based of the miles to and from the contractor's place of business and job site(s). The city will reimburse the contractor for any parts provided by the contractor at cost. City employees are not authorized to operate any equipment owned by the contractor.
5. Contractor and any employees assisting the sewer department will be subject to a background check and a driving record check. Contractor and any employees assisting will be required to have a valid CDL driver's license. Contractor will be issued a City ID badge, multiple may be provided for additional staff. Contractor will coordinate with primary on call staff member or sewer department management prior to accessing City property or using City equipment.
6. All City inventory used, and City equipment hours used must be tracked by the contractor and turned into the sewer department at the end of all jobs. The sewer primary on call staff member or sewer department management, whichever is onsite, will provide direction to the contractor.
7. Contractor will be required to provide the following information and/or documentation.
 - a. A brief summary of each employee's experience with operating heavy equipment that will be assigned to assist the sewer department.
 - b. Contractor must provide the City with a certificate of insurance on a minimum \$1,000,000.00 liability policy. Additionally, this language must be included on the certificate.

"The City of Osage Beach does not waive or intend to waive any sovereign immunity or official immunity provided to the City of Osage Beach or its officials, officers or employees by the Constitution of the State of Missouri or by any

federal, state or local law, ordinance or custom. This certificate of insurance issued naming the City of Osage Beach as an additional insured is not a waiver, and is not intended to waive, any immunity, sovereign, official or otherwise. We acknowledge that this coverage is not intended to, does not, and may not be construed to, waive any sovereign immunity or official immunity provided to the City of Osage Beach or its officials, officers or employees by the Constitution of the State of Missouri or by any federal, state, or local law, ordinance or custom."

- c. The City must have verification that the vendor is enrolled in the Federal work authorization program and a Workers Eligibility verification affidavit must be completed and return to the City.



CITY OF OSAGE BEACH

The following is a bid to staff City of Osage Beach Sewer Department

1st Choice Septic Pumping, LLC
319 Santee Trail
Camdenton, MO 65020
United States

5732805052

BILL TO
City of Osage Beach Attn: Mike Welty
mwelty@osagebeach.org

Estimate Number: 32
Estimate Date: August 1, 2023
Expires On: September 29, 2023
Grand Total (USD): \$0.00

Items	Quantity	Price	Amount
Per hour per employee This would be an hourly rate of \$68.00 paid to 1st Choice Septic Pumping for each employee provided between 7am and 3:30pm.	0	\$0.00	\$0.00

Total: \$0.00

Grand Total (USD) : \$0.00

Notes / Terms

Liability insurance, workers compensation insurance and employment taxes are the responsibility of 1st Choice Septic Pumping. Per our discussion, our current liability insurance meets the city requirements. Machinery and equipment needed for jobs will be provided by the city at city expense. Machinery and equipment will be insured by the city.

Provision of personnel is contingent upon 1st Choice Septic Pumping's ability to hire qualified employees. All employees will clock in and out at city hall. Each week, hours worked will be emailed to 1stchoicepumping@gmail.com. 1st Choice Septic Pumping will be paid bi-weekly by the City of Osage Beach.

1st Choice Septic Pumping will require the City of Osage Beach to provide 7 days of training to properly train employees on lpads, calling systems, city equipment and anything else required to do the job successfully. This time would be paid at contracted rate by City.

Employees contracted through 1st Choice Septic Pumping will attend all safety training and meetings at contracted rate paid by City. They will always have access to all safety equipment.

Contract terms: 1 year from contract acceptance date. Terms can be revisited if additional years are requested. 1st Choice Septic Pumping will require 90 days notice prior to contract expiration as to whether City plans to contract the following year so terms can be revisited.

Dustin Walker has extensive training and experience with the City of Osage Beach. He is currently contracted for back up on call and emergency pump outs and jobs. Upon contract start date, we would assemble a team that is competent and able to complete all work necessary. Some team members may even possess prior public work experience.



CITY OF OSAGE BEACH

The following is a bid to staff City of Osage Beach Sewer Department

1st Choice Septic Pumping, LLC
319 Santee Trail
Camdenton, MO 65020
United States

5732805052

BILL TO
City of Osage Beach Attn: Mike Welty
mwelty@osagebeach.org

Estimate Number: 33
Estimate Date: July 31, 2023
Expires On: September 29, 2023
Grand Total (USD): \$0.00

Items	Quantity	Price	Amount
Pager Time	0	\$0.00	\$0.00

1st Choice will charge a per hour rate of \$85.00 per employee for after hours pager time. This is between 3:30pm until 7:00am.

This rate does not include \$0.51 per mile or the \$225 3hr minimum per employee per call paid by City.

Total:	\$0.00
Grand Total (USD) :	\$0.00

Notes / Terms

Liability insurance, workers compensation insurance and employment taxes are the responsibility of 1st Choice Septic Pumping. Per our discussion, our current liability insurance meets the city requirements. Machinery and equipment needed for jobs will be provided by the city at city expense. Machinery and equipment will be insured by the city.

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City of Osage Beach
RFP FORM

Proposal for **Osage Beach Sewer On Call and General Sewer Maintenance Services**

Tara Berreth
City Clerk
City of Osage Beach
1000 City Parkway
Osage Beach, MO 65065

SUBMITTED BY: 1st Choice Septic Pumping LLC
Company Name
DATE SUBMITTED: 7.31.23

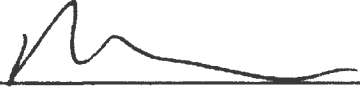
Details including images/photos/artwork/warranty and cost estimates (please provide individual price and quantity discounts if any) – attach additional sheet(s) for clarification if necessary:

Please See attached bids

Description of proposer's recent experience/references – attach additional sheet(s) if necessary:

- Noted within attached bid

Pursuant to and in accordance with the above stated RFP, the undersigned hereby declares that they have examined the RFP documents and specifications for the Osage Beach Internet Service RFP. The undersigned proposes and agrees, if their proposal is accepted, to furnish the materials and services described in the RFP documents.

Company 1st Choice Septic Pumping LLC By 
(Authorized Representative)

Physical Address 319 Santee Trail
Camdenton, mo 65020

Breanna Mareschal - Owner
(Print or type name and title)

Phone (573) 280 5052 Email 1stchoicepumping@gmail.com
FAX _____ Date 7.31.23



CITY OF OSAGE BEACH SEWER ON CALL SERVICES AGREEMENT

THIS SEWER ON CALL SERVICES AGREEMENT (the “Agreement”) states the terms and conditions that govern the contractual relationship between the City of Osage Beach, Missouri (“**City**”) and 1st Choice Septic Plumbing, LLC (“**Contractor**”), on the following terms.

I. TERMS

1. **Definitions.** The following terms shall have these defined meanings:

- a. “**Work**” shall mean all of the work described in the attached Exhibit A.
- b. “**Term**” shall mean both the “**Initial Term**” of September __, 2023 through September __, 2024, the “**First Renewal Term**” of September __, 2024 through September __, 2025, and the “**Second Renewal Term**” of September __, 2025 through September __, 2026.

2. **Contractor’s Obligations.**

- a. *Term.* Contractor hereby agrees to perform the Work during the Initial Term. The City may extend this Agreement for the Renewal Terms on the terms herein by giving written notice to Contractor no later than July 1 prior to the commencement of each Renewal Term.
- b. *Professionalism.* Contractor will exercise the care and skill ordinarily used by members of the subject profession practicing under similar circumstances (as defined by the appropriate licensing authority, professional standards, and/or relevant industry practices). Contractor understands that it will be perceived as a representative of the City and will ensure its personnel and any subcontractors will conduct themselves in a thoroughly professional and respectable manner while performing all Work for the City and while on-site. Contractor shall ensure its personnel and any subcontractors comply with all City policies while on-site. Contractor and its personnel and any subcontractors will comply with all reasonable instructions and requests by the City. City property and resources are to be used only in ways that are consistent with their lawful intended purpose.

- c. *Time.* If a specific time of performance of the Work is provided, that time shall control. If a specific time of performance is not provided, Contractor's obligation to perform the Work will be for a period which may reasonably be required for the completion thereof. If City has requested changes in the scope or character of the Work and a specific time was not included in such changes, the time for performance shall be adjusted equitably.
- d. *Insurance.* Contractor shall purchase and maintain insurance as set forth below:
 - i. Commercial General Liability insurance with a limit of \$1,000,000 for each occurrence and \$2,000,000 general aggregate;
 - ii. Workers Compensation and Employer's Liability insurance in accordance with statutory requirements, with a limit of \$1,000,000 for each accident;
 - iii. If Contractor is using a company-owned vehicle to perform the Work, Automobile Liability insurance with a limit of \$1,000,000 for each accident, combined single limit for bodily injury and property damage.Upon request, Contractor shall cause City to be named as additional insured for any or all of such policies.
- e. *Licenses, Permits, Taxes.* Contractor must have or obtain a City merchant's license. Contractor shall be responsible for applying for, obtaining, and maintaining all licenses, permits, and other approvals required for itself, including but not limited to the Work. Contractor shall be responsible for paying all sales, income, property, and other taxes required to carry on its business.
- f. *Safety.* Contractor must have a formal safety-training program in place, which addresses issues associated with hazardous situations, proper lifting, operation of equipment, and use of personal protection equipment, and all OSHA Safety Requirements.
- g. *Communication.* Contractor will provide timely replies to City's inquiries and requests for information. Contractor's point of contact for this Agreement is: Chara Lisenbee.

3. **City's Obligations.**

- a. *Payment.* City hereby agrees to pay Contractor for the Work as follows:
 - i. Contractor will submit invoices for the work done based on the rates provided in Exhibit A;City will pay Contractor at least once every 30 days for services were rendered.

- b. *Criteria and Direction.* City will provide Contractor with all criteria and full information as to City's requirements for the Work, including objectives, design, capacity, performance, and budgetary requirements and limitations.
- c. *Access.* Unless otherwise specified in the RFP, City will arrange for access to and make all provisions for Contractor to enter upon public and private property as required to perform the Work.
- d. *Cooperation.* City will examine alternative solutions, reports, drawings, specifications, and other documents presented by Contractor and render timely decisions pertaining to the documents. City will participate in conferences, meetings, bid openings, and other similar aspects of the Project as requested by Contractor.
- e. *Permitting and Approvals.* City will provide timely reviews, approvals, licenses, and permits from where it has jurisdiction over components or phases of the Work. Such approvals are contingent upon Contractor meeting the requirements therefor.
- f. City will provide timely replies to Contractor's inquiries and requests for information. City's point of contact for this Agreement is: Mike Welty, Assistant City Administrator.

II. STANDARD CONDITIONS

The following conditions are standard in all City of Osage Beach contracts and are only to be modified with substantial justification, and then only as much as necessary to accommodate such justification.

- 4. **Appropriations.** The continuation of this Agreement is contingent upon annual appropriation of funds by the Osage Beach Board of Aldermen. In the event the Board of Aldermen shall not budget and appropriate, specifically with respect to this Agreement, on or before January 1, subsequent years of the contract moneys sufficient to make all payments under this Agreement, the City shall not be obligated to make those payments.
- 5. **Pre-Contract Expense.** The City shall not be obligated to pay or liable for any cost incurred by Contractor prior to execution of this Agreement. All costs to prepare and submit a response to this and any other RFQ, RFP, or IFB shall be borne by the proposer.
- 6. **Assignment or Transfer.** Neither this Agreement, nor any portion thereof, shall be transferred or assigned without formal written approval by the City.

7. **Discrimination Policy.** The City of Osage Beach advises the public that it does not discriminate on the basis of disability, race or color, national origin, religion, age, or sex in employment or the provision of municipal services. Contractor shall not discriminate on any prohibited basis and shall comply with all applicable employment laws.
8. **Laws, Ordinances, and Regulations.** Contractor shall conform to all Federal, State, and local regulations, ordinances, and laws applicable to Contractor, the City, or the subject matter of this Agreement. The City shall not be responsible for any fees, charges, money, or other obligations due as result of from any service provided under this Agreement. Contractor shall conform to all changes made to this Agreement as a result of any ordinance, law and/or directive issued by the Federal, State, or local authority having jurisdiction over this Agreement, Contractor, or the City.
9. **E-Verify.** If this Agreement is for an aggregate value in excess of \$5,000.00, Contractor shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection to the contracted services. Contractor shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection to the Work. *See R.S.Mo. § 285.530.*
10. **Anti-Israel Discrimination.** The parties certify they are not currently engaged in and shall not, for the duration of this Agreement, engage in a boycott of goods or services from the State of Israel companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel. *See R.S.Mo. § 34.600.*
11. **Indemnification by Contractor.** Contractor shall indemnify, save, and hold harmless the City, its employees, and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by Contractor or its employees, agents, subcontractors, or assignees arising out of this Agreement.
12. **No Indemnification by City.** Nothing in this Agreement shall be construed to require the City to indemnify Contractor. Such indemnification is illegal under Missouri law. *See Mo. A.G. Opinion 138-87 (1987).*
13. **Sunshine Law.** All material submitted to the City will become public record and will be subject to the Missouri Sunshine Act, R.S.Mo. Chapter 610. Any material requested to be treated as proprietary or confidential must be clearly identified and easily separable from other materials. Contractor must include justification for the request. The City's obligation to comply with the Sunshine Act supersede any request by Contractor that material be treated as proprietary or confidential.

14. **Ownership of Work Product.** All documents and other work product created by Contractor under this Agreement shall become the property of City once the invoice for the preparation of such document or work product has been paid.
15. **Termination.** The City reserves the right to terminate this Agreement without cause by giving 30 days' written notice to Contractor. City may terminate this Agreement upon written notice of any violation of this Agreement if such violation is not cured within 7 calendar days of such notice. City may immediately terminate this Agreement for any material violation or any violation which creates a risk to the health, safety, or welfare of any person or property.
16. **Notices.** All formal notices or other documents required by this Agreement shall be in writing and delivered personally or mailed by certified mail, postage prepaid, addressed to the parties at:

For City:

City Clerk
Tara Berreth
1000 City Parkway
Osage Beach, MO 65065

For Contractor:

1st Choice Septic Plumbing, LLC
Dustin Walker
319 Santee Trail
Camdenton, MO 65020

City may also serve written notice to Contractor by personal delivery to any of its owners, officers, or employees.

17. **Necessary Documents.** The parties agree to execute and deliver without additional consideration such instruments and documents and to take such further actions as they may reasonably request in order to fulfill the intent of and give effect to this Agreement and the transactions contemplated thereby.
18. **Entire Agreement.** This Agreement supersedes all agreements previously made between the parties relating to its subject matter. There are no other understandings or agreements between them.
19. **Non-Waiver.** No delay or failure by either party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right unless otherwise expressly provided herein.
20. **Headings.** Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.
21. **Governing Law; Venue for Disputes.** This Agreement was made in the State of Missouri and shall be interpreted under and governed by the laws of the State of Missouri. Any action arising out of this Agreement, or its subject matter shall be filed in the Circuit Court