

**RESOLUTION NO. 2020 2698**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING THE PURCHASE OF A BACK-UP PUMP FOR SANITARY SEWER LIFT STATIONS FROM BARNEY'S PUMPS INC.; FINDING THAT THE PURCHASE IS EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 3-13(7)F OF THE TOWN CODE AS A PUBLIC WORKS OR UTILITIES PURCHASE OF EQUIPMENT; AUTHORIZING THE TOWN MANAGER TO ENTER INTO A PURCHASE ORDER FOR SUCH PURCHASE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Surfside (Town") is in need of a new replacement back-up pump to service the two sanitary lift stations located at 501 93<sup>rd</sup> Street and 601 89<sup>th</sup> Street ("Equipment") for emergency purposes and in response to the urgent need to have a fully functional back-up pump to address rain water and storm events; and

**WHEREAS**, pursuant to Section 3-13(7)f. of the Town's Code, public works or utilities purchases of Equipment are exempt from competitive bidding; and

**WHEREAS**, Barney's Pumps Inc. ("Vendor"), an existing vendor the Town utilizes for pump repairs and maintenance, has provided the Quotation attached hereto as Exhibit "A" for the Equipment at a cost of \$32,612.00; and

**WHEREAS**, the Town Commission wishes to authorize the Town Manager to purchase the Equipment and enter into a Purchase Order with the Vendor, in substantial conformance with the Quotation attached hereto as Exhibit "A"; and

**WHEREAS**, the Town Commission finds that the purchase of the Equipment is in the best interests and welfare of the Town.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** Each of the above stated recitals are hereby adopted, confirmed and incorporated herein.

**Section 1. Purchase of Equipment Approved; Exemption from Competitive Bidding.** The purchase of the Equipment in the amount of \$32,612.00 from the Vendor is hereby approved. The Town Commission finds that pursuant to Section 3-13(7)f. of the Town's Code, the purchase of the Equipment is exempt from competitive bidding. The Quotation substantially in the form attached hereto as Exhibit "A" is hereby approved, and the Town Manager is authorized to execute a Purchase Order for the Equipment in substantial conformance with the Quotation attached hereto as Exhibit "A."

**Section 3. Implementation.** The Town Manager and Town Officials are authorized to take any and all necessary or further action to implement the purchase of the Equipment and the purposes of this Resolution.

**Section 4. Effective Date.** This Resolution shall be effective immediately upon adoption.


PASSED AND ADOPTED this 9th day of June, 2020.

**FINAL VOTE ON ADOPTION**

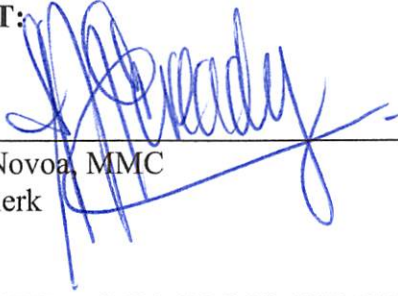
Motion By: Vice Mayor Paul  
Second By: Commissioner Velasquez

**FINAL VOTE ON ADOPTION:**

Commissioner Charles Kesl	<u>Yes</u>
Commissioner Eliana R. Salzhauer	<u>Yes</u>
Commissioner Nelly Velasquez	<u>Yes</u>
Vice Mayor Tina Paul	<u>Yes</u>
Mayor Charles W. Burkett	<u>Yes</u>

  
\_\_\_\_\_  
Charles W. Burkett, Mayor

**ATTEST:**



\_\_\_\_\_  
Sandra Novoa, MMC  
Town Clerk

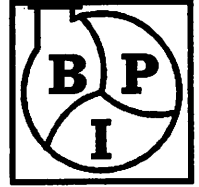
**APPROVED AS TO FORM AND LEGALITY FOR THE USE  
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**



\_\_\_\_\_  
Weiss Serota Helfman Cole & Bierman, P.L.  
Town Attorney

QUOTATION NUMBER  
24-20-0508

# BARNEY'S PUMPS INC.



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12080 NW 40<sup>th</sup> Street, Coral Springs, FL 33065-7602  
Broward (954) 346-0669  
Dade (305) 945-0279  
Fax (954) 346-0993

DATE: 05/27/20

TO: Hector Gomez  
  
Town of Surfside  
9293 Harding Ave  
Surfside, FL 33154

FOR Town of Surfside  
SHIPMENT  
TO:

PROJECT: Surfside PS 1 Repair-Replacement Pump

Delivery 4 - 6 weeks ARO\*      Via Bestway      From Barney's Pumps      F.O.B. Barney's Pumps      Terms net 30 with approved credit

ITEM	QTY	DESCRIPTION	PRICE
A	1	<p>Electrical: 480V/3Ø/60Hz</p> <p>HOMA AMX644-360/60GU FM submersible non-clog sewage pump, 6" discharge, 4" solids handling capacity, 1750RPM, 360mm impeller, 60HP motor, standard jacket cooled with 2 1" flush ports, explosion proof, 60' power cord, special impeller trim, with SS lift handle.</p> <p>*subject to prior sale</p> <p>Delivery is F.O.B. Barney's Pumps with freight allowance to Surfside. Start-up and training services are NOT included. Taxes, anchor bolts, piping, field wiring, etc. are not included. <b><i>If shop drawings are required for approval, please request them from our office.</i></b></p>	\$32,612

The following items are attached:      Bulletin       Performance curve       Elevation drawing

Prices quoted are firm for 30 days (unless otherwise noted), then subject to adjustment to agree with prices at time of shipment and subject to any tax required by law. This quotation is subject to Barney's Pumps standard terms of sale and warranty. We appreciate the opportunity to serve you and trust that we are favored with your order.

BARNEY'S PUMPS INC.

*JIM KING*

Authorized Signature



## Barney's Pumps Terms of Sale & Warranty

1. This document is fully incorporated in the Credit Agreement (the "Agreement") signed by Customer, and is a binding contract between Barney's Pumps, Inc. ("Barney's Pumps") and the Customer executing the Credit Agreement which shall apply to all purchases by the above referenced Customer or its agents after the date of the Agreement. This document is also fully incorporated into any quote or invoice it is sent with or attached to. **Barney's Pumps expressly conditions its acceptance of any offer or purchase order from Customer on Customer's acceptance of only these Terms of Sale & Warranty expressly provided herein, and Customer agrees that any additional or different terms and conditions that may be attempted or purported to be imposed by the Customer on Barney's Pumps shall not apply to any transaction between Barney's Pumps and the Customer. Customer agrees and acknowledges that Barney's Pumps is unwilling to conduct business at all with Customer except for Customer's agreement to only these Terms of Sale & Warranty contained herein and nothing else unless such additional or different terms are agreed to in a subsequent writing by Barney's Pumps.**
2. Quoted prices do not include any taxes and are valid for thirty (30) days from the date of Barney's Pumps' proposal unless otherwise noted on the proposal. If the proposal is not unconditionally accepted, in writing, within that timeframe, Barney's Pumps may modify pricing.
3. Customer's payment terms are net 30 days from invoice date unless Barney's Pumps states other payment terms in writing signed by Barney's Pumps. The Customer shall pay a finance charge of 18% per annum, or the highest rate permitted by law, whichever is lower, on all delinquent accounts. If it becomes necessary for us to employ an attorney or to bring suit to recover any amount, the Purchaser agrees to pay all of our court costs, legal expenses, and reasonable attorney's fees in connection therewith. These remedies are not in lieu of any other remedies so provided by applicable law. The Customer agrees that any credit extended by Barney's Pumps is for business purposes only, and not for personal, family, or household purposes.
4. Shipping and shop drawing production schedules are estimates based on current market conditions; they are subject to revision. We will not be liable or responsible for any delays caused by late shipment to us, or by any other matters beyond our control (Force Majeure) either in whole or in part. The Customer hereby releases Barney's Pumps for all damages for delays caused, whether in whole or in part, by third parties. Customer agrees that if a third party caused or contributed to any delay, Customer releases Barney's Pumps completely for any damages caused by that delay, including any liquidated damages. Barney's Pumps shall only be liable for liquidated damages if Barney's agrees to such in writing.
5. If requested, shop drawings will be provided for submittal, review and approval to ensure that you, our customer, can be sure that Barney's Pumps has the correct perception of what you require. Any order where shop drawings are provided is contingent upon the approval of those shop drawings that, when approved, shall become the only specifications for the materials, goods, and/or services you wish to purchase. Barney's Pumps cannot and does not warrant, guarantee or represent that materials/goods/services are suitable for any particular purpose nor does Barney's Pumps warrant, guarantee or represent that the materials/goods/services will be or have been approved for use by any other party. The customer is not authorized to rely on any warranty or representation by Barney's Pumps not contained in this document or otherwise provided in writing, and any reliance on anything else shall be deemed unreasonable by the Customer.
6. Purchaser must inspect all materials/goods for damage or shortage at the time of delivery. Claims for non-conforming materials/goods, whether for damage, shortage or otherwise, must be given in writing at the time of delivery to the carrier, and we must be notified in writing of any such claim within five (5) days of the date of delivery. If Customer does not provide written notice of any issue with the materials/goods delivered within five (5) days after the date of delivery, then Customer shall be conclusively deemed to have accepted the materials/goods, and waives any right to complain regarding the quality of the materials/goods and any defects or non-conformance, whether patent or latent. Once the materials and/or goods are accepted, the Customer waives any right to revoke acceptance, whether in whole or in part. These waivers will be enforceable despite any contrary course of performance or course of dealing between the parties hereto. After the five (5) day period mentioned above, materials/goods may not be returned to Barney's Pumps without its written consent and will be subject to a restocking charge plus any freight costs involved.
7. For Specially Manufactured Goods: If Customer orders any goods that must be specially manufactured under specific specifications from the Customer, then the Customer shall not have the ability to cancel any order for such specially manufactured goods once production starts on the goods. Once procurement or production starts on said goods, Customer shall be fully liable for the purchase price of said goods, unless Barney's Pumps agrees otherwise in writing. Customer agrees that any cancellation of production or manufacturing of the specially manufactured goods may result in a cancellation fee to Barney's Pumps, which shall be borne solely by Customer. However, the express warranties below shall still apply to the goods if completed goods are delivered to and accepted by Customer.
8. With respect to materials/goods manufactured by Barney's Pumps, including Unitron Controls® control panels, we warrant said materials/goods only if the Customer is the original purchaser, and only against defects in workmanship and material, subject to the limitations described below. The warranty period shall be the lesser of one year from startup or eighteen (18) months from date of shipment. It is the original purchaser's responsibility to ensure that the equipment is properly lubricated and that electrical components used in the control panels are free from rust and operate properly prior to start-up. This warranty does not apply to damage resulting from accident, alteration, misuse or abuse. We warrant to the original purchaser that any part which proves to be defective in material or workmanship will be repaired or replaced at no charge

with a new or remanufactured part, F.O.B. Lakeland, Florida. The Customer shall assume all responsibility and expense for removal, reinstallation, and freight to and from Lakeland, Florida. Any item designated as manufactured by others shall be covered only by the express warranty of the manufacturer thereof, if any. Parts of products, or accessories, manufactured by third parties are warranted only to the extent of the original manufacturer's express warranty, if any. In order for this express warranty to be valid and enforceable, Customer shall give Barney's Pumps a written notice within the warranty period above and shall give Barney's Pumps a reasonable opportunity to inspect the materials/goods alleged to be defective, as well as the installation and use thereof. If written notice is not received by Barney's Pumps within the warranty period, any warranty is deemed waived.

9. **Service, Repair and Maintenance Work:** From time to time, Barney's Pumps may perform service, repair and maintenance work for the Customer on materials/goods purchased by the Customer and/or provide training to Customer concerning said materials/goods. For all repair and maintenance work performed by Barney's Pumps at Barney's Pumps facility, Barney's Pumps warrants said repair and maintenance work against defects in material and workmanship only for the ninety (90) days from the date of completion of said repair and maintenance work. For service, repair and maintenance in the field and for training to customers, Barney's Pumps warrants only that said service, repair and maintenance and field training shall be free from defects in materials and workmanship for ninety (90) days following the date of completion of said services. In order for this express warranty to be valid and enforceable, Customer shall give Barney's Pumps a written notice within the warranty period above and shall give Barney's Pumps a reasonable opportunity to inspect the materials/goods repaired as well as the installation and use thereof. If written notice is not received by Barney's Pumps within the warranty period, the warranty shall be waived by Customer.
10. **EXCLUSION OF ALL OTHER WARRANTIES: THE EXPRESS WARRANTIES CONTAINED HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES, INCLUDING ALL IMPLIED WARRANTIES, INCLUDING WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE. ALL OTHER IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED AND EXCLUDED FROM THIS TRANSACTION AND SHALL NOT APPLY TO ANY MATERIALS OR GOODS PRODUCED OR MANUFACTURED BY BARNEY'S PUMPS, OR ANY PARTS INCORPORATED INTO ANY BARNEY'S PUMPS PRODUCT. THE MATERIALS/GOODS SOLD BY BARNEY'S PUMPS TO THE CUSTOMER ARE SOLD AND DELIVERED "AS IS" AND "WITH ALL FAULTS."**
11. **UNDER NO CIRCUMSTANCES SHALL BARNEY'S PUMPS BE LIABLE TO THE CUSTOMER FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE AND HOWEVER OCCASIONED, WHETHER ALLEGED AS A RESULT OF BREACH OF WARRANTY OR CONTRACT BY BARNEY'S PUMPS, AS A RESULT OF THE NEGLIGENCE OF BARNEY'S PUMPS, OR OTHERWISE. BARNEY'S PUMPS AND THE CUSTOMER AGREE THAT THE SOLE AND EXCLUSIVE REMEDY AGAINST BARNEY'S PUMPS REGARDING GOODS AND/OR MATERIALS PROVIDED BY OR DELIVERED BY BARNEY'S PUMPS SHALL BE FOR THE REPAIR OR REPLACEMENT OF ANY DEFECTIVE PART PURSUANT TO THE EXPRESS WARRANTY PROVISIONS HEREIN.**
12. **This Agreement constitutes the entire agreement between the Customer and Barney's Pumps. This Agreement takes precedence and shall be controlling over any conflicting provision in all other writings, whether agreed upon by the Customer and/or Barney's Pumps, or otherwise, including any purchase order from Customer. Furthermore, Customer agrees that any indemnification or hold harmless provision in any document provided to Barney's Pumps by the Customer is not accepted by Barney's Pumps unless Barney's Pump's consents in writing to said provision(s). THE CUSTOMER AGREES THAT ANY REPRESENTATION, PROMISE, CONDITION, INDUCEMENT OR WARRANTY, EXPRESS OR IMPLIED, NOT INCLUDED IN WRITING IN THIS AGREEMENT SHALL NOT BE BINDING ON BARNEY'S PUMPS, AND ANY RELIANCE BY THE CUSTOMER ON ANYTHING OTHER THAN THE WRITING CONTAINED HEREIN IS UNREASONABLE.**
13. **If any provision of this Agreement is held to be illegal, invalid, or otherwise unenforceable under present or future laws, such provision shall be fully severable, the same as if such invalid or unenforceable provision had never comprised part of this Agreement. The remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement.**
14. **The fact that Barney's Pumps may have initially drafted or structured this Agreement shall not be considered in construing any particular provision herein either in favor of or against Barney's Pumps or the Customer.**
15. **As to each person signing and/or accepting this Agreement on behalf of a corporation or other entity, each such person represents and warrants that he or she is competent and authorized to enter into this Agreement.**
16. **This Agreement shall be construed and enforced in accordance with the laws of the State of Florida only, regardless of any principles of conflicts of laws. Exclusive venue and jurisdiction for any claims, causes of action or disputes between the Customer and Barney's Pumps shall be vested in the appropriate state court in Polk County, Florida.**
17. **THE CUSTOMER AND BARNEY'S PUMPS HEREBY WAIVE THEIR RIGHT TO A TRIAL BY JURY ON ANY DISPUTE ARISING BETWEEN THEM.**