Robert O. Oakes, Jr.
Mayor

Wayne Gray
Mayor Pro Tem

Cliff Ogburn
Town Manager

Doug Remaley
Commissioner

Anna D. Sadler
Commissioner

M. Renée Cahoon
Commissioner

NORTH CAROLINA
DARE COUNTY

SERVICE CONTRACT
PURCHASE ORDER #

THIS CONTRACT IS NOT VALID WITHOUT THE REQUIRED ACCOMPANYING/ CORRESPONDING PURCHASE ORDER

DEC
(CONTRACTOR *initials*)

THIS CONTRACT is made and entered into this the 19 day of August 2010, by and between the TOWN OF NAGS HEAD, a public body corporate of the State of North Carolina, (hereinafter referred to as "the TOWN") party of the first part and DEC Associates, Inc., 2133 Southend Drive, Unit 306 Charlotte, NC 28203, (hereinafter referred to as "CONTRACTOR"), party of the second part.

RECITALS

WHEREAS the Town desires to engage the services of a recognized financial consultant with expertise in governmental and private financing to assist the in the review, evaluation, planning, development, and administration of certain of its financial operations, capital projects, and financing plans; and

WHEREAS the Advisor is engaged in the field of financial consulting, including public finance and investment banking, and has comprehensive experience in advising on, and providing for the planning, structuring, negotiating, and underwriting of private, state, municipal, and other taxable and tax-exempt finance transactions;

NOW, THEREFORE, in consideration of the mutual representations, covenants, and agreements herein contained, the Town does hereby designate DEC Associates, Inc. to act as financial advisor of record to the Town for the purpose of reviewing, evaluating, planning, developing, administering, soliciting, structuring, negotiating and otherwise assisting the Town in its financial operations, and the Advisor does hereby accept such designation, upon the following terms and conditions:

1. SERVICES TO BE PROVIDED AND AGREED CHARGES

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

The Advisor agrees to serve the Town as financial advisor, including specifically with respect to the selected financial services designated by the Town. The Advisor will assign the following

individuals, who will have primary responsibility for providing the services described in this Agreement:

Douglas E. Carter, President and Managing Director
Jeremy A. Carter, Vice President

As necessary, other members of the Advisor's staff will assist the individuals from time to time. All computer applications, not subject to licensing agreements, specifically developed by the Advisor for the provision of the services under this Agreement shall be provided to the Town.

The Advisor will be entitled to receive as consideration for services rendered a financial advisory fee for the financing of the Beach Re-nourishment Project of $25,000 for a private placement of the financing. If the financing is accomplished by a public offering of debt the advisory fee will be increased to $40,000 in recognition of the additional services relating to obtaining credit ratings, preparation of an official statement, selection of an underwriter and other related services.

Payment will be made when the financing, either private placement or public offering is completed.

The Advisor will be reimbursed for all customary out of pocket costs, including but not limited to, travel, mailing, communications, copy and other costs. The out of pocket costs will be billed at the time of billing of fees.

For other advisory services not included in this agreement, fees will be negotiated by the parties and included as an amendment to this agreement.

2. DESCRIPTION OF PROJECT

The Advisor will perform the work and provide the services outlined below, in connection with the Project assigned:

Review financial and other information related to the Town, and the Project, including, but not limited to:

Town financials;

Architectural, construction, and other contracts and documents related to the Project;

Management and operations documents and information;

Government-related information (organization/structure/legal status);

Revenue options for repayment of the Project debt service, and

Other pertinent and related general information.

Evaluate alternative approaches and structures for financing the Project, taking into account relevant factors, including:

The Town's financing needs and objectives;

Assist and advise in the selection of financing mode(s) and lender(s)/underwriter(s) and the negotiation of terms, including:

Initiating contact and maintaining communications with potential lenders/underwriters/issuers;

Preparing and/or reviewing information and documents for submission to lenders/underwriters/issuers;

Coordinating presentations and submissions to lenders/underwriters/issuers;

Preparing requests for financing proposals;

Handling and/or advising in negotiations with lenders/underwriters/issuers; and

Obtaining, reviewing, and evaluating financing proposals.

Advise as to the method of sale for the particular debt transaction, whether public or private offerring.

Provide other assistance in connection with the Project including, but not limited to, the following:

Develop timetable for work and distribution list for correspondence;

Organize meetings and conference calls;

Attend any and all meetings requested by the Town, lenders, underwriters, or issuers;

Monitor, as appropriate, actions required of principal participants on financing team;

Serve as liaison to companies, persons, officials, not members of financing team (e.g., rating agencies and such other companies, persons, officials, entities, etc., as requested by the Town);

Maintain constant communications with Town staff, legal counsel, and others regarding progress of work;

Assess market activity on an on-going basis and keep Town staff aware of current interest rate levels and general market conditions.

Assist in the closing of the transaction(s) by coordinating, reviewing, monitoring, and following-through on all elements of the financing process to insure timely and proper closing of the financing transaction(s) and any post-closing follow-up, including:

Coordinate efforts of lender, underwriter, issuer, purchasers, counsel, printer, and other closing participants;

Verify closing numbers;

Review closing documents;

Review of debt service schedules;

Assist Town with any post-closing issues or follow-up.

The Advisor will provide the Town with on-going advice and counsel regarding any other matters concerning or related to the Project and for which such advice and counsel is requested.

3. TERM OF CONTRACT

The term of this Agreement shall extend until the cancellation by either party. It is expressly understood that either party, as a condition of this Agreement, reserves the right to cancel this Agreement upon thirty (30) days written notice by certified mail or personal delivery with no further obligation to the Advisor other than reimbursement of accrued, out-of-pocket expenses and any earned and unpaid portion of the Project fees.
This contract is subject to the availability of funds to purchase the specified SERVICES and may be terminated at any time if such funds become unavailable.

4. PAYMENT TO CONTRACTOR

The TOWN agrees to pay at the rates specified for SERVICES satisfactorily performed in accordance with this contract. Unless otherwise specified, the CONTRACTOR shall submit an itemized invoice to the TOWN at the end of the month during which SERVICES are performed. Payment will be processed promptly upon receipt and approval by the TOWN of the invoice.

5. INDEPENDENT CONTRACTOR

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

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

Nothing in this Agreement precludes the Advisor from acting as a business broker or financial advisor for the Town in matters unrelated to this Agreement or in any future financing transactions. The Advisor shall not be affiliated with, nor shall the Advisor receive any remuneration from any third parties, directly or indirectly, in connection with this Agreement, without the prior written consent of the Town.

Town: Cliff Ogburn, Town Manager
P. O. Box 99
Nags Head, NC 27959
Phone: (252) 449-2010 Fax: (252) 441-0776

11. OTHER PROVISIONS

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

12. CONTRACT DOCUMENTS/AMENDMENTS

This document together with the purchase order and any attached exhibits constitutes the entire Contract between the said two parties and may only be modified by a written mutual agreement signed by the parties and attached hereto. In the event of any conflict between this contract and any attached documents, the contract language will prevail.

13. This Agreement is not effective until accepted and approved by an authorized representative of the Town.

14. SIGNATURES

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

Witnessed or Attested By:

Michelle H Gray

TOWN OF NAGS HEAD

By: Cliff Ogburn

Printed Name: Cliff Ogburn

Title: Town Manager

Date: 3-15-11

DEC ASSOCIATES, INC.

Corporate Seal:

By: Douglas E Carter

Printed Name: Douglas E. Carter

Title: President

Date: 3/9/2011

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

Finance Officer

3-14-11

APPROVED AS TO FORM AND LEGAL SUFFICIENCY.

TOWN ATTORNEY

This contract is Pending Board Approval on August 18, 2010.