



889

Town of Nags Head

Post Office Box 99
Nags Head, North Carolina 27959
Telephone 252-441-5508
Fax 252-441-0776
www.townofnagshead.net

NORTH CAROLINA
DARE COUNTY

SERVICE CONTRACT
PURCHASE ORDER # _____

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

RB
(CONTRACTOR *initials*)

THIS CONTRACT is made and entered into this the 5th day of March 2011, 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 Barnhill Contracting, Inc., P. O. Box 1050, Kitty Hawk, NC 27949 (hereinafter referred to as "CONTRACTOR"), party of the second part.

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:

To furnish materials and labor to construct, repair or repave (overlay) several Town maintained streets, as listed on the Bid Form, dated February 4, 2011 and additional quoted work, dated February 11, 2011. Work to be done is as described in the Bid Form which is attached hereto. Construction work will be performed at E. Grouse St., S. Cobia Way, Old Cove Rd., Old Cove Rd., W. Windjammer Rd. and E. Admiral.

Total contract price is \$118,867.00 (One hundred eighteen thousand Eight hundred Sixty-seven dollars and no cents). Price is in accordance with Contractor's Bid Form, dated February 4, 2011 Using option 1a (copy attached) and Contractor's quote for additional work, dated February 11, 2011 (copy attached). The work is scheduled to commence no later than March 7th day of March 2011.

It is mutually agreed by and between the TOWN and CONTRACTOR that contract completion date shall be May 12, 2011 with time being of the essence. If CONTRACTOR fails to complete work under this contract by May 12, 2011 the TOWN will be damaged thereby, and because the amount of the TOWN's damages, inclusive of expenses for inspection, superintendence and necessary traveling expenses is difficult if not impossible to definitely ascertain and prove, it is hereby agreed that the amount of such damages shall be \$200.00 as liquidated damages for every day's delay in finishing the work in excess of the completion date prescribed; and the CONTRACTOR hereby agrees that said sum shall be deducted from monies due the CONTRACTOR under the contract or, if no money is due the CONTRACTOR hereby agrees to pay to the TOWN as liquidated damages, and not by way of penalty, such total sum as shall be due for such delay computed aforesaid.

2. DESCRIPTION OF PROJECT

Work under this contract consists of all necessary Storm water construction, repaving and widening (overlaying with 1-1/2 inches of I-2, or acceptable equal, bituminous pavement) of the town maintained streets listed in paragraph 1, above and construction of E. Admiral St. in accordance with Bissell Engineering plans dated November 30, 2010.

3. TERM OF CONTRACT

The term of this CONTRACT for SERVICES is from March 5, 2011 to May 20, 2011. Either party may nonetheless cancel this contract on thirty (30) days written notice to the other party by certified mail or personal delivery. 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 by 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 and in accordance with the standards of applicable professional organizations and licensing agencies.

6. INSURANCE AND INDEMNITY

The CONTRACTOR shall indemnify and save harmless the TOWN, its agents and employees from and against all actions, liability, claims, suits, damages, cost or expenses of any kind which may be brought or made against the TOWN or which the TOWN must pay and incur by reason of or in any manner resulting from injury, loss or damage to persons or property resulting from negligent performance of or failure to perform any of its obligations under the terms of this CONTRACT.

The CONTRACTOR shall be fully responsible to the TOWN for the acts and omissions of its sub-contractors and of persons either directly or indirectly employed by it, as the CONTRACTOR is for the acts and omissions of persons directly employed by it.

In addition, the CONTRACTOR shall comply with the North Carolina Worker's Compensation Act and shall provide for the payment of workers' compensation to its employees in the manner and to the extent required by such Act. In the event the CONTRACTOR is excluded from the requirements of such Act and does not voluntarily carry workers' compensation coverage, the CONTRACTOR shall carry or cause its employees to carry adequate medical/accident insurance to cover any injuries sustained by its employees or agents during the performance of SERVICES.

The CONTRACTOR agrees to furnish the TOWN proof of compliance with said Act or adequate medical/accident insurance coverage upon request.

The CONTRACTOR upon request by the TOWN shall furnish a Certificate of Insurance from an insurance company, licensed to do business in the State of North Carolina and acceptable to the TOWN verifying the existence of any insurance coverage required by the TOWN. The Certificate will provide for sixty (60) days advance notice in the event of termination or cancellation of coverage.

7. HEALTH AND SAFETY

The CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. The CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees from the work and other persons who may be affected thereby.

8. NON-DISCRIMINATION IN EMPLOYMENT

The CONTRACTOR shall not discriminate against any employee or applicant for employment because of age, sex, race, creed, or national origin. The CONTRACTOR shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their age, sex, race, creed, or national origin. In the event the CONTRACTOR is determined by the final order of an appropriate agency or court to be in violation of any non-discrimination provision of federal, state or local law or this provision, this Contract may be cancelled, terminated or suspended in whole or in part by the TOWN, and the CONTRACTOR may be declared ineligible for further contracts.

9. GOVERNING LAW

This contract shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this contract shall be brought in the General Court of Justice of the State of North Carolina or in the Federal District Court for the Eastern District of North Carolina.

10. 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.

11. 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.

12. SIGNATURES

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

Witnessed or Attested By:

Micelle H. Seal



TOWN OF NAGS HEAD

By: [Signature]

Title: TOWN MANAGER

Date: 3/7/11

[Signature]

Corporate Seal:

CONTRACTOR

By: [Signature]

Printed Name: Ricky Brki

Title: Project Manager

Date: 3/4/11

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

[Signature]
Finance Officer

APPROVED AS TO FORM AND LEGAL SUFFICIENCY.

[Signature]
TOWN ATTORNEY

This Contract is pending Board of Commissioners approval on March 2, 2011.



Department of Public Works

- Administration
- Maintenance Garage
- Public Facilities Maintenance
- Sanitation
- Water Distribution
- Water Operations

Town of Nags Head

Post Office Box 99
 Nags Head, North Carolina 27959
 Telephone 252-441-1122
 Fax 252-441-3350
 www.townofnagshead.net

Dave Clark, P.E.
 Public Works Director

Ralph Barile
 Deputy Public Works Director

BID FORM
TOWN OF NAGS HEAD – POWELL
BILL STREET REPAVING PROJECT
Bid Date: February 4, 2011 @ 2:00 pm
Location: Public Works Office

ITEM

Construction, Repair and paving (overlaying) of the following delineated portions of town streets with 1½ inches of compacted I-2, or acceptable equal, bituminous pavement:

1) a. Repave and widen to twenty four feet 510' of E. Grouse St. from Va. Dare Tr. to S. Croatan Hwy and additional Storm water work.

510 ft. \$ 15,635.00
 Storm water work \$ 16,517.00

1) b. Repave E. Grouse St. from Va. Dare Tr. to S. Croatan Hwy to 20' wide and replace 18" aluminum culvert.

510 ft. \$ 9,735.00
 Storm water work \$ 2,714.00

2) Repave S. Cobia Way. from the intersection of S. Old Cove Rd. passed the intersection of W. Fin Ln.

750 ft. \$ 14,415.00

3) Repave W. Old Cove Rd. from W. Danube St. to the intersection of S. Cobia Way and 90' of 2' widening at curve.

885 ft. \$ 18,345.00

4) Repave W. Windjammer Rd. from the intersection of S. Buccaneer Dr. to S. Croatan Hwy. and add approximately 25' to 30' of curbing.

160 ft. \$ 7,645.00

Burnhill

Powell Bill Street Repaving Project
Bid Date: February 4, 2011

5) Repave all and widen a portion of E. Admiral St. from Va. Dare Tr. to S. Wrightsville Ave. and Storm water work as per plans prepared by Bissell Engineering.

Road Work \$ 32,124.00
Storm water Work \$ 8,670.00

All work will be completed in accordance with Town of Nags Head standards for "Streets, Sidewalks And Other Public Places", as contained in the Code of Ordinances, Town of Nags Head, North Carolina, Chapter 36. All "spoil" resulting from preparation of these streets for paving will be removed from the town's right-of-way and disposed of properly. All street sections to be paved will be marked with white marking paint for identification. All work will be completed no later than April 21, 2011. Liquidated damages in the amount of \$200.00 per day will apply beginning April 22, 2011.

OR

Total Project using 1a: \$ 113,351.00
Total using 1B Total Cost for all Streets Listed: \$ 93,648.00

(in words - One hundred thirteen thousand three hundred dollars
fifty-one
and 00 cents).

OR

Ninety-three thousand six hundred forty-eight dollars
Contractor: Burnhill Contracting and 00 cents

By (signature): Ricky Brake

Printed Name: Ricky Brake

Position with Company: Project Manager/Estimator

Address: P.O. Box 1050
Kitty Hawk, NC 27948

Phone Number: 252 261-2207

NC Contractor's License # 3194



4704 North Crossan Highway
PO Box 1050
Kitty Hawk, North Carolina 27949-1050
252-261-2207 Fax: 252-261-1093

www.barnhillcontracting.com

Feb 11, 2011

Mr. Ralph Barile
Nags Head Deputy Director
Town of Nags Head
Post Office Box 99
Nags Head, NC 27959

Re: Admiral Street
Nags Head, NC

Dear Mr. Barile,

As you requested, we respectfully submit a price to add an additional 1/2" of surface asphalt over the limits of Admiral Street including the widening area.

This would include 56 tons (17,596 square feet at 1/2") for a total additional cost of \$ 5,516.00

If you need additional information, please do not hesitate to call me.

Yours very truly,

BARNHILL CONTRACTING COMPANY

A handwritten signature in black ink, appearing to read 'Ricky Brake', is written over the printed name.

Ricky Brake
Project Manager

RB/rb



03/08/2011 09:58
heagyk

TOWN OF NAGS HEAD
PO INQUIRY PROFILE REPORT

PG 2
poinquiry

NAGS HEAD, NC 27959

Ship To Reference

Allocation Details

Org	Obj	Proj	Description	Encumbered Amt	Bud
570	577300		CAPITAL OUTLAY OTH	\$118,867.00	A
			Liquidated	\$ 0.00	
			Canceled	\$ 0.00	
			Allocated Open Encumbrance	\$118,867.00	

** END OF REPORT - Generated by Karen Heagy