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Town of Nags Head

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Nags Head, North Carolina 27959
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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 25th day of July 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 Company, 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 install a masonry drop inlet, one hundred forty-five feet (145') of fifteen inch (15") high density polyethylene (HDPE) culvert pipe with a flared end section, clearing and grubbing as required, and grading of on-site material to achieve four inches (4") of cover over the installed pipe. The drop inlet will be installed in the road right-of-way between 224 and 228 West Lookout Road and the pipe along the property line between these two locations.

Total contract price is \$7,582.60 (Seven thousand, five hundred eighty-two dollars and sixty cents). Price is in accordance with CONTRACTOR's proposal dated 7-19-11 (copy attached).

It is mutually agreed by and between the TOWN and CONTRACTOR that construction under this contract will commence no later than August 1st, 2011. The contract completion date shall be August 12th, 2011 with time being of the essence. If CONTRACTOR fails to complete work under this contract by August 12th, 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 One hundred dollars and no cents \$100.00 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

Improvements to the TOWN's drainage infrastructure through the installation of a masonry drop inlet and one hundred forty-five feet (145') of HDPE culvert pipe from the right-of-way (R-O-W) of West Lookout Road, in the Northridge subdivision, to the western edge of the ditch in the right-of-way of U. S. 158 (the "Bypass"). This system will be installed between 224 and 228 W. Lookout Road, with the drop inlet being installed in the R-O-W where the existing culvert emerges from the eastern edge of the pavement of W. Lookout Rd.

3. TERM OF CONTRACT

The term of this CONTRACT for SERVICES is from July 25th, 2011 to August 31st, 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 but 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

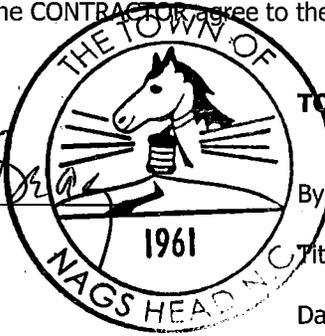
This document together with the purchase order and any attached exhibits constitutes the entire Contract between the said two parties and may only be modified by a written mutual agreement signed by the parties and attached hereto. In the event of any conflict between this contract and any attached documents,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

12. SIGNATURES

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

Witnessed or Attested By:

Merrill H. [Signature]



TOWN OF NAGS HEAD

By: [Signature]
Title: TOWN MANAGER

Date: 7/25/11

Tony Pearce

Corporate Seal:

CONTRACTOR

By: [Signature]

Printed Name: Ricky Brake

Title: Project Manager

Date: 7/22/11

"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



PROPOSAL

4704 North Croatan Highway, P.O. Box 1050
Kitty Hawk, North Carolina 27949-1050

GENERAL CONTRACTORS

(252) 261-2207 Phone • (252) 261-1093 Fax

Project/Workorder No. _____

PROPOSAL SUBMITTED TO Town of Nags Head	PHONE 442-1122 FAX-<fax>	DATE 7-19-11
STREET P.O. box 99	JOB NAME North Ridge Drainage project	
CITY, STATE AND ZIP CODE Nags Head, N.C. 27959	JOB LOCATION Nags Head, N.C.	
ATTENTION Dave Clark		

We include the following in accordance with invitation to bid:

1. remove existing trees as required for pipe installation
2. construct one new masonry drop inlet, 24" x 36" with frame and grate
3. furnish and place 145 LF of 15" HDPE N-12 air chamber pipe with watertight gaskets
4. backfill with existing soil.

Total price \$ 7,582.60

The following items are not included:

- Removal, repair, or relocation of any irrigation or utility lines
- Import fill material
- seeding
- Landscaping work
- Fence removal or replacement

PAYMENT TO BE MADE AS FOLLOWS: MONTHLY ESTIMATES. NET UPON RECEIPT OF INVOICE WITH A 1-1/2% MONTHLY SERVICE CHARGE ON ACCOUNTS OVER THIRTY (30) DAYS PAST DUE WHICH IS AN 18% ANNUAL RATE.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tomado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized Signature *Ricky Brake*

Note: This proposal may be withdrawn by us if not accepted within 30 days.

Acceptance of Proposal — The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. Your project will not be scheduled until we receive your signed acceptance.

Signature _____
Date of Acceptance _____

Pg

Karen Heagy
Town of Nags Head
P.O. BOX 99
Nags Head, NC 27959

12-00243

ORDER DATE: 07/25/11
REQUISITION NO: R1200100
DELIVERY DATE:
STATE CONTRACT:
F.O.B. TERMS: Destination

VENDOR #: BARNH010

BARNHILL CONTRACTING CO INC
P O BOX 1050
KITTY HAWK, NC 27949

QTY/UNIT	DESCRIPTION	ACCOUNT NO.	UNIT PRICE	TOTAL COST
1.00	DRAINAGE WORK CLEARING DROP INLET 15" HDPE ADS N-12 STORM DRAIN PIPE MOB AS PER SCOPE PROPOSAL DATED 7-1-11 and CONTRACT	2-60-620-0-5445-00 CONTRACTED SERVICES	7,582.6000	7,582.60
			TOTAL	<hr/> 7,582.60

Please contact the Town of Nags Head if the prices indicated are not correct. The Town of Nags Head will not be responsible for incorrect pricing after the Purchase Order is received by vendor for processing.