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Clerk ORIGINAL

### 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 # 12-01561

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

  
(CONTRACTOR initials)

THIS CONTRACT is made and entered into this the 23<sup>rd</sup> day of November 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 W. M. Dunn Construction, LLC, 4800 Capri Terrace, Kitty Hawk, NC 27949-5931, (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 all necessary materials and labor to install up to 9,300' (nine thousand three hundred feet) of Sand Fencing at locations to be specified by the TOWN's Project Manager. These locations include all properties from the south side of James Street, at 9405 South Old Oregon Inlet Road (SOOIR) to 10325 SOOIR (a total of 9,000 feet), TOWN Public Beach Accesses, as well as TOWN approved private oceanfront properties. TOWN approval will be contingent upon a site's compliance with CAMA Regulations and accessibility by CONTRACTOR's vehicles. Approved private property locations will be provided to the CONTRACTOR by the TOWN'S Project Manager. Sand fencing shall be installed in accordance with NC-DENR Division of Coastal Management regulations. Work will also be done in accordance with the project specifications entitled "Instructions to Bidders" as prepared by the Town of Nags Head Public Works Department, dated October 14, 2011 (copy attached), and the CONTRACTOR's Bid Form, dated 10-14-11 (copy also attached).**

Total contract price is a Not to Exceed amount of \$23,994.00 (Twenty-three thousand nine hundred ninety-four dollars and no cents). Price is in accordance with CONTRACTOR's unit bid price as contained in the above referenced Bid Form, dated 11-14-11.

It is mutually agreed by and between the TOWN and CONTRACTOR that work – actual installation of sand fencing - under this contract will commence no later than December 12, 2011. The contract completion date shall be March 1, 2012 with time being of the essence. If CONTRACTOR fails to complete work under this contract by March 1, 2012, 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 \$250.00 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 the installation of sand fencing in ten foot (10') sections along the oceanfront at specified locations throughout the Town of Nags Head. Work will be done under the guidance of the TOWN's Project Manager, the Public Works Director, or his designee.

3. TERM OF CONTRACT

The term of this CONTRACT for SERVICES is from November 23, 2011, to March 15, 2012. 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 at the end of each two week period 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:

*Caryn A. White*



**TOWN OF NAGS HEAD**

By: *Caryn A. White*

Title: TOWN MANAGER

Date: 12-2-11

*William M. Dunn*  
W.M. Dunn Construction LLC

Corporate Seal:

**CONTRACTOR**

By: *W. M. Dunn*

Printed Name: William M. Dunn

Title: Vice President

Date: 11-23-11

"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

# INSTRUCTIONS TO BIDDERS

PLEASE READ ALL INSTRUCTIONS CAREFULLY  
BEFORE PREPARING AND SUBMITTING YOUR BID.

All bids shall be prepared and submitted in accordance with the following requirements. Failure to comply with any requirement shall cause the bid to be considered non-responsive and shall be grounds for rejection of the bid.

All bids must be submitted on the Town provided bid forms. Also, no bids will be considered unless all required information is included as specified.

1. The bid sheet furnished by the Town of Nags Head with the Request for Proposals shall be used and shall not be altered in any manner.
2. All entries on the bid sheet, including signatures, shall be written in ink.
3. Return pages numbered 1 through 6 as your bid.
4. Fencing will be installed at several locations throughout the Town of Nags Head as listed below:
  - Town Public Beach Accesses;
  - For nine thousand feet (9,000') south of 9401 South Old Oregon Inlet Road (SOOIR), just south of James Street, south to 10325 SOOIR;
  - *In addition, numerous fifty-foot (50') wide residential lots will also be provided with sand fencing.* The list of these locations will be provided to the contractor when the Notice to Proceed is provided.

The total linear feet of shoreline receiving sand fence will be approximately **Fifteen thousand four hundred fifty feet (15,450')**. Each of these locations within the Town of Nags Head will be covered by the **unit price bid** submitted on page 6, below. The Bidder shall submit an installed unit price per 10' length section of fence. The unit price shall be written in figures and in words in the proper place on the bid sheet.

5. Changes in any entry shall be made by marking through the entry in ink and making the correct entry adjacent thereto in ink. A representative of the Bidder shall initial any changes in ink.
6. The bid package including contractor information, the non collusion affidavit and the individual bid sheet(s) shall be properly executed. On each bid package shall show the following information:
  - a. Name of individual, firm, corporation, partnership, or joint venture submitting bid.
  - b. Name of individual or representative submitting bid and position or title.
  - c. Name, signature, and position or title of witness.
  - d. Contractor's License Number (if applicable).

## INSTRUCTIONS TO BIDDERS (continued)

7. Bids submitted by corporations shall bear the seal of the corporation.
8. The bid shall not contain any unauthorized additions, deletions, or conditional bids. The bidder shall not add any provision reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.
9. A copy of the Contractor's license if applicable, Certificate of General Liability Insurance, Certificate of Workman's Compensation Insurance, and the Non Collusion Affidavit shall be placed in an envelope numbered "Envelope #1" and marked as to its contents.
10. Pages numbered 1 through 6 shall be placed in separate envelope numbered, "Envelope #2" and marked as to its contents.
11. Both envelopes #1 and #2 shall be placed together in a sealed envelope, marked clearly with the phrase "**Quotation for 2011-2012 Sand Fencing Project in the Town of Nags Head.**"
12. Each bidder must submit in writing any additional services that are included in the Bid Price. No verbal inclusions will be allowed and all specifications and services must be in writing.

The bid documents shall be delivered to and received in the break room on the first floor of the Nags Head Public Works building located at 2200 S. Lark Avenue, Nags Head, NC 27959 prior to 2:00 PM on November 15, 2011. No Faxed or Electronic bids will be accepted.

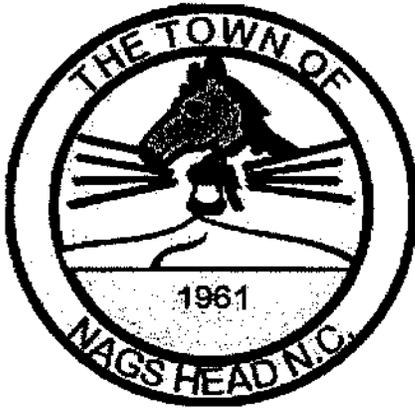
*If delivered by mail, the sealed envelope shall be placed in another sealed envelope and the outer envelope shall be addressed as follows:*

*Dave Clark  
Nags Head Public Works Director  
P.O. Box 99  
Nags Head, NC 27959*

### AWARD OF CONTRACT

The contract, if it is awarded, will be made to the lowest responsive/responsible Bidder. The lowest responsible bidder will be notified that his bid has been accepted and that he has been awarded the contract. The Nags Head Town Board of Commissioners reserves the right to reject any and all bids and to award in the best interest of the Town of Nags Head in accordance with General Statutes of NC 143-129.

TOWN OF NAGS HEAD, NORTH CAROLINA  
**Public Works Department**



## Sand Fencing Project 2011-2012

**LOCATION:** Town of Nags Head

**DESCRIPTION:** Sand Fencing

**DATE:** October 14, 2011      **BID OPENING:** November 15, 2011

### Contractor Information:

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NAME OF BIDDER

---

CONTACT PERSON

---

ADDRESS OF BIDDER

---

ADDRESS OF BIDDER

---

PHONE NUMBER(S)

---

Contractor's License Number

**RETURN BIDS TO:**  
*Dave Clark,*  
*Nags Head Public Works Director*  
*2200 S. Lark Avenue*  
*P O Box 1916*  
*Nags Head, NC 27959*  
*(252) 449-4201*

# **STANDARD PROVISIONS**

## **GENERAL**

This contract is for furnishing materials and installation of sand fencing for locations in Nags Head, in Dare County, North Carolina.

The Contractor shall keep himself fully informed of CAMA regulations for installation and placement of sand fencing and shall comply with those regulations. See exhibits "A" through "E", attached hereto.

## **AUTHORITY OF THE PUBLIC WORKS DIRECTOR**

Nags Head's representative for this project shall be the town Public Works Director acting directly or through his duly authorized representatives. The Public Works Director will decide all questions which may arise as to the quality and acceptability of work performed and as to the rate of progress of the work; all questions which may arise as to the interpretation of the contract; and all questions as to the acceptable fulfillment of the contract on the part of the Contractor.

## **UTILITY CONFLICTS**

Existing fire hydrants shall be kept accessible to the fire department at all times. The Contractor shall adhere to all applicable regulations and follow accepted safety procedures when working in the vicinity of utilities in order to insure the safety of construction personnel and the public.

## **NOTIFICATION OF OPERATIONS**

The Contractor shall notify the Public Works Director three (3) working days in advance of beginning work on this project. The Contractor shall give the Public Works Director sufficient notice of all operations for any sampling, inspection or acceptance testing required.

## **PROSECUTION AND PROGRESS**

The Contractor shall pursue the work diligently with workmen in sufficient numbers, abilities, and supervision, and with equipment, materials, and methods of construction as may be required to complete the work described in the contract by the completion date and in accordance with specifications.

The Contractor's operations are restricted to daylight hours. No work may be performed on Sundays and legal state or national holidays. Work shall only be performed when weather and visibility conditions allow safe operations.

## **SUPERVISION BY CONTRACTOR**

At all times during the duration of the project the Contractor shall provide one permanent employee who shall have the authority and capability for overall responsibility of the project and who shall be personally available at the work site within 24 hours notice. Such employee shall be fully authorized to conduct all business and to execute the orders or directions of the Public Works Director. This employee will be capable of conversing in English.

At all times that work is actually being performed, the Contractor shall have present on the project one competent individual who is authorized to act in a supervisory capacity over all work on the project, including work subcontracted. The individual who has been so authorized shall be experienced in the type of work being performed and shall be fully capable of managing,

directing, and coordinating the work; of reading and thoroughly understanding the contract; and receiving and carrying out directions from the Public Works Director or his authorized representatives. He shall be an employee of the Contractor unless otherwise approved by the Public Works Director.

The Contractor may, at his option, designate one employee to meet the requirements of both positions. However, whenever the designated employee is absent from the work site, an authorized individual qualified to act in a supervisory capacity on the project shall be present.

### **EXTENSION OF CONTRACT TIME**

Failure on the part of the Contractor to furnish certifications or to satisfy preliminary requirements necessary to issue the purchase order will not constitute grounds for extension of the contract time. If the Contractor has fulfilled all preliminary requirements for the issuance of a purchase order, and the purchase order authorization is not available by the date of availability, the Contractor shall be granted an extension equal to the number of calendar days the purchase order authorization is delayed after the date of availability.

### **SUBLETTING OF CONTRACT**

The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of this contract or any portion thereof; or his right, title, or interest therein.

### **DEFAULT OF CONTRACT**

The Public Works Director as representative for the Town of Nags Head shall have the right to declare a default of contract for breach by the Contractor of any material term or condition of the contract.

### **BANKRUPTCY**

The Town, at its option, may terminate the contract upon the filing by the contractor of any petition for protection under the provisions of the Federal Bankruptcy Act.

### **PAYMENT**

The Contractor may submit a request for partial payment on a monthly basis, or other interval as approved by the Public Works Director. The amount of partial payments will be based on the work accomplished and accepted as of the last day of the approved pay period.

All requests for payment shall be made on the form furnished to the Contractor by the Public Works Director. The form shall be completely and legibly filled out with all appropriate information supplied and shall be signed by an authorized representative of the Contractor.

Partial payments (interim pay requests) will be paid in full, based on acceptance of all work covered by that individual pay request. One hundred percent (100%) payment shall be made after successful completion of the work as verified by the final inspection.

## **LIABILITY AND WORKMAN'S COMPENSATION INSURANCE**

The Contractor shall obtain from an insurance company, duly authorized to do business in North Carolina, Public Liability and Property Damage Insurance to protect his company and subcontractors performing work covered under this contract from claims which may arise from operations under this contract. Insurance coverage shall be maintained during the life of this contract and shall extend to operations performed by the Contractor or his subcontractors, and by anyone employed directly or indirectly by either of them.

Public Liability Insurance shall be in an amount not less than \$1,000,000 for injuries, including accidental death, to any one person, and subject to the same limit for each person, in an amount not less than \$1,000,000 on account of one accident. Property Damage Insurance shall be in an amount not less than \$1,000,000.

The Contractor shall also obtain from an insurance company, duly authorized to do business in North Carolina, Workman's Compensation Insurance to protect his workers and his subcontractors' workers performing work covered under this contract from claims which may arise from operations under this contract. Insurance coverage shall be maintained during the life of this contract and shall extend to operations performed by the Contractor or his subcontractors, and by anyone employed directly or indirectly by either of them.

A certificate indicating the required insurance coverage will be provided with the signed contract naming the Town of Nags Head as an "also insured."

## **CONTRACT TIME AND LIQUIDATED DAMAGES**

The date of availability for this project is **November 25, 2011**. No work will be permitted and no purchase order will be issued until all prerequisite conditions and insurance certifications have been satisfied. The completion date for this project is **March 1, 2012**.

The Town shall confirm with the contractor at the time of the Town's acceptance of the contract a "not to exceed quantity" for the contract issued. The contractor shall finish installation of fence units up to the "not to exceed quantity" on or before the completion date.

Failure to complete the work shall result in liquidated damages of **\$250.00** (Two Hundred and Fifty Dollars) per calendar day which shall be deducted from monies due the contractor for installed units of fence until completion of the specified number of units is completed.

## SPECIFICATIONS

(See exhibits A through C for plan views.)

Sand fencing shall be constructed from evenly spaced thin wooden vertical slats connected with twisted wire, four feet in height and supported by three wooden stakes or posts per 10 foot section, one stake at each end and one in the middle.

Wooden posts or stakes shall be untreated either 2" x 4" x 8' or 3" diameter round x 8'.

Sand fencing shall be untreated, unfinished, biodegradable, and be neutral in color (beige, tan, natural wood finish). Plastic fencing is not permitted.

2 x 4 posts shall be installed such that the fencing material is fastened to the 2" side of the 2 x 4

Fencing material shall be installed on the northeast side of the posts.

Sand fencing shall be installed at an angle no less than 45 degrees to the shoreline.

Fence units shall be spaced 10 feet apart.

Fence units shall not extend more than 10 feet waterward of the following locations, whichever is most waterward, as defined in 15A NCAC 7H .0305: the first line of stable natural vegetation, the toe of the frontal or primary dune, or the erosion escarpment of the frontal or primary dune.

Sandfencing shall be attached to the post or stakes in the following manner:

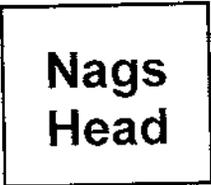
- 1) On each post, each wire in the fencing shall be attached to the post by an inch and a half (1.5") hot dipped galvanized fencing staple.
- 2) Contractor shall bend wire ends on the fence in a manner to prevent injury to pedestrian traffic.

Fencing shall be stretched tight and each unit shall be straight along its length with posts installed plumb and to the specified depth.

The tips of the 2 x 4 or round posts may be sharpened / angled not to exceed 6 inches from the tip to aid in installation.

Before installing the fencing material, the contractor shall trench under the fence so that when installed the bottom of the fence is 3" below grade.

**Town of Nags Head  
Contract Bid Form**



Estimated quantity approximately 1,545 units.  
Quantity will be determined after bids are received.  
Quantity may be less than estimate.

ITEM	DESCRIPTION	UNIT	UNIT PRICE
1	Sand Fence to be furnished and installed by contractor per individual 10' unit of fencing installed; for a total of approximately 15,450 feet	Each 10' Section	\$ _____ Bid in words: _____ dollars and _____ _____ cents.

← Unit price bid amount entered herein is for the sand fence in Nags Head.

Contractor/Bidder (print): \_\_\_\_\_

Authorized Agent (print): \_\_\_\_\_ Title: \_\_\_\_\_

Signature Authorized Agent: \_\_\_\_\_ Date: \_\_\_\_\_

Witness (print): \_\_\_\_\_ Title: \_\_\_\_\_

Signature Witness: \_\_\_\_\_ Date: \_\_\_\_\_

**THIS SECTION TO BE COMPLETED BY NAGS HEAD**

Reviewed by: \_\_\_\_\_ Date \_\_\_\_\_

Accepted by Town of Nags Head: \_\_\_\_\_ Date \_\_\_\_\_  
Nags Head Town Manager

# NON-COLLUSION AFFIDAVIT

(To Be Executed and Returned With Bid)

The person executing this bid solemnly swears (or affirms) that neither he, nor any official, agent, or employee of the bidder has entered into any agreement, or restraint of free competitive bidding in connection with this bid.

CONTRACTOR: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ TITLE: \_\_\_\_\_

**NOTE - AFFIDAVIT MUST BE NOTARIZED**

NOTARY SEAL

Subscribed and sworn to me this the  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature of Notary Public)

Of \_\_\_\_\_ County.

State of \_\_\_\_\_.

My Commission Expires: \_\_\_\_\_

(This form must be completed by the successful bidder prior to contract execution. It is not necessary to return it with the bid submission.)

**FORM W-9**

Pursuant to Internal Revenue Service Regulations, vendors must furnish their **Taxpayer Identification Number (TIN)** to the Town. **If this number is not provided, you may be subject to a 31% withholding on each payment.** To avoid this 31% withholding and to insure that accurate tax information is reported to the Internal Revenue Service and the State, please use this form to provide the requested information **exactly as it appears on file with the IRS.**

Legal Business Name \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9 Digit Taxpayer Identification Number \_\_\_\_\_  
Social Security Number \_\_\_\_\_  
Federal Employer Identification Number \_\_\_\_\_

Business Designation (Check One) \_\_\_\_\_ Individual (Soc. Sec. #)  
\_\_\_\_\_ Sole Proprietorship (Soc. Sec. #)  
\_\_\_\_\_ Partnership (Fed. ID)  
\_\_\_\_\_ Estate/Trust (Fed. ID)  
\_\_\_\_\_ Corporation (Fed. ID)  
\_\_\_\_\_ Public Service Corporation (Fed. ID)  
\_\_\_\_\_ Governmental/Non-Profit (Fed. ID)

Under penalties of perjury, I declare that I have examined this request and to the best of my knowledge and belief, it is true, correct, and complete. I have not been notified by the IRS that I am subject to backup withholding for failure to report income.

\_\_\_\_\_  
Print or type Name of Company

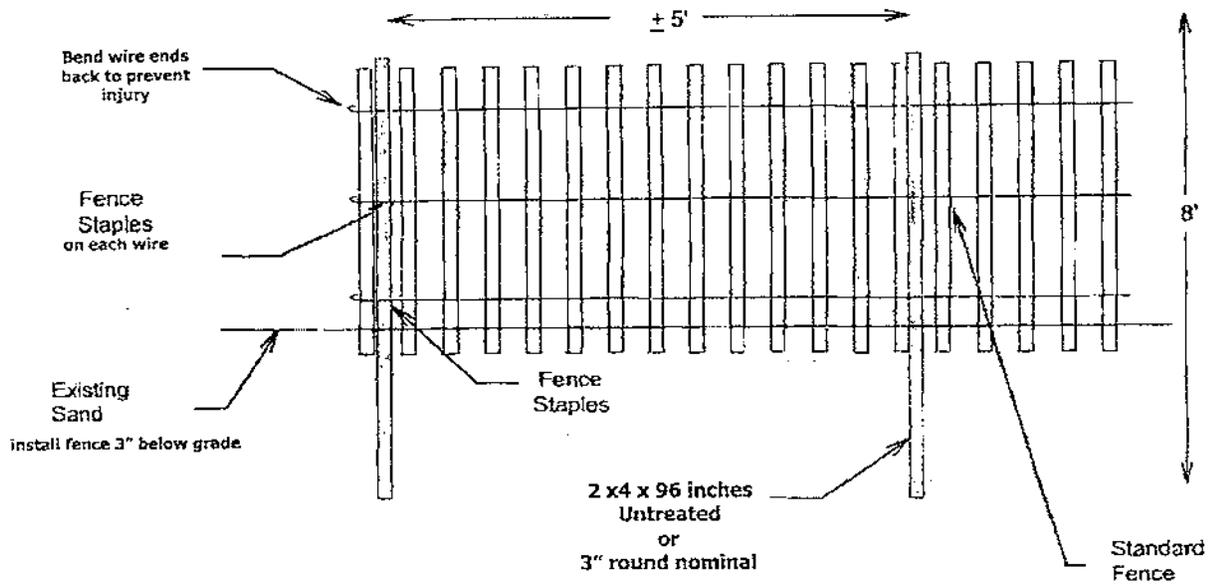
\_\_\_\_\_  
Print or type Name of Company Agent or Individual Title

\_\_\_\_\_  
Signature of Agent or Individual Date Telephone Number

EXHIBIT "A"  
**SAND FENCE TYPICAL**

Plan View

Distance between 2 x 4 posts  $\pm 5'$ . (post each end and middle) Total length of each section is 10'

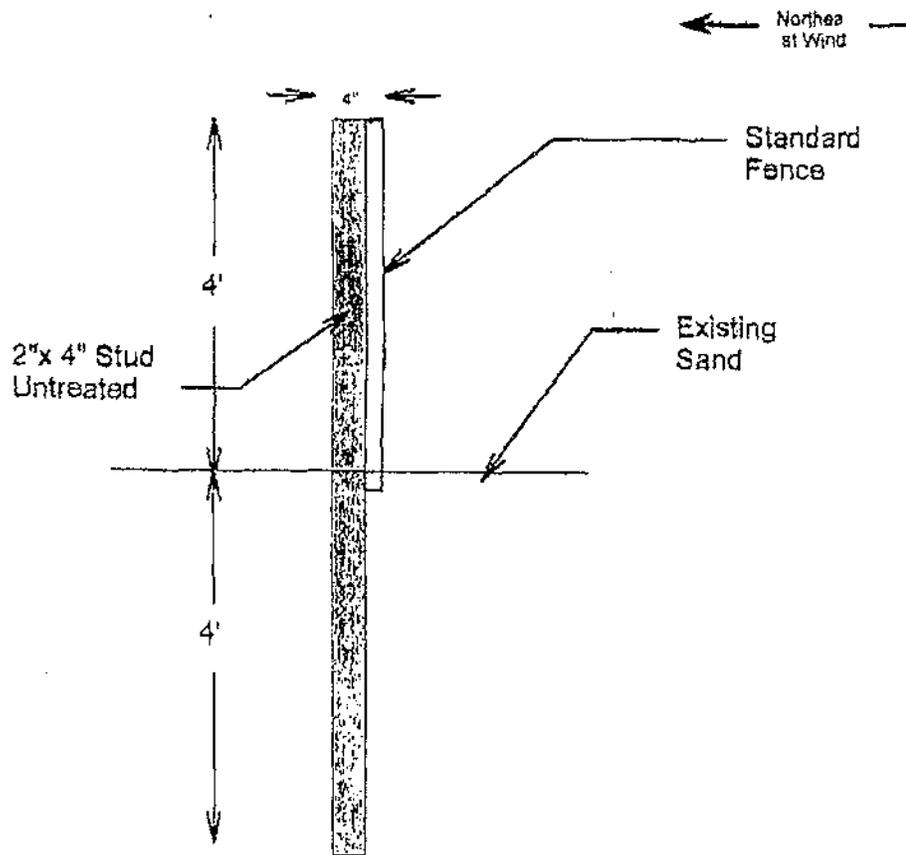


Lower end of 2 x 4 may be sharpened / beveled not to exceed 6 inches to facilitate installation in sand.  
 Sand shall be trenched out 3 inches deep and fence shall be placed in the bottom of trend and sand filled back in after installation.  
 Fencing units shall be straight along their length and shall be installed upright and plumb.  
 1.5" Galvanized fencing staples shall secure the fence at each binding wire on the upright 2 x 4 posts.

EXHIBIT "B"

SAND FENCE TYPICAL

Cross Section View

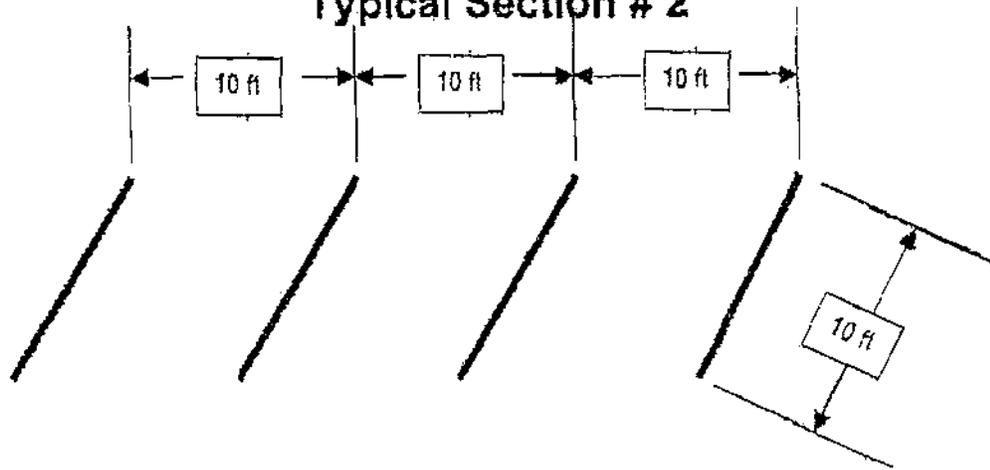


Place fence on the northeast facing side of the 2x4 posts.  
Turn the 1.5" side of the 2x4 to the fence.  
Three 2x4 stakes / poles per 10' section, each end and middle.

EXHIBIT "C"

SAND FENCE

Typical Section # 2



## **EXHIBIT "D"**

### **SAND FENCING RULES**

#### **15A NCAC 07H .0311 INSTALLATION AND MAINTENANCE OF SAND FENCING**

- (a) Sand fencing may only be installed for the purpose of: building sand dunes by trapping wind blown sand; the protection of the dune(s) and vegetation (planted or existing).
- (b) Sand fencing shall not impede existing public access to the beach, recreational use of the beach, or emergency vehicle access. Sand fencing shall not be installed in a manner that impedes or restricts established common law and statutory rights of public access and use of public trust lands and waters.
- (c) Sand fencing shall not be installed in a manner that impedes, traps or otherwise endangers sea turtles, sea turtle nests or sea turtle hatchlings. CAMA permit applications for sand fencing shall be subject to review by the Wildlife Resources Commission and the U.S. Fish and Wildlife Service in order to determine whether or not the proposed design or installation will have an adverse impact on sea turtles or other threatened or endangered species.
- (d) Non-functioning, damaged, or unsecured sand fencing shall be immediately removed by the property owner.
- (e) Sand fencing shall not be placed on the wet sand beach area.

*History Note: Authority G.S. 113A-107; 113A-113(b)(6) Eff. August 1, 2002.*

#### **15A NCAC 07K .0212 INSTALLATION AND MAINTENANCE OF SAND FENCING**

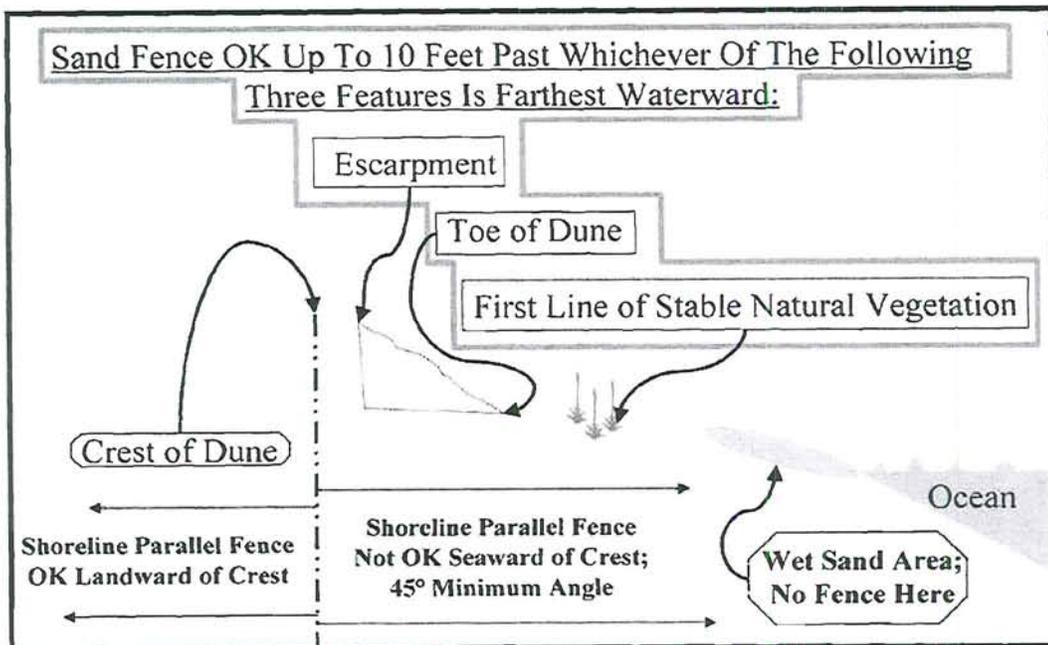
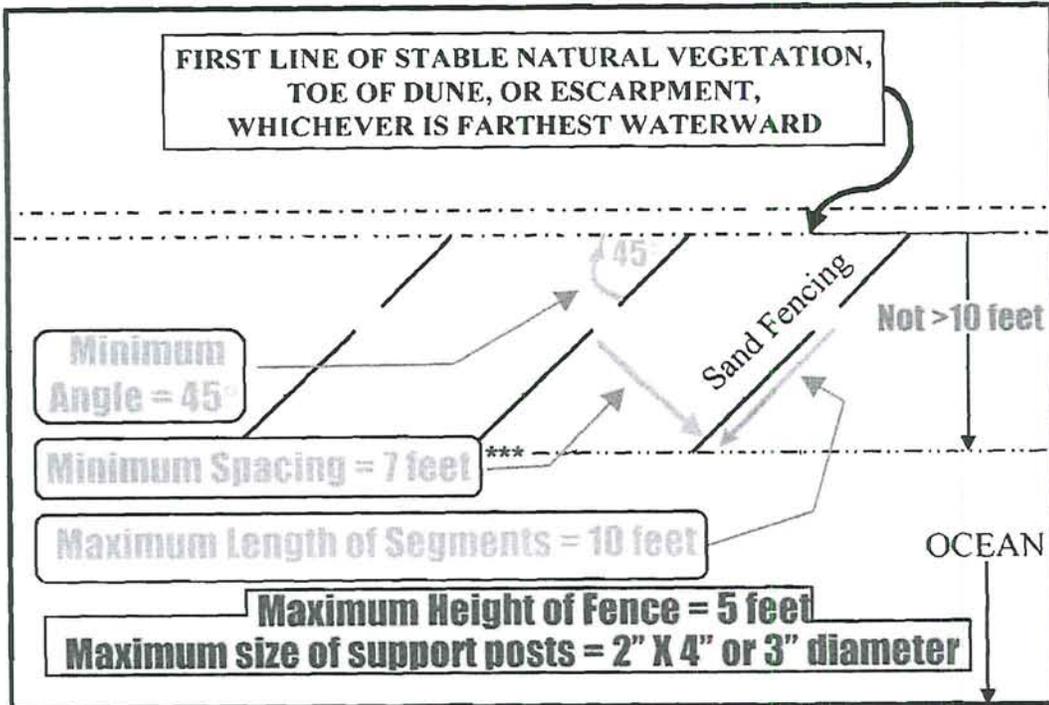
*Sand fences that are installed and maintained subject to the following criteria are exempt from the permit requirements of the Coastal Area Management Act:*

- (1) Sand fencing may only be installed for the purpose of: building sand dunes by trapping wind blown sand; the protection of the dune(s) and vegetation (planted or existing).
- (2) Sand fencing shall not impede existing public access to the beach, recreational use of the beach or emergency vehicle access. Sand fencing shall not be installed in a manner that impedes or restricts established common law and statutory rights of public access and use of public trust lands and waters.
- (3) Sand fencing shall not be installed in a manner that impedes, traps or otherwise endangers sea turtles, sea turtle nests or sea turtle hatchlings.
- (4) Non-functioning, damaged, or unsecured sand fencing shall be immediately removed by the property owner.
- (5) Sand fencing shall be constructed from evenly spaced thin wooden vertical slats connected with twisted wire, no more than 5 feet in height. Wooden posts or stakes no larger than 2" X 4" or 3" diameter shall support sand fencing.
- (6) Location. Sand fencing shall be placed as far landward as possible to avoid interference with sea turtle nesting, existing public access, recreational use of the beach, and emergency vehicle access.
  - (a) Sand fencing shall not be placed on the wet sand beach area.
  - (b) Sand fencing installed parallel to the shoreline shall be located no farther waterward than the crest of the frontal or primary dune; or
  - (c) Sand fencing installed waterward of the crest of the frontal or primary dune shall be installed at an angle no less than 45 degrees to the shoreline. Individual sections of sand fence shall not exceed more than 10 feet in length (except for public accessways) and shall be spaced no less than seven feet apart, and shall not extend more than 10 feet waterward of the following locations, whichever is most waterward, as defined in 15A NCAC 7H .0305: the first line of stable natural vegetation, the toe of the frontal or primary dune, or erosion escarpment of frontal or primary dune; and
  - (d) Sand fencing along public accessways may equal the length of the accessway, and may include a 45- degree funnel on the waterward end. The waterward location of the funnel shall not exceed 10 feet of the locations identified in Item (6)(c) of this Rule.

*History Note: Authority G.S. 113A-103(5)c.; Eff. August 1, 2002.*

## EXHIBIT "E" SAND FENCING GRAPHICS PER CAMA REGULATIONS

\*\*\* Note - CAMA regs require a minimum spacing of 7 feet. Spacing for this project is 10 feet between fence units.



TOWN OF NAGS HEAD, NORTH CAROLINA  
**Public Works Department**



## Sand Fencing Project 2011-2012

**LOCATION:** Town of Nags Head

**DESCRIPTION:** Sand Fencing

**DATE:** October 14, 2011      **BID OPENING:** November 15, 2011

**Contractor Information:**

W. M. Dunn Construction LLC

NAME OF BIDDER

Mike Dunn

CONTACT PERSON

4800 Capri Ter.

ADDRESS OF BIDDER

Kitty Hawk, NC 27949

ADDRESS OF BIDDER

252-261-1542 (office) 252-207-8964 (cell)

PHONE NUMBER(S)

70411

Contractor's License Number

**RETURN BIDS TO:**

*Dave Clark.*

*Nags-Head Public Works Director*

*2200 S. Lark Avenue*

*P O Box 1916*

*Nags Head, NC 27959*

*(252) 449-4201*

# **STANDARD PROVISIONS**

## **GENERAL**

This contract is for furnishing materials and installation of sand fencing for locations in Nags Head, in Dare County, North Carolina.

The Contractor shall keep himself fully informed of CAMA regulations for installation and placement of sand fencing and shall comply with those regulations. See exhibits "A" through "E", attached hereto.

## **AUTHORITY OF THE PUBLIC WORKS DIRECTOR**

Nags Head's representative for this project shall be the town Public Works Director acting directly or through his duly authorized representatives. The Public Works Director will decide all questions which may arise as to the quality and acceptability of work performed and as to the rate of progress of the work; all questions which may arise as to the interpretation of the contract; and all questions as to the acceptable fulfillment of the contract on the part of the Contractor.

## **UTILITY CONFLICTS**

Existing fire hydrants shall be kept accessible to the fire department at all times. The Contractor shall adhere to all applicable regulations and follow accepted safety procedures when working in the vicinity of utilities in order to insure the safety of construction personnel and the public.

## **NOTIFICATION OF OPERATIONS**

The Contractor shall notify the Public Works Director three (3) working days in advance of beginning work on this project. The Contractor shall give the Public Works Director sufficient notice of all operations for any sampling, inspection or acceptance testing required.

## **PROSECUTION AND PROGRESS**

The Contractor shall pursue the work diligently with workmen in sufficient numbers, abilities, and supervision, and with equipment, materials, and methods of construction as may be required to complete the work described in the contract by the completion date and in accordance with specifications.

The Contractor's operations are restricted to daylight hours. No work may be performed on Sundays and legal state or national holidays. Work shall only be performed when weather and visibility conditions allow safe operations.

## **SUPERVISION BY CONTRACTOR**

At all times during the duration of the project the Contractor shall provide one permanent employee who shall have the authority and capability for overall responsibility of the project and who shall be personally available at the work site within 24 hours notice. Such employee shall be fully authorized to conduct all business and to execute the orders or directions of the Public Works Director. This employee will be capable of conversing in English.

At all times that work is actually being performed, the Contractor shall have present on the project one competent individual who is authorized to act in a supervisory capacity over all work on the project, including work subcontracted. The individual who has been so authorized shall be experienced in the type of work being performed and shall be fully capable of managing,

directing, and coordinating the work; of reading and thoroughly understanding the contract; and receiving and carrying out directions from the Public Works Director or his authorized representatives. He shall be an employee of the Contractor unless otherwise approved by the Public Works Director.

The Contractor may, at his option, designate one employee to meet the requirements of both positions. However, whenever the designated employee is absent from the work site, an authorized individual qualified to act in a supervisory capacity on the project shall be present.

### **EXTENSION OF CONTRACT TIME**

Failure on the part of the Contractor to furnish certifications or to satisfy preliminary requirements necessary to issue the purchase order will not constitute grounds for extension of the contract time. If the Contractor has fulfilled all preliminary requirements for the issuance of a purchase order, and the purchase order authorization is not available by the date of availability, the Contractor shall be granted an extension equal to the number of calendar days the purchase order authorization is delayed after the date of availability.

### **SUBLETTING OF CONTRACT**

The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of this contract or any portion thereof; or his right, title, or interest therein.

### **DEFAULT OF CONTRACT**

The Public Works Director as representative for the Town of Nags Head shall have the right to declare a default of contract for breach by the Contractor of any material term or condition of the contract.

### **BANKRUPTCY**

The Town, at its option, may terminate the contract upon the filing by the contractor of any petition for protection under the provisions of the Federal Bankruptcy Act.

### **PAYMENT**

The Contractor may submit a request for partial payment on a monthly basis, or other interval as approved by the Public Works Director. The amount of partial payments will be based on the work accomplished and accepted as of the last day of the approved pay period.

All requests for payment shall be made on the form furnished to the Contractor by the Public Works Director. The form shall be completely and legibly filled out with all appropriate information supplied and shall be signed by an authorized representative of the Contractor.

Partial payments (interim pay requests) will be paid in full, based on acceptance of all work covered by that individual pay request. One hundred percent (100%) payment shall be made after successful completion of the work as verified by the final inspection.

## **LIABILITY AND WORKMAN'S COMPENSATION INSURANCE**

The Contractor shall obtain from an insurance company, duly authorized to do business in North Carolina, Public Liability and Property Damage Insurance to protect his company and subcontractors performing work covered under this contract from claims which may arise from operations under this contract. Insurance coverage shall be maintained during the life of this contract and shall extend to operations performed by the Contractor or his subcontractors, and by anyone employed directly or indirectly by either of them.

Public Liability Insurance shall be in an amount not less than \$1,000,000 for injuries, including accidental death, to any one person, and subject to the same limit for each person, in an amount not less than \$1,000,000 on account of one accident. Property Damage Insurance shall be in an amount not less than \$1,000,000.

The Contractor shall also obtain from an insurance company, duly authorized to do business in North Carolina, Workman's Compensation Insurance to protect his workers and his subcontractors' workers performing work covered under this contract from claims which may arise from operations under this contract. Insurance coverage shall be maintained during the life of this contract and shall extend to operations performed by the Contractor or his subcontractors, and by anyone employed directly or indirectly by either of them.

A certificate indicating the required insurance coverage will be provided with the signed contract naming the Town of Nags Head as an "also insured."

## **CONTRACT TIME AND LIQUIDATED DAMAGES**

The date of availability for this project is **November 25, 2011**. No work will be permitted and no purchase order will be issued until all prerequisite conditions and insurance certifications have been satisfied. The completion date for this project is **March 1, 2012**.

The Town shall confirm with the contractor at the time of the Town's acceptance of the contract a "not to exceed quantity" for the contract issued. The contractor shall finish installation of fence units up to the "not to exceed quantity" on or before the completion date.

Failure to complete the work shall result in liquidated damages of **\$250.00** (Two Hundred and Fifty Dollars) per calendar day which shall be deducted from monies due the contractor for installed units of fence until completion of the specified number of units is completed.

## SPECIFICATIONS

(See exhibits A through C for plan views.)

Sand fencing shall be constructed from evenly spaced thin wooden vertical slats connected with twisted wire, four feet in height and supported by three wooden stakes or posts per 10 foot section, one stake at each end and one in the middle.

Wooden posts or stakes shall be untreated either 2" x 4" x 8' or 3" diameter round x 8'.

Sand fencing shall be untreated, unfinished, biodegradable, and be neutral in color (beige, tan, natural wood finish). Plastic fencing is not permitted.

2 x 4 posts shall be installed such that the fencing material is fastened to the 2" side of the 2 x 4

Fencing material shall be installed on the northeast side of the posts.

Sand fencing shall be installed at an angle no less than 45 degrees to the shoreline.

Fence units shall be spaced 10 feet apart.

Fence units shall not extend more than 10 feet waterward of the following locations, whichever is most waterward, as defined in 15A NCAC 7H .0305: the first line of stable natural vegetation, the toe of the frontal or primary dune, or the erosion escarpment of the frontal or primary dune.

Sandfencing shall be attached to the post or stakes in the following manner:

- 1) On each post, each wire in the fencing shall be attached to the post by an inch and a half (1.5") hot dipped galvanized fencing staple.
- 2) Contractor shall bend wire ends on the fence in a manner to prevent injury to pedestrian traffic.

Fencing shall be stretched tight and each unit shall be straight along its length with posts installed plumb and to the specified depth.

The tips of the 2 x 4 or round posts may be sharpened / angled not to exceed 6 inches from the tip to aid in installation.

Before installing the fencing material, the contractor shall trench under the fence so that when installed the bottom of the fence is 3" below grade.

**Town of Nags Head  
Contract Bid Form**



Estimated quantity approximately 1,545 units.  
Quantity will be determined after bids are received.  
Quantity may be less than estimate.

ITEM	DESCRIPTION	UNIT	UNIT PRICE
1	Sand Fence to be furnished and installed by contractor per individual 10' unit of fencing installed; for a total of approximately 15,450 feet	Each 10' Section	\$ <u>25.80</u> Bid in words: <u>twenty-five</u> dollars and <u>eighty</u> cents.

← Unit price bid amount entered herein is for the sand fence in Nags Head.

Contractor/Bidder (print): W. M. Dunn Construction

Authorized Agent (print): Mike Dunn Title: Vice President

Signature Authorized Agent: [Signature] Date: 11-14-11

Witness (print): Francis Dunn Title: President

Signature Witness: [Signature] Date: 11-14-11

**THIS SECTION TO BE COMPLETED BY NAGS HEAD**

Reviewed by: \_\_\_\_\_ Date \_\_\_\_\_

Accepted by Town of Nags Head: \_\_\_\_\_ Date \_\_\_\_\_  
Nags Head Town Manager



939

**Town of Nags Head**

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

**Sand fencing Phase IV Project**

**Contract Change Order Number 1**

Dated December 8, 2011

NORTH CAROLINA  
DARE COUNTY

SERVICE CONTRACT  
PURCHASE ORDER # 12-01561

THIS CONTRACT CHANGE ORDER is made and entered into this the 8th day of December 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 W.M.Dunn Construction, LLC., 4800 Capri Terrace, Kitty Hawk, NC 27949 (hereinafter referred to as "CONTRACTOR"), party of the second part.

**1. CHANGES TO SERVICES TO BE PROVIDED/ AND AGREED/ COMPLETION TIME**

This change order involves the Addition of 9,870.00 ft. of Sand fencing.

Original Contract price:	\$23,994.00
Change Order No 1.	\$25,464.60
Revised Total Contract amount:	\$49,458.60

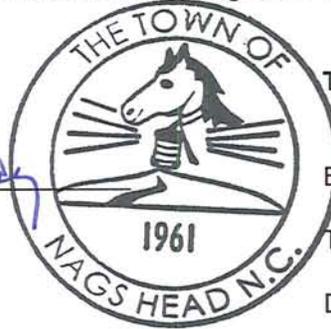
This Change Order involves no change to the contract completion date of March 1, 2012.

2. SIGNATURES

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

Witnessed or Attested By:

Michelle H. Inay



**TOWN OF NAGS HEAD**

By: [Signature]

Title: TOWN MANAGER

Date: 12/9/11

[Signature]

W.M. Down Construction LLC

**CONTRACTOR**

By: W.M. D

Title: V-President

Date: 12-8-11

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

[Signature] 12-9-11  
Finance Officer

DAVE CLARK  
 TOWN OF NAGS HEAD PUBLIC WORKS  
 2200 LARK AVE  
 NAGS HEAD, NC 27959

12-01561

ORDER DATE: 12/12/11  
 REQUISITION NO: R1200438  
 DELIVERY DATE:  
 STATE CONTRACT:  
 F.O.B. TERMS: Destination

VENDOR #: WMDUN010

W. M. DUNN CONSTRUCTION LLC  
 4800 CAPRI TER  
 KITTY HAWK, NC 27949

Phone: (252)261-1542

QTY/UNIT	DESCRIPTION	ACCOUNT NO.	UNIT PRICE	TOTAL COST
1917.00	10ft-sect installed sandfence	2-10-530-4-5444-04	25.8000	49,458.60
		SPECIAL PROJECTS SAND FENCING		
			TOTAL	49,458.60

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.