

Robert C. Edwards
Mayor

Susie Walters
Mayor Pro Tem

Cliff Ogburn
Town Manager



Town of Nags Head
Post Office Box 99
Nags Head, North Carolina
27959
Telephone 252-441-5508
Fax 252-441-0776
www.nagsheadnc.gov

M. Renée Cahoon
Commissioner

John Ratzenberger
Commissioner

Marvin Demers
Commissioner

NORTH CAROLINA
DARE COUNTY

SERVICE CONTRACT
PURCHASE ORDER # 16-01605

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

(CONTRACTOR *initials*) *RB*

THIS CONTRACT is made and entered into this the 7th day of January 2016, 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, Inc., (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") include providing all of the materials and labor to perform and performing all of the work in the manner and form as provided by the following enumerated Contract Documents, which are attached hereto and made part thereof as fully contained herein: Standard General Conditions of the Construction Contract; Instructions to Bidders; Bid Tabulation Form; General Conditions; Technical Specifications and the Drawings entitled **Capital Improvement Project FY 15/16, S. Old Oregon Inlet Rd. Milepost 18 Drainage Infrastructure Maintenance, Town of Nags Head, North Carolina, dated 11/18/2015 consisting of sheets 1-4 as prepared by David Ryan, P.E., Town of Nags Head Department of Public Works and Capital Improvement Project FY 15/16, S. Old Oregon Inlet Rd. (NCSR 1243) Drainage Maintenance Plan, Town of Nags Head, North Carolina, dated 11/18/2015 consisting of sheets 1-14 as prepared by David Ryan, P.E., Town of Nags Head Department of Public Works.**

Total contract price shall be \$ 96,711.40 (ninety-six thousand seven hundred and eleven dollars and forty cents). Price is in accordance with CONTRACTOR'S revised bid, dated December 28, 2015 (copy attached)

It is mutually agreed by and between the TOWN and CONTRACTOR that construction work under this contract will commence no later than January 18, 2016. The contract

substantial completion date shall be March 4, 2016 with time being of the essence. If CONTRACTOR fails to substantially complete work under this contract by March 4, 2016 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 sum of \$ 250 shall be due from CONTRACTOR, 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

The project generally consists of constructing approximately 820 l.f. of vegetative swale, 280 l.f. of sidewalk demolition/replacement and related work in an area proximate to milepost 18 along the eastern right-of-way margins of S. Old Oregon Inlet Rd. and approximately 340 l.f. of drainage pipe removal/replacement and related work in an area proximate to milepost 20 along the western right-of-way margins of S. Old Oregon Inlet Rd.

3. TERM OF CONTRACT

The term of this CONTRACT for SERVICES is from January 7, 2016 until the obligations of the CONTRACT are fulfilled and accepted by the TOWN pursuant to its terms or until the CONTRACT is terminated pursuant to its terms. 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.

Notwithstanding provisions of this Section 3 to the contrary, the following shall survive the termination of this CONTRACT: any provision in Section 1 regarding liquidated damages; the provisions of Section 6 regarding indemnity; and the provisions of Section 10.

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 in which SERVICES are completed. 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

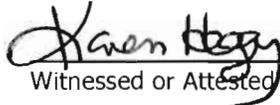
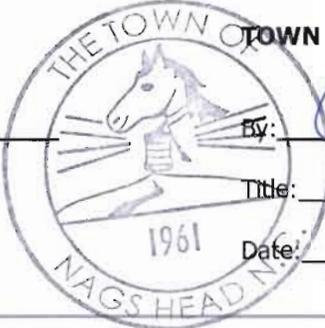
The CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. The CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees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

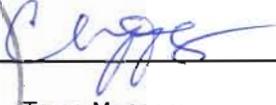
8. NON-DISCRIMINATION IN EMPLOYMENT

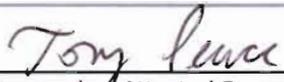
The CONTRACTOR shall not discriminate against any employee or applicant for employment because of age, sex, race, creed, or national origin. The CONTRACTOR shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their age, 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.

13. SIGNATURES

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

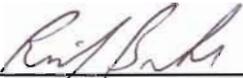

 Witnessed or Attested By: _____


TOWN OF NAGS HEAD
 By:  _____
 Title: Town Manager
 Date: 1/6/16


 Witnessed or Attested By: _____

Corporate Seal:

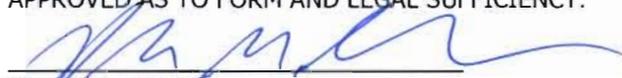
CONTRACTOR

By:  _____
 Printed Name: Ricky Brake
 Title: Project Mgr.
 Date: 1-4-16

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


 Deputy Finance Officer

APPROVED AS TO FORM AND LEGAL SUFFICIENCY.


 TOWN ATTORNEY



TOWN OF NAGS HEAD
PO BOX 99
5401 SOUTH CROATAN HIGHWAY
NAGS HEAD, NC 27959
Phone: (252)441-5508

Purchase Order/Voucher

THIS NUMBER MUST APPEAR ON ALL INVOICES,
 PACKING LISTS, CORRESPONDENCE, ETC.

NO. 16-01605

SHIP TO

PUBLIC WORKS % KAREN HEAGY
 TOWN OF NAGS HEAD
 2200 LARK AVE
 NAGS HEAD, NC 27959

ORDER DATE: 01/06/16
 DELIVERY DATE:
 STATE CONTRACT:
 VENDOR ACCT NUM:
 VENDOR PHONE #: (252) 261-2207
 VENDOR FAX #: (252) 261-1093
 REQUISITION #: R1600618

VENDOR Vendor #: BARNH010

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

MAIL INVOICE TO: ATTN: ACCOUNTS PAYABLE
 P.O BOX 99
 NAGS HEAD, NC 27959

| QUANTITY | DESCRIPTION | ACCOUNT NO | UNIT PRICE | TOTAL |
|----------|--------------------------------------|---|-------------|--------------------|
| 1.00 | SNH Drainage | 60-620-0-5445-00 CONTRACTED SERVICES | 96,711.4000 | 96,711.40 |
| 1.00 | Please do not fax po see contract | 60-620-0-5445-00 CONTRACTED SERVICES | 0.0000 | 0.00 |
| | | | TOTAL | ===== 96,711.40 |

E-Verify Compliance Assurance by Vendor/Contractor: By accepting this purchase order from Town of Nags Head, I verify that I understand that E-Verify program operated by the United States Department of Homeland Security and other federal agencies used to verify the work authorization of newly hired employees pursuant to federal law. Furthermore, I confirm that I am aware of and in compliance with the requirements of E-Verify and Article 2 of Chapter 64 of the North Carolina General Statutes, which requires that the Contractor participate in E-Verify if it has at least 25 qualified employees. To the best of my knowledge, any subcontractors employed by me as part of this contract are in compliance with the requirements of E-Verify and Article 2 of Chapter 64 of the North Carolina General Statutes.

THIS INSTRUMENT HAS BEEN PREAUDITED IN THE MANNER REQUIRED BY THE LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT.

 FINANCE OFFICER

 PURCHASING AGENT

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 the vendor for purchasing.

BID TOTALS

| Bid Item | Description | Status - Rnd | Quantity | Units | Unit Price | Bid Total |
|-----------|------------------------------|--------------|-----------|-------|------------|--------------|
| 1 | MOBILIZATION | U | 1,000 | LS | 2,125.00 | 2,125.00 |
| 8 | TRAFFIC CONTROL | U | 1,000 | LS | 500.00 | 500.00 |
| 9 | CLEARING- SUB | | 1,000 | LS | | |
| 10 | SWALES | | 858,000 | LF | 5.85 | 5,019.30 |
| 15 | REMOVE CONCRETE | | 2,200,000 | SF | 1.53 | 3,366.00 |
| 20 | NEW 4" CONCRETE W/ FIBERMESH | | 2,216,000 | SF | 5.71 | 12,653.36 |
| 30 | SEEDING | | 0.500 | AC | 3,150.00 | 1,575.00 |
| 80 | #67 STONE | U | 62,000 | TN | 35.00 | 2,170.00 |
| 85 | HAUL AWAY MUCK MATERIAL | U | 5,000 | LD | 165.00 | 825.00 |
| 100 | PIPE REMOVALS AND DEWATERING | U | 288,000 | LF | 73.98 | 21,306.24 |
| 120 | 30" HDPE PIPE | U | 300,000 | LF | 99.00 | 29,700.00 |
| 130 | 18" HDPE PIPE | U | 40,000 | LF | 87.00 | 3,480.00 |
| 133 | RIP RAP | | 42,000 | TN | 167.75 | 7,045.50 |
| 135 | STONE BASE REPAIR | U | 60,000 | TN | 101.00 | 6,060.00 |
| 150 | ASPHALT REPAIR | U | 20,000 | TN | 385.00 | 7,700.00 |
| Bid Total | | | | | | \$103,525.40 |

Abstract Deduct for 20 pipe material - \$ 6814.00
TBA1 adjusted proposal \$ 96,711.40



CERTIFICATE OF LIABILITY INSURANCE

188482

DATE (MM/DD/YYYY)
1/5/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| PRODUCER Commercial Lines – 800-868-8834 Wells Fargo Insurance Services USA, Inc. 6100 Fairview Road Charlotte, NC 28210 | CONTACT NAME: Charlotte M. Wood, CIC PHONE (A/C, No, Ext): 800-868-8834 E-MAIL ADDRESS: charlotte.wood@wellsfargo.com | FAX (A/C, No): 866-332-3051 | | | | | | | | | | | | | | | | | | | | |
|---|--|------------------------------------|-------------------------------|--|--------|------------|-----------------------------|-------|------------|--|-------|------------|---|-------|------------|---------------------------|-------|------------|--|--|------------|--|
| | <table border="1"> <thead> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A:</td> <td>Travelers Indemnity Company</td> <td>25658</td> </tr> <tr> <td>INSURER B:</td> <td>Travelers Indemnity Co. of Connecticut</td> <td>25682</td> </tr> <tr> <td>INSURER C:</td> <td>Travelers Property Casualty Co of America</td> <td>25674</td> </tr> <tr> <td>INSURER D:</td> <td>Phoenix Insurance Company</td> <td>25623</td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </tbody> </table> | | INSURER(S) AFFORDING COVERAGE | | NAIC # | INSURER A: | Travelers Indemnity Company | 25658 | INSURER B: | Travelers Indemnity Co. of Connecticut | 25682 | INSURER C: | Travelers Property Casualty Co of America | 25674 | INSURER D: | Phoenix Insurance Company | 25623 | INSURER E: | | | INSURER F: | |
| INSURER(S) AFFORDING COVERAGE | | NAIC # | | | | | | | | | | | | | | | | | | | | |
| INSURER A: | Travelers Indemnity Company | 25658 | | | | | | | | | | | | | | | | | | | | |
| INSURER B: | Travelers Indemnity Co. of Connecticut | 25682 | | | | | | | | | | | | | | | | | | | | |
| INSURER C: | Travelers Property Casualty Co of America | 25674 | | | | | | | | | | | | | | | | | | | | |
| INSURER D: | Phoenix Insurance Company | 25623 | | | | | | | | | | | | | | | | | | | | |
| INSURER E: | | | | | | | | | | | | | | | | | | | | | | |
| INSURER F: | | | | | | | | | | | | | | | | | | | | | | |
| INSURED Barnhill Contracting Company PO Box 7948 800 Tiffany BLVD STE 200 Rocky Mount NC 27804 | | | | | | | | | | | | | | | | | | | | | | |

COVERAGES

CERTIFICATE NUMBER: 9996132

REVISION NUMBER: See below

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|----------|---|-----------|--------------|-----------------------|-------------------------|-------------------------|---|---------------|
| A | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual <input checked="" type="checkbox"/> XCU GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC OTHER: | X | | VTC2KCO8280B550IND15 | 07/01/15 | 07/01/16 | EACH OCCURRENCE | \$ 2,000,000 |
| | | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | \$ 300,000 |
| | | | | | | | MED EXP (Any one person) | \$ 10,000 |
| | | | | | | | PERSONAL & ADV INJURY | \$ 2,000,000 |
| | | | | | | | GENERAL AGGREGATE | \$ 4,000,000 |
| | | | | | | | PRODUCTS - COMP/OP AGG | \$ 4,000,000 |
| | | | | | | | | \$ |
| B | <input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS | X | | VTC2ECAP8280B562TCT1 | 07/01/15 | 07/01/16 | COMBINED SINGLE LIMIT (Ea accident) | \$ 2,000,000 |
| | | | | | | | BODILY INJURY (Per person) | \$ |
| | | | | | | | BODILY INJURY (Per accident) | \$ |
| | | | | | | | PROPERTY DAMAGE (Per accident) | \$ |
| | | | | | | | | \$ |
| C | <input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB DED RETENTION \$ | X | X | VTSMJCUP5876N086TIL15 | 07/01/15 | 07/01/16 | EACH OCCURRENCE | \$ 24,000,000 |
| | | | | | | | AGGREGATE | \$ 24,000,000 |
| | | | | | | | | \$ |
| D | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | | Y/N N / A | VTC2NUB1609R55015 | 07/01/15 | 07/01/16 | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER | |
| | | | | | | | E.L. EACH ACCIDENT | \$ 500,000 |
| | | | | | | | E.L. DISEASE - EA EMPLOYEE | \$ 500,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | \$ 500,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACDRD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: BCC #317816, Storm Drain Improvements, Dare County. Certificate holder is named as additional insured as it relates to general liability and auto liability in accordance with the terms and conditions of those policies. Umbrella follows form as it relates to additional insureds.

CERTIFICATE HOLDER

Town of Nags Head
 PO Box 99
 Nags Head NC 27959

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE