



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 # 16-01604

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

RP
(CONTRACTOR initials)

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 RPC Contracting, 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 materials and labor to perform 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: Instructions to Bidders; Bid Tabulation Form; General Conditions; Technical Specifications; Performance Bond; Payment Bond; Certificates of Insurance for workers compensation, public liability, property damage, and builder's risk; Addendum 1, and the Drawings entitled **Capital Improvement Project FY 15/16, Eighth St. Roadway Resurface & Drainage Infrastructure Improvements, Town of Nags Head, North Carolina, dated 11/12/2015 consisting of sheets 1-8 and D1, D2 & D3 as prepared by David Ryan, P.E., Town of Nags Head Department of Public Works.**

Total contract price shall be \$ 176,630.00 (one hundred seventy-six thousand six hundred and thirty dollars). Price is in accordance with CONTRACTOR'S bid, dated December 4, 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 April 15, 2016 with time being of the essence. If

CONTRACTOR fails to substantially complete work under this contract by April 15, 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 \$ 400 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 the widening and overlay of the eastbound lane of the eastbound lane of East and West Eighth Street, from NC 12 (Virginia Dare Trail) to US 158 (Croatan Highway), then from US 158 to Pond Ave., a total of 2,322 lf, along with associated storm drainage pipe work, pavement marking and other incidental work. The project is being bid, and will be awarded, if at all, simultaneously and in coordination with a similar project for the Town of Kill Devil Hills for work north of the centerline.

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.

9. E-VERIFICATION OF EMPLOYEES

The CONTRACTOR represents and warrants that it has ensured and will ensure for itself and each subcontractor that it uses to perform obligations under this CONTRACT, that either:

- (1) The CONTRACTOR or subcontractor employs less than 25 employees; or
- (2) The CONTRACTOR or subcontractor: (a) employs 25 or more employees who are employed for 9 months or more during a 12-consecutive-month period; and (b) has used the E-Verify program, which program is operated by the United States Department of Homeland Security and is defined in N.C. Gen. Stat. § 64-25 (5), to verify the work authorization of each employee.

10. 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.

11. OTHER PROVISIONS

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

12. CONTRACT DOCUMENTS/AMENDMENTS

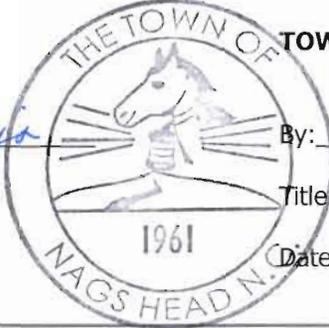
This document together with the purchase order and any attached exhibits constitutes the entire Contract between the said two parties and may only be modified by a written mutual agreement signed by the parties and attached hereto. In the event of any conflict between this contract and any attached documents,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

This Contract is contingent upon Board approval on January 6, 2016.

13. SIGNATURES

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

Cathy H. Morris
Witnessed or Attested By:



TOWN OF NAGS HEAD

By: *[Signature]*
Title: Town Manager
Date: 1/11/16

[Signature]
Witnessed or Attested By:

Corporate Seal:

CONTRACTOR

By: *[Signature]*

Printed Name: ROBERT D. PARKER
Title: PRESIDENT
Date: 1/7/16

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

[Signature]
Deputy Finance Officer

APPROVED AS TO FORM AND LEGAL SUFFICIENCY.

[Signature]
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. 16-01604

SHIP TO

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

VENDOR

Vendor #: RPCCO010

RPC CONTRACTING INC
 P O BOX 333
 KITTY HAWK, NC 27949

ORDER DATE: 01/06/16
 DELIVERY DATE:
 STATE CONTRACT:
 VENDOR ACCT NUM:
 VENDOR PHONE #: (252) 261-3336
 VENDOR FAX #: (252) 491-2176
 REQUISITION #: R1600617

MAIL INVOICE TO:

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

QUANTITY	DESCRIPTION	ACCOUNT NO	UNIT PRICE	TOTAL
1.00	8th St. Construction	60-620-0-5445-00 CONTRACTED SERVICES	26,630.0000	26,630.00
	Please do not fax po. See Contract			
1.00	8th St. Construction	10-570-4-5773-00 CAPITAL OUTLAY OTHER	150,000.0000	150,000.00
			TOTAL	===== 176,630.00

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.

PERFORMANCE BOND

Travelers Casualty & Surety Company of America
Hartford, CT 06183

Bond No.: 106331489

CONTRACTOR:

(Name, legal status and address)

R.P.C. CONTRACTING, INC.

P.O. BOX 333

KITTY HAWK, NC 27949

OWNER:

(Name, legal status and address)

TOWN OF NAGS HEAD

P.O. BOX 99

NAGS HEAD, NC 27959

CONSTRUCTION CONTRACT

Date: THURSDAY, JANUARY 7, 2016

Amount: \$176,630.00

Description:

(Name and location)

EIGHTH STREET ROADWAY AND DRAINAGE IMPROVEMENTS (NAGS HEAD, NC)

SURETY:

(Name, legal status and principal place of business)

Travelers Casualty & Surety Company of America

HARTFORD, CT 06183

BOND

Date: THURSDAY, JANUARY 7, 2016

(Not earlier than Construction Contract Date)

Amount: \$176,630.00

Modifications to this Bond: None See Section 16

CONTRACTOR AS PRINCIPAL

Company:

R.P.C. CONTRACTING, INC.

Signature:

Name and Title: ROBERT D. PARKER, PRESIDENT

(Corporate Seal)

SURETY

Company:

Travelers Casualty & Surety Company of America

Signature:

Name and Title: CYNTHIA AMICK - ATTORNEY IN FACT

(Corporate Seal)

(Any additional signatures appear on the last page of this Performance Bond.)

(FOR INFORMATION ONLY -- Name, address and telephone)

AGENT or BROKER:

S.L. NUSBAUM INSURANCE AGENCY INC.

500 W 21ST STREET SUITE 300

NORFOLK, VA 23517

757-622-4653

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after
.1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the

Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails

to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 **Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 **Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company: _____ *(Corporate Seal)*

Company: _____ *(Corporate Seal)*

Signature: _____

Signature: _____

Name and Title: _____

Name and Title: _____

Address: _____

Address: _____



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 229963

Certificate No. 006496282

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Charles S. Nusbaum, Cynthia Ann Amick, Sherry D. Beachum, Jennifer Amick, Edward Enright, Edward E. Redfearn, and Samantha Huley

of the City of Norfolk, State of Virginia, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 23rd day of September, 2015.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: [Signature]
Robert L. Raney, Senior Vice President

On this the 23rd day of September, 2015, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2016.



[Signature]
Marie C. Tetreault, Notary Public

PAYMENT BOND

**Travelers Casualty and Surety Company of America
Hartford, CT 06183**

Bond No.: 106331489

CONTRACTOR:

(Name, legal status and address)

R.P.C. CONTRACTING, INC.

P.O. BOX 333

KITTY HAWK, NC 27949

OWNER:

(Name, legal status and address)

TOWN OF NAGS HEAD

P.O. BOX 99

NAGS HEAD, NC 27959

CONSTRUCTION CONTRACT

Date: THURSDAY, JANUARY 7, 2016

Amount: \$176,630.00

Description:

(Name and location)

EIGHTH STREET ROADWAY AND DRAINAGE IMPROVEMENTS (NAGS HEAD, NC)

SURETY:

(Name, legal status and principal place of business)

Travelers Casualty and Surety Company of America

HARTFORD, CT 06183

BOND

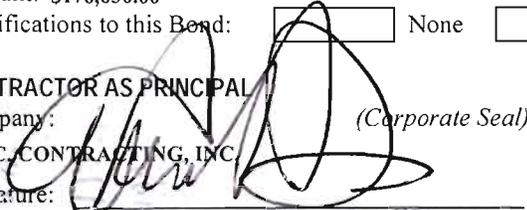
Date: THURSDAY, JANUARY 7, 2016

(Not earlier than Construction Contract Date)

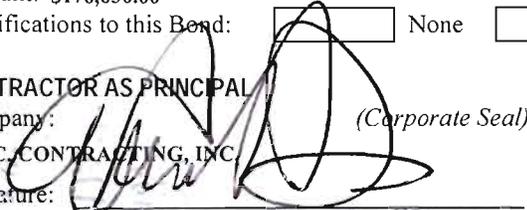
Amount: \$176,630.00

Modifications to this Bond: None See Section 18

CONTRACTOR AS PRINCIPAL

Company:  *(Corporate Seal)*

R.P.C. CONTRACTING, INC.

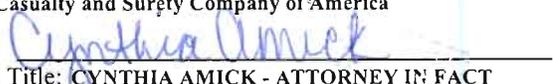
Signature: 

Name and Title: ROBERT D. PARKER, PRESIDENT

SURETY

Company:  *(Corporate Seal)*

Travelers Casualty and Surety Company of America

Signature: 

Name and Title: CYNTHIA AMICK - ATTORNEY IN FACT

(Any additional signatures appear on the last page of this Payment Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

S.L. NUSBAUM INSURANCE AGENCY, INC.

500 W 21ST STREET SUITE 300

NORFOLK, VA 23517

757-622-4653

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment

furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal)

SURETY

Company:

(Corporate Seal)

Signature: _____

Name and Title: _____

Address: _____

Signature: _____

Name and Title: _____

Address: _____



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 229963

Certificate No. 006496288

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Charles S. Nusbaum, Cynthia Ann Amick, Sherry D. Beachum, Jennifer Amick, Edward Enright, Edward E. Redfearn, and Samantha Huley

of the City of Norfolk, State of Virginia, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 23rd day of September, 2015.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: [Signature]
Robert L. Raney, Senior Vice President

On this the 23rd day of September, 2015, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2016.



[Signature: Marie C. Tetreault]
Marie C. Tetreault, Notary Public

CONTRACT DOCUMENTS

TOWN OF NAGS HEAD

5401 S. CROATAN HWY.

P.O. BOX 99

NAGS HEAD, NC 27959

252-441-5508

www.nagsheadnc.gov



FY 2015/16 Capital Improvement Project: Eighth St. Roadway Resurface and Drainage Infrastructure Improvements

November, 2015

Prepared by:



Town of Nags Head

Department of Public Works

PO Box 99 | 2200 Lark Ave.

Nags Head, NC 27959

P: 252.441.6221 | F: 252.441.3350

www.nagsheadnc.gov

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The Town of Nags Head

November, 2015

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NOTICE OF BID

- A. Street, Drainage and Waterline Improvement Project, consisting of reconstruction of existing streets, and related work, known collectively as the **2015/16 Project: East & West Eighth Improvements (TNH portion)** project, for the Town of Nags Head, North Carolina will be received by the Town Engineer of the Town of Nags Head, North Carolina in the Town of Kill Devil Hills Administration Building, 102 Town Hall Drive, off Colington Road, until **Friday, December 4, 2015 at 11:00 a.m.**, at which time they will be publicly opened and read aloud. The project consists generally of the widening and overlay of the eastbound lane of East and West Eighth Street, from NC 12 (Virginia Dare Trail) to US 158 (Crotan Highway), then from US 158 to Pond Ave, a total of 2,322', along with associated storm drainage pipe work, pavement marking and other incidental work.. The project is being bid, and will be awarded, if at all, simultaneously and in coordination with a similar project for the Town of Kill Devil Hills for similar work south of the centerline.
- B. Complete Contract Documents may be obtained at the Town of Nags Head Department of Public Works, 2200 Lark Ave, or by calling (252) 441-6221. A pre-bid meeting will not be held.
- C. **All Contractors submitting bids shall possess a valid North Carolina Contractors License and may be required to provide evidence satisfactory to the Town of Nags Head, in its sole judgment, of qualifications and experience sufficient for the successful accomplishment of a project of this nature and size within the time requirements set forth in the Contract Documents.** A Certificate of General Liability Insurance (minimum \$1,000,000.00) and Workers Compensation Insurance shall be attached to each bid submitted for consideration. Each bid shall be accompanied by a deposit equal to 5% of the net price bid. This deposit may consist of cash, or cashier check issued by or drawn on a Bank or Trust Company authorized to do business in the State of North Carolina, or a Bank insured by the Federal Deposit Insurance Corporation, payable to the Town of Nags Head, or a 5% Bid Bond issued by any Insurance Company authorized to do business in North Carolina. This deposit will be retained in the event of the failure of the successful bidder to execute the contract within ten (10) days after Notice of Award or to give satisfactory surety as required.
- D. The successful bidder must furnish a Payment and Performance and Materialman's bond on some surety company authorized to do business in the State of North Carolina for the full amount of the contract price prior to execution of contract.
- E. The bidder(s) to whom this project is awarded shall have **eighty-nine (89)** calendar days from the date of the Notice to Proceed of the contract to Substantially Complete the Project. Other provisions as to time of Full Completion, intermediate completion requirements, Liquidated Damages, etc. are set forth in the Contract Documents.
- F. The Town of Nags Head reserves the right to reject any and all bids including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. In the comparison of Bids, alternates will be applied in the same order of priority as listed in the Bid Form. For comparison purposes alternates will be accepted, following the order of priority established in the Bid Form, until doing so would cause the budget to be exceeded. After determination of the Successful Bidder based on this comparative process and on the responsiveness, responsibility, and other factors, the award may be made to said Successful Bidder on its base Bid and any combination of its additive alternate Bids for which Owner determines funds will be available at the time of award and in the mutual interest of the Towns of Nags Head and Kill Devil Hills
- G. The purpose of this Notice of Bid is to make this Project known to the contracting community; it is not one of the "Contract Documents" as enumerated in the General Conditions. In the event of any discrepancy between the provisions in this Notice of Bid and the provisions of any of the Contract Documents, the provisions of the Contract Document shall take precedence.

-- End of Notice of Bid --

INSTRUCTIONS TO BIDDERS

- A. All Contractors submitting bids shall possess a valid North Carolina Contractors License and may be required to provide evidence satisfactory to the Town of Nags Head, in its sole judgment, of qualifications and experience sufficient for the successful accomplishment of a project of this nature and size within the time requirements set forth in the Contract Documents.** A Certificate of General Liability Insurance (minimum \$1,000,000.00) and Workers Compensation Insurance shall be attached to each bid submitted for consideration. Each bid shall be accompanied by a deposit equal to 5% of the net price bid. This deposit may consist of cash, or cashier check issued by or drawn on a Bank or Trust Company authorized to do business in the State of North Carolina, or a Bank insured by the Federal Deposit Insurance Corporation, payable to the Town of Nags Head, or a 5% Bid Bond issued by any Insurance Company authorized to do business in North Carolina. This deposit will be retained in the event of the failure of the successful bidder to execute the contract within ten (10) days after Notice of Award or to give satisfactory surety as required.
- B.** Bids for this project shall be separated and marked in the following manner:
1. A copy of the Contractor's license, Certificate of General Liability Insurance and Workers Compensation Insurance, 5% bid deposit, and verification of solicitation of minority business participation shall be placed in an envelope numbered "Envelope #1" and marked as to its contents.
 2. The Bid Tabulation Form, properly completed and signed, including Pages BT-1 through BT-3 inclusive, shall be placed in a separate envelope numbered "Envelope #2" and marked as to its contents.
 3. The items listed above shall constitute each company's bid. Each bid shall be submitted in a sealed envelope, so marked as to indicate its contents without being opened. This envelope shall be placed in another one addressed to the Town Clerk, Town of Nags Head, P. O. Box 99, Nags Head, North Carolina 27949.
- C.** This project shall be bid, contracted, and paid on a Lump Sum Basis for each project, except as otherwise provided below. The Bid Tabulation Form provided as part of these Contract Documents provides for the following:
1. A space for the bidder to indicate his Lump Sum Price for the Base Bid, which shall comprise all the work except for any item(s) which may be expressly listed as an Additive Alternate, a Deductive Alternate, or Unit Price Work thereon.
 2. Space for the bidder to indicate his separate Lump Sum Price for any Additive Alternate(s), which shall be full compensation for the described item(s) of work which the Owner, at his sole discretion, may elect to ADD TO the Base Bid work.
 3. Space for the bidder to indicate his separate Lump Sum Price for any Deductive Alternate(s), which shall be full value for the described item(s) of work which the Owner, at his sole discretion, may elect to DEDUCT FROM the Base Bid work.
 4. Space for the bidder to indicate his separate Unit Price for any item(s) of work for which the precise quantity of same cannot be accurately determined in advance, and which the Owner desires to measure and pay for on a unit price basis. A change order shall be initiated, based on the estimated quantities of such work, and a purchase order issued, before any such work is begun.
 5. Only those spaces provided for entry of the Base Bid, Additive and/or Deductive Alternates (if any), Unit Price items (if any), and the Schedule of Values are to be filled in. Bidders may not

add in conditions, provisions, or items of their own; doing so will result in disqualification of the bidder.

- D. If forwarded other than by mail, it must be delivered directly to the Office of the Town Clerk. These bids shall be received no later than **Friday, December 4, 2015 at 11 a.m.** in the Office of the Town Clerk, at which time they will be publicly opened and read. Bidders or their authorized agents are invited to be present.
- E. The successful bidder must furnish a Payment and Performance and Materialman's bond on some surety company authorized to do business in the State of North Carolina for the full amount of the contract price prior to execution of project contract.
- F. The bidder to whom this project is awarded shall have **eighty-nine (89)** calendar days from the date of Notice to Proceed to complete the Project to the state of Substantial Completion, as defined in the General Conditions shall have an additional **forty (40)** days after the Project is determined by the Engineer to be Substantially Complete to fully complete all remaining work to bring the Project to Full Completion, as defined in the General Conditions.
- G. The Town of Nags Head, in accordance with its goals adopted for participation by minority businesses, encourages minority businesses to submit bids for this construction project. The Town of Nags Head shall award public contracts without regard to race, religion, color, creed, national origin, sex, age, or handicapping condition, as defined by North Carolina Statutes, Section 168A-3. All Contractors submitting bids for this project shall verify to The Town of Nags Head that such Contractor does not discriminate in the employment of any subcontractors nor does it discriminate in the purchase of materials or equipment for reason of race, religion, color, creed, national origin, sex, age, or handicapping condition as defined by North Carolina General Statutes, Section 168A-3. Each Contractor submitting a bid for such project shall further verify that it has directly solicited and encouraged minority subcontractors and minority businesses and in the event of solicitation of bids by subcontractors, has directly solicited and encouraged participation in the bidding process by minority businesses. Verification of solicitation of minority business participation shall be included with all bid documents.
- H. The project entitled **2015/16 Project: East & West Eighth Roadway Resurface and Drainage Infrastructure Improvements (TNH portion)** for The Town of Nags Head plans to manage this project in conjunction with a similar project, planned to be bid, awarded and constructed simultaneously (the Kill Devil Hills companion project). Except as otherwise noted on the Drawings, this project consists of all work south of the centerline of the Eighth Street right of way, and the Kill Devil Hills companion project consists of all work north of said centerline. The following special provisions are noted for this work.
 1. The work of this Nags Head Portion project and the Kill Devil Hills companion project (the Two Projects) shall be coordinated so that the workmanship of the completed work shall be the same as if it were a single project.
 2. The Town of Nags Head will work closely with Kill Devil Hills to minimize any delays or other negative effects to the Contractor due to delayed Owner responses, decisions, etc.
 3. The parties agree that any act or omission by Contractor under its separate contract for the Kill Devil Hills companion project which leads to termination of that separate contract by the Town of Kill Devil Hills shall be a valid basis for the Town of Nags Head to terminate, as provided under Article 18 of the General Conditions herein, its contract for the Nags Head Portion.
 4. In the event that the Town of Kill Devil Hills terminates its separate contract with the Contractor for the Kill Devil Hills companion project, the parties agree that such an event shall be a basis for the suspension or termination of the work under the provisions of Article 19 of the General Conditions herein.

I. Project Schedule

1. On **Monday, November 16, 2015, after 10:00 a.m.**, Contract Documents are available to bidders.
 2. A Pre-Bid meeting is not scheduled. Bidders' questions shall be directed to the Engineer, based on which addenda will be issued as required.
 3. On **Friday, December 4, 2015 at 11 a.m.**, bids will be publicly opened and read, by the Town Engineer in the Administration Meeting Room, 102 Town Hall Drive, off Colington Rd.
 4. It is the intent of the Town of Nags Head to award this work if and only if (a) the bid price for the work is deemed satisfactory and (b) the Town of Kill Devil Hills votes to award its companion project for the eastbound lane of Eighth Street. If the bids are deemed acceptable by the Town of Nags Head, in its sole discretion, a Notice of Award will be issued within approximately five weeks after the bid opening and after the Town of Kill Devil Hills has made its decision as to award of its project. The remainder of this schedule assumes that the project IS awarded.
 5. On or about **Monday, December 14, 2015**, the Kill Devil Hills Board of Commissioners will consider the recommendations of the Engineer and other Town staff regarding award of a contract. The remainder of this schedule assumes that the Board conditionally approves award of the contract at that meeting, subject to the Town of Nags Head's Board of Commissioners voting to award their companion project.
 6. On or about **Wednesday, January 6, 2016**, the Nags Head Board of Commissioners will consider the recommendations of its staff regarding award of a contract. The remainder of this schedule assumes that the Nags Head Board approves award of their contract, fulfilling the condition of the KDH Board of Commissioners' approval of the KDH award. Both towns issue Notice of Award for their respective contracts on this day and the Engineer shall forward the contract for the KDH work to the Contractor for execution.
 7. On or about **Tuesday, January 12, 2016**, the Contractor delivers executed Contract, along with bonds and any other required items, to the Engineer for review.
 8. On or about **Wednesday, January 13, 2016**, the Engineer delivers the reviewed Contract, with any corrections and/or omissions resolved, to the Town Manager for signature.
 9. On or about **Thursday, January 14, 2016**, a Pre-Construction Meeting will be held jointly with the Town of Nags Head at a location to be announced. On this date, letters also will be sent by the Town staff to property owners affected by the project.
 10. On or about **Friday, January 15, 2016**, Town Manager signs, and executed Contract is distributed to Contractor. Notice to Proceed shall be issued by the Engineer. The effective date of Notice to Proceed, and thus the first day of the Contract Time, if this schedule is maintained, will be **Monday, January 18, 2016**.
 11. The Date of Substantial Completion shall be **eighty-nine (89)** calendar days from the effective date of the Notice to Proceed, or **Friday, April 15, 2016**. This date shall be finalized at the time the contract is executed by the Contractor. The Date of Final Completion shall be **forty (40)** calendar days thereafter, as provided in the General Conditions, except than any references to 45 days in said General Conditions is hereby changed to **40** days.
- J. Liquidated damages will be assessed at a rate of **four hundred dollars (\$400.00)** per calendar day, for each day beyond the Date of Substantial Completion, as set forth in the executed Contract Documents, by which the Project is not, in the determination of the Engineer, Substantially Complete. In addition, liquidated damages will be assessed at a rate of **two hundred dollars (\$200.00)** for each day beyond the Date of Full Completion, as set forth in the executed Contract Documents, by which the Project is not, in the determination of the Engineer, Fully Complete,

-- End of Instructions to Bidders --

BID TABULATION FORM

PROJECT and DESCRIPTION	<u>LUMP SUM PRICE:</u>
<p><u>2015/16 Project: East & West Eighth Street, Nags Head Portion:</u></p> <p>The Work shall include all work described on the two sets of plans entitled "2015/2016 Streets Project: Eighth Street Roadway Resurface & Drainage Infrastructure Improvements" consisting of Sheets 1- 8 and Sheets D1, D2, D3, prepared by the Town of Nags Head Department of Public Works.</p> <p>The project consists generally of the widening and overlay of the eastbound lane of East and West Eighth Street, from NC 12 (Virginia Dare Trail) to US 158 (Croatan Highway), then from US 158 to Pond Ave., a total of 2,322', along with associated storm drainage pipe work, pavement marking and other incidental work.. The project is being bid, and will be awarded, if at all, simultaneously and in coordination with a similar project for the Town of Kill Devil Hills for similar work north of the centerline.</p> <p>It is the intent of the Town of Nags Head only to award this project if the Town of Kill Devil Hills also awards their companion project, and the award, if any is made, will be to the firm with the lowest sum of the total bid price for this project and the total bid price for the companion Kill Devil Hills project. Accordingly, on the line labeled "Total Bid, TNH Portion" at right, insert the total price for all work shown on the plans described above, including all primary and incidental work.</p> <p>On the remaining lines, insert the exact amount of separate bid price(s) for the Base Bid, ADD Alternate 1, ADD Alternate 2, ADD Alternate 3 and then the sum of the TOTAL Price for the Nags Head portion, which shall be the sum of the four lines above it, and which sum shall be the basis of comparison of bids. At the bottom, complete the lump sum bid amounts for the separate work described in each of the ADD ALTERNATES for the Nags Head portion only.</p> <p>The Town reserves the right to reject any and all bids including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. In the comparison of Bids, alternates will be applied in the same order of priority as listed in the Bid Form. For comparison purposes alternates will be accepted, following the order of priority established in the Bid Form, until doing so would cause the budget to be exceeded. After determination of the Successful Bidder based on this comparative process and on the responsiveness, responsibility, and other factors, the award may be made to said Successful Bidder on its base Bid and any combination of its additive alternate Bids for which Owner determines funds will be available at the time of award and in the mutual interest of the Towns of Nags Head and Kill Devil Hills.</p> <p>NAGS HEAD: ADD ALTERNATE 1 This generally consists of approximately 32 lf of 30" conc. curb and gutter, 120 lf of 24" conc. curb and gutter, construction of (5) ADA compliant handicap ramps, removal/replacement of 84 l.f. of 5' wide conc. sidewalk.</p> <p>NAGS HEAD: ADD ALTERNATE 2 This generally consists of approximately 143 lf of 24" conc. curb and gutter, (2) catch basins, 40 lf of HDPE solid storm pipe and 23 lf of HDPE solid storm pipe.</p> <p>NAGS HEAD: ADD ALTERNATE 3 This generally consists of approximately 210 lf of 15" dia sock pipe, 27 lf of 15" dia solid storm pipe, 78 lf of 12" dia sock pipe, 122 lf of 12" dia RCP storm pipe.</p>	<p>\$ _____ .</p> <p>Total Base Bid, (TNH Portion)</p> <p>\$ _____ .</p> <p>TNH ADD ALT 1 Bid</p> <p>\$ _____ .</p> <p>TNH ADD ALT 2 Bid</p> <p>\$ _____ .</p> <p>TNH ADD ALT 3 Bid</p> <p>\$ _____ .</p> <p>Total Base Bid w/ ADD ALTERNATES (TNH Portion)</p>

UNIT PRICE ITEMS

(see Paragraph C.4, Instructions to Bidders)

Item Number and Description		Unit Price	per Unit
1)	Concrete Curb & Gutter, 24"	\$ _____	per LF
2)	Concrete Curb & Gutter, 30"	\$ _____	per LF
3)	Asphalt Base Course, Type B25.0B, in place	\$ _____	per TON
4)	Asphalt Intermediate Course, Type I19.0B, in place	\$ _____	per TON
5)	Asphalt Surface Course, Type SF9.5A, in place	\$ _____	per TON
6)	Aggregate Base Course (ABC) Stone, in place	\$ _____	per TON
7)	Clearing	\$ _____	per ACRE
8)	Select Fill, in place	\$ _____	per CY
9)	Concrete Driveway REMOVAL	\$ _____	per SF
10)	Concrete Driveway REPLACEMENT – Regular	\$ _____	per SF
11)	Concrete Sidewalk REMOVAL	\$ _____	per SF
12)	Concrete Sidewalk REPLACEMENT - Regular	\$ _____	per SF
13)	ADA Handicap Ramp w/detectable warning domes	\$ _____	per EACH
14)	Concrete Driveway REPLACEMENT –Exposed Aggregate	\$ _____	per SF
16)	Seeding & Mulching, watered and maintained until full establishment of grass	\$ _____	per SF
Sod, Centipede or Bermuda, in place, watered and maintained until fully established, quantity per installation....	17) Less than 80 SY	\$ _____	per SY
	18) 80 SY or more	\$ _____	per SY
19)	Excelsior Matting, installed	\$ _____	per SY
20)	Unsuitable Soil Material, Excavation, Removal and Disposal	\$ _____	per CY
21)	Class "A" Rip-Rap, in place	\$ _____	per TON
22)	Class "B" Rip-Rap, in place	\$ _____	per TON
23)	New Residential Water Service, w/sleeve on new or existing Water Line, installed	\$ _____	per EACH
Instances of lowering or raising existing Water Line by up to 12", including all labor, equipment, materials, patching.	24) 2" WM	\$ _____	per EACH
	25) 4" WM	\$ _____	per EACH
	26) 6" WM	\$ _____	per EACH
	27) 8" WM	\$ _____	per EACH
28)	8" HDPE, "N-12" "culvert/storm drain", installed	\$ _____	per LF
29)	12" HDPE, "N-12" culvert/storm drain, installed	\$ _____	per LF
30)	12" RCP, culvert/storm drain, installed	\$ _____	per LF
31)	12" HDPE, "N-12" "sock drain", installed	\$ _____	per LF
32)	15" HDPE, "N-12" culvert/storm drain, installed	\$ _____	per LF
33)	15" HDPE, "N-12" "sock drain", installed	\$ _____	per LF
34)	18" HDPE, "N-12" culvert/storm drain, installed	\$ _____	per LF
35)	18" HDPE, "N-12" "sock drain", installed	\$ _____	per LF
36)	Vegetative Drainage Swale, (< 1.5' deep)	\$ _____	per LF
Replace Existing Curb Inlet, incl. replacement of up to 12 LF of culvert, w/cutting, removal, banding to facilitate pipe connections, backfill, seeding, stabilization.	37) (< 4' deep)	\$ _____	per EACH
	38) (4' - 8' deep)	\$ _____	per EACH
39)	Repair Existing Drainage Structure, 1 or 2 connecting pipe	\$ _____	per EACH
40)	Repair Existing Drainage Structure, more than 2 connecting pipes	\$ _____	per EACH
41)	New Standard Drop Inlet, precast, with boots for all pipe connections	\$ _____	per EACH
42)	New Standard Catch Basin, precast, with boots for all pipe connections	\$ _____	per EACH
Grade, seed, fertilize, mulch & water new roadside swale, until vegetation is fully established, average depth:	43) Less than 1'	\$ _____	per LF
	44) 1' to 2'	\$ _____	per LF

This BID, consisting of Pages BT-1 through BT-3 of the Bid Tabulation Form, along with the additional items required by the Instructions to Bidders, is hereby submitted as follows:

Date of Bid _____

BIDDER'S INFORMATION:

Name of Firm: _____

License Number: _____

Business Address: _____
(Street or Post Office Box) (City/Town) (State) (Zip Code)

Telephone Number: _____
(area code) (telephone #) (fax #)

BIDDER'S SIGNATURE:

I, the undersigned, am a duly authorized representative of the firm identified above. We, the firm, hereby present our bid for the work described in the Contract Documents, as that term is defined in the General Conditions, including any Addenda issued, the receipt of which is acknowledged below. In preparing this bid, we further acknowledge and state the following:

1. We have carefully examined and studied the site of the project(s) and all the Contract Documents.
2. We understand and agree that the Owner may award based on the Base Bid only, or any or all Alternates in any combination, or to make no award at all, as is in the Owner's interest.
3. We are fully capable of performing the work in the manner and subject to the terms and conditions described therein. We have, within the 5-year period ending with the date of this bid, successfully completed projects of similar size, nature, complexity and dollar value, and key personnel having performed such projects remain with the firm. Upon request of the Owner, we will furnish particulars as to such past projects, and, by our signature below, agree that the Owner shall have the sole right to review our capability and qualifications to perform the work comprising this Project and to accept or reject our bid based on said review.
4. We agree that it is a condition of the award of any Contract that we provide a properly-executed Affidavit of E-Verify Compliance using the applicable one of the two forms provided on the following pages.

Signature: _____

Signer's Information: _____
(PRINTED Name) (TITLE)

ACKNOWLEDGEMENT OF ADDENDA:

We acknowledge the receipt of addenda numbered: _____
(list the number of each ADDENDUM received)

GENERAL CONDITIONS

Article 1. **DEFINITIONS**

- A. The **Contract Documents** consist of the following:
1. The Instructions to Bidders
 2. The Bid Tabulation Form
 3. The General Conditions
 4. The Technical Specifications
 5. The Waterline Specifications
 6. The Drawings
 7. The Construction Contract, including
 - a. the Performance Bond
 - b. the Payment Bond
 - c. the Certificate(s) of Insurance
 8. Any and all bulletins, addenda, change order(s), and/or other modifications to any Contract Document(s).
 9. All terms and conditions of any plan approvals, permits, etc. which have been issued for the work by higher governmental authorities, which may include some or all of the following: Erosion and Sedimentation Control, State Stormwater, CAMA, US Army Corps of Engineers and NCDOT.
 10. The NCDOT Encroachment Agreement, if any portion of the Work lies within the right of way of a road or street maintained by the North Carolina Department of Transportation (NCDOT), such as US 158 (Croatan Highway), NC 12 (Virginia Dare Trail), or NCSR 1243 S. Old Oregon Inlet Rd.
 11. All of these items together form the Contract Documents.
 12. The terms “the Specifications” or “the Specs” may be used colloquially to refer to the Contract Documents, or to all of the Contract Documents except for the Drawings. Because of the potential for confusion between the Technical Specifications and “the Specifications” meaning all the documents, the term Contract Documents shall be the preferred term.

- B. The **Owner** is the Town of Nags Head, who may also be referred to as the “Party of the Second Part.”
- C. The **Contractor** is any individual, partnership, firm, corporation, joint venture, or other legal entity undertaking the execution of the Project under the terms of the contract with the Town of Nags Head, North Carolina, and acting directly or through its agents, or employees. The Contractor may also be referred to as the “Party of the First Part.”
- D. The **Engineer** is David M. Ryan, P.E., Project Coordinator/Town Engineer, Town of Nags Head Department of Public Works., or such other person or firm as may be designated by the Town to act on its behalf.
- E. A **Subcontractor** is one who entered into a direct contract with the Contractor, and includes one who furnishes materials worked to a special design in accordance with Drawings and specifications covered by the contract, but does not include one who only sells or furnishes materials not requiring work so described or detailed.
- F. **Written Notice** is notice in writing delivered in person to the Contractor, or to a partner of the firm in the case of a partnership, or to a member of the contracting organization, or to an officer of the organization in the case of corporation, or sent to the last known business address of the contracting organization by registered mail.
- G. **Work**, as used herein as a noun, includes materials, labor, and workmanship of the appropriate contractor.
- H. The **Project** is the total construction work to be performed under the Contract Documents by the Contractor. When the work consists of more than one project, the term “Project” shall be construed to mean “Projects;” when the work consists of only a single project, the term “Projects” shall be construed to mean “Project.”
- I. **Change Order**, as used herein shall mean a written order to the Contractor subsequent to the signing of the contract authorizing a change in the contract. The change order shall be signed by the Contractor, and the Town Engineer, and approved by the Town Manager or his duly authorized representative, in that order.
- J. The **Contract Time** is the number of consecutive calendar days, from the date of the Notice to Proceed until the Date of Substantial Completion, as set forth in the Construction Contract agreement, during which the Contractor shall complete the Project to a state of Substantial Completion as set forth in Article 13.
- K. **Date(s) of Substantial Completion** is the date by which the Project must be Substantially Complete, as provided in Article 13 herein. It shall be established by adding the Contract Time to the date of the Notice to Proceed. Modifications to the Contract Time, and thus to the Date of Substantial Completion, shall be made only as provided in Article 13. Intermediate Date(s) of Substantial Completion may be provided in the Instructions to Bidders for portion(s) of the Project.
- L. **Date of Full Completion** is the date by which the Project must be Fully Complete, as provided in Article 13 herein. It shall be established by adding **forty-five (45)** calendar days, or such lesser number of days as may be set forth in the Instructions to Bidders, to the date by

which the Project is required to be Substantially Complete by this Contract; provided, however

1. If the Project is deemed by the Engineer to be Substantially Complete by a date earlier than required under this Contract, the Date of Full Completion shall still be computed from the **required** date of Substantial Completion, not the earlier date by which it may have been attained.
 2. If the Date of Full Completion, established as provided above, falls on a Saturday, Sunday or holiday (a day on which the Town offices are closed), it shall be moved to the following Monday, or if that Monday is a holiday, to the following Tuesday.
- M. **Surety**, as used herein, shall mean the bonding company or corporate body which is bound with and for the Contractor, and which engages to be responsible for the Contractor and his acceptable performance of the work.

Article 2. INTENT AND EXECUTION OF DOCUMENTS

- A. The drawings and specifications are complementary, one to the other. That which is either shown on the drawings or called for in the specifications shall be as binding as if it were both called for and shown. The intent of the drawings and specifications is to establish the scope of all labor, materials, transportation, equipment, and any and all other things necessary to provide a complete job. In case of discrepancy or disagreement in the Contract Documents, the provisions of the Technical Specifications shall first be applied. If this does not result in a clear resolution of the discrepancy, precedence shall be given to the documents in the following order: Contract Agreement, General Conditions, Technical Specifications, large-scale detail drawings, small-scale drawings.
- B. The wording of the specifications shall be interpreted in accordance with common usage of the language except that words having a commonly used technical or trade meaning shall be so interpreted in preference to other meanings.
- C. The Contractor shall execute each copy of the proposal, contract, performance bond, and payment bond as follows:
1. If the documents are executed by a sole owner, that fact shall be evidenced by the word "Owner" appearing after the name of the person executing them.
 2. If the documents are executed by a partnership, that fact shall be evidenced by the word "Owner" appearing after the name of the person executing them, and the authority to execute the same must be attached.
 3. If the documents are executed on the part of a corporation, they shall be executed by either the president or the vice president and attested by the secretary or assistant secretary in either case, and the title of the office of such persons shall appear after their signatures. The seal of the corporation shall be impressed on each signature page of the documents.
 4. If the documents are made by a joint venture, they shall be executed by each member of the joint venture in the above form for sole owner, partnership, or corporation,

whichever form is applicable to each particular member, and executed by each particular member in their respective capacities.

5. All signatures shall be properly witnessed.
6. If the Contractor's license is held by a person other than an owner, partner or officer of a firm then the licensee shall also sign and be a party to the contract. The title "Licensee" shall appear under his/her signature.
7. The bonds shall be executed by an attorney-in-fact. There shall be attached to each copy of the bond a certified copy of power of attorney properly executed and dated.
8. Each copy of the bonds shall be countersigned by an authorized individual agent of the bonding company licensed to do business in North Carolina. The title "Licensed Resident Agent" shall appear after the signature.
9. The seal of the bonding company shall be impressed on each signature page of the bonds.
10. The Contractor's signature on the performance bond and the payment bond shall correspond with that on the contract.

Article 3. MATERIALS, EQUIPMENT, EMPLOYEES

- A. The Contractor shall, unless otherwise specified, supply and pay for all labor, supervision, transportation, materials, tools, apparatus, lights, power, heat, sanitary facilities, water, scaffolding and incidentals necessary for the completion of his work, and shall install, maintain and remove all equipment of the construction, other utensils or things, and be responsible for the safe, proper and lawful construction, maintenance and use of same, and shall construct in the best and most workmanlike manner, a complete job and everything incidental thereto, as shown on the Drawings, stated in the specifications, or reasonably implied therefrom, all in accordance with the Contract Documents.
- B. The Owner will provide, at Owner's expense, basic surveying stakeout services for the project, to include vertical control benchmarks, staking or marking where the right of way intersects driveways, staking all storm drainage pipes and structures, staking all beginning and ending points for curb and gutter (including radius points, where applicable. Where the work includes a roadway, sidewalk/path, etc. on a new alignment (as opposed to a simple widening or reconstruction on existing alignment) staking of the centerline, edge or other reference line of the new work will be provided. Individual stakes will not be set at every point in roadside swales; instead, benchmarks will be provided at intervals so that a benchmark is within 300' of every point on all swales. The Contractor's responsibilities shall be to
 1. Protect all stakes, marks and control points which the Owner has caused to be set; any which are damaged or destroyed will be replace at the Contractor's expense.
 2. Construct his work in accordance with the stakes and marks, transferring them accurately as required.

3. Notify Owner or Engineer IMMEDIATELY upon discovering any apparent discrepancy in the Drawings, or the stakes and marks, or between the two, before performing any work affected by the apparent discrepancy.
- C. All materials shall be new and of quality specified, except where reclaimed material is authorized herein and approved for use. Workmanship shall at all times be of a grade acceptable as the best practice of the particular trade involved, and as stipulated in written standards of recognized organizations or institutes of the respective trades except as exceeded or qualified by the specifications.
 - D. Upon notice, the Contractor shall furnish evidence as to quality of materials.
 - E. Whenever products, materials or equipment are named in the specifications, the specifications shall be interpreted to mean an item of material or equipment similar to that named and which is suited for the same use and capable of performing the same function as that named.
 - F. The Contractor shall obtain written approval from the Owner for the use of substitute products, materials, or equipment claimed as equal to those specified. Such approvals must be obtained as soon after Notice of Award as possible and before any materials are ordered. Applications for approvals shall be made by the Contractor and not by subcontractors or material suppliers. The Contractor shall submit within twenty (20) days following Notice of Award a complete list of materials proposed for the job. When this list is approved, no further substitutions will be permitted except in unusual or extenuating circumstances. If no list is submitted, the Contractor shall supply materials specified.
 - G. The Owner shall be the judge of equality for proposed substitution of products, materials, or equipment.
 - H. If at any time during the construction and completion of the work covered by these Contract Documents, the conduct of any workman of the various crafts be adjudged a nuisance to the Owner, or if any workman be considered detrimental to the work, the Contractor shall order such parties removed immediately from the site of the Project.

Article 4. PROTECTION OF WORK, PROPERTY AND THE PUBLIC

- A. The Contractor shall be responsible for the entire site of the Project and the building or construction of the same and provide all the necessary protections, as required by the Owner, and by laws or ordinances governing such conditions. The Contractor shall be responsible for any damage to the Owner's property, including the facilities within the Project area and the newly-completed work itself, or the property of others in the Project vicinity, by Contractor, Contractor's personnel, or subcontractors, and shall repair or replace such damaged property. The Contractor shall be responsible for and pay for any claims against the Owner. The Contractor shall have access to the project at all times.
- B. The site of the Project is the Town-owned site and/or publicly-owned street rights of way and/or easement(s), as indicated on the Drawings. All work is to be conducted within the site of the Project as shown on the Drawings. No work or other Contractor activity, storage, etc. shall be conducted on private property, or public property outside the street right of way, except with express written permission of the property owner as provided in the Contract Documents

- C. Contractor, in preparing his bid, shall have fully examined the site, determined any need for areas to stage equipment and/or store materials, and made appropriate arrangements therefore.
1. The Owner will generally allow such activities to occur within its street rights of way, where sufficient room exists for such storage and/or staging to be done without undue risk or inconvenience to the public. Any questions about the availability of an area of specific size or location shall be raised prior to Bid submission.
 2. If the Contractor determines that he needs areas above and beyond any available public lands, he shall make separate, direct arrangements in advance with the private property owner(s) involved.
 - a. No separate compensation shall be provided to Contractor for the costs of acquiring, preparing, using or restoring such area(s).
 - b. PRIOR TO beginning any use of any such area, Contractor shall provide to the Owner, in writing, evidence of the concurrence of any and all affected property owners. Such written evidence shall include a statement signed by the affected owner(s), or, if such arrangements are made verbally, Contractor shall send a confirming letter, by Certified Mail, with a copy to the Engineer.
 - c. Unless the owner of such property used for staging and/or storage shall provide a written waiver of same, such property shall, as a precondition of the Project being declared by the Engineer to be Fully Complete, restore such property to a condition equal to or better than when the work began. Contractor shall provide "before" and "after" photographs to document his satisfactory restoration. Unless the property owner has waived restoration in writing, Contractor shall provide written confirmation from the property owner that the property has been restored in accordance with his agreement with the property owner.
- D. The Contractor shall employ construction equipment of a size and weight appropriate to the requirements of the project, and not substantially larger/heavier, and shall use methods, materials and procedures designed to minimize the risk to damage of property in the Project area. Damage to existing improvements or property within and outside of the limits of the Project shall be avoided to the maximum extent practical. In order to assure compliance with this requirement, Contractor shall submit a list of the heavy equipment he proposes to use, for review and approval by the Engineer, as set forth in the Technical Specifications. Any damage to existing improvements or public or private property (including, but not limited to, existing roadway pavements) which, in the opinion of the Engineer, is caused or significantly contributed to by the Contractor's actions shall be repaired its original condition or better at no additional cost to the Owner. Additionally, in his selection of equipment and in his operation of it, Contractor shall avoid other forms of damage to public and private pavement, including but not limited to:
1. Marks or damage from the teeth of backhoe or excavator buckets.
 2. Marks or damage from the tracks of tracked equipment.

3. Marks or damage from the feet of outriggers or stabilizers.

- E. The Contractor shall provide cover and protect all portions and elements of the structure or other components of the Project when the work is not in progress, including non-working hours on days when work IS in progress. Any work damaged through the lack of proper protection, or from any other cause, shall be repaired or replaced without extra cost to the Owner. When damage to property, including the work of the Project itself, has been caused or appears to have been caused by others who are not a party to this Contract, it shall be the Contractor's responsibility to pursue any claims against such third parties. Such damages shall have to be corrected by the Contractor, regardless of the status or success of any such claim against any other party.
- F. The developer shall be responsible for the preservation of all public and private property and shall protect carefully from disturbance or damage all land monuments and property markers, and shall not move them until directed. Monuments or markers disturbed or damaged shall be replaced by a licensed land surveyor at Contractor's expense.
- G. No fires of any kind will be allowed around the operations during the course of construction without special permission from the Owner.
- H. The Contractor shall protect all trees, shrubs, and dunes designated to remain in the vicinity of the operations. He shall barricade all walks, roads, etc., as directed by the Owner to keep the public away from the construction. All trenches, excavations or other hazards in the vicinity of the work shall be well barricaded and properly lighted at night.
- I. The Contractor shall provide all necessary safety measures for the protection of all persons on the job, including the requirements of the AGC Accident Prevention Manual in Construction, as amended, and shall fully comply with all state laws or regulations and North Carolina State Building Code requirements to prevent accident or injury to persons on or about the location of the work. He shall clearly mark or post signs warning of hazards existing, and shall barricade excavations, stairwells, and similar hazards. He shall protect against damage or injury resulting from falling materials and he shall maintain all protective devices and signs throughout the progress of the work. At no time shall an open excavation or other hole or falling hazard remain unattended without proper warning and barricading.
- J. The Contractor shall adhere to the rules, regulations and interpretations of the North Carolina Department of Labor relating to Occupational Safety and Health Standards for the Construction Industry (Title 29, Code of Federal Regulations, Part 1926, published in Volume 39, Number 122, Part II, June 24, 1974, Federal Register), and revisions thereto as adopted by General Statutes of North Carolina 95-126 through 155.
- K. The Contractor shall designate a responsible member of his organization as safety inspector, whose duties shall include accident prevention on the work project. The name of the safety inspector shall be made known to the Owner at the time the work is started.
- L. In the event of emergency affecting the safety of life, the protection of work, or the safety of adjoining properties, the Contractor is hereby authorized to act at his own discretion, without further authorization from anyone, to prevent such threatened injury or damage. Any compensation claimed by the Contractor on account of such action shall be determined as provided for under Article 10(c).

- M. The Contractor shall adhere to the rules, regulations, and interpretations of the Federal Highway Administration relating to Part IV, Manual on Uniform Traffic Control Devices (MUTCD) Standards and Guides for Traffic Controls for Street and Highway Construction, Maintenance, Utility, and Incident Management Operations (current edition). For any portions of the work lying within a street right of way maintained by the North Carolina Department of Transportation (NCDOT), such as US Route 158 (Croatan Highway), NC Route 12 (Virginia Dare Trail) and NCSR 1243 S. Old Oregon Inlet Rd., Contractor shall comply with the provisions of the NCDOT Encroachment Agreement for the project, a copy of which shall be provided to bidders prior to the execution of the contract and which shall be considered a Contract Document.
- N. Except during the event of emergency, as described above, or otherwise approved in advance by the Owner, the Contractor shall confine all work to the following days and hours: Monday through Saturday (excluding the following holidays: New Year's Day, Good Friday (the Friday before Easter), Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day), 7 a.m. to 7 p.m.
1. No work (except for emergencies or other work approved in advance, as stated above) shall be done on Sunday or any of the aforementioned holidays. If any of the foregoing holidays falls on a Friday, Sunday or Monday, the Saturday of that weekend shall also be considered a holiday.
 2. During the period from the Saturday of the Memorial Day weekend through the Labor Day weekend, no work shall be done on Saturday. Saturday work may be prohibited if so noted on the Drawings.
 3. When the Engineer or Owner grants advance approval of work on Sundays, holidays or other days, or during the evening hours from 7 p.m. until 7 a.m. the following morning, during which work is not generally allowed, as provided above, such approval shall generally be limited to circumstances when work needs to be done at times of minimal traffic, water usage, etc., such as open-cut crossings of busy streets, waterline tie-ins where service will be interrupted, etc. Contractor should not expect such approval to be granted to increase the length of his work day to allow him to catch up from being behind schedule.
 4. The executed NCDOT right-of-way encroachment agreement may set forth additional time restrictions and conditions.

Article 5. SEDIMENTATION POLLUTION CONTROL ACT OF 1973

- A. Any land-disturbing activity performed by the Contractor in connection with the project shall comply with all erosion control measures set forth in the Contract Documents and any additional measures which may be required in order to ensure that the project is in full compliance with the Sedimentation Pollution Control Act of 1973, as implemented by Title 15, North Carolina Administrative Code, Chapter 4, Sedimentation Control, Subchapters 4A, 4B and 4C, as amended (15 NCAC 4A, 4B, and 4C). If Contractor elects to use property of others, or Town property with Town's advance consent, for staging of equipment and/or materials, he shall prepare a sketch plan for Engineer's approval, which approval shall not be unreasonably delayed or withheld, showing a Temporary Construction Entrance and other

erosion control measures appropriate to the property and its temporary use. Measures to control wind erosion shall be included.

- B. Upon receipt of notice that a land-disturbing activity is in violation of said act, the Contractor shall be responsible for ensuring that all steps or actions necessary to bring the project in compliance with said act are promptly taken.
- C. The Contractor shall be responsible for defending any legal actions instituted pursuant to NCGS 113A-64 against any party or persons described in this article.
- D. To the fullest extent permitted by law, The Contractor shall indemnify and hold harmless the Owner, consultants and employees of the Owner, from and against all claims, damages, civil penalties, losses and expenses, including, but not limited to, attorney's fees, arising out of or resulting from the performance of work or failure of performance of work, provided that any such claim, damage, civil penalty, loss or expense is attributable to a violation of the Sedimentation Pollution Control Act. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any part or persons described in this article.

Article 6. INSPECTION OF THE WORK

- A. It is a condition of this contract that the work shall be subject to inspection during normal working hours by the Owner, designated official representatives of the Owner, and those persons required by state law to test special work for official approval. The Contractor shall therefore provide safe access to the work at all times for such inspections.
- B. All instructions to the Contractor will be made only by or through the Owner or his designated project representative. Observations made by official representatives of the Owner shall be conveyed to the Owner for review and coordination prior to issuance to the Contractor.
- C. Where special inspection or testing is required by virtue of any state laws, instructions of the Owner, specifications or codes, the Contractor shall give adequate notice to the Owner of the time set for such inspection or test, if the inspection or test will be conducted by a party other than the Owner. Such special tests or inspections will be made in the presence of the Owner, or his authorized representative, and it shall be the Contractor's responsibility to serve ample notice of such tests, not less than a forty-eight (48) hour minimum.
- D. All laboratory tests, as required by the Technical Specifications, shall be paid by the Contractor unless provided otherwise in the Contract Documents. The general contractor shall pay for laboratory tests to establish design mix for concrete, and for additional tests to prove compliance with Contract Documents where materials have tested deficient except when the testing laboratory did not follow the appropriate ASTM testing procedures.
- E. Should any work be covered up or concealed prior to inspection and approval by the Owner, such work shall be uncovered or exposed for inspection, if so requested by the Owner in writing. Inspection of the work will be made promptly upon notice from the Contractor. All cost involved in uncovering, repairing, replacing, recovering and restoring to design condition, the work that has been covered or concealed will be paid by the Contractor involved.

- F. If any other portion of the work has been covered which the Owner has not specifically requested to observe prior to being covered, the Owner may request to see such work, and it shall be uncovered by the Contractor. If such work is found in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate change order, be charged to the Owner. If such work is found not in accordance with the Contract Documents, the Contractor shall pay such costs unless it is found that this condition was caused by the Owner or a separate contractor, in which event the Owner or the separate contractor shall be responsible for the payment of such costs.

Article 7. CONSTRUCTION SUPERVISION

- A. Throughout the progress of the work, the Contractor shall keep on the job a competent general superintendent satisfactory to the Owner. The general superintendent shall oversee and coordinate every aspect of the work, including all subcontract work, work of other direct prime contractors, Town forces or others performing work in or near the area of the project, along with components of work being performed by the various divisions or crews of Contractor's own forces. The superintendent shall not be changed without the consent of the Owner unless said superintendent ceases to be employed by the Contractor or ceases to be competent. The superintendent shall have authority to act on behalf of the Contractor, and instructions, directions or notices given to him shall be as binding as if given to the Contractor. However, important directions, instructions, and notices will be confirmed in writing to the Contractor as will all such items if requested by the Contractor.
- B. Prior to the commencement of any Work on the Project, Contractor shall furnish the Engineer the name and at least two working telephone numbers by which the general superintendent, or a responsible, authorized officer of similar rank in the company, who may be reached before or after normal working hours, including on weekends. Engineer and/or Owner will use this contact information to reach an effective representative of Contractor in case of an after-hours situation which, in the determination of Engineer or Owner, presents a danger or problem too serious to wait until the next workday morning.
- C. The Contractor shall examine and study the drawings and specifications and fully understand the project design, and shall provide constant and efficient supervision to the work. Should he discover any discrepancies of any sort in the drawings or specifications, he shall report them to the Owner without delay. He will not be held responsible for discrepancies in the drawings and/or specifications, but shall be held responsible to report them should they become known to him.
- D. The Owner may, at his sole discretion, establish a regular schedule for project meetings with the Contractor. Such jobsite meetings shall generally be weekly. Depending upon the nature and schedule of the work, meetings may be held throughout the entire Contract Time or just during times when the Contractor is conducting active operations. When the Owner establishes a schedule of regular meetings, the Contractor shall make available at such jobsite meetings a person or persons of appropriate authority in his firm, and appropriately familiar with the work, to meet and discuss the work effectively with the Owner and/or the Engineer.

Article 8. SUBCONTRACTS AND SUBCONTRACTORS

- A. Within fourteen (14) days after Notice of Award, the Contractor shall submit to the Owner a list giving the names and addresses of subcontractors and equipment and material suppliers he proposes to use, together with the scope of their respective parts of the work.
 - 1. The Owner reserves the right to require information regarding the qualifications, experience, financial strength, etc. of any proposed Subcontractor, to the same extent required regarding Contractor's own qualifications, etc. as provided in the Bid Tabulation Form.
 - 2. The Owner reserves the right to disapprove any Subcontractor for cause, such as qualifications, experience financial strength, problems with past performance, etc., in the Owner's sole determination.
 - 3. The cumulative amount of the work to be performed by all Subcontractors shall not exceed 50% of the amount of the contract awarded, as appearing in the executed Construction Contract agreement.
- B. The Owner will furnish to any subcontractor, upon request, evidence regarding amounts of money paid to the Contractor on account of the subcontractor's work.
- C. The Contractor is and remains fully responsible for his own acts or omissions as well as those of any subcontractor or of any employee of either. The Contractor agrees that no contractual relationship exists between the subcontractor and the Owner in regard to the contract, and that the subcontractor acts on this work as an agent or employee of the Contractor.

Article 9. CONTRACTOR AND SUBCONTRACTOR RELATIONSHIPS

- A. The Contractor agrees that the term of these Contract Documents shall apply equally to each subcontractor as to the Contractor, and the Contractor agrees to take such action as may be necessary to bind each subcontractor to these terms. The Contractor further agrees to conform to the Code of Ethical Conduct as adopted by the Associated General Contractors of America, Inc., with respect to the Contractor-subcontractor relationships, and that payments to subcontractors shall be made in accordance with the provisions of NCGS 143-134.1 titled Interest on final payments due to the general contractor: payments to subcontractors.
- B. The Contractor acknowledges and agrees that he is fully responsible for all aspects of the performance of his subcontractors and suppliers with regard to this Project. This responsibility includes thorough and complete command and control over subcontractors. No communication or interaction which happens to occur between any subcontractor and the Owner or Engineer shall in any negate or reduce the Contractor's sole responsibility to manage and control his subcontractors.
- C. On all public construction contracts which are let by the Town of Nags Head the balance due the Contractor shall be paid in full within forty-five (45) days after the Date of Full Completion. Should final payment to the Contractor be delayed by more than 45 days, said contractor shall be paid interest, beginning on the 46th day, at the rate of one percent (1%) per month or fraction thereof unless a lower rate is agreed upon on such unpaid balance as may be due. However, if final payment is being withheld for cause, as provided in Article 22,

the 45-day provision shall not apply, nor shall interest be paid. In addition to the above final payment provisions, periodic payments due a contractor during construction shall be paid in accordance with the payment provisions of Article 21 herein or said contractor shall be paid interest on any such unpaid amount at the rate stipulated above for delayed final payments. Such interest shall begin on the date the payment is due and continue until the date on which payment is made.

- D. Within seven days of receipt of each periodic or final payment, the Contractor shall pay the subcontractor based on work completed or service provided under the subcontract. Should any periodic or final payment to the subcontractor be delayed by more than seven days after receipt of periodic or final payment by the Contractor, the Contractor shall pay the subcontractor interest, beginning on the eighth day, at the rate of one percent (1%) per month or fraction thereof on such unpaid balance as may be due.
- E. Except as provided in Paragraph F below, the percentage of retainage on payments made by the Contractor to the subcontractor shall not exceed the percentage of retainage on payments made by the Owner to the Contractor. Any percentage of retainage on payments made by the Contractor to the subcontractor that exceeds the percentage of retainage on payments made by the Owner to the Contractor shall be subject to interest to be paid by the Contractor to the subcontractor at the rate of one percent (1%) per month or fraction thereof.
- F. Nothing in this section shall prevent the Contractor at the time of application and certification to the Owner from withholding application and certification to the Owner for payment to the subcontractor for unsatisfactory job progress; defective construction not remedied; disputed work; third-party claims filed or reasonable evidence that claim will be filed; failure of subcontractor to make timely payments for labor, equipment and materials; damage to contractor or another subcontractor; reasonable evidence that subcontract cannot be completed for the unpaid balance of the subcontract sum; or a reasonable amount for retainage not to exceed the initial percentage retained by Owner.

Article 10. CHANGES IN THE WORK

- A. The Owner may have changes made in the work covered by the contract. These changes will not invalidate and will not relieve or release the Contractor from any guarantee given by him pertinent to the contract provisions. These changes will not affect the validity of the guarantee bond and will not relieve the surety or sureties of said bond. All extra work shall be executed under conditions of the original contract.
- B. Except in an emergency endangering life or property, **NO CHANGE SHALL BE MADE BY THE CONTRACTOR EXCEPT UPON WRITTEN ORDER FROM THE OWNER AUTHORIZING SUCH CHANGE, AND NO CLAIM FOR ADJUSTMENTS OF THE CONTRACT PRICE SHALL BE VALID UNLESS THIS PROCEDURE IS FOLLOWED.** The procedure for initiating a Change Order shall be as follows:
 - 1. If the proposed Change Order arises from circumstances arising in the field, Contractor shall notify Engineer of said circumstances. If the Change Order results from the Engineer's or Owner's determination to modify the scope of the work, Engineer shall notify Contractor of the nature and extent of such modification.

- a. In cases where there is a need for especially fast processing of a Change Order to minimize associated costs, Contractor shall let Engineer know how quickly a decision is needed to avoid such costs of delay.
 - b. Contractor shall advise Engineer as to whether there are any special cost or time considerations associated with the proposed Change Order.
 2. Engineer, in consultation with Owner, will determine
 - a. Whether the Change Order is, in fact, warranted, and
 - b. Whether there are sufficient funds available.
 3. If the Change Order cannot be approved, Engineer will notify Contractor and provide the reasons why.
 4. If the Change Order is approvable, Engineer will notify Contractor to prepare the Change Order form and will notify Owner, who will initiate a supplementary Purchase Order,
 5. Contractor shall send his proposed Change Order form to Engineer for review of its content and the associated cost and time; the requested change in the contract time shall be included **even if it is zero**, and failure to note the change in contract time shall result in the Change Order request being sent back to Contractor. If Engineer finds any problem with the proposed Change Order, he shall send it back to Contractor for revision; otherwise, he shall forward it on to the Owner with his recommendation for approval.
 6. Owner shall approve the Change Order in writing before any work covered by it is initiated.
 7. Additional work required by a *bona fide* emergency, as determined by the Engineer, shall be covered by Paragraph D below.
 8. Change order requests shall be consecutively and uniquely numbered. For example, if Change Order Request 6 is considered and rejected, and Change Order 6 is not issued, the next change order request will be numbered 7.
 9. If a change in the contract time is approved which would move the required date of Substantial Completion onto a Sunday or holiday, as defined herein, an additional day or days shall be granted , so as to extend the required date to the next Monday or non-holiday date.
- C. In determining the values of changes, either additive or deductive, contractors are restricted to the use of the following methods:
1. Where the extra work involved is covered by unit prices quoted in the proposal, the value of the change shall be computed by application of unit prices based on quantities, estimated or actual as agreed of the items involved.

2. Where there is work to be deleted or withdrawn from the contract, the contracting parties shall negotiate and agree upon the equitable value of the change prior to issuance of the change order, and the change order shall stipulate the corresponding lump sum adjustment to the contract price.
- D. In the event of emergency endangering life or property, the Contractor may be directed to proceed on a time and materials basis whereupon the Contractor shall proceed and keep accurately on such form as may be required, a correct account of costs together with all proper invoices, payrolls, and supporting data. Upon completion of the work the change order will be prepared as outlined under either Method "C.1" or Method "C.2" or both.
- E. Under methods C.1, no additional allowances shall be made for overhead and profit. Under methods C.2 in paragraph C above, the allowances for overhead and profits combined shall include no more than 10%.
- F. The term "net cost" as used herein shall mean the difference between all proper cost additions and deductions. The "cost" as used herein may include all items of material and labor, rental value of power tools and equipment, and such items of cost as worker's compensation insurance, unemployment insurance, special insurance, Social Security, and old age benefit, fringe benefits, bond adjustments, and sales tax. Overtime and extra pay for holidays and weekends may be cost items only to the extent approved by the Owner.
- G. The following items shall be considered as overhead: insurance other than mentioned above, supervision, superintendents, timekeepers, clerks, expeditors, watchmen, small tools, incidental job burdens and general office expense and all other items not included in "cost" as above defined.
- H. Should concealed conditions be encountered in the performance of the work below grade, or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Contract Documents, the contract sum and time for completion may be equitably adjusted by change order upon claim by either party made within thirty (30) days after the condition has been identified. The cost of such change shall be arrived at by one of the foregoing methods.

**ALL CHANGE ORDERS SHALL BE SUPPORTED BY A BREAKDOWN
SHOWING METHOD OF ARRIVING AT NET COST AS DEFINED ABOVE.**

- I. At the time of signing a change order, the Contractor shall be required to certify as follows:

"I certify that my bonding company will be notified forthwith that my contract has been changed by the amount of this change order, and that a copy of the approved change order will be mailed upon receipt by me to my surety."
- J. A change order, when issued, shall be full compensation, or credit, for the extra work included, omitted, or substituted. It shall show on its face the adjustment in time for completion of the project as a result of the change in the work.
- K. It is acceptable for the Contractor to enter into separate contract or other arrangements to perform work (Private Work) directly for any private property owner within the Project area, subject to the following provisions and limitations:

1. Such Private Work shall be entirely a matter between the Contractor and the private owners. Contractor agrees to indemnify and save harmless the Owner and all its employees and agents for any claim of any sort arising from Private Work.
2. To the extent fair and appropriate to both parties, Owner encourages Contractor to perform Private Work at prices not higher than the Unit Prices set forth in this Contract.
3. Private Work shall not be subject to the time limits of this Contract, nor shall it be a basis for an extension of the Contract Time.
4. Contractor may trade Private Work as compensation for the use of private property for staging or storage activities as described in Article 4 of these General Conditions. Such arrangements are entirely between Contractor and the affected property owner.
5. Contractor may, but is under no obligation to, make minor increases in the extent of work (Courtesy Work), beyond that as shown on the Drawings, at the request of a private owner and without compensation from said owner. In such cases, all costs and risks of such Courtesy Work shall be borne by the Contractor. If Contractor receives such requests which he feels to be excessive or inappropriate, he shall promptly report same to the Owner or Engineer.

Article 11. CLAIMS FOR EXTRA COST

- A. Should the Contractor consider that as a result of any instructions given in any form by the Owner, he is entitled to extra cost above that stated in the contract, he shall give written notice thereof to the Owner within seven (7) days without delay, and shall not proceed with the work affected, until further advised, except in emergency involving the safety of life or property, which condition is covered in Article 10(D) and Article 4(H). No claims for extra compensation will be considered unless the claim is so made. The Owner shall render a written decision within seven (7) days of receipt of claim.
- B. **THE CONTRACTOR SHALL NOT ACT ON INSTRUCTIONS RECEIVED BY HIM FROM PERSONS OTHER THAN THE OWNER, AND ANY CLAIMS FOR EXTRA COMPENSATION OR EXTENSION OF TIME ON ACCOUNT OF SUCH INSTRUCTION WILL NOT BE HONORED.** The Owner will not be responsible for misunderstandings claimed by the Contractor of verbal instructions which have not been confirmed in writing, and in no case shall instructions be interpreted as permitting a departure from the Contract Documents unless such instruction is confirmed in writing and supported by a properly authorized change order. For purposes of this section, the Town of Nags Head, Owner, appoints the Project Coordinator/Town Engineer to be its spokesperson.

Article 12. UNCORRECTED FAULTY WORK

Should the correction of faulty or damaged work be considered inadvisable or inexpedient by the Owner, the Owner shall be reimbursed by the Contractor. A change order will be issued to reflect a reduction in the contract sum. Such reduction may, in the Owner's sole discretion, represent the full value of the faulty or damaged work or some percentage thereof, with the percentage reflecting the degree of reduced value of the faulty or damaged work.

Article 13. TIME OF COMPLETION, DELAYS, EXTENSION OF TIME

- A. The Contract Time, as defined herein, is stated in the Instructions to Bidders.
- B. The Project shall be determined by the Engineer to be Substantially Complete when all elements of the work, as described by the Drawings and other Contract Documents, have been completed to a degree where they are ready for utilization by the public in a manner which is safe and convenient, and not likely to expose any person or property, or the work itself, to risk of damage or injury.
1. When the Engineer determines the Project to be Substantially Complete, he shall notify the Owner and Contractor in writing, establish the Date of Substantial Completion.
 2. The following are examples of work which is not acceptable, but which may be resolved after the Date of Substantial Completion:
 - a. Cracks or blemishes in concrete or asphalt work, provided the number and extent of same are limited and they do not pose a safety hazard.
 - b. Areas which require cleanup, such as removal of debris, rocks, etc. in lawn or swale areas, provided the number and extent of same are limited and they do not pose a safety hazard.
 - c. Minor discrepancies in the fine-grading of lawn or swale areas, provided the number and extent of same are limited and they do not pose a safety hazard.
 - d. Areas where vegetation has not yet become established. However, the Project shall not be found Substantially Complete unless all disturbed areas have been graded, seeded, and mulched.
 3. All work which must be surveyed by the Engineer for the preparation of As-Built Drawings (storm drainage structures and pipes, replaced driveways, curb and gutter, final pavement surface, etc.) must be completed before the Engineer shall declare the Project to be Substantially Complete.
 - a. Generally, Engineer shall initiate such surveying as soon as all such work is complete, but not later than five (5) days after the Date of Substantial Completion.
 - b. In the event that such surveying reveals that a substantial percentage of the work is outside a reasonable construction tolerance from the location and grade set forth on the Drawings, the Engineer may revoke his determination of Substantial Completion.
- C. The Contractor shall commence work to be performed under this agreement on a date to be specified in a written order from the Owner (the Notice to Proceed) and shall Substantially Complete all work hereunder within the Contract Time and by the Date of Substantial Completion, as defined herein.

- D. The Project shall be determined by the Engineer to be Fully Complete when all elements of the work, as described by the Drawings and other Contract Documents, have been fully completed.
1. When the Engineer determines the Project to be Fully Complete, he shall notify the Owner and Contractor in writing, establish the Date of Full Completion, which shall be the Date of Acceptance.
 2. The only known discrepancies or incomplete work which may remain after the Date of Full Completion and Acceptance is the establishment of vegetation, if the Owner so elects as provided in Article 14 below and in the Technical Specifications.
- E. The Contractor shall have **forty-five (45)** calendar days, or such lesser amount as may be set forth in the Instructions to Bidders, after the Date of Substantial Completion to bring the Project to a state of Full Completion as described herein.
- F. If the Contractor is delayed at any time in the progress of his work by any act or negligence of the Owner, by any separate contractor employed by the Owner, or by any employee of either; by changes ordered in the work by labor disputes at the project site; by abnormal weather conditions not reasonably anticipated for the locality where the work is performed; by unavoidable casualties; by any causes beyond the Contractor's control; or by any other causes which the Owner determines may justify the delay, then the Contract Time may be extended by change order for the time which the Owner may determine is reasonable.
1. Time extensions will not be granted for rain, wind, snow or other natural phenomena of normal intensity and frequency.
 2. Owner and Contractor agree that the determination of "normal" intensity and frequency of weather events can be a difficult process. In lieu of any attempt to determine same through records or opinions of some weather agency, Owner and Contractor, by their having signed the Construction Contract agreement for this Project mutually agree that a number of calendar days equal to 10% of the Contract Time shall represent the number of days during which work is not feasible (Bad Weather Days) during "normal conditions". Only Bad Weather Days **in excess of said 10%** shall be a valid basis for claim for extension of the Contract Time. The following procedures shall be followed:
 - a. Once each week during the Contract Time, Contractor shall notify Engineer of any Bad Weather Day(s) occurring during the previous week. Should Contractor fail to so notify Engineer within fourteen (14) calendar days after any such Bad Weather Day, Engineer may refuse to accept such day. Owner and Contractor agree that this shall be an ongoing process, while events are fresh in everyone's minds, and in no case shall the determination of Bad Weather Days be done retrospectively at the end of the project.
 - b. Events giving rise to a Bad Weather Day shall include, but not necessarily be limited to, the following:
 - (1) Rain during working hours totaling more than 0.25" or lasting more than 2 hours.

- (2) Excessively wet jobsite conditions due to heavy rain the previous day or night.
- (3) Other extreme and dangerous weather, such as heat 100° F or above, nearby lightning, etc.
- (4) Temperatures too cold for proper conduct of paving, concrete or other operations. The use of blankets on freshly-placed driveways in anticipation of freezing temperatures will not be approved.

(a) . Recognizing the scheduling challenges associated with asphalt paving operations, when a Required Date of Substantial Completion for the Project, and/or portion thereof, falls in December, January or February, Engineer may grant extension days of the Contract Time when, in his determination, temperatures are too cold for proper paving in accordance with NCDOT specifications. In such case,

(b) Such extensions may be granted to provide up to three (3) opportunities for Contractor to complete a paving operation.

(c) For purposes of this provision, a “paving operation” shall mean the placement of one or more pavement courses on a single day, or consecutive work days, by a single mobilization of a paving crew. If the Project includes multiple, separate components with separate mobilizations, each shall be addressed separately.

(d) Such extensions may be granted without regard to whether other Bad Weather Days have met the 10% threshold.

Flooding or other effects of tropical storm, hurricane or nor'easter.

(5) Any weather or other event giving rise to a declaration of a State of Emergency by the Town Manager or other public official in the jurisdiction of the jobsite.

(6) No Bad Weather Day will be approved during which the Contractor actually carries out production operations for at least 6 hours.

- c. Engineer shall keep a running record of Bad Weather Days, on an individual day basis, noting the type of condition which prevented work. If Engineer disagrees with Contractor that conditions on a given day were unsuitable for work, he shall promptly advise Contractor of such opinion.
- d. After the cumulative number of Bad Weather Days exceeds the said 10% of the Contract Time, each excess day (except as provided below) shall be the basis of a claim for one day's extension of the Contract Time.

- e. A similar procedure shall be employed for the **forty-five (45)** days allowed for taking the Project from Substantial Completion to Full Completion. Ten percent of such days, or 3 calendar days, are hereby agreed to be “normal conditions” for such period, and only Bad Weather Days in excess of three (3) shall be a basis for additional days to be granted for Full Completion.
- f. Bad Weather Day conditions occurring on a Sunday or Holiday, as defined herein, shall not be counted toward the 10%. Nor shall any excess day where Bad Weather Day conditions exist be a basis for extension of time if that day is a Sunday or Holiday.

Article 14. FINAL INSPECTION AND ACCEPTANCE

- A. When the Contractor believes the Project is Substantially Complete, he shall so notify the Engineer, who shall schedule a final inspection at a time and date acceptable to the Owner, and contractor(s).
- B. At the final inspection, the Engineer shall, if job conditions warrant, record a list of items that are found to be incomplete or not in accordance with the Contract Documents. At the conclusion of the final inspection, the Engineer shall make one of the following determinations, in writing:
 - 1. That the project is Fully Complete and accepted, and if so, that date shall be recorded and shall become the Date of Acceptance as described below.
 - 2. That the Project is Substantially Complete, but that a list of discrepancies (punch list) must be resolved before the Project is Fully Complete. All punch list items must be completed within forty-five (45) calendar days after the Date of Substantial Completion; however, if the Owner elects to accept the project with the full establishment of vegetative cover incomplete, as provided for in Section 3.13, and especially subparagraph 3.13.E.2, of the Technical Specifications, the establishment of a healthy stand of grass (or other vegetative cover, as applicable) need not be completed within said forty-five (45) days. Nor shall this paragraph be construed in any way to limit the time for which Contractor must continue watering, reseeding, etc. until full establishment of cover is achieved.
 - 3. That the project is not Substantially Complete and a date for another final inspection will be established.
- C. When the Contractor believes the Project is Fully Complete, and all punch list items have been properly resolved, he shall so notify the Engineer, who shall schedule an inspection to confirm same. If said inspection reveals additional items to be resolved, another punch list shall be prepared, and the process repeated until all items are resolved. When the Engineer finds that all discrepancies and issues have been satisfactorily resolved, he shall notify the Owner and Contractor that the Project is Fully Complete, thus establishing the Date of Full Completion, which shall also be the Date of Acceptance. The **Date of Acceptance** will establish the following:
 - 1. The beginning of guarantees and warranties period.

2. The date on which the Contractor's insurance coverage for public liability, property damage and builder's risk may be terminated.
3. The termination date of utility cost to the Contractor.

Article 15. CORRECTION OF WORK BEFORE FINAL PAYMENT

- A. Any work, materials, fabricated items or other parts of the work which have been condemned or declared not in accordance with the contract by the Owner shall be promptly removed from the work site by the Contractor, and shall be immediately replaced by new work in accordance with the contract at no additional cost to the Owner. Work or property of other contractors or the Owner, damaged or destroyed by virtue of such faulty work, shall be made good at the expense of the Contractor whose work is faulty.
- B. Correction of condemned work described above shall commence within five (5) calendar days after receipt of notice from the Owner, and shall make satisfactory progress until completed.
- C. Should the Contractor fail to proceed with the required corrections, then the Owner may complete the work in accordance with the provisions of Article 17.

Article 16. CORRECTION OF WORK AFTER FINAL PAYMENT

See **Article 24, Performance Bond and Payment Bond**, and **Article 30, Guarantee**. Neither the final certificate, final payment, occupancy of the premises by the Owner, nor any provision of the contract, nor any other act or instrument of the Owner, nor the Owner, shall relieve the Contractor from responsibility for negligence, or faulty material or workmanship, or failure to comply with the drawings and specifications. He shall correct or make good any defects due thereto and repair any damage resulting therefrom which may appear during the guarantee period following final acceptance of the work except as stated otherwise under Article 30, Guarantee. The Owner will report any defects as they may appear to the Contractor and establish a time limit for completion of corrections by the Contractor. The Owner will be the judge as to the responsibility for correction of defects.

Article 17. OWNER'S RIGHT TO DO WORK

If, during the progress of the work or during the period of guarantee, the Contractor fails to prosecute the work properly or to perform any provision of the contract, the Owner, after fifteen (15) days' written notice sent by certified mail, return receipt requested, to the Contractor from the Owner, may perform or have performed that portion of the work. The cost of the work may be deducted from any amounts due or to become due to the Contractor, such action and cost of same having been first approved by the Owner. Should the cost of such action of the Owner exceed the amount due or to become due The Contractor, then the Contractor or his surety, or both, shall be liable for and shall pay to the Owner the amount of said excess.

Article 18. ANNULMENT OF CONTRACT

- A. If the Contractor fails to begin and continuously pursue the work under the contract within the time specified, or fails to perform the work with sufficient workmen and equipment or with sufficient materials to ensure the prompt completion of said work, or shall perform the

work unsuitably, or shall discontinue the prosecution of the work, or if the Contractor shall become insolvent or be declared bankrupt or commit any act of bankruptcy or insolvency, or allow any final judgment to stand against him unsatisfied for a period of forty-eight (48) hours, or shall make an assignment for the benefit of creditors, or for any other cause whatsoever shall not carry on the work in an acceptable manner, any such failing behavior or combination thereof being referred to as the Delay, Neglect or Default, the Owner shall give notice in writing to the Contractor and his surety of such delay, neglect or default, specifying the same, and if the Contractor within a period of fifteen (15) days after such notice shall not proceed in accordance therewith, then the Owner shall, upon written certificate from the Owner of the fact of such Delay, Neglect or Default, and the Contractor's failure to comply with such notice, have full power and authority, without violating the contract, to take the prosecution of the work out of the hands of said contractor, to appropriate or use any or all contract materials and equipment on the grounds as may be suitable and acceptable and may enter into an agreement for the completion of said contract according to the terms and provisions thereof or use such other methods as in his opinion shall be required for the completion of said contract in an acceptable manner.

1. The Engineer, in consultation with the Owner, may deem that Delay, Neglect or Default has occurred if more than 25% of the Contract Time elapses without the Contractor having begun concerted production work on the Project, and continued such production work without substantial interruption other than as due to Bad Weather Days as defined herein.
 2. Even if Contractor, upon receipt of notice by Owner as described above or on his own volition without such notice having been issued, begins and continues active production work AFTER said Delay, Neglect or Default is deemed by Owner to have occurred, Owner, in considering any subsequent claim for extension of Contract Time due to Bad Weather Days, reserves the right not to count toward the 10% Bad Weather Days allowance for "normal conditions" any such Bad Weather Days which may have occurred during the period of such Delay Neglect or Default.
- B. All costs and charges incurred by the Owner, together with the costs of completing the work under contract, shall be deducted from any monies due or which may become due said contractor. In case the expense so incurred by the Owner shall be less than the sum which would have been payable under the contract, if it had been completed by said contractor, then the said contractor shall be entitled to receive the difference, but in case such expense shall exceed the sum which would have been payable under the contract, then the Contractor and the surety shall be liable and shall pay to the Owner the amount of said excess.

Article 19. OWNER'S AND CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE THE CONTRACT

- A. Should the work be stopped by order of a court having jurisdiction, or by order of any other public authority for a period of three months, due to cause beyond the fault or control of the Contractor or the Owner, and written notice of the same be sent by certified mail, return receipt requested, the parties may suspend operations on the work or terminate the contract. If the Owner should fail or refuse to make payment on account of a certificate issued by the Public Services Director within thirty (30) days after receipt of same, then the Contractor,

after fifteen (15) days written notice sent by certified mail, return receipt requested, to the Owner, and the Owner may suspend operations on the work or terminate the contract.

- B. The Owner shall be liable to the Contractor for the cost of all materials delivered and work performed on this contract plus 20 percent overhead and profit and shall make such payment until the above described notice is received by either party. The Owner shall be the judge as to the correctness of such payment.

Article 20. REQUEST FOR PAYMENT

- A. Not later than the fifth day of the month, the Contractor shall submit to the Owner, through the Engineer if the Owner so directs, a request for payment for work done during the previous month. The request shall be in a form acceptable to the Owner, but shall show substantially the value of work done and materials delivered to the site during the period since the last payment, and shall sum up the financial status of the contract with the following information:
 - 1. Total of contract including change orders;
 - 2. Value of work completed to date;
 - 3. Less five percent (5%) retainage; provided, however, that retainage shall not be withheld after the Project reaches 50% complete IF the Contractor's work is satisfactory and he is on schedule, and provided further that the Owner may withhold funds sufficient to complete or correct defects in the work.
 - 4. Less previous payments;
 - 5. Current amount due.
- B. The Contractor, upon request, shall substantiate the request with invoices of vouchers or payrolls or other evidence.
- C. If requested by the Owner, the Contractor's payment requests shall be broken down by Owner's funding categories, in a manner acceptable to the Owner.
- D. Prior to submitting the first request, the Contractor shall prepare for the Owner a schedule (or schedules, if multiple separate payment requests are required for separate parts or components of the work) showing a breakdown of the contract price into values of the various items of the work, so arranged as to facilitate payments to subcontractors in accordance with Article 9, Contractor and Subcontractor Relationships.
- E. Request for extension of time shall be made in writing within twenty (20) days following cause of delay. In case of continuing cause for delay, only one claim is necessary.
- F. The Contractor shall notify his surety in writing of extension of time granted.

Article 21. CERTIFICATE OF PAYMENT AND FINAL PAYMENT

- A. Within five (5) days from receipt of request for payment from the Contractor, the Engineer shall issue and forward to the Owner a certificate for payment. This certificate shall indicate a recommendation that the Owner pay (1) the amount requested by the Contractor or (2) such other amount as the Engineer shall recommend. If the amount recommend for payment

differs from that requested, the reasons for such recommendation shall be stated in writing to the Contractor.

- B. Payment by the Owner to the Contractor, other than final payment, shall be due and payable by the 28th day of the month following the month for which payment is requested. Engineer. However, this due date shall be extended by fifteen (15) days if request is received later than the 5th day of the month as provided in Article 20, or if Engineer notifies Owner and Contractor that he requires additional time to review Contractor's request for payment due to questions or problems with it.
- C. No certificate issued or payment made shall constitute an acceptance of the work or any part thereof. The making and acceptance of final payment shall constitute a waiver of all claims by the Owner except:
 - 1. Claims arising from unsettled liens or claims against the Contractor.
 - 2. Faulty work or materials appearing after final payment.
 - 3. Failure of the Contractor to perform the work in accordance with drawings and specifications, such failure appearing after payment.
- D. The making and acceptance of final payment shall constitute a waiver of all claims by the Contractor except those claims previously made and remaining unsettled.
- E. The Owner will not authorize final payment until the work under contract has been certified by the Engineer.
- F. Final certificate of payment shall be accompanied by the following:
 - 1. Warranties and guarantees required by the contract.
 - 2. Affidavit by Contractor of payment to material suppliers and subcontractors.
 - 3. Certificates of state agencies required by state law.
 - 4. Certificate of compliance by Engineer.
 - 5. Consent of surety to final payment.

Article 22. PAYMENTS WITHHELD

- A. The Owner may withhold payment for the following reasons:
 - 1. Faulty work not corrected.
 - 2. The unpaid balance on the contract is insufficient to complete the work in the judgment of the Owner.
 - 3. To provide for sufficient contract balance to cover liquidated damages that will be assessed. Liquidated damages so assessed shall not constitute a "change order," and

shall be noted on the Contractor's certificate for payment as "Withheld for Liquidated Damaged: \$_____.00."

- B. The Owner may authorize the withholding of payment for the following reasons:
1. Claims filed against the Contractor or evidence that a claim will be filed.
 2. Evidence that subcontractors have not been paid.
- C. When grounds for withholding payments have been removed, payment will be released. Delay of payment due the Contractor without cause will make Owner liable for payment of interest to the Contractor as provided in NCGS 143-134.1.

Article 23. MINIMUM INSURANCE REQUIREMENTS

The work under this contract shall not commence until the Contractor has obtained all required insurance and verifying certificates of insurance have been approved in writing by the Owner. These certificates shall contain a provision that coverages afforded under the policies will not be cancelled, reduced in amount or coverages eliminated until at least thirty (30) days after mailing written notice, by certified mail, return receipt requested, to the insured and the Owner of such alteration or cancellation. If the project is funded in whole or part by federal moneys, higher limits may be set forth in the Special Provisions, which shall take precedence.

A. Worker's Compensation and Employer's Liability

The Contractor shall provide and maintain, during the life of the contract, worker's compensation insurance, as required by law, as well as employer's liability coverage, with minimum limits of \$100,000.

B. General Liability and Property Damage

1. The Contractor shall provide and maintain, during the life of the contract comprehensive general liability insurance, including coverage for premises operations, independent contractors, completed operations, products and contractual exposures, as shall protect such contractors from claims arising out of any bodily injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operations be by the Contractor or by any subcontractor, or by anyone directly or indirectly employed by either of them and the minimum acceptable limits of such insurance shall be \$1,000,000.
2. Such coverage for completed operations must be maintained for at least two (2) years following final acceptance of the work performed under the contract.

C. Property Insurance

The Contractor shall purchase and maintain property insurance during the life of this contract, upon the entire work at the site to the full insurable value thereof. This insurance shall include the interests of the Owner, the Contractor, and subcontractors in the work and shall insure against the perils of fire, extended coverage, and vandalism and malicious mischief. If the Owner is

damaged by failure of the Contractor to purchase or maintain such insurance, then the Contractor shall bear all reasonable costs properly attributable thereto; the Contractor shall effect and maintain similar property insurance on portions of the work stored off the site when request for payment per articles so includes such portions.

D. Deductible

Any deductible, if applicable to loss covered by insurance provided, is to be borne by the Contractor.

E. Other Insurance

The Contractor shall obtain such additional insurance as may be required by the Owner or by the General Statutes of North Carolina including motor vehicle insurance, in amounts not less than the statutory limits.

F. Proof of Carriage

The Contractor shall furnish the Owner with satisfactory proof of carriage of the insurance required before written approval is granted by the Owner.

Article 24. PERFORMANCE BOND AND PAYMENT BOND

- A. The Contractor shall furnish a performance bond and payment bond executed by a surety company authorized to do business in North Carolina. The bonds shall be in the full contract amount. Bonds shall be bound with these specifications.
- B. All bonds shall be countersigned by an authorized agent of the bonding company who is licensed to do business in North Carolina.
- C. The Contractor shall comply with all provisions and requirements of NCGS §44.1 relating to the form and content of performance and payment bonds, provision of copies of said bonds and “contractor’s project statements” to subcontractors and suppliers, etc., and shall insure that Contractor’s subcontractors require same of all lower-tier subcontractors and suppliers.

Article 25. CONTRACTOR'S AFFIDAVIT

The final payment of retained amount due the Contractor on account of the contract shall not become due until the Contractor has furnished to the Owner an affidavit signed, sworn, and notarized to the effect that all payments for materials, services or subcontracted work in connection with his contract have been satisfied, and that no claims or liens exist against the Contractor in connection with this contract. In the event that the Contractor cannot obtain similar affidavits from subcontractors to protect the Contractor and the Owner from possible liens or claims against the subcontractor, the Contractor shall state in his affidavit that no claims or liens exist against any subcontractor to the best of his (the Contractor's) knowledge, and if any appear afterward, the Contractor shall indemnify the Owner from said claims or liens.

Article 26. ASSIGNMENTS

The Contractor shall not assign any portion of this contract nor subcontract in its entirety. Except as may be required under terms of the performance bond or payment bond, no funds or sums of money due or become due the Contractor under the contract may be assigned.

Article 27. USE OF PREMISES

- A. The Contractor shall confine his apparatus, the storage of materials, and the operations of his workmen to limits indicated by law, ordinances, permits, or directions of the designer and shall not exceed those established limits in his operations.
- B. The Contractor shall not load or permit any part of the project to be loaded with a weight that will endanger its safety or be likely to cause damage to public or private property.
- C. The Contractor shall enforce the Owner's instructions regarding signs, advertisements, fires, and smoking.

Article 28. UTILITIES, STRUCTURES, SIGNS

- A. The Contractor shall provide toilet facilities and adequate sanitary arrangements on site. These facilities will be available to all subcontractors on the job and shall be kept in a neat and sanitary condition at all times. Chemical toilets are acceptable.
- B. The Contractor will erect one sign on the project if required. The sign shall be of sound construction, and shall be neatly lettered with black letters on white background. The sign shall bear the name of the project, and the names of contractors on the project, and the name of the Owner and consultants. Directional signs may be erected on the Owner's property subject to approval of the Owner with respect to size, style, and location of such directional signs. Such signs may bear the name of the Contractor and a directional symbol. No other signs will be permitted except by permission of the Owner.

Article 29. CLEANING UP

The Contractor shall keep the project and surrounding area reasonably free from rubbish, trash, food and drink containers, etc. at all times, and shall remove debris from the site from time to time or when directed to do so by the Owner.

Article 30. GUARANTEE

The Contractor(s) shall guarantee the materials and workmanship against defect due to faulty materials or faulty workmanship or negligence for a period of twelve (12) months, except as otherwise provided below, following the Date of Acceptance of the work. Where items of equipment or material carry a manufacturer's warranty for any period in excess of twelve (12) months, then the manufacturer's warranty shall apply for that particular piece of equipment or material. The Contractor shall replace such defective materials, equipment, or workmanship without cost to the Owner within the stipulated guarantee period. Where an extended warranty period is provided for as an ADDitive alternate in the Bid Tabulation Form, and if the Town

awards the contract including the ADDitive alternate for extended warranty, the “twelve (12) months” indicated above shall be extended to the length of the said extended warranty.

For any portion of the Work which is an extension or modification to the town’s Water Distribution system, including but not limited to water mains, valves, fire hydrants, fittings, water services, casing pipes, etc., an additional twelve (12) months guarantee period shall apply, for a total warranty period of twenty-four (24) months from the Date of Acceptance. This provision for 24 months’ guarantee on any Water work shall apply regardless of the percentage of the overall Project represented by such Water work.

Article 31. CODES AND STANDARDS

Wherever reference is given to codes, standard specifications or other data published by regulating agencies including but not limited to national electrical codes, North Carolina state building codes, federal specifications, ASTM specifications, and various institute specifications, it shall be understood that such reference is to the latest edition including addenda published prior to the date of the Contract Documents.

Article 32. INDEMNIFICATION

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, the agents, consultants and employees of the Owner from and against all claims, damages, losses and expenses, including, but not limited to, attorney’s fees, arising out of or resulting from the performance or failure of performance of the work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the Contractor, the Contractor’s subcontractor, or the agents of either the Contractor or the Contractor’s subcontractor. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this article.

Article 33. EQUAL OPPORTUNITY CLAUSE

The non-discrimination clause contained in Section 202 (Federal) Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin, and the implementing rules and regulations prescribed by the secretary of Labor, are incorporated herein.

Article 34. EMPLOYMENT OF THE HANDICAPPED

The Contractor agrees not to discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices.

Article 35. MINORITY BID PARTICIPATION

The Town of Nags Head, in accordance with its goals adopted for participation by minority businesses, encourages minority businesses to submit bids for this construction project. The Town of Nags Head shall award public contracts without regard to race, religion, color, creed, national origin, sex, age, or handicapping condition as defined by North Carolina General Statutes 143. All contractors submitting bids for this project shall verify to the Town of Nags Head that such contractor does not discriminate in the employment of any subcontractors nor does it discriminate in the purchase of materials or equipment for reason of race, religion, color, creed, national origin, sex, age or handicapping condition as defined by North Carolina General Statutes 143. Each contractor submitting a bid for such project shall further verify that they have directly solicited and encouraged participation by minority subcontractors and minority businesses, and in the event of solicitation of bids by subcontractors, has directly solicited and encouraged participation in the bidding process by minority businesses.

-- End of General Conditions --

TECHNICAL SPECIFICATIONS

Part 1 - Description

Section 1.01 - General

A. Summary:

1. The Work covered by these Contract Documents consists of furnishing all labor, equipment, and materials and of performing all operations in connection with the excavating, filling, backfilling, grading, paving, finish, and cleanup as required for the completion of the Work in accordance with the terms and conditions set forth in the Contract Documents.
2. All Work performed under this Section shall be governed by the Contract Documents, as they are defined and enumerated herein.
3. Additions to and/or modifications of the Town's Water Distribution System shall be governed by the "WATERLINE SPECIFICATIONS."

B. Required Submittals:

1. Construction Schedule:
 - a) The Contractor shall submit a project schedule that delineates the proposed construction schedule including all major tasks and their anticipated completion for each right-of-way improvement. This schedule shall be submitted to the Town at the preconstruction meeting for review and approval prior to the initiation of the Work. The Work schedule may, from time to time, be amended so long as it does not exceed the total time for the completion of the Work or represent a substantial deviation as defined below. Extension to the total time of the completion of the Work shall be in accordance with the General Conditions as specified in Article 13. Substantial deviation from the schedule may be a basis, the Owner's sole determination, to declare that a Delay, Neglect or Default, as defined in Article 18 of the General Conditions, has occurred. In the absence of mitigating factors, such as abnormal weather conditions, a substantial deviation shall mean any work element on the schedule falling behind by more than 15% of the total Contract Time.
 - b) The Contractor shall provide weekly schedule updates. These shall be submitted no later than noon on the preceding Friday. The weekly schedules shall include tasks, anticipated roadway closures, surveying needs and any other information as may be determined necessary.
 - c) As required by Article 4, Paragraph B of the General Conditions, the Contractor shall submit a list of the heavy equipment he proposes to use for the project to the Engineer for his review and approval, which approval will not be unreasonably withheld. This information shall include the make, model, total gross weight and other information as the Engineer may require to determine whether the weight and

ground pressure of the equipment is likely to cause harm to existing pavement in the area of the Work.

2. Testing Results:

The Contractor shall submit original testing results as specified in the construction specifications. The results shall be forwarded to the Town within 24 hours of receipt. Copies of the test results shall be forwarded to the Engineer for approval.

C. Availability of Lands:

Rights-of-way, permanent easements, and temporary construction easements are shown on the Drawings or described in the General Conditions. Lands not shown or described but required for construction shall be the Contractor's responsibility.

D. Notice to Utility Companies:

Utility companies shall be notified by Contractor, in writing, prior to construction and given a proposed schedule of progress. Copies of all letters of notification shall be furnished to the Owner. The Contractor shall protect all existing utilities. He shall assist and cooperate with the utility companies in locating and exposing existing facilities.

E. Responsibility Regarding Existing Utilities and Structures:

1. The existence and location of underground utilities or structures, whether indicated on the Drawings or not, are not guaranteed and shall be investigated and verified in the field by the Contractor before starting Work. Excavation in the vicinity of existing structures and utilities shall be carefully done by hand.
2. The Contractor shall be held responsible for any damage to, and maintenance for and protection of existing utilities and structures.
3. The Contractor is responsible for notifying the proper authorities to have any underground utilities, except waterlines, relocated to avoid conflicts with roadway and drainage improvements. In the event that the owner or operator of any such underground utility is unresponsive to the Contractor's efforts to coordinate such relocation or adjustment, Contractor shall promptly notify the Engineer. Engineer and Owner shall then assist in requiring the timely relocation/adjustment of such utility.
4. Where existing utilities can be dealt with by bracing, shoring, temporarily holding poles, hand-digging underground cables and setting them to the side of the trench, slight adjustments to lines and structures, etc., such measures shall be taken as necessary to accomplish the Work and without separate compensation to the Contractor. Any such methods and measures shall be approved in advance by the owning utility and the Engineer.

F. Notice of Roadway Closures:

In the event that a roadway must be closed to perform the required right-of-way improvements, the Contractor shall notify the Town Police and Fire Departments and Dare Central Emergency Services at least 72 hours prior to the closing of the roadway. The Contractor shall maintain some form of vehicular access, for emergency access purposes, to every building during construction.

G. Erosion and Sediment Control Plan:

1. All earthwork shall comply with the provisions for the Soil Erosion and Sedimentation Control Design Manual as approved by the NCDENR, Division of Environmental Management, Land Quality Section.
2. The Contractor shall plan, install and maintain his sediment and erosion control measures to balance the requirement to prevent erosion and sediment deposition with the need to reduce the risk of flood damage to public and private property in the vicinity of the work. For example, care shall be taken not to fully obstruct with filter cloth or other protective measures an inlet to a storm drainage system in cases where a low-lying, flood-prone adjacent property would have significantly increased probability of flooding damage. In any such situation where the Contractor is uncertain as to which consideration should take priority, he shall ask the Town for a written determination.

H. References:

The following industry standards are hereby referenced:

- a) American Concrete Institute (318. 522.1 & 530) PERVIOUS CONCRETE
- b) North Carolina Department of Transportation (NCDOT) Standard Specifications for Roads and Structures (SSRS) and Roadway Standard Drawings (RSD), latest edition as of date of bid in both cases.

Part 2 - Products

Section 2.01 - General

A. Summary:

This section includes definitions of materials associated with the execution of the Work.

B. Crushed Stone:

Unless stated otherwise, crushed stone shall conform to ASTM C-33 with gradation number 67.

C. Aggregate Base Course (ABC):

ABC shall meet Division 10 of NC DOT SSRS. Crushed concrete meeting the gradation requirements of NCDOT ABC may be substituted in other than NCDOT-maintained paved

areas, or in NCDOT areas if Contractor obtains approval of the NCDOT District Engineer or designee, provided test results are furnished to and found satisfactory by Engineer.

D. Bituminous Bases and Pavements:

Bituminous bases and pavement shall meet Division 6 & 10 of NC DOT SSRS. The terms “black base” and “HB” or “Type HB” shall mean Asphalt Concrete Base Course, Type B25.0B; the term “binder” or “binder course” shall refer to Asphalt Concrete Intermediate Course, Type I19.0B; and the term “surface” or “surface course” shall mean “Asphalt Concrete Surface Course, Type SF9.5A,” all as set forth in NC DOT SSRS. These designations shall take precedence over any reference to older asphalt concrete mix designations which may be found on the Drawings and/or in the Town Standards.

E. Reclaimed Asphalt Materials:

Asphalt pavement milled or removed from the project limits may be used in combination with aggregate base materials when pre-approval by the Town. The reclaimed material shall be processed so that all material is six inches (6") or smaller with a minimum of seventy percent (70%) passing a two inch (2") sieve and a maximum of ten percent (10%) passing a number 200 sieve.

F. Geotextiles

1. Pavement Overlay Fabric:

Fabric placed under asphalt mixtures to provide waterproofing and delay/reduce reflective cracking shall be capable of withstanding installation stresses and shall not be damaged by temperatures common to asphalt mixtures. The fabric shall have the following properties:

Property	Value	Test Method
Grab strength, dry, minimum average value in either principal direction	90 lbs. (400 N)	Iowa 913
Elongation, dry, minimum average value in either principal direction	20%	Iowa 913
Grab Strength after 400°F (204°C) for 3 hr.* minimum average value in either principal direction	75 lbs. (335 N)	Iowa 913
*Applies only when asphalt temperatures exceeding 300°F (149°C) are anticipated.		

The asphalt absorption shall be sufficient to produce a good bond between the overlay and the overlaid surface when a tack coat of 0.20 gallon to 0.25 gallon of asphalt binder per square yard is used. Fabrics such as fiberglass, which do not lend themselves to testing by some of the previously specified methods, may be approved by the Engineer.

G. Concrete:

1. Hydraulic Cement Concrete: Shall meet the requirements of Division 10, NC DOT SSRS (Class A: 3,000 psi)
2. Flowable Fill: Shall meet the requirements of Division 3, Section 340, NC DOT SSRS, except that the Engineer may waive any requirements for mix design submittal and testing for quantities smaller than 50 cubic yards on any project.
3. Pervious Concrete: Shall be constructed in accordance with the latest version of ACI 522.1, *Specification for Pervious Concrete*. Void ratio shall be not less than 15%.

H. Drainage pipes:

1. Culverts and other pipes beneath paved surfaces shall have smooth interior wall and shall include gasketed joints and meet one of the following:
 - a) Pressure Class Poly(Vinyl Chloride), or PVC, Pipe conforming to ANSI/AWWA C900, with a minimum DR of 18 and a minimum pressure class of 150 psi, and having push-on type joints having bells made as an integral part of the pipe conforming to ASTM D3139. All materials and methods shall conform to Divisions 10 and 15 of NC DOT SSRS except as otherwise noted herein or on the Drawings. In applying said Divisions here and elsewhere in these specifications, their context shall be adjusted appropriately for the fact that this material, typically used in water and sewer utility settings, is being used for storm drainage purposes.
 - b) Corrugated PVC Sewer Pipe with Smooth Interior, and fittings, conforming to ASTM F949-06 and F794-03 (e.g., Contech A-2000), with watertight joints. Installation shall conform to the requirements of ASTM Practice D2321 and those of the manufacturer; in the case of conflict the stricter shall govern.
 - c) Ductile Iron Pipe conforming to ANSI/AWWA C110/A21.51, with push-on joints conforming to ANSI/AWWA C111/A21.11. All materials and methods shall conform to Divisions 10 and 15 of NC DOT SSRS except as otherwise noted herein or on the Drawings. In applying said Divisions here and elsewhere in these specifications, their context shall be adjusted appropriately for the fact that this material, typically used in water and sewer utility settings, is being used for storm drainage purposes.
 - d) Corrugated High Density Polyethylene (HDPE) pipe, and fittings, conforming to ASTM F405-05 (sizes 3"-6") or ASTM F667-06. All materials and methods shall conform to Divisions 3 and 10 (and especially the requirement that the supplier be a participant in the NCDOT HDPE Pipe Quality Control/Quality (QC/QA) Assurance Program) of NC DOT SSRS except as otherwise noted herein or on the Drawings. Unless otherwise noted on the Drawings, all HDPE pipe shall have gasketed, watertight joints. All pipe shall have smooth inner wall.

Where indicated on drawings, provide high-performance, high-stiffness, smooth inner wall, triple-wall pipe.

Except where otherwise noted herein or on the Drawings, transitions between pipe materials are not permitted except at drainage structures.

2. Unless materials are expressly set forth on the Drawings, culverts and other drainage pipes beneath residential driveways and not under public roadways, streets or other pavements may be Reinforced Concrete Pipe (RCP), or corrugated high density polyethylene (HDPE) meeting ASTM F667.
3. Corrugated HDPE pipe shall include anti-flotation holes, except for "sock drain" as noted below.
4. Where so indicated on the Drawings, HDPE pipe shall be perforated per AASHTO standards, at the factory, and shall be encased in drainage filter fabric, said configuration being commonly known as "sock drain."

I. Drainage Structures:

1. Meeting Sections 846 and 840 NC DOT SSRS
2. Precast boxes shall be fitted with flexible rubber boots at all inlets and outlet.
3. Special Design Drop Inlet and/or other special drainage structures shall be as indicated on the Drawings.

J. Backfill Material:

1. General: Backfill, as referred to in these Technical Specifications, is that material placed above the initial and intermediate backfill as specified in applicable divisions for the installation of roadway, pipe, and appurtenances.
2. Material: Backfill material shall consist of loam, sand, or gravel which is free of cinders, ashes, refuse, vegetable or organic material, frozen soil, or stones more than 2 inches in their greatest dimension. Where excavated material does not provide sufficient quantity of material as described herein to complete the backfill, such additional material as may be required shall be furnished by the Contractor.

K. Warm Season Grasses:

SPECIES	Pounds of Seed per 1,000 sf	Optimum Time for Seeding
Centipede Grass	2 - 3	March - May
Bahia Grass (exclude when directed by Engineer)	2 - 3	March - July
Weeping Love Grass	2	March - July
Common Bermuda Stolongs	1 bushel	April - July
Common Bermuda (hulled)	2 - 3	April - July

Contractor shall provide a certification that the correct seed mix, at the required application rate, has been applied.

L. Cool Season Grasses:

SPECIES	Pounds of Seed per 1,000 sf	Optimum Time for Seeding
Italian Rye Grass	1 - 2	September - December
Tall Fescue	5 - 7	September - November
American Beach Grass	Sprig 1,000 plants per 2,500 sf	November - February
Common Bermuda (unhulled)	2 - 3	January - March

Contractor shall provide a certification that the correct seed mix, at the required application rate, has been applied.

M. Fertilizers:

Fertilizer shall be used if necessary to establish vegetation. Fertilizers shall be a 10-10-10 mix.

Part 3 - Execution

Section 3.01 - General

A. Prior Investigation:

Prior to general excavation, the Contractor shall make an investigation to the extent necessary to determine the location of existing underground utilities, structures, or conflicts. In cases where the presence and location of such utilities is so critical that an adjustment to the design may be required, and in all cases involving jack/boring of casings 8" or larger, such investigations shall include test pitting to positively locate and identify conflicting utilities, with surveyed locations and elevations, performed and the results furnished to the Engineer not later than 30 calendar days before the start of any jack/boring or other critical operation.

B. Protection of Existing Utilities:

Existing utilities, structures and fencing shall be protected during the construction period and, if damaged or removed by the Contractor in his operations, shall be repaired or replaced by him at no additional cost to the Town. All valve boxes, manholes and other existing appurtenances shall be raised or lowered by the Contractor as required to match the proposed finished grades as illustrated on the Drawings.

C. Access to Property:

Bridging (*i.e.*, aggregate material, steel plate(s) or similar measures) shall be provided to maintain vehicular driveway access to public or private premises. Bridging shall be considered as part of excavation and will not be paid for as an extra. Sand or soil alone shall not be considered acceptable bridging. Driveway access shall not be blocked longer than the actual duration of pipe-laying or other operations which cannot be feasibly accomplished without blocking such access, except with the concurrence of the affected property owner(s).

D. Horizontal and Vertical Alignment:

Where detailed horizontal and vertical alignment is not given on the Drawings, the Contractor shall study the required horizontal and vertical alignment in relation to the existing roadway and pipes. Pavement widening, wedging, and leveling may be required to achieve final elevations, widths and grades as illustrated on the Drawings. All pavement overlays shall be feathered down at a rate of 1/4" per foot to match existing pavement elevations, except where noted on the drawings as requiring a more gradual transition.

E. Removal/Reclamation of Existing Asphalt Pavement:

Equipment shall include a self-propelled unit capable of removing the existing bituminous pavement depth and width. Reclaimed asphalt shall be stored at a storage area specified by the Town.

F. Topsoil Removal:

In cultivated areas, lawns and public improved areas, topsoil shall be stripped to minimum depth of four inches, stockpiled as directed, and care taken in so doing to avoid mixing of subsoil and top soil. Topsoil shall be kept free from trash, brush and other debris, and shall only be handled when dry.

G. Construction Tolerances:

Work shall be constructed and installed to the lines and grades indicated on the plans, unless permission is granted by the Engineer for a deviation, with the tolerances set forth in the NC DOT SSRS. The following additional tolerance standards shall apply, and shall take

Dimension Or Parameter	Allowable Deviation from Plan Dimension	
	Minus	Plus
Roadway pavement width	Overall Average: 0.00' Not more than 10% of road: 0.10'	0.50'*
Roadway pavement cross slope	0.5%*	0.5%*
Roadway pavement elevation	0.10'*	0.20'*
Sidewalk, path or trail width, cross slope, and elevation.	Same as for roadway. Additionally, Americans with Disabilities Act maximum slope standards shall not be exceeded.	
Concrete or asphalt pavement component thickness	½", except that greater deviation may be allowed if another layer is thicker and, in Engineer's determination, compensates	No limit *
Length or horizontal alignment of pipe and horizontal location of drainage structures.	1', but must connect to structures as indicated	1'
Rim and invert elevations of storm drainage pipes and structures	0.10' for rims, 0.20' for inverts	0.10'
Driveway flowline elevations	0.04'***	0.04'***
Other driveway elevations	0.10'***	0.10'***
Concrete driveway thickness	½"	No limit *

precedence where they differ from those set forth in NC DOT SSRS:

* Provided, however, that a plus deviation shall not be deemed allowable if it causes an adjacent or other dimension or standard to violate a construction tolerance standard.

** Provided, however, that a deviation shall not be deemed allowable if it results, in the Engineer's determination, in either a flat or adverse flowline slope, or in a reduction in the height of the backslope (elevation difference from the flowline to the right of way line) of more than 0.05' from that indicated on the Drawings, or, in the case of a driveway component steeper than 8% by design, an increase in the slope of that component of more than 1%.

Section 3.02 - Definitions (For use in these Technical Specifications):

- A. **Foundation:** the material placed between the bottom of pipe, appurtenance, or related structure, or their bedding, and the top surface of stable, undisturbed earth. Material may be flowable concrete fill, crushed stone or select backfill as shown on the Drawings or as specified.
- B. **Undercut:** the distance between the bottom of pipe, appurtenance or related structure and top of stable, undisturbed earth.
 - 1. Undercut Up To 12 Inches: fill with approved embedment material placed in layers not exceeding 6 inches, compacted to at least 95% maximum dry density as determined by AASHTO T-99, Method A.
 - 2. Undercut More Than 12 Inches: fill entire undercut with crushed stone (as described in this Section) placed as above.

Section 3.03 - Trenching

A. Summary:

- 1. The Contractor shall perform all excavation described of whatever substance encountered to dimensions and depths shown on the Drawings or as specified herein. Material suitable for backfill shall be stockpiled near the site. Rock or other material unsuitable for backfill shall be removed from the Work area and disposed by the Contractor.
- 2. The Contractor shall keep excavation as close to pipe laying operations as possible during the prosecution of the Work. The Owner or his Engineer reserves the right to stop the excavation at any time, when, in his opinion, the excavation is opened too far in advance of the pipe laying. In developed or improved areas, trenches shall not be left open overnight.

B. Dewatering:

The Contractor shall prevent the accumulation of water in trench excavation and shall remove, by well-point system and/or by other means satisfactory to the owner or his Engineer, any water or other liquid waste which accumulates in the excavation. The Contractor shall provide the proper equipment to remove the water and other liquids from the excavation and its adjacent area. The Contractor shall prevent damage of any sort to public or private property and shall not cause undue nuisance to the public. Low-noise equipment

shall be used so that a noise level not higher than 55dBA results at the property line of any property used for residential, lodging, worship or other uses which, in the Engineer's determination, are noise-sensitive by nature, or at any location where the pump is operated after sunset and before dawn. The low noise characteristics of such equipment shall be subject to the approval of the Town and the Engineer. All water removed from the excavation site shall be piped to a storm drainage system or to a natural drainage area nearest to the excavation. The routing of discharge pipe and the location and configuration of discharge points shall be reviewed and approved by the Town and the Engineer before dewatering at a given location commences. This shall include placing and securing the end of the discharge hose in a manner that prevents erosion, flooding or other damage. Discharge onto private property without express written permission is prohibited. Discharge to a roadside area or other location where no swale, ditch or other defined drainage system exists is prohibited. The Contractor shall make his own investigations to determine whether or not dewatering is required, and, if so, the nature, extent, configuration, duration, etc. Dewatering shall be considered incidental to the pipe or structure work for which it is needed, shall not be separately compensated, and shall not be a basis for any claim for additional cost or time.

C. Sheeting and Shoring:

The Contractor shall furnish and place all necessary bracing, sheeting, or shoring necessary to construct and protect the excavation, existing utilities, structures of all types, and as necessary for the safety of the employees. All sheeting shall be removed by the Contractor during backfilling operations unless directed otherwise by the Owner or his Engineer.

D. Trench Dimensions:

1. Maximum Width: For general pipe laying, the maximum width of trench measured at the top of the pipe shall be the actual pipe outside diameter plus twenty-four inches. Where this dimension is exceeded, additional bedding or backfill requirements may be imposed by the Engineer. Such additional Work as may be required shall be performed by or installed by the Contractor at no additional cost to the Owner.
2. For installation of appurtenances, the trench shall be widened only to the extent necessary for proper installation.
3. Depth: The trench shall be excavated to a depth that will insure a minimum cover of twelve inches (12") for the installed pipe as measured from the top of the pipe barrel to the ground surface at the centerline of the trench unless otherwise shown on the Drawings or directed. This requirement is to establish a minimum depth only.
4. Excavations shall be made to the grades and/or depths shown on the Drawings or to such grade as may be required by the following paragraphs.

Section 3.04 - Unstable Subgrade

A. General:

1. In the event that the existing material encountered is considered by Engineer to be unstable or otherwise unsuitable to serve as foundation, an adequate foundation, approved by Engineer, shall be provided by Contractor and paid for as Extra Work.

2. When ordered in writing by Engineer, unstable or unsuitable material shall be removed and either disposed of or stabilized and replaced in a manner satisfactory to Engineer. When so directed, material disposed of shall be replaced with approved backfill material placed in layers not exceeding 6 inches, compacted to at least 95% maximum dry density as determined by AASHTO T-99, Method A. Measurement for payment shall be made in accordance with the contract unit prices.
3. When ordered in writing by Engineer, replacement material shall be suitable backfill, flowable concrete fill, or crushed stone placed as described above. Payment for this material, so ordered, shall be made in accordance with the contract unit prices.
4. The Contractor's particular attention is called to the fact that no payment shall be made for replacing excess, unauthorized excavation beyond the limits shown in the Drawings or used to correct conditions which have resulted from the Contractor's improper practices or negligence, or from Work during wet weather or other wet trench conditions resulting from the Contractor's choice of working area or weather conditions. The Contractor will be paid for stabilizing subgrade or other efforts to provide a satisfactory foundation only when it can be shown that unstable or unsuitable subgrade conditions existed prior to excavation and when the Owner or his Engineer determines that a payment authorization is justified by pre-existing, natural ground conditions.

Section 3.05 - Base Material

A. Crushed Stone:

Placement - Unless otherwise specified, this material shall be placed and consolidated, if necessary, to achieve maximum density in place.

B. Reclaimed Asphalt:

Placement - Unless otherwise specified, this material shall be placed at a maximum depth of three inches (3"), and then overlaid with a minimum five inch (5") depth of stone to achieve a total thickness of eight inches. The reclaimed asphalt must be compacted prior to placement of stone.

Section 3.06 - Final Backfill

A. Placement:

Final backfill shall be placed by either hand or mechanical methods at the Contractor's option. When backfilling flexible pipe (PVC, Truss), the Contractor shall provide the minimum cover over the top of the pipe, as recommended by the pipe manufacturer, before wheel loading the trench. Otherwise, no special placement method or procedure shall be required provided the required degree of compaction is obtained throughout the backfill.

Section 3.07 - Compaction

A. Unimproved Areas:

In unimproved areas, such as cross-county and wooded sections of the line, which are not subject to public travel, the backfill shall be lightly compacted by the machine placing the backfill. The trench shall be overfilled by the amount of anticipated settlement and left neatly rounded.

B. Under Sidewalks and Pavement, Other Traffic Areas and Lawns:

Soil density of not less than 98% maximum dry density shall be achieved, as determined by AASHTO T-99, Method A. Compaction to this standard shall be attained to an extent at least 6" outside the extent of all sidewalks, pavements and other traffic areas.

C. Appurtenances and Existing Structures:

Soil backfill placed under or around installed appurtenances or placed under or around existing structures or utilities shall be compacted to achieve not less than 95% maximum dry density as determined by AASHTO T-99, Method A. The volume receiving the specified degree of compaction shall include all disturbed soil beneath a line, inclined to 45 degrees and passing one foot from the structure at finished grade.

D. Town or NCDOT Right-of-Ways:

In area covered by permit or special agreement, such as an NCDOT Encroachment Agreement, the backfill requirements shall be as described in the above paragraphs or as required by the permit or agreement, whichever is more stringent.

Section 3.08 - Drainage Features

A. Swales & Ditches:

1. All swales will be constructed pursuant to design elevations and in relationship to road centerline elevations, as shown. Special attention shall be given to those areas with special drainage concerns, as illustrated on the Drawings.
2. Swales and ditches shall be constructed with side slopes not steeper than 1:6 (vertical:horizontal) unless otherwise specified on the Drawings.

B. Drainage Structures:

1. Drainage structures and appurtenances shall be constructed in accordance with NC DOT SSRS and RSD. Structures shall be located as shown on the Drawings and connections to existing drainage features made accordingly. Culverts, pipes and drainage structures will not be considered Fully Completed until they are completely cleaned of all sediment, debris and other foreign materials.
2. Grates and frames shall be as specified on the Drawings and/or as illustrated in NC DOT RSD.

3. Special drainage structures, fittings, etc., shall be furnished and installed by Contractor in accordance with manufacturer/supplier's instructions and as indicated on the Drawings. Where manufacturer/supplier's instructions and the information indicated on the Drawings conflict, the Drawings shall govern.
4. Contractor shall coordinate with the Engineer or other Town representative when establishing rims or tops of drainage structures. Upon request of such representative, Contractor shall adjust the rim or top of each structure, after its initial construction, one time, by up to 4", to—in the representative's opinion—better suit surrounding grades, without additional compensation.

C. Culverts:

Culvert for driveways shall be furnished and installed by the Contractor except as shown otherwise on the Drawings and specifications. Culvert for under-road-crossings shall be furnished and installed by the Contractor and shall be as noted in "Part 2 - Products" and, if so indicated on the Drawings, include flared end sections as specified in the North Carolina Department of Transportation (NC-DOT) SSRS, Section 1032-4, and, if indicated on the Drawings or elsewhere in the Contract Documents, shall be encased in flowable concrete fill. Sizes will be on drawings or as specified. Culverts, pipes and drainage structures will not be considered Fully Completed until they are completely cleaned of all sediment, debris and other foreign materials.

D. Pipes:

Drainage pipes other than driveway culverts and roadway culverts shall be furnished and installed by the Contractor and shall be as noted in "Part 2 – Products." All pipe under public streets and roadways, whether a "culvert" or a portion of a continuous storm drain system, shall be encased in flowable fill as required above for "culverts for under-road crossings." Culverts, pipes and drainage structures will not be considered Fully Completed until they are completely cleaned of all sediment, debris and other foreign materials.

E. Locating Tape:

All continuous storm drainage systems and roadway culverts, but not including individual driveway culverts, shall have included in the pipe trench metallic locating tape: Terra-Tape or approved equal, labeled "STORM DRAIN BELOW" (or similar language acceptable to the Town) installed nine (9) inches ($\pm 3"$) above pipe. Any broken or damaged locating tape shall be replaced or repaired in a manner which effectively maintains electrical conductivity

Section 3.09 - Driveways

- A. Residential or commercial driveways that are cut to install drainage facilities are to be repaired using similar construction materials (*i.e.*, concrete where concrete, asphalt where asphalt), and of comparable or greater thickness.
 1. Existing driveways which are Exposed Aggregate, as designated on the drawings or as determined in the field by the Engineer or other Town representative, shall be replaced with Exposed Aggregate.

2. Other existing driveways which are neither asphalt nor standard broom finished concrete nor exposed aggregate concrete, such as stamped concrete, "Bowmanite" or other specialty finish, will be handled as follows:
 - a) Replacement of such a special driveway shall be bid as if it is to be replaced with standard broom finish concrete.
 - b) Town staff will contact the owner and offer him the option of replacing the special driveway with a special finish, using a contractor of his own choosing. In such case, a Change Order will be issued under which the Contractor's cost of replacing such driveway with standard broom finished concrete, at the price indicated in the Unit Price Table, shall be deducted from the Contract Price. The amount of said deduction will be offered to the owner to partially defray the cost of such replacement with special-finished concrete.
 - c) If the owner declines to engage a contractor to replace such a driveway with a special finish, the Contractor for this project shall replace it with standard broom finished concrete.
 3. That portion of any replaced driveway within 3' of the edge of roadway pavement shall be constructed to not less than 6" thickness.
- B. All new driveways, where none exist of concrete or asphalt, shall be concrete and extend from the road surface to the Town right of way line.
1. For single-family residential properties, concrete driveways shall be a minimum of ten feet (10') in width and four inches (4") in depth, except for the first three feet (3') adjacent to the paved road surface which shall be six inches (6") in depth, 3,000 PSI concrete. Asphalt shall be two inches (2") in depth with four inches (4") of ABC. Widths or lengths exceeding these shall be the responsibility of the property owner except where an existing concrete or asphalt driveway is wider than ten feet (10'), it shall be replaced in-kind.
 2. For properties which are multi-family residential, commercial or industrial, concrete driveways shall be six inches (6") in depth and asphalt shall be four inches (4") in depth (2" surface course over 2" intermediate course), with six inches (6") of ABC. Width and other geometrics shall be as per the Drawings.
- C. Driveways shall be constructed in accordance with the approved roadway section and sloped according to the drainage plan. Where no drainage plan or other detailed grading information is provided on the plan sheet, grading of the driveway in the direction of the adjacent road shall be provided to suit the general drainage pattern of that portion of the road, as directed by the Engineer or other Town representative.
- D. In removing portions of concrete driveways, Contractor shall be careful not to damage portions of such driveways which are to remain. Damage shall include scrapes, gouges, cracks, and any pulling open of an existing joint by more than ¼". (In determining whether any such crack has been pulled open by actions of Contractor, the Engineer shall consider the temperature at the time of the preconstruction photographs versus the temperature at the time

the opened crack is observed. Any such damage shall be corrected unless Contractor's pre-construction photographic evidence shows that the damage was pre-existing.

- E. No driveway shall be poured until the Engineer or other Town representative has inspected and approved the forms.

Section 3.10 - Roadway Improvements

A. Standards:

1. Unless otherwise explicitly stated on the Drawings, the Town Streets Construction standards shall be used for new roadways, reconstruction or widening of existing roadways.
 - a) Aggregate Base Course: ABC eight inches (8") in depth or four inches (4") of Asphalt Base Course, Type B25.0B (When pre-approved by the Town, three inches (3") maximum reclaimed asphalt and five inches (5") minimum ABC)
 - b) Asphalt Intermediate Course: Type I19.0B, two inches (2") in depth.
 - c) Asphalt Surface Course: Type SF9.5A, two inches (2") in depth.
 - d) Width: Width shall vary as shown on the approved Drawings.
 - e) Intersection radii: All radii shall be twenty-five feet (25') unless noted otherwise, with a standard taper. Radius shall be measured at the face of curb, if applicable; otherwise, at the edge of pavement.
2. Wedging and leveling is required on street overlays to achieve the proper cross slope and pavement grades as shown on the Drawings.
3. Streets shall be constructed in accordance with NC DOT SSRS Division 5, 6 & 8
4. Mailboxes shall be maintained by the Contractor, and relocated if necessitated by the work. If it is necessary for a mailbox to be removed for more than one full day, it shall be temporarily placed in an alternate location acceptable to the property owner and the U. S. Postal Service. Landscaping and other temporary structures located within the right-of-way shall be removed and placed upon the property adjacent to the right-of-way.

B. New Roadway Construction

1. The Contractor shall clear and rough grade right-of-way to achieve preliminary grades as shown on the Drawings.
2. ABC shall be placed and compacted to achieve not less than 98% of maximum dry density as determined by AASHTO T -99 and a minimum thickness of eight inches (8").
3. Asphalt Intermediate Course, Type I19.0B shall be placed to achieve a minimum thickness of two inches (2"), except as otherwise noted on the Drawings.

4. Asphalt Surface Course, Type SF9.5A shall be placed to achieve a minimum thickness of two inches (2"), except as otherwise noted on the Drawings.

C. Roadway Resurfacing or Reconstruction

1. Existing Concrete Streets:

- a) Existing concrete streets shall be rolled with a vibratory roller to promote settling and cracking. Sand shall be used to fill all cracks and voids and the roadway, unless otherwise noted on drawings.
- b) If directed by the Drawings or other contract documents as part of Base Bid work or Alternate work, install pavement overlay fabric in accordance with manufacturer's instructions.
- c) The roadway will be widened in accordance with the specifications and Drawing with ABC or Asphalt Base Course of proper width and thickness.
- d) Asphalt Intermediate Course, two inch (2") minimum thickness, will be placed to achieve the proper wedging and leveling and cross slopes.
- e) The Asphalt Surface Course, two inches (2"), will be placed as per the Standards.

2. Existing Asphalt Streets:

- a) The roadway will be widened as shown on the Drawings, with ABC or HB Base of proper width and thickness.
- b) Asphalt Intermediate Course, two inch (2") minimum thickness or as otherwise indicated on the drawings, will be placed to achieve the proper wedging and leveling and cross slopes.
- c) The Asphalt Surface Course, two inches (2") or as otherwise indicated on the drawings, will be placed as per the Standards.

3. Adjustment of Manhole Covers, Valve Boxes, etc.: Any and all manhole covers, valve boxes or similar castings within the limits of any roadway resurfacing or reconstruction project, or any new roadway construction project, will be adjusted to grade using appropriate rings, risers or other standard adjustment measures. Materials and effort for such measures shall be incidental to the Asphalt Surface Course.

4. Shoulder clipping and backing up of edges: In addition to the pavement reconstruction and overlay work itself, the following items shall be incidental and not paid separately:

- a) Clipping grass, etc. which has encroached onto the existing pavement to be overlaid.
- b) Furnishing, if necessary, and placing soil material to bring the shoulder grade up to ½" below the grade of the new edge of pavement, tying to existing grade at a slope not steeper than 1":1', and establishing vegetation on the disturbed shoulder area.

D. Other Right-of-Way Improvements:

1. Concrete Curb & Gutter:

- a) Concrete curb & gutters shall be constructed to match existing and/or finished grades as illustrated on the approved Drawings.
- b) Curbs and gutters shall be constructed in accordance with NC DOT SSRS Section 846.

2. Sidewalks, Bike Paths, Multi-Use Paths and similar facilities:

Concrete sidewalks shall be five feet (5') in width and, except where a greater width is noted on the Drawings or elsewhere herein, four inches (4") in thickness, unless greater thickness is noted on the drawings, and of 4,000 PSI concrete. Contraction (crack control) joints shall be installed at even intervals equaling 80% to 120% of the width, in no case exceeding twelve feet (12'); tooled or sawn joints are acceptable, to a depth of $\frac{1}{4}$ of the slab thickness. Expansion joints shall be provided against fixed objects, at changes of material, as directed by the Engineer, and in any case at intervals not exceeding 20'.. All curb cuts shall meet current ADA standards. All asphalt sidewalks shall be based on two inches (2") of Asphalt Surface Course, Type SF9.5A over six inches (6") of ABC. Sidewalks that are anticipated to sustain heavy vehicular traffic shall have an asphalt sidewalk section consisting of four inches (4") of Asphalt Base Course, Type B25.0B, with two inches (2") of Asphalt Intermediate Course, Type I19.0B and two inches (2") of Asphalt Surface Course, Type SF9.5A.

Where sidewalks, paths or other paved areas are denoted as Pervious Concrete, it shall be constructed in accordance with the latest version of ACI 522.1, *Specification for Pervious Concrete*. Void ratio shall be not less than 15%. Pervious Concrete shall be placed over a base of 6" washed stone. Where total area of Pervious Concrete is 2,500 sf or less, requirement for cores and density testing will be waived; however, a 5' x 5' test panel shall be poured at a location directed by the Engineer for subsequent testing, at Contractor's expense, if Engineer determines there may be problems with density, void ratio, etc.

Timber boardwalks, paths, gazebos, etc., and their appurtenances, shall be constructed in conformity with local building codes and the provisions set forth on their drawings.

Sidewalks shall meet all current ADA standards, including but not limited to those for longitudinal slope and cross slope. No sidewalks shall be installed with more than a 2% cross slope, nor a 5% longitudinal slope, except ramps installed per ADA standards shall have longitudinal slopes not exceeding 1:12, or 8.33%. The Contractor shall immediately notify the Engineer if any provision of the Drawings, or any stakes or marks which have been set, would appear to result in a violation of these maximum slope standards. Unless explicitly stated on the Drawings, other non-vehicular ways, including bicycle paths and multi-purpose paths or trails, shall also meet the ADA standards set forth above.

3. Pavement Markings:

Pavement markings and placement shall be in accordance with the NC DOT SSRS standards and located as shown on Drawings. Crosswalk lines shall be evenly spaced.

E. Testing:

1. The Contractor shall employ an independent testing agency to sample and evaluate core samples on all improved streets (overlaid or new construction) as follows:
 - a) The testing agency shall be licensed in the State of North Carolina as an independent laboratory to conduct all testing required, and credentials shall be presented.
 - b) Samples shall be taken on all improved streets at an interval of three (3) cores per one thousand (1,000') linear feet of improved roadway, with a minimum of one core taken on each street improved with the Contract. Core sample locations shall be as directed by the Town.
 - c) Core samples taken shall be evaluated for asphalt mix composition, thickness and for compaction in accordance with procedures identified in the most current edition of the NCDOT SSRS.

Section 3.11 - Finishing

A. Disposal of Materials:

Such portions of the excavated materials as needed shall be used for backfilling and grading about the completed Work to the elevations as shown on the Drawings or as directed. All excavated material in excess of the quantity required for this purpose shall be disposed of, in a manner compliant with all requirements of these Contract Documents and with all applicable regulations governing such disposal, by the Contractor. The location of disposal sites shall be approved by the Owner. If disposal is at a private site not routinely known to accept such materials, Contractor shall provide the Owner with written confirmation of the agreement of the disposal site's owner to accept such materials, and, if applicable, evidence of any permits required for such disposal.

B. Finish and Cleaning:

1. The Contractor shall leave the mounding of earth over the trenches in a neat and uniform condition acceptable to the Owner or his Engineer. The Contractor shall make such provisions as may be necessary to divert surface water across or away from the line of the trench.
2. In cultivated or improved areas where topsoil has been stripped, the topsoil shall be replaced as uniformly as possible over the disturbed areas.
3. Cleanup of excess materials, debris, etc., shall be done as promptly as practicable and shall not be left until the end of the construction period.

Section 3.12 - Restoration

A. General:

All areas disturbed by this Work shall be restored to a condition equal to or better than the condition prior to construction, as determined by the Owner or his Engineer.

B. Lawns and Other Roadside Areas:

Grass plots, sod, shrubbery, ornamental trees, signs, fences, mail boxes, etc. shall be restored to the condition existing prior to making the excavation as determined by the Engineer. The cost of doing this Work shall be included in the cost of various applicable items.

C. Alleys, Driveways, Roadways:

Roadways, alleys and driveways constructed with concrete, asphalt pavement, stabilized soil or gravel that are traversed by the excavation Work shall be restored to the condition existing prior to making the excavation as determined by the Engineer. See Section 3.09 for additional details regarding driveways.

Pavement cuts on heavily traveled streets (Croatan Highway, Virginia Dare Trail, S. Old Oregon Inlet Rd.), if allowed, shall be patched with a temporary or permanent asphalt patch within 24 hours after the work causing the cut is complete. On lesser-traveled roads and streets, if a temporary or permanent asphalt patch is not made within 24 hours, the trench shall be filled to flush with the adjacent pavement grade with not less than 8" of ABC stone. Contractor shall monitor the condition of such stone patches at least daily, re-grading and adding make-up stone as required, until the permanent patch is placed.

The Contractor may reclaim existing material by stockpiling or other acceptable means, or he may furnish and compact new material. New or reused material shall be compacted to a minimum of 95% of the maximum density as determined by AASHTO T-99, Method A. The cost of doing this Work and the furnishing of any new material required shall be included in the cost of the Work and no separate payment shall be made, unless a separate bid item is provided in the Contract.

Restoration of roads and streets shall include restoration of pavement striping and marking to a condition equal to or better than before the project. As set forth elsewhere herein, Contractor shall protect all existing infrastructure, including roadways and their marking and striping, as well as practical given the nature of the work and his operations. Generally, local areas of damage may be spot-repaired; however, when the Owner and the Engineer determine that areas of damage are so extensive and frequent that spot repairs would result in an unsatisfactory, "patchwork" appearance, they may require Contractor to replace the affected striping for long sections or the whole length of the project, without separate compensation.

D. Paved Ditch, Sidewalk, Curb and Gutter Removal and Replacement:

Paved ditch, sidewalk, curb and gutter removal and replacement required in the construction of this Work shall be done by the Contractor. The Contractor shall either stockpile or dispose of this material, as directed by the Owner or his Engineer. All brick, concrete or built-up asphalt sidewalk replacement and curb and gutter replacement shall be replaced with like

material in a manner and condition equal to or better than that existing at the time of removal, as determined by the Engineer. Materials and method of replaced state highway sidewalks or curbs or ditches shall conform to the Specifications of the agency having jurisdiction.

E. Fine Grading:

All finished areas shall be graded smooth, hand-raked where necessary and shall meet the elevations and contours shown on the Drawings. All lumber, earth clods, rocks larger than ¾" inch, or exposed roots larger than ¾" in diameter, and other undesirable materials, shall be removed from the site at the completion of construction. In general, rocks which will not pass between the tines of a standard steel-tine garden rake shall be removed.

Section 3.13 - Finish Grading and Seeding:

A. General:

1. Contractor shall adhere to the following requirements as well as the seeding/sprigging requirements shown on the Drawings. In general, all areas within the project limits which are not covered by hard surface (pavement, structure, etc.) or otherwise indicated on the Drawings to receive some other surface treatment or to remain bare, shall have a healthy stand of vegetation established by the Contractor as part of the project work.

2. NCDOT Right-of-Way:

In those areas covered by permit or agreement, the conditions of the permit or agreement shall prevail.

3. Landscaped Areas:

- a) In landscaped areas finished grading shall result in a uniform finish free of clods, rills, or depressions. Hand-raking shall be performed where required to achieve the degree of finish or provide suitable surface for seeding.
- b) Areas requiring seeding shall be seeded as required to achieve a finish of equal type, quality, and density to surrounding areas. Sufficient mulch shall be applied, and reapplied as necessary, to maintain the surface and protect the new vegetation until stabilized.

4. Unimproved Areas:

Unimproved areas created or disturbed by this construction shall be finish graded and seeded to stabilize soil. Seeding shall be applied as specified in Part 2 Products.

B. Fertilizer Recommendations:

1. Apply 10-10-10 at rates of 25 lbs/1,000 square feet in early spring (April) and late summer (August) to build up food reserves and increase winter hardiness. Apply nitrogen at rates of 1-2 lbs/1,000 square feet every 4 to 8 weeks during summer. Do NOT apply large amounts of nitrogen in the growing season (early fall) since this makes

warm season grasses more susceptible to winter kill. These are general recommendations; soil test to be sure in fertilizing warm-season grasses.

2. Proper fertilization for cool-season grasses should be guided by soil tests. In the absence of a soil test, follow these general recommendations:

Apply 25 lbs/1,000 square feet of 10-10-10 in early fall (September) and late winter (February).

3. Do not apply nitrogen on cool season grasses between June-September when these grasses are dormant. This may increase chances for disease to invade and kill these plants.

C. Liming:

The sands of the Outer Banks generally require little or no liming. Lime according to soil test only.

D. Mulch:

Mulch with 4,000 lbs/acre of straw, anchor straw by tacking with asphalt, netting, or a mulch anchoring tool. A disk with blade set nearly straight can be used as a mulch anchoring tool. "Hydroseeding," where seed, fertilizer and mulch in a water-based slurry are all sprayed on at once will be acceptable in lieu of separately-applied mulch, etc., provided that hydroseeding must be accomplished in a workmanlike manner, achieve full coverage of disturbed areas, and lead to well-established vegetative cover.

E. Maintenance and Completion:

1. General:

- a) Satisfactory stabilization and erosion control requires a complete vegetative cover. Even small breaches in vegetative cover can expand rapidly and, if left unattended, can allow serious soil loss from an otherwise stable surface. A single heavy rain is often sufficient to greatly enlarge bare spots, and the longer repairs are delayed, the more costly they become. Prompt action will keep sediment loss and repair cost down. New seedlings should be inspected frequently and maintenance performed as needed. If rills and gullies develop, they must be filled in, re-seeded, and mulched as soon as possible. Diversions may be needed until new plants take hold.
- b) Maintenance Requirements Extend Beyond The Seeding Phase. Weak or damaged spots must be relimed, fertilized, mulched, and reseeded as promptly as possible. Re-fertilization may be needed to maintain productive stands.
- c) Stabilization shall be done by hydroseeding, mats, or sod, subject to the following:
 - 1) UNLESS OTHERWISE NOTED ON THE DRAWINGS, ALL DISTURBED AREAS WITH A SLOPE OF 2% OR GREATER SHALL RECEIVE SOD.

- i) However, the side slopes of swales and ditches, even when 2% or greater, shall not receive sod under this provision unless the longitudinal slope is 2% or greater.
 - ii) Where the limits of sod are shown on the drawings, such depiction shall govern, instead of the 2% rule.
 - iii) Sod shall be Bermuda to match the predominant turf of adjacent lawns, or, where few or no adjacent lawns are Bermuda, sod shall be Centipede. Species of sod shall not change within a single block without the approval of the Engineer.
 - iv) Sod placement shall be in accordance with the SSRS, except as otherwise noted herein and/or on the drawings.
 - v) Sod will be priced as a separate item on a per square foot basis, except where it is called for as part of the base bid work.
 - vi) Sod shall be watered as required to keep it alive; watering shall be incidental to the price for sod and not paid separately. Sod shall not be paid for, and should not be included in any application for payment, until at least 30 days after it is placed. Dead sod shall not be paid for.
- d) All stabilization will be done to the Town's satisfaction after substantial project completion. Watering of seeded and sodded areas shall be as follows:
- 1) Areas to be stabilized shall be watered every day, including weekends and holidays, by the Contractor, after seeding and sodding have occurred, to promote growth until satisfactory stabilization is obtained. Once watering has begun, a daily record of the time and amount of watering shall be kept and forwarded weekly to the Engineer. The individual performing each watering shall call the Town's representative approximately 30 minutes before each watering is to begin.
 - 2) Each individual watering shall be at a rate of not less than 2,500 gallons per seeded/sodded acre.
 - 3) Water shall be applied using nozzles and spraying techniques which do not erode the seeded areas; the first watering shall be observed by a Town representative to confirm that watering techniques are acceptable.
 - 4) A rainfall event of at least 0.1" may take the place of a scheduled watering, ONLY if such rain is actually occurring at the time watering is to begin; *i. e.*, watering will not take place while it is raining. If a rain occurs between midnight and 7 a.m., or between sunset and midnight the previous day, watering will still take place that day. A heavier rain shall not be a basis not to water on the next day; *i. e.*, rainfall amounts may not be "carried forward."

- 5) The duration of such daily watering shall be thirty (30) calendar days, The Town, in its sole discretion, may allow termination of watering early, ONLY if vegetation is fully established to its satisfaction
 - 6) If overseeding or reseeded of areas is required, due to erosion, seed problems, etc., watering of those areas will be extended as needed until they germinate and are established.
- e) The Contractor's Schedule of Values, established at the beginning of the Project and serving as the basis for his Applications for Payment, shall include a separate Pay Item, which may be called "Seeding and Mulching," for example, that includes all work required to establish grass on all disturbed areas.
- 1) The value of this line item shall not be less than 3% of the total amount bid.
 - 2) If there are Additive Alternate(s), a separate such line item shall be provided for each, being not less than 3% of the bid amount for the Alternate.
 - 3) Not more than 50% of said line item(s) shall be deemed earned when all areas have been fine graded, approved for seeding and mulching, and seed and mulch have been properly applied. The remainder shall not be deemed earned until, in the Town's determination, vegetation is fully established in all areas.

2. Completion:

- a) As noted in Article 14 of the General Conditions, the Town may elect to accept the project and establish the Date of Substantial Completion, subject to a list of discrepancies (punch list), which discrepancies must be completed within forty-five (45) days of said acceptance.
- b) The Town may, at its sole discretion, elect to accept the project with some or all of the "complete vegetative cover" described above not in place. Such acceptance with incomplete vegetative cover shall be subject to the following:
 - 1) This will not be the Town's general practice, and will only occur if the Town believes that weather conditions at the time of the end of the project are such that it is not feasible to achieve complete vegetative cover. Bidders should not bid the project expecting that such a deferral of vegetation establishment beyond acceptance will occur. With no such deferral, late attainment of vegetative cover to the Town's satisfaction WILL result in the incurring of liquidated damages.
 - 2) Acceptance shall not occur until, at a minimum, all areas to be vegetated have been fine-graded, limed, fertilized, seeded and mulched as required above, including the repair and re-doing of any and all areas damaged by erosion, contract operations or any other cause.

- 3) Contractor shall be obliged to deliver an established stand of vegetation on all disturbed areas before the project is consider fully and satisfactorily complete.
- 4) Where such acceptance occurs, a portion of the Contract Amount shall be withheld until vegetation is fully established. Said portion shall be determined by the Engineer, but shall be not less than 1.5% of the Contract Amount.

-- End of Technical Specifications --

