

NORTH CAROLINA  
DARE COUNTY

SERVICE CONTRACT  
PURCHASE ORDER # \_\_\_\_\_

**THIS CONTRACT IS NOT VALID WITHOUT A CORRESPONDING PURCHASE ORDER**

\_\_\_\_\_  
(CONTRACTOR *initials*)

THIS CONTRACT (the "CONTRACT") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by and between the TOWN OF SOUTHERN SHORES, a public body corporate of the State of North Carolina, (hereinafter referred to as the "TOWN"), and \_\_\_\_\_, whose address is \_\_\_\_\_, (hereinafter referred to as the "CONTRACTOR").

1. DESCRIPTION OF PROJECT

This CONTRACT is for the CONTRACTOR to provide SERVICES (which term is defined below) to the TOWN, which SERVICES are being provided as part of the \_\_\_\_\_ (hereinafter referred to as the "PROJECT"). The PROJECT, including its design specifications and plans, is described in detail in documents that have been received and examined by the CONTRACTOR (hereinafter referred to collectively as the "PROJECT DOCUMENTS"), which PROJECT DOCUMENTS include, but are not limited to, the following:

- A) That certain \_\_\_\_\_, dated \_\_\_\_\_, 201\_\_.
- B) That certain \_\_\_\_\_, dated \_\_\_\_\_, 201\_\_.

2. SERVICES TO BE PROVIDED AND AGREED CHARGES

The services and/or material to be furnished by CONTRACTOR under this CONTRACT (hereinafter referred to collectively as "SERVICES") and agreed charges are as follows:

**[INSERT DESCRIPTION OF SERVICES]**

**TOTAL CONTRACT PRICE IS \_\_\_\_\_ DOLLARS (\_\_\_\_\_), WHICH PRICE IS IN ACCORDANCE WITH CONTRACTOR'S SCOPE OF SERVICES AND COST PROPOSAL, DATED \_\_\_\_\_, 20\_\_\_\_, COPIES OF WHICH ARE ATTACHED AS EXHIBIT A.**

It is mutually agreed by and between the TOWN and the CONTRACTOR that SERVICES to be performed under this CONTRACT will commence no later than \_\_\_\_\_, 20\_\_\_\_. The CONTRACT completion date shall be \_\_\_\_\_, 20\_\_\_\_ (hereinafter referred to as the "COMPLETION DATE") with time being of the essence. If CONTRACTOR fails to complete work under this contract by the COMPLETION DATE, 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 \_\_\_\_\_ per day shall be due from the CONTRACTOR to the TOWN as liquidated damages for every day's delay in finishing the work in excess of the COMPLETION DATE. 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, 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.

3. TERM OF CONTRACT

The term of this CONTRACT is from \_\_\_\_\_, 20\_\_ 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 Sections 10 and 13.

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 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 the CONTRACTOR's obligations under this CONTRACT or any negligent, wanton, willful or intentional acts or omissions of the CONTRACTOR, its employees, subcontractors or agents during the performance of the CONTRACT.

The CONTRACTOR shall be fully responsible to the TOWN for the acts and omissions of its subcontractors 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 provision of the SERVICES. 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 and other persons who may be affected by the provision of the SERVICES.

#### 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, and the parties hereby submit to venue in and the personal jurisdiction of the said Courts.

#### 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. Nothing set forth in this CONTRACT is intended

nor shall be construed as a waiver of any form of legal immunity available to the TOWN, its, governing board, officers, employees or agents acting on the TOWN's behalf.

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.

13. DISCLAIMER

THE TOWN EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES ASSOCIATED WITH THE PROJECT, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, AND THAT THE DESIGN SPECIFICATIONS AND PLANS PROVIDED IN THE PROJECT DOCUMENTS ARE SUITABLE AND ADEQUATE TO PRODUCE THE INTENDED PRODUCT OR RESULTS. BY BIDDING ON THE PROJECT AND ENTERING INTO THIS CONTRACT, THE CONTRACTOR EXPRESSLY WARRANTS THAT IT HAS CONSIDERED THE PROJECT DOCUMENTS AND THE DESIGN SPECIFICATIONS AND PLANS FOR THE PROJECT, THAT THE CONTRACTOR CAN PERFORM THE SERVICES IN A MANNER CONSISTENT WITH THE REQUIREMENTS OF THE SAID PROJECT DOCUMENTS AND DESIGN SPECIFICATIONS AND PLANS, THAT THE SAID PROJECT DOCUMENTS AND DESIGN SPECIFICATIONS AND PLANS ARE SUITABLE AND ADEQUATE, AND THAT THE TOWN SHALL HAVE NO LIABILITY TO THE CONTRACTOR FOR ANY ALLEGED OR ACTUAL DEFECTS IN THE SAID PROJECT DOCUMENTS OR DESIGN SPECIFICATIONS AND PLANS.

14. SIGNATURES

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

Witnessed or Attested By:

\_\_\_\_\_

**TOWN OF SOUTHERN SHORES**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

**CONTRACTOR**

Corporate Seal:

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

[INSERT NAME OF PROJECT]  
[INSERT CONTRACT DATE]

Town of Southern Shores  
Page 5

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

---

Finance Officer

**EXHIBIT A**

The CONTRACTOR's scope of services and cost proposal.

[ *The following \_\_\_\_\_ page(s)*]