

**Invitation to Bid
Informal Bid Opportunity
Town of Duck
2023-2024 Path Improvement Project
NC Hwy 12 –Ocean Crest Path (Charles Jenkins Lane)**

Notice to Prospective Bidders

The following bid opportunity is for the reconstruction of the multi-purpose path in the vicinity of NC Hwy 12 near the Ocean Crest Subdivision and Charles Jenkins Lane in the Town of Duck, Dare County, NC

The Bid Package includes to following items:

1. One (1) copy of the proposal;
2. One (1) copy of the E-verify Affidavit;
3. One (1) copy of the plan set by Anlauf Engineering, PLLC (2 sheets);
4. One (1) copy of the Technical Specification Manual;
5. One (1) copy of Plover Retaining Wall Details/Information;

The bid period begins on October 18, 2023 and concludes with a bid opening on Wednesday, November 15, 2023. A mandatory pre-bid meeting will be held on Tuesday, October 31, 2023 at 10 am at the intersection of NC 12 and Charles Jenkins Lane. The bid opening will occur at 11 am at the Town of Duck Town Hall building on Wednesday, November 15, 2023.

Please contact Joseph J. Anlauf, PE with any questions.

Anlauf Engineering, PLLC
Joseph J. Anlauf, PE
4721 W. Eckner St.
Kitty Hawk, NC 27949
(252)489-7143
jjanlauf@gmail.com



Addendum No. 1
2023-2024 Path Improvement Project
NC Hwy 12 –Ocean Crest Path (Charles Jenkins Lane)
Duck, Dare County, North Carolina
October 19, 2023

The following shall take precedence over the plans and specifications of the above named project and shall become part of the Contract Documents. Original items of the specifications, contract documents and information indicated on the drawings not herein modified, amended, voided or suspended shall remain in effect.

Bid Documents

1. Please see the revised attached Page 4 of 14 of the bid Proposal. The original page listed the incorrect bid opening date. This has been corrected. Please replace page 4 of 14 of your current set with the attached page.

10. Bids for this project shall be separated and marked in the following manner:
- A copy of the Contractor's License and efforts to seek Women Business and Minority Business participation shall be placed in an envelope numbered "Envelope #1" and marked as to its contents.
 - The Bid submitted shall be placed in a separate envelope numbered "Envelope #2" and marked as to its contents.
 - Items A. and B. listed above shall constitute each company's Bid. Each Bid, with the bid sheets still attached, shall be placed in a sealed envelope, marked clearly, on the outside of the envelope with the phrase "Sealed Bid –2023-2024 Multi-purpose Path Improvement Project", as to indicate the contents without being opened, see note 12., and shall have been delivered to and received in the Duck Town Hall at 1200 Duck Road, Duck, NC by 11:00 AM on **November 15, 2023**. No Faxed bids will be accepted.
11. The sealed bid must display the following statement on the front of the sealed envelope:
- Sealed Bid**
2023-2024 Multi-purpose Path Improvement Project
Ocean Crest Path (Charles Jenkins Lane)
to be opened at 11:00 AM on **November 15, 2023.**
12. If delivered by mail, the sealed envelope shall be placed in another sealed envelope and the outer envelope shall be addressed as follows:

Town Manager
Town of Duck
P.O. Box 8369
Duck, NC 27949

Any statement accompanying and tending to qualify a Bid may cause rejection of such Bid, unless such statement is required pursuant to a Proposal embracing alternate Bids. All items identified above and all parts of this Proposal Form must be completed and returned with the Bid.

B. Unless otherwise specified, Bidders shall bid on all items listed in the Proposal Form, and the lowest responsible Bidder shall be determined as noted in Subsection 3.01 of this Proposal Form. Except as provided herein, Proposals which are incomplete or fail to comply with all items required in the Proposal Form may be rejected.

2.02 Withdrawal, Modification, or Alteration of Proposal

- A. A Proposal may be withdrawn on written or telegraphic request of the Bidder prior to the scheduled closing time for filing Bids. No Bidder may withdraw a Proposal after the scheduled closing time for filing Bids. The provisions of this Section shall apply to Bids where the Bidder has been negligent in preparing the Bidder's Proposal.
- B. Prior to the scheduled time for opening the Bids, changes may be made to any Bid. Such changes shall be initialed by the Bidder or his agent. If the intent of the Bidder is not clearly identifiable, the interpretation most advantageous to the Town will prevail. The Bidder is responsible for ensuring that the changes to the Bid are received by the Town within the deadline provided above. To make such changes, the Bidder shall either: (1) withdraw the Bidder's previous Bid and provide a new Bid that meets all the requirements for submitting an initial Bid as provided in this Proposal Form; or (2) retrieve the Bidder's previous Bid, modify the same, and then resubmit the same according to the requirements of submitting an initial bid as provided in this Proposal Form.

2.03 Late Proposals

- A. Proposals received after the scheduled closing time for filing bids as set forth in this Proposal Form will be rejected and returned unopened to the Bidder, unless such closing time is extended by the Town.



Proposal

Title: Town of Duck, 2023-2024 Multi-purpose Path Improvement Project

Project: Reconfigure Path near Charles Jenkins Lane

Route(s): NC Highway 12 Right-of-way

County: Dare County

Date: October 18, 2023 Bid Opening: November 15, 2023

Notice:

All Bidders shall comply with all applicable laws regulating the practice of general contracting as contained in Chapter 87 of the General Statutes of North Carolina which requires the Bidder to be licensed by the NC Licensing Board for Contractors when bidding on any non-federal aid project where the Bid is \$30,000 or more, except for certain specialty work as determined by the Licensing Board. Bidders shall also comply with all other applicable laws regulating the practices of electrical, plumbing, heating and air conditioning and refrigeration contracting as contained in Chapter 87 of the General Statutes of North Carolina. Bidders must comply with applicable portions of current law, including but not limited to, legislation adopted in Session 2001 by the General Assembly of North Carolina, including Senate Bill 914 and House Bill 1169.

Name of Bidder

Address of Bidder

Return Bids to:

Town Manager
Town of Duck
1200 Duck Road
P.O. Box 8369
Duck, NC 27949

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**PLEASE READ ALL INSTRUCTIONS,
THE TECHNICAL SPECIFICATIONS, AND THE CONTRACT FORM CAREFULLY
BEFORE PREPARING AND SUBMITTING YOUR BID**

All Bids shall be prepared and submitted in accordance with the following requirements. Failure to comply with any requirement may cause a bid to be considered irregular and may be grounds for rejection of that bid.

1. DEFINITIONS

Capitalized terms not defined herein shall have as their meaning the definition provided in the Technical Specifications. The following definitions shall apply:

- A. ***Proposal Form*** – This document entitled “Proposal”, which describes the procedures for bidding on the “2023-2024 Multi-purpose Path Improvement Project” and the possible awarding of a contract for said project, as said document is considered prior to completion by a Bidder.
- B. ***Technical Specifications*** – That certain document entitled “Technical Specifications for 2023-2024 Multi-purpose Path Improvement Project” which document details requirements with regard to the repairs to sections of the multi-purpose path along the right-of-way of NC Hwy 12 for the Town.

2. PROPOSAL REQUIREMENTS

2.01 Form of Proposal

- A. Each Bid shall be prepared and submitted in accordance with the following requirements:
 - 1. The bid sheets furnished by Town in this Proposal Form shall be used and shall not be altered in any manner. The entire, completed Proposal Form must be returned to the Town; do not separate the bid sheets from the Proposal!
 - 2. All entries on the bid sheets, including signatures, shall be written in ink.
 - 3. The Bidder shall submit a total fixed lump sum price for each part of the project on the bid form entitled “Contract Bid Sheet – Lump Sum Prices”. The Bidder shall provide a unit price figure for each item listed on the bid form entitled “Contract Bid Sheet – Unit Prices”. The prices for each part of the Project will each be written in figures.
 - 4. A total amount bid for the total of each part of the project shall be entered in the “Base Bid” column of the bid form entitled “Contract Bid Sheet – Lump Sum Prices”. Such total shall be written in figures and shall be determined by adding the amounts bid for each of the projects involved.
 - 5. Changes in any entry shall be made by marking through the entry in ink and making the correct entry adjacent thereto in ink. An authorized representative of the Bidder shall initial the change in ink.
 - 6. The Bid shall be properly executed. All Bids shall show the following information:
 - Name of individual, firm, corporation, partnership or joint venture submitting Bid.
 - Name of individual or representative submitting Bid and position or title.
 - Name, signature, and position or title of witness.
 - Federal Identification Number.
 - Contractor’s License Number.
 - 7. Bids submitted by corporations shall bear the seal of the corporation.
 - 8. The Bid shall not contain any unauthorized additions, deletions or conditions.
 - 9. The Bidder shall not add any provision reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.

10. Bids for this project shall be separated and marked in the following manner:
- A copy of the Contractor's License and efforts to seek Women Business and Minority Business participation shall be placed in an envelope numbered "Envelope #1" and marked as to its contents.
 - The Bid submitted shall be placed in a separate envelope numbered "Envelope #2" and marked as to its contents.
 - Items A. and B. listed above shall constitute each company's Bid. Each Bid, with the bid sheets still attached, shall be placed in a sealed envelope, marked clearly, on the outside of the envelope with the phrase "Sealed Bid –2023-2024 Multi-purpose Path Improvement Project", as to indicate the contents without being opened, see note 12., and shall have been delivered to and received in the Duck Town Hall at 1200 Duck Road, Duck, NC by 11:00 AM on October 5, 2023. No Faxed bids will be accepted.
11. The sealed bid must display the following statement on the front of the sealed envelope:
- Sealed Bid**
2023-2024 Multi-purpose Path Improvement Project
Ocean Crest Path (Charles Jenkins Lane)
to be opened at 11:00 AM on October 5, 2023.
12. If delivered by mail, the sealed envelope shall be placed in another sealed envelope and the outer envelope shall be addressed as follows:

Town Manager
Town of Duck
P.O. Box 8369
Duck, NC 27949

Any statement accompanying and tending to qualify a Bid may cause rejection of such Bid, unless such statement is required pursuant to a Proposal embracing alternate Bids. All items identified above and all parts of this Proposal Form must be completed and returned with the Bid.

B. Unless otherwise specified, Bidders shall bid on all items listed in the Proposal Form, and the lowest responsible Bidder shall be determined as noted in Subsection 3.01 of this Proposal Form. Except as provided herein, Proposals which are incomplete or fail to comply with all items required in the Proposal Form may be rejected.

2.02 Withdrawal, Modification, or Alteration of Proposal

- A. A Proposal may be withdrawn on written or telegraphic request of the Bidder prior to the scheduled closing time for filing Bids. No Bidder may withdraw a Proposal after the scheduled closing time for filing Bids. The provisions of this Section shall apply to Bids where the Bidder has been negligent in preparing the Bidder's Proposal.
- B. Prior to the scheduled time for opening the Bids, changes may be made to any Bid. Such changes shall be initialed by the Bidder or his agent. If the intent of the Bidder is not clearly identifiable, the interpretation most advantageous to the Town will prevail. The Bidder is responsible for ensuring that the changes to the Bid are received by the Town within the deadline provided above. To make such changes, the Bidder shall either: (1) withdraw the Bidder's previous Bid and provide a new Bid that meets all the requirements for submitting an initial Bid as provided in this Proposal Form; or (2) retrieve the Bidder's previous Bid, modify the same, and then resubmit the same according to the requirements of submitting an initial bid as provided in this Proposal Form.

2.03 Late Proposals

- A. Proposals received after the scheduled closing time for filing bids as set forth in this Proposal Form will be rejected and returned unopened to the Bidder, unless such closing time is extended by the Town.

2.04 Examination of Contract Documents and Site of Work

- A. Bidders shall determine for themselves all the conditions and circumstances affecting the project or the cost of the proposed work by personal examination of the site and Contract Documents and by such other means as they may choose. It is understood and agreed that information regarding underground or other conditions or obstructions indicated in the Contract Documents has been obtained by Owner from data at hand. There is no expressed or implied agreement or guaranty that such conditions are fully or correctly shown, and the Bidder must take into consideration in such Bidder's Bid the possibility that conditions affecting the cost or quantity of work may differ from those indicated.
- B. Refer to the Technical Specifications for additional provisions relative to site conditions.

2.05 Interpretation of Contract Documents

- A. If it should appear to a Bidder that the work to be done, or matters relative thereto, is not sufficiently described or explained in the Contract Documents, or that Contract Documents are not definite and clear, the Bidder may make written inquiry regarding same to the Engineer and Owner at least 5 days before the scheduled closing time for filing Bids. Requests to clarify the source of materials, equipment suppliers, or any other such matter which does not modify, change, increase, or decrease the scope of the work require no action by the Owner other than a response to the Bidder requesting the clarification. Clarifications which modify, change, increase, or decrease the scope of work, require issuance of an Addendum by the Owner for the interpretation to become effective. Such addenda will be mailed to all known potential Bidders. Such addendum shall have the same binding effect as though contained in the main body of the Contract Documents. Oral instructions or information concerning the Contract Documents or the project given out by officers, employees, or agents of the Owner to prospective Bidders shall not bind the Owner.
- B. THE TOWN EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES ASSOCIATED WITH THIS PROJECT AND ANY CONTRACT TO PERFORM WORK ON THIS PROJECT AND IN PARTICULAR ANY SUCH WARRANTIES RELATED TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR THAT THE DESIGN SPECIFICATIONS AND PLANS PROVIDED FOR THE PROJECT ARE SUITABLE AND ADEQUATE TO PRODUCE THE INTENDED PRODUCT. BY BIDDING ON THIS PROJECT AND ENTERING INTO A CONTRACT TO PERFORM WORK ON THIS PROJECT, CONTRACTOR EXPRESSLY WARRANTS THAT IT HAS CONSIDERED THE DESIGN SPECIFICATIONS AND PLANS FOR THE PROJECT, THAT THE CONTRACTOR CAN PERFORM THE PROJECT PURSUANT TO THE DESIGN SPECIFICATIONS AND PLANS IN A MANNER CONSISTENT WITH THE REQUIREMENTS OF THE CONTRACT DOCUMENTS, THAT THE 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 DESIGN SPECIFICATIONS OR PROJECT PLANS.
- C. One (1) lump sum bid shall be provided for the Base Bid for the multi-purpose path improvements within the NC 12 right-of-way and in the vicinity of Charles Jenkins Lane and as illustrated and described on Plan Sheets X1 & C1.
- D. One (1) lump sum bid shall also be provided for the Add Alternate which includes the demolition and disposal of the existing retaining wall and the replacement of approximately 100 l.ft. of new 46" tall retaining wall in the same location and accordance with the attached detail.
- E. The Town may also choose to discard some or all of the bids for any reason.

2.06 Addenda to Contract Documents

- A. Any addenda issued by the Owner, which may include changes, corrections, additions, interpretations, or

information, and issued 48 hours or more before the scheduled closing time for filing the Bids, Saturday, Sunday and legal holidays not included, shall be binding upon the Bidder. Owner shall supply copies of such addenda to all Contractors who have obtained copies of the Contract Documents for the purposes of bidding thereon. Failure of the Contractor to receive or obtain such addenda shall not excuse him from compliance therewith, if such Contractor is awarded the Contract.

2.07 Familiarity with Laws and Ordinances

- A. The Bidder is presumed to be familiar with Federal, State, and local laws, ordinances, regulation, orders and decrees, which in any manner affect those engaged or employed in the work or the materials or the equipment used in the proposed construction, or which may in any way affect the conduct of the work, or the health and safety of the public and no plea of misunderstanding will be considered due to ignorance thereof. If the Bidder or Contractor shall discover any provision in the Contract Documents which is contrary to, or inconsistent with, any law, ordinance, or regulation, it shall be immediately reported to the Owner in writing.
- B. The Contractor, subcontractor, suppliers of materials or services, and others engaged by the Contractor, shall comply at all times with and observe all such laws, ordinances, regulations, orders, and decrees; and shall hold harmless and indemnify the Town of Duck and its representatives against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree. In compliance with NCAC the Contractor is made aware that the following Federal, State, and local agencies have enacted ordinances or regulations relating to the prevention of environmental pollution or the preservation of natural resources which may affect performance of Town of Duck contracts:

FEDERAL AGENCIES/STATE AGENCIES

North Carolina Department of Environment and Natural Resources

Division of Land Quality

Division of Water Resources

Division of Coastal Management

Division of Air Quality

Division of Marine Fisheries

Division of Waste Management

North Carolina Department of Health and Human Services

North Carolina Department of Transportation

North Carolina Wildlife Resources Commission

Dare County Health Department

United States Army Corp of Engineers

NOAA – National Marine Fisheries Service

2.08 Amount of Work to be Done

- A. Owner reserves the right to increase or decrease the amount of any class or portion of the work. No such change in the work shall be considered as a waiver of any condition of the Contract, nor shall such change invalidate any of the provisions thereof. Unit Prices shall extend to these changes.
- B. The Owner does not by implication agree that the actual amount of work will correspond precisely to the amount as shown or estimated for the Bid. Payment will be made at unit prices under a Contract only for work actually performed or materials actually furnished according to actual measurements.

2.09 Bid Prices to Cover the Entire Work

- A. The Bid is a lump sum Bid for the Base Bid as provided on the bid form entitled “Contract Bid Sheet – Lump Sum Prices”.

- B. Bidders must complete the unit price bid form entitled “Contract Bid Sheet – Unit Prices” so that the prices included cover the entire cost of each item of work set forth on the aforementioned form, and when, in the opinion of the Owner, the prices in any Proposal are obviously unbalanced, such Proposal may be rejected.

2.10 Subcontracts

- A. The Contractor shall not subcontract to any one subcontractor a larger percentage of the work than the Contractor performs through the Contractor's employees. The Contractor shall perform at least 40 percent of the work through the Contractor's employees.

2.11 Rejection of Proposals

- A. The Owner reserves the right to reject any or all Bids in whole or in part or waive irregularities not affecting substantial rights.
- B. The Town reserves the right to reject any or all bids or to reduce the scope of work to fit within the Town's budget.
- C. Per the Proposal and GS, the Owner may reject a bid if the Town finds any one of the following: (i) bidder does not have sufficient financial ability to perform the contract; (ii) bidder does not have equipment available to perform the Contract; (iii) bidder does not have key personnel available of sufficient experience to perform the contract; (iv) or bidder has repeatedly breached contractual obligations to public and private contracting agencies; (v) or bidder is not a responsible Bidder.
- D. The Owner may make such investigation as is necessary to determine whether a Bidder is a responsible Bidder. If a bidder fails to supply prompt information as requested by Owner pursuant to such investigation, such failure is grounds for disqualification.
- E. The Owner may reject any bid not in compliance with all prescribed bidding procedures and requirements, and may reject for good cause any or all bids on a finding of Owner that it is in the public interest to do so.
- F. No bid for a construction contract shall be received or considered by Owner unless the Bidder holds the proper North Carolina Contractors License to perform the project work. General or evasive replies will be considered grounds for rejection of the Bid as incomplete. The successful Bidder may be required to appear before the Town Council and submit satisfactory evidence that he has the necessary capital and is qualified and prepared to prosecute the work to the full satisfaction of the Engineer and Town.

3. AWARD AND EXECUTION OF CONTRACT

3.01 Award of Contract

- A. The award of the Contract, if it be awarded, will be made by Owner to the lowest responsible Bidder submitting the lowest acceptable and responsible Bid. In determining the lowest acceptable and responsible Bid, Owner may take into account, among other factors, the prices bid, discounts if any, time of completion and delivery proposed, outstanding warrantee issues, past performance issues, the relative merits and performance of any items specifically proposed by the Bidder, any variation in maintenance and guarantee periods specifically proposed by the Bidder in excess of any minimum specified, the realistic balance of prices in the Proposals for various parts or units of work, the experience and ability of Bidder to perform the work, and whether the Bidder is a responsible Bidder.
- B. While price extensions are required as a matter of convenience, in the event of error in extensions, the unit price of Bid shall govern.

- C. Between the time of the opening of the Bid Proposal and the award of the Contract, the low Bidder may discuss with the Engineer and Town any problems pertinent to the Contract and point out anything which is not clear to him or which can be considered as conflicting requirements of one document or another. At this meeting every effort shall be made to reach a complete understanding of the requirements of the Contractual Documents between the Engineer, the Town, and the Contractor. The award will be made by the Town Manager or Public Works Director.
- D. Award and tender of Contract or the rejection of all bids shall be made within 45 calendar days after the date of opening Bids.

3.02 Execution of Contract

- A. The lowest responsible Bidder to whom the Contract is awarded, if it be awarded, shall be notified by the Town. Within ten (10) days from the date of receipt of notice that the Bidder has been awarded the Contract, Bidder shall deliver to the Owner: (1) the fully executed Contract, including the Contract Form; (2) the required insurance certificates, as specified in the Technical Specifications (see Section 7.06 of the Technical Specifications); and (3) the Performance Bond and Payment Bond, as specified in Section 3.06 of this Proposal Form. The Owner will execute the Contract within ten (10) business days of its receipt of the Contract and forward a copy to the Contractor.

3.03 Failure to Execute Contract

- A. Failure on the part of the Bidder to execute the Contract in accordance with subsection 3.02 will be just cause for cancellation of the award and forfeiture of the proposal guaranty. The forfeited proposal guaranty shall become the property of the Owner as liquidated damages sustained by the breach of contract by the Bidder. The Owner may then award the Contract to the next lowest acceptable and responsible Bidder, re-advertise the work, or take such other course the Owner deems expedient.

3.04 Transfer of Contract and Interests Therein

- A. Contractor shall not transfer the Contract or any interest therein to any other party or parties without the prior written consent of Owner. In case of such attempted transfer without permission, Owner may refuse to carry out the Contract either with the transferor or the transferee, but all rights of action for any breach of the Contract by said Contractor are reserved to the Owner. No officer of Owner, or any person employed in its service is or shall be permitted any share or part of the Contract or is or shall be entitled to any benefit which may arise therefrom. Contractor shall not assign any of the monies payable under the Contract or claims thereto without the prior written approval of Owner.
- B. Any assignment of money shall be subject to all proper setoffs and withholdings in favor of Owner and to all deductions provided for in the Contract, and particularly all money withheld, whether assigned or not, shall be subject to being used by Owner for completion of the work in the event Contractor should be in default therein.

3.05 Performance Bond and Payment Bond

- A. At the time of execution of the Contract, Contractor shall furnish both a Performance Bond and Payment Bond, each in the amount equal to 100 percent of the Contract price. The bonds will be in a form and from a company acceptable to Town Manager. If the Contract is an estimate or if there are change orders, the bonds will be adjusted to equal 100 percent of the final Contract price. The bonds will guarantee compliance with and fulfillment of all terms and provisions of the Contract including maintenance, repair and replacement, and all applicable laws, and prompt payment as due, to all persons supplying labor and/or material for prosecution of the work and in accordance with the Contract.

3.06 Proof of Insurance

- A. Work shall not commence until all insurance required in the Contract (as specified in Technical Specification, including Section 7.06 of the Technical Specifications s) has been obtained. A certificate of insurance evidencing all coverage shall be delivered to Owner prior to the start of any work. The form of the certificate and issuing company must be approved by Town Manager. Insurance shall be maintained throughout the life of the Contract which will hold Owner harmless and shall indemnify Owner for any and all losses to third persons or to Owner arising out of the operations, including any contingent liability arising therefrom.

3.07 Notice to Proceed

- A. After the Contract has been executed and the Performance Bond and Payment Bond and all required insurance certificates have been received and approved by the Owner, the Owner will issue a written "Notice to Proceed". See Section 8.03 of the Technical Specifications for more information regarding the issuance of a Notice to Proceed and the beginning of work after the issuance of such notice.

3.08 Weather Delay Policy

- A. Time extensions will not be granted for rain, wind, snow or other natural phenomena of normal intensity and frequency.
1. 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.
 - (5) Flooding or other effects of tropical storm, hurricane or nor'easter.
 - (6) 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.

- (7) 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. Bad Weather Day conditions occurring on a weekend 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 on a weekend or Holiday.

Town of Duck

Contract Bid Sheet - 11/15/23

Title: Town of Duck 2023-2024 Multi-purpose Path Improvement Project
Project: NC HWY 12 – Ocean Crest Path (Charles Jenkins Lane)

Base Bid

Lump Sum Bid – Path Reconfiguration Plan - NC Hwy 12 –Ocean Crest Path (Charles Jenkins Lane)	
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Add Alternate

Retaining Wall Construction – North of Plover Drive	
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Contractor: _____

Address: _____

License Number: _____

Federal Tax ID Number _____

Authorized Agent: _____ **Title:** _____

Signature: _____ **Date:** _____

Witness: _____ **Title:** _____

Signature: _____ **Date:** _____

Contractor Acknowledgment of Addendums

Authorized Agent Signature: _____

Number of Addendums Received: _____

THE TOWN EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES ASSOCIATED WITH THIS CONTRACT AND IN PARTICULAR ANY SUCH WARRANTIES RELATED TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR THAT THE DESIGN SPECIFICATIONS AND PLANS PROVIDED FOR THE PROJECT ARE SUITABLE AND ADEQUATE TO PRODUCE THE INTENDED PRODUCT. BY BIDDING ON AND ENTERING INTO THIS CONTRACT, CONTRACTOR EXPRESSLY WARRANTS THAT IT HAS CONSIDERED THE DESIGN SPECIFICATIONS AND PLANS FOR THE PROJECT, THAT THE CONTRACTOR CAN PERFORM THE PROJECT PURSUANT TO THE DESIGN SPECIFICATIONS AND PLANS IN A MANNER CONSISTENT WITH THE REQUIREMENTS OF THIS CONTRACT, THAT THE 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 DESIGN SPECIFICATIONS OR PROJECT PLANS.

Town of Duck

Contract Bid Sheet - Unit Prices -11/15/23

Title: Town of Duck 2023-2024 Multi-purpose Path Improvement Project
Project: NC HWY 12 – Ocean Crest Path (Charles Jenkins Lane)

Item No.	Description	Unit	Unit Price
1	Asphalt Path Demolition	sq.yd.	
2	Undercutting	cu.yd.	
3	Import Fill Material	cu.yd.	
4	Seed	acre	
5	Conventional Concrete – 4000 psi mix	cu.yd.	
6	46”-48” Tall Retaining Wall	ft.	
7	Curb & Gutter	ft.	
8	Ribbon Curb	ft.	
9	Parkway Curb	ft.	
10	24”x36” ADA Truncated Dome Surface	each	

Listing of Minority Business & Women Business Subcontractors

Firm Name & Address	Minority Business (MB) & Women Business (WB)	Item No.	Item Description	*Agreed Upon Unit Price	Dollar Amount of Sublet Item

Dollar Amount of MB Subcontractor _____

MB Percentage of Total Contract Bid Price _____

Dollar Amount of WB Subcontractor _____

WB Percentage of Total Contract Bid Price _____

*The dollar volume shown in this column shall be the actual price agreed upon by the Prime Contractor and the MBIWB Subcontractor. These prices will be used to determine the percentages of the MB/WB participation in the Contract.

Minority Business Participation in Path Improvement Project Talking Points

North Carolina General Assembly amended state law effective January 1, 2002 requiring a verifiable ten percent goal for participation by minority businesses in the total value of work for each project for which a contract is awarded by units of local government.

Each contractor bidding on this project is expected to make a good faith effort to recruit minority business participation whether a subcontractor or vendor of supplies, material or equipment.

A minority business is one in which at least 51% is owned by one or more minority persons, or if a corporation, in which at least 51% of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals.

As a part of the bid, contractors are expected to (1) identify the minority businesses it will use on the project and the total dollar value of the bid that will be performed by the minority businesses or (2) document good faith efforts to meet the goal of minority participation. The documentation of good faith efforts must include evidence of good faith efforts implemented such as advertisements or solicitations for minority business participation in the project.

Good faith efforts include:

1. Contacting minority businesses that reasonably could be expected to submit a quote;
2. Make the construction plans, specifications and requirements available for review by minority businesses;
3. Break down or combine elements of the work into economically feasible units to facilitate minority participation;
4. Work with minority trade, community or organizations;
5. Provide assistance in getting required bonding or insurance or providing alternatives to bonding or insurance;
6. Negotiate with minority businesses in good faith and not reject as unqualified without sound reasons;
7. Provide assistance to otherwise qualified minority business in need of equipment, loan, capital, lines of credit or joint pay agreements to secure loans, supplies or letters of credit;
8. Negotiating joint venture agreements with minority businesses;
9. Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

STATE OF NORTH CAROLINA
COUNTY OF DARE

AFFIDAVIT

Regarding compliance with E-Verify, as required for all municipal contracts pursuant to Article 2 of Chapter 64 of the North Carolina General Statutes and NCGS § 160A-20.1(b).

Now Comes the undersigned affiant, and being duly sworn by oath, does hereby state the following facts to be true:

1. That he or she is, or is an official of a business entity or other organization which is, an employer of employees in North Carolina; or that he or she or the said business entity or organization has subcontractors who employ employees in North Carolina.
2. That the employer is a potential contractor of the Town of Duck and is executing this affidavit as "employer-contractor" to assure, confirm, and warrant to the Town of Duck that the employer-contractor and the employer-contractor's subcontractors have complied with or verified that they do not have to comply with the requirements of Article 2, Chapter 64 of the North Carolina General Statutes (NCGS).
3. That the employer-contractor states: (initial one)

_____ a. The employer-contractor, and/or each of its subcontractors, if any, are persons or business entities or other organizations, one or more of which employs 25 or more employees who are employed for 9 months or more during a 12-consecutive-month period.

_____ b. The employer-contractor, and each of its subcontractors, if any, are persons or business entities or other organizations, each of which employs less than 25 employees.
4. That if paragraph 3.a. above is initialed, the employer-contractor assures, confirms, and warrants that it and/or each of its subcontractors who employ 25 or more employees who are employed for 9 months or more during a 12-consecutive-month period have, through the E-Verify program operated by the United States Department of Homeland Security as defined in NCGS §64-25(5), verified the work authorization of each employee.
5. That if paragraph 3.b. above applies to any future subcontractor of the employer-contractor, the employer-contractor assures, confirms, and warrants that it will ensure that such subcontractor complies with the provisions of paragraph 4 above.

This the _____ day of _____, 20__.

Name of Employer-Contractor: _____

Signature: _____

Name and title of person signing: _____

State of North Carolina
County of Dare

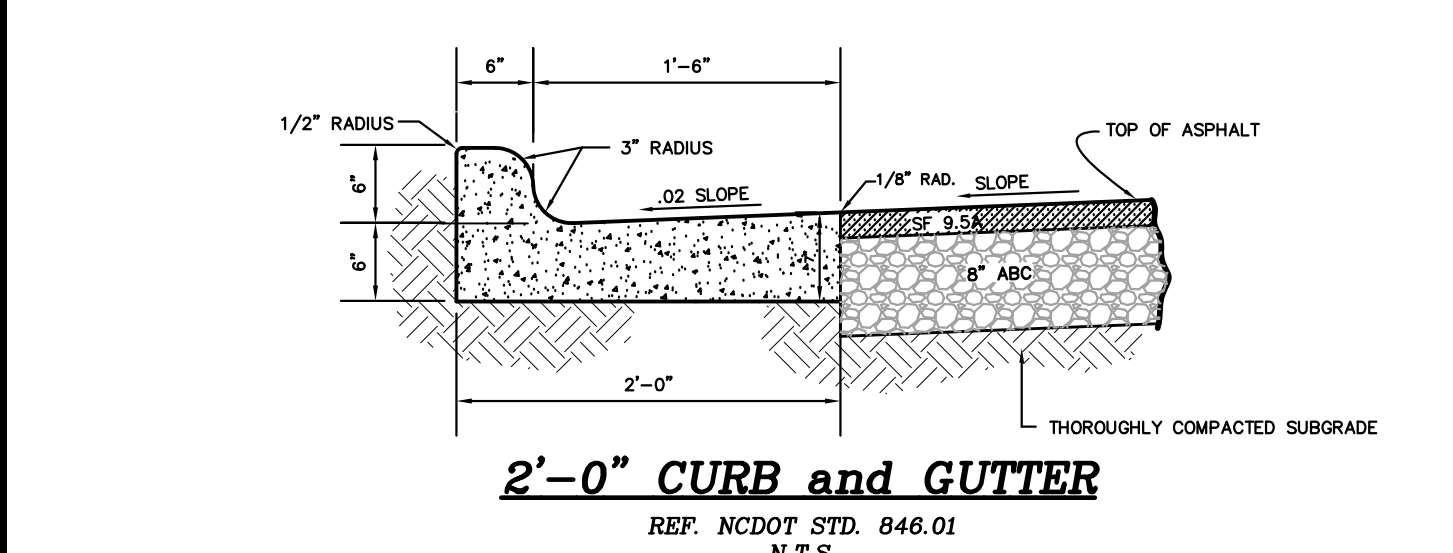
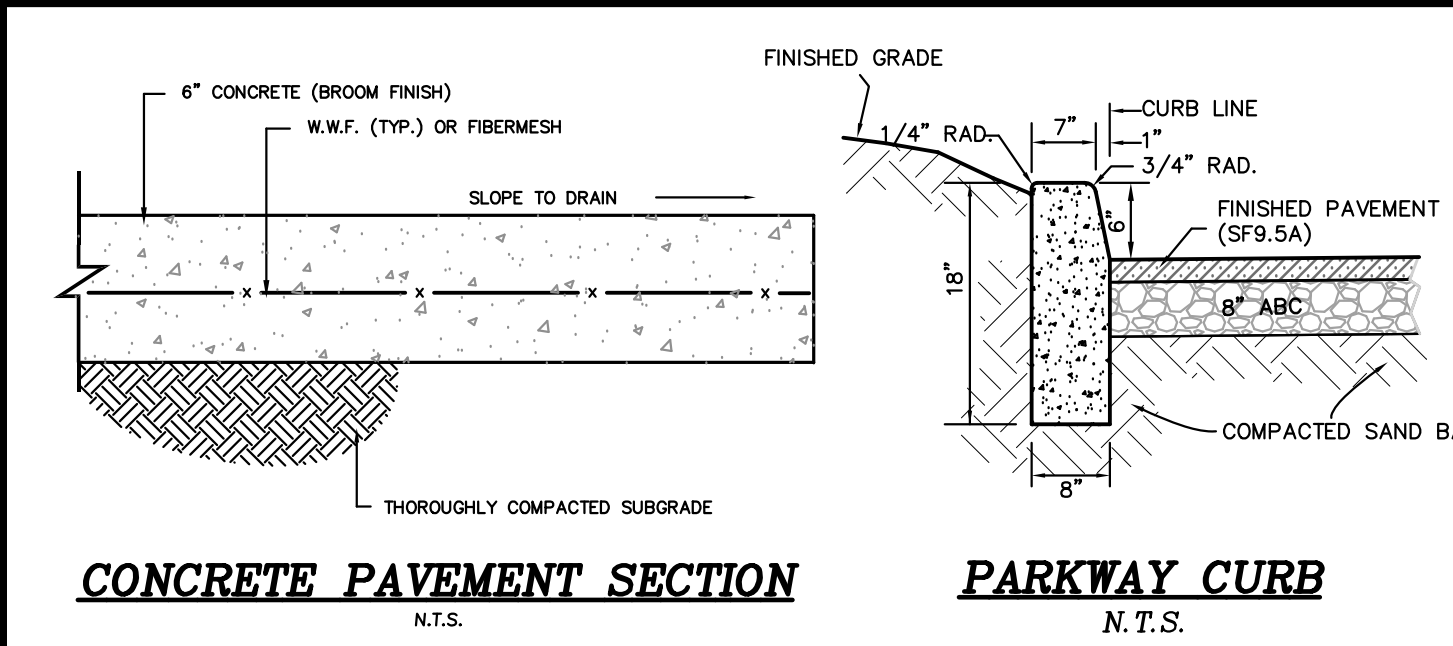
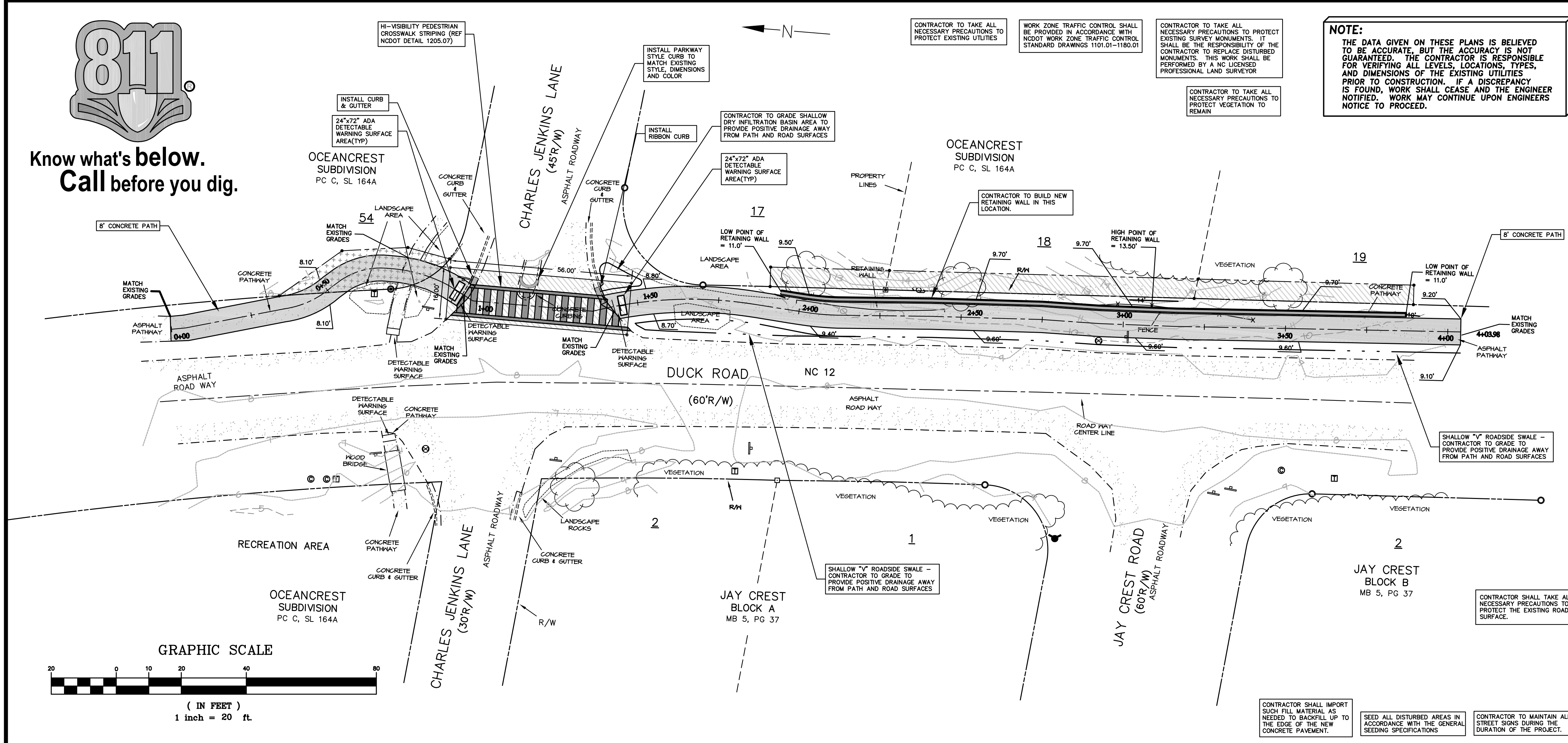
I, _____, a Notary Public of the aforesaid State and County, do certify that _____, personally appeared before me this day, and being duly sworn and in my presence signed and acknowledged the execution of the foregoing AFFIDAVIT.

Witness my hand and official seal, this the _____ day of _____, 20__.

Notary Public My commission expires: _____

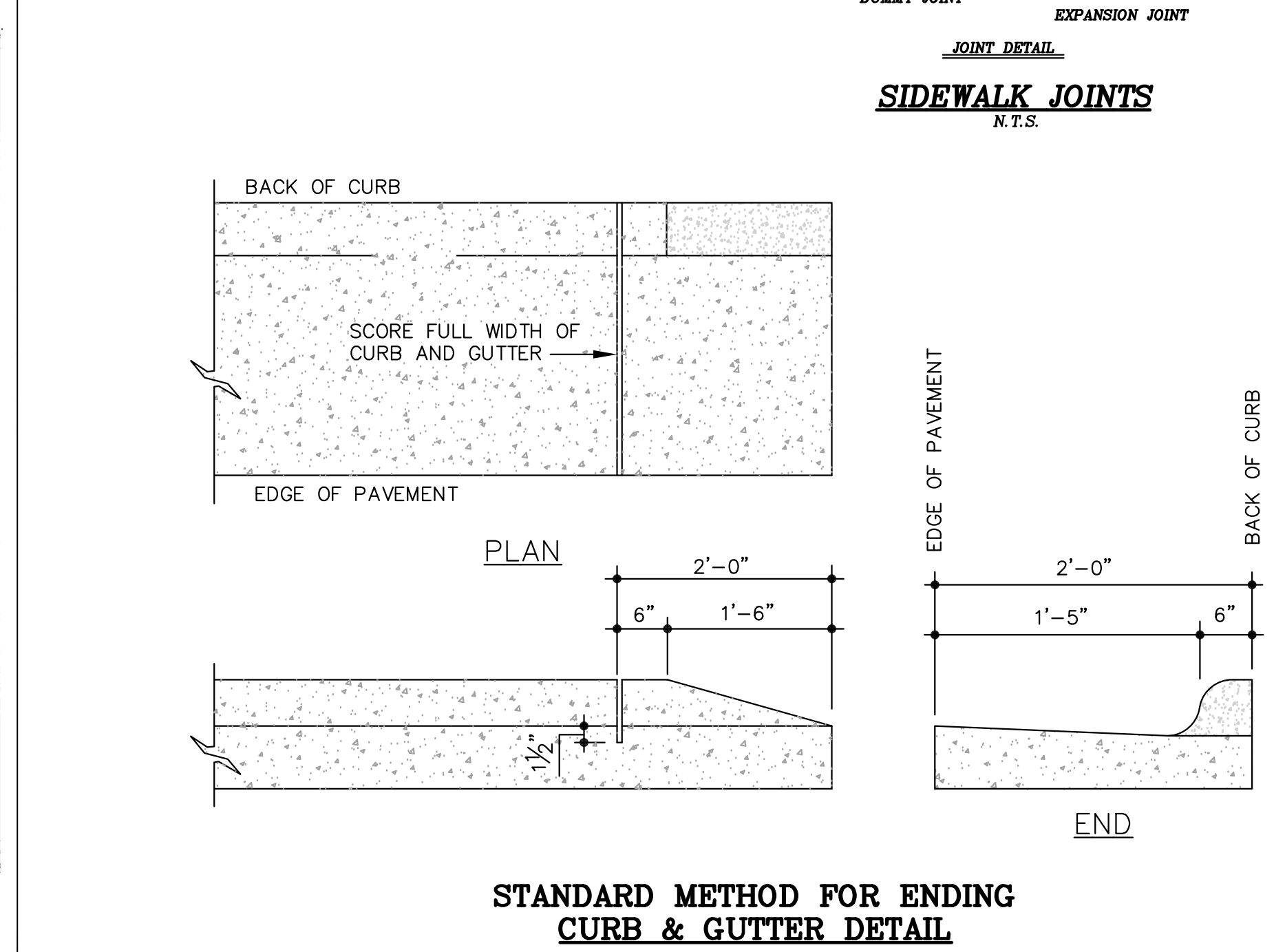
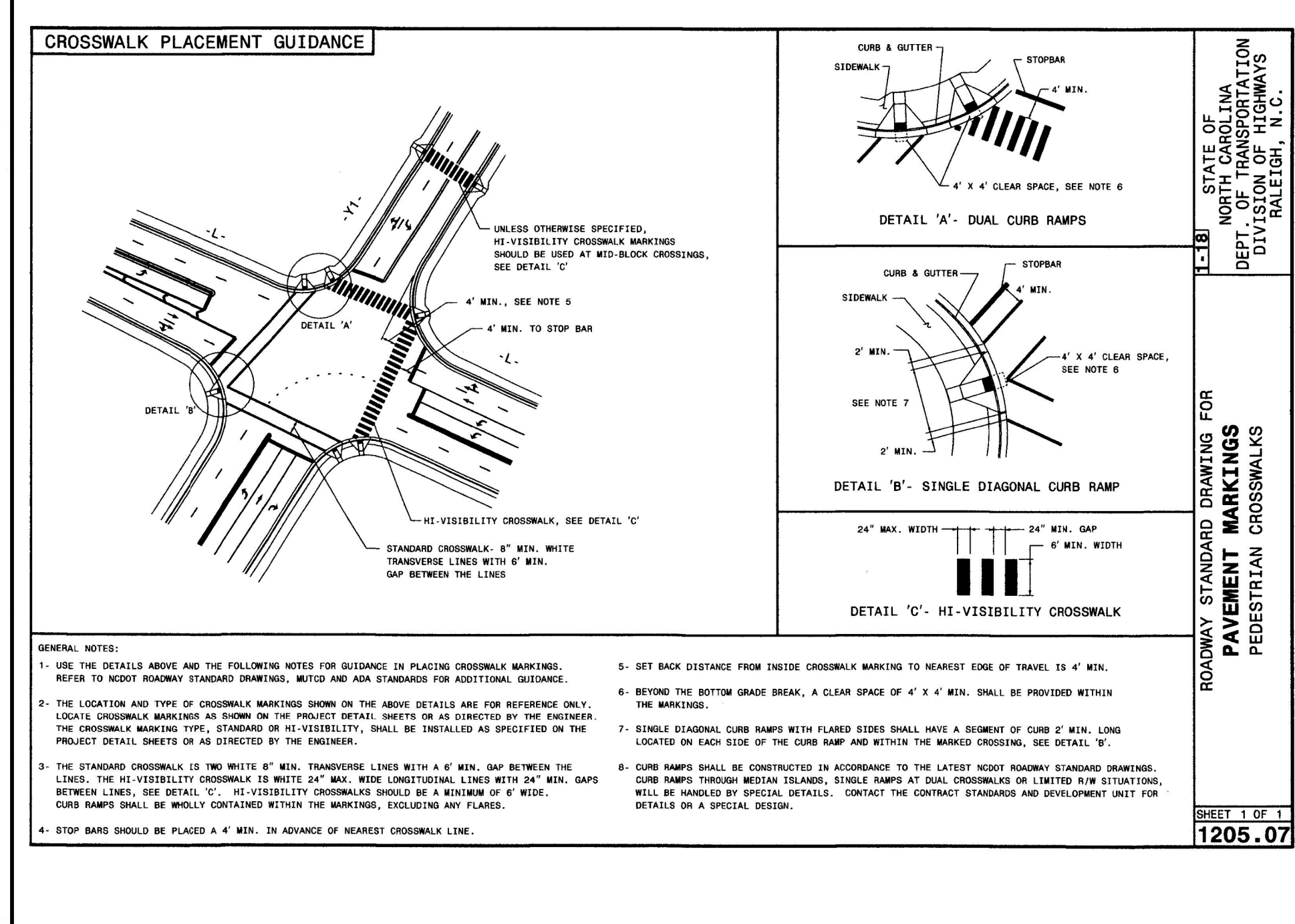
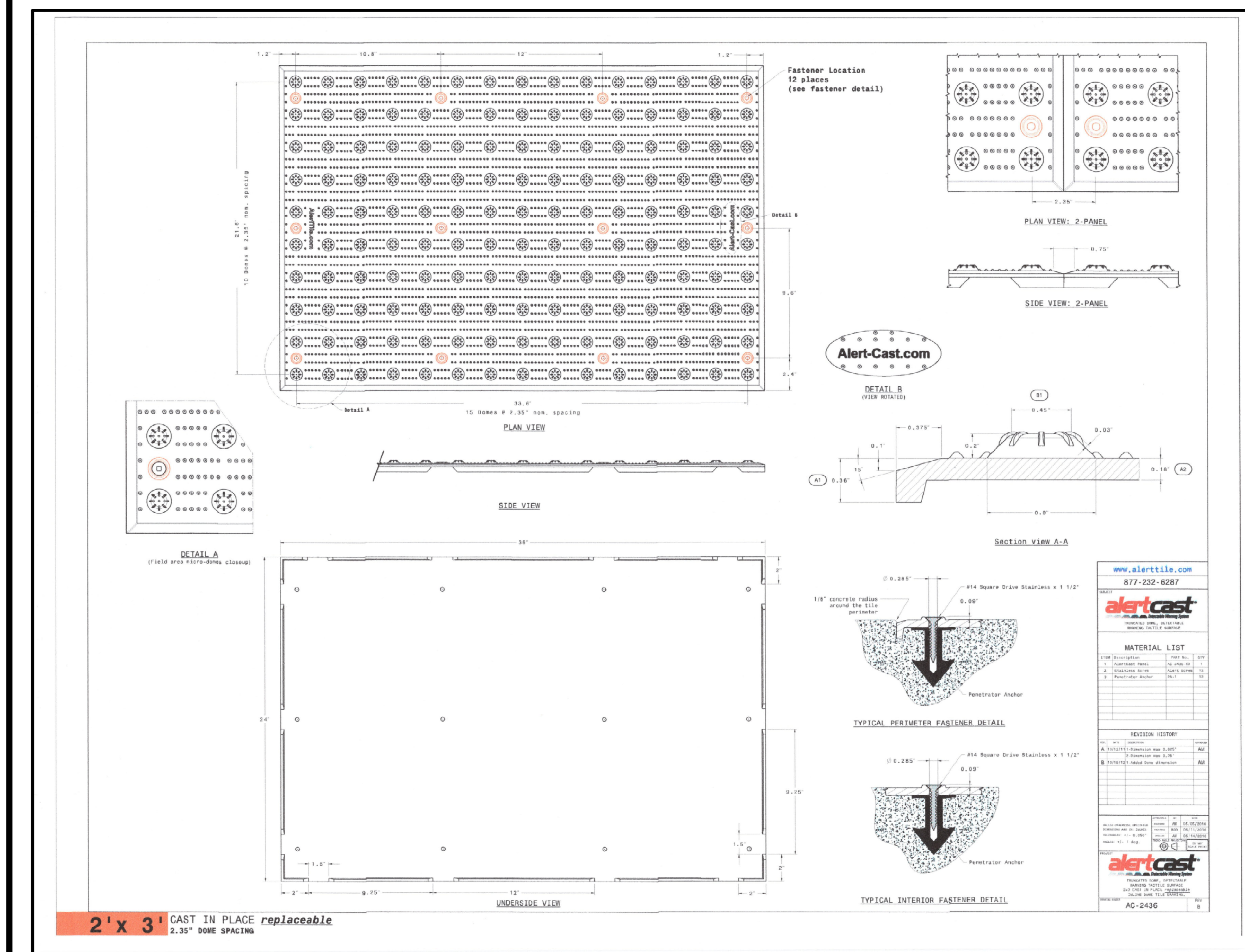
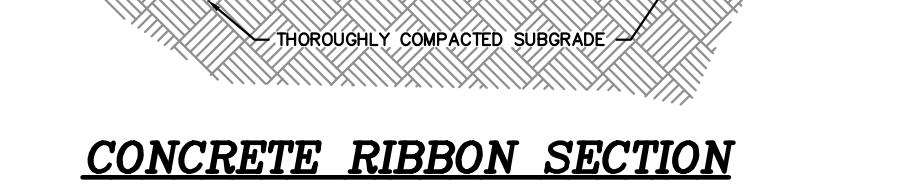
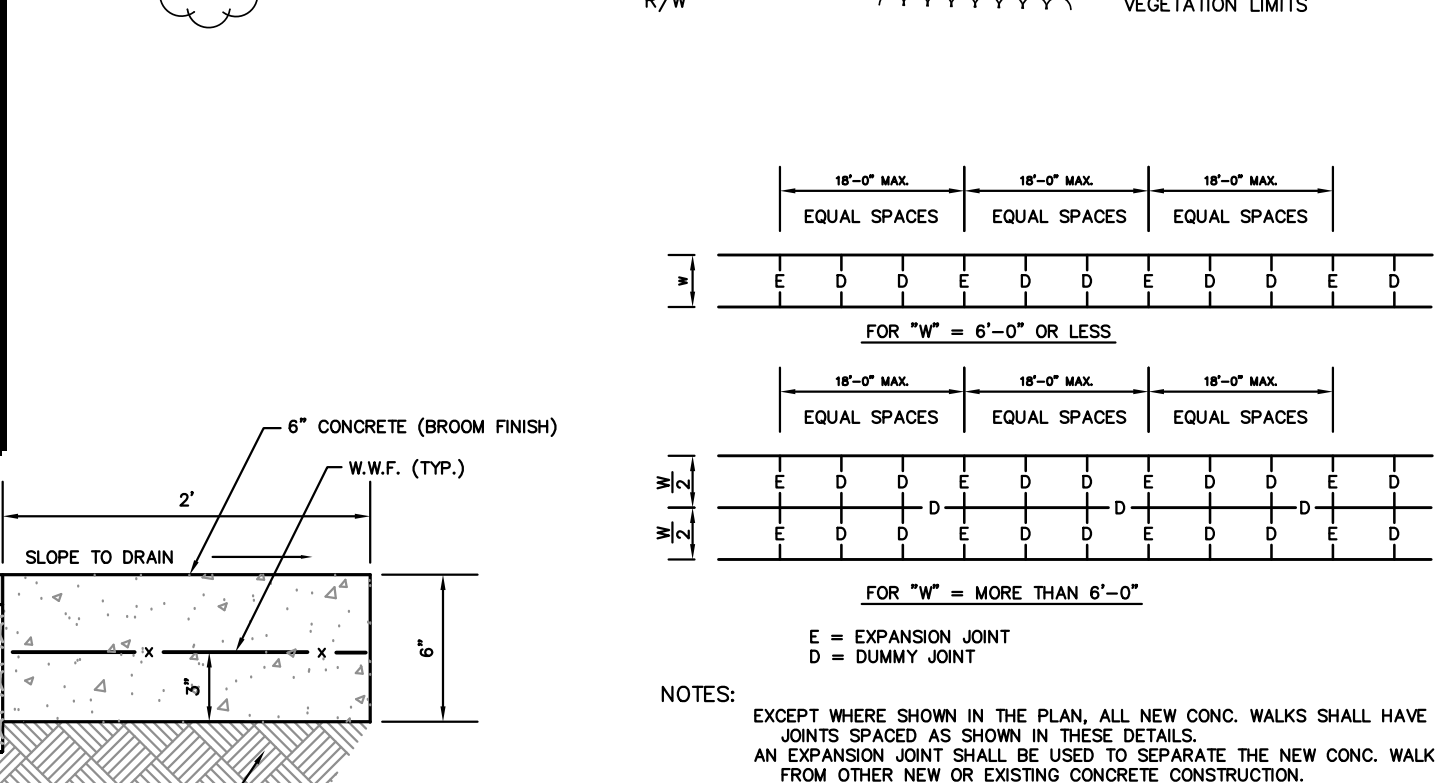


Know what's below.
Call before you dig.

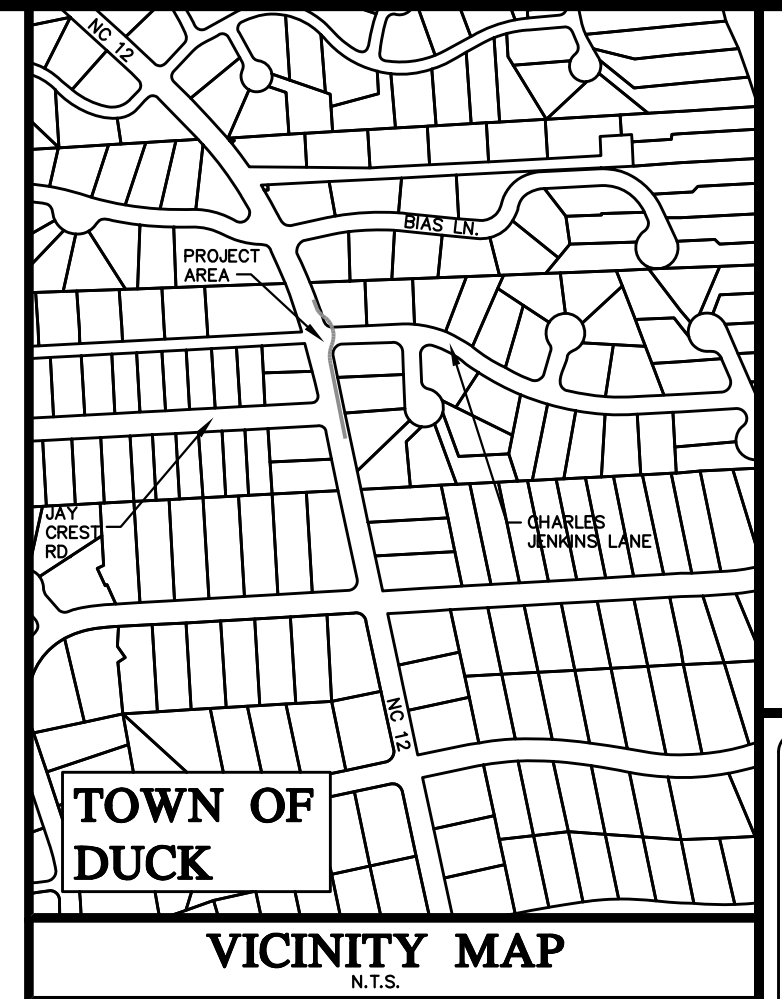
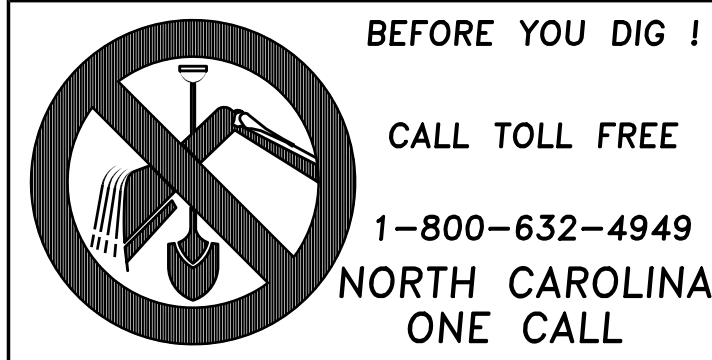


LEGEND

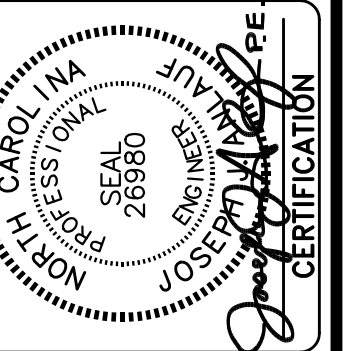
EXISTING ASPHALT	+	EXISTING ELEVATION(±.03')	MB	MAIL BOX
PROPOSED CONCRETE	□	EXISTING ELEVATION(±.05')	TS	TRAFFIC SIGN
EXISTING CONCRETE	○	CONCRETE MONUMENT	UP	UTILITY POLE
TREE	○	IRON ROD/PIPE	WM	WATER METER
		WATER VALVE	WV	WATER VALVE
		TELEPHONE PEDESTAL	TP	TELEPHONE PEDESTAL
		TELEVISION PEDESTAL	TV	TELEVISION PEDESTAL
		R/W		EXISTING CONTOURS
				PROP. SPOT ELEV.
				VEGETATION LIMITS



SURVEY DATA PROVIDED BY BILD ON PLAT ENTITLED
"TOPOGRAPHIC BASE MAP FOR: THE TOWN OF DUCK,
PATHWAY IMPROVEMENTS, DUCK ROAD, CHARLES
JENKINS LANE TO JAY CREST ROAD AND DATED
08/10/22 MARKED PRELIMINARY - UNCERTIFIED COPY



Anlauf
Engineering, PLLC
CIVIL ENGINEERING SERVICES
PRINCE GEORGE, MD, P. 0929
UNCLATE2646@CARTEL.NET - 4721 W. SQUIRE ST., KIRK HANK, NC - (252) 497-7145



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[illegible]

PATH SITE PREPARATION NOTE:

1. STRIP ALL EXISTING ASPHALT AND CONCRETE (REF: SECTION 02110 "SITE CLEARING").
2. EXCAVATE SUBSURFACE AS NECESSARY TO ACHIEVE THE PROPOSED FINISH GRADE.
3. BACKFILL AND CONSTRUCT PATH AS PER PROJECT DOCUMENTS.

WORK ZONE TRAFFIC CONTROL SHALL
BE PROVIDED IN ACCORDANCE WITH
NCDOT WORK ZONE TRAFFIC CONTROL
STANDARD DRAWINGS 1101.01-1180.01

CONTRACTOR TO REMOVE
SECTION OF CONCRETE
CURB & GUTTER COMPLETE

CONTRACTOR TO TAKE ALL NECESSARY PRECAUTIONS TO PROTECT EXISTING SURVEY MONUMENTS. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO REPLACE DISTURBED MONUMENTS. THIS WORK SHALL BE PERFORMED BY A NC LICENSED PROFESSIONAL LAND SURVEYOR

CONSTRUCTION EASEMENTS -
EASEMENT PLAT PREPARED BY A
N.C. PLS

CONTRACTOR TO REMOVE SECTION
OF CONCRETE PATH COMPLETE
AHEAD OF NEW CONCRETE PATH
INSTALLATION.

CONTRACTOR TO SAWCUT
EXISTING ASPHALT SURFACE
CONTRACTOR TO PREPARE
SMOOTH TRANSITION BETWEEN
EXISTING PATH SURFACE &
PROPOSED PATH SURFACE
(TYPICAL OF ALL INTERFACES
BETWEEN EX. ASPHALT AND
PROPOSED CONCRETE)

GENERAL: SEEDING RATES SHOWN ARE GENERAL RECOMMENDATIONS; FREQUENCY AND AMOUNT OF FERTILIZATION CAN BE BEST BE DETERMINED THROUGH SITE SPECIFIC SOIL TESTING.

MAINTENANCE:

- TO MAINTAIN VEGETATIVE 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 HAYEY RAIN IS OFTEN SUFFICIENT TO GREATLY ENHANCE EROSION. VEGETATIVE COVER SHOULD BE MAINTAINED AT ALL TIMES.
- SEEDINGS SHOULD BE INSPECTED FREQUENTLY AND MAINTENANCE PERFORMED AS NEEDED. IF HILLS AND GULLIES DEVELOP, THEY MUST BE FILLED IN, RE-SEEDED, AND RECOVERED AS SOON AS POSSIBLE.

MAINTENANCE REQUIREMENTS EXTEND BEYOND THE SEEDING PHASE.

NEWLY EXPOSED SPOTS MUST BE RELIEVED, FERTILIZED, MULCHED, AND RESEEDED AS PROMPTLY AS POSSIBLE. REVEGETATION MAY BE NEEDED TO MAINTAIN PROTECTIVE STANDS.

SITE CLEARING

1. THE CONTRACTOR SHALL FURNISH ALL LABOR, MATERIALS, TOOLS, EQUIPMENT AND ALL ELSE REQUIRED FOR AND TO PERFORM ALL CLEARING AND GRUBBING OF THE SURFACE OF THE GROUND OF THE DESIGNATED AREAS.

2. IN AREAS DESIGNATED TO BE CLEARED AND GRUBBED, ALL STUMPS, ROOTS, BURIED LOGS, BRUSH, GRASS AND OTHER UNSATISFACTORY MATERIALS SHALL BE REMOVED. THE ROOTS AND OTHER PROJECTIONS WITHIN THE AREA SHALL BE ONE HALF (1/2) INCHES BELOW THE EXISTING GROUND SURFACE. OUTSIDE THE AREA, TO A DEPTH OF AT LEAST EIGHTEEN (18) INCHES BELOW THE FINISHED SUBGRADE ELEVATION OR ONE (1) FOOT DEEP, STUMPS, ROOTS AND OTHER PROJECTIONS WITHIN EMBANKMENT AREAS SHALL BE COMPLETELY GRUBBED OUT TO A DEPTH OF NOT LESS THAN EIGHT (8) INCHES BELOW THE EXISTING GROUND LEVEL.

3. ALL DEBRIS AND OTHER ITEMS TO BE REMOVED FROM THE SITE SHALL BE DONE SO AT THE CONTRACTOR'S EXPENSE. WASTE ITEMS AND MATERIALS SHALL BE LEGALLY DISPOSED OF AS DIRECTED BY THE OWNER.

DEMOLITION NOTES

1. **PERFORM ALL WORK IN ACCORDANCE WITH LOCAL CODES AND REGULATIONS.**
2. **USE ALL MEANS NECESSARY TO CONTROL DUST AT THE SITE. PROVIDE STREET CLEANING WHEN NECESSARY OR DIRECTED.**
3. **LEGALLY DISPOSE OF ANY EXCESS MATERIALS OFF-SITE AT NO ADDITIONAL COST TO THE OWNER.**
4. **WORK IS TO BE PERFORMED SO THAT INTERRUPTIONS TO THE OPERATIONS OF ADJACENT FACILITIES ARE AVOIDED.**
5. **DIMENSIONS PROVIDED ARE APPROXIMATE. CONTRACTOR IS RESPONSIBLE FOR ACCURACY OF QUANTITY TAKEOFF.**
6. **ANY PROPERTY PINS DAMAGED AS A PART OF CONSTRUCTION SHALL BE RESET BY A NORTH CAROLINA REGISTERED SURVEYOR.**
7. **SEED DISTURBED GROUND ACCORDING TO EROSION CONTROL DETAILS.**
8. **SAW-CUT EXISTING PAVEMENT, CONCRETE AND CURB & GUTTER AT LIMITS OF REMOVAL TO FULL DEPTH USING CARE TO GIVE NEAT, STRAIGHT LINES, CUT AT EXISTING LINES WHERE POSSIBLE.**
9. **PAVEMENT REMOVAL AREAS SHALL INCLUDE ALL OF THE PAVEMENT STRUCTURE (ASPHALT, CONCRETE, BASE STONE, ETC.).**
10. **CONTRACTOR SHALL ENGAGE NC ONE CALL OR A PRIVATE UTILITY LOCATION SERVICE TO MARK ALL UNDERGROUND UTILITIES PRIOR TO BEGINNING CONSTRUCTION.**
11. **THE CONTRACTOR SHALL PROVIDE TEMPORARY FENCES, BARRICADES, COVERINGS, OR OTHER PROTECTIONS TO EXISTING ITEMS INDICATED TO REMAIN, APPLY PROTECTIONS TO ADJACENT PROPERTIES AS NECESSARY TO RESTORE DAMAGED WORK TO THE CONDITION EXISTING PRIOR TO THE START OF WORK, UNLESS OTHERWISE DIRECTED. PROTECT EXISTING TREES AND VEGETATION WHICH ARE TO REMAIN FROM PHYSICAL DAMAGE.**
12. **ALL DEMOLITION DEBRIS SHALL BE LEGALLY DISPOSED OF OFF-SITE.**

NOTE:
THE DATA GIVEN ON THESE PLANS IS BELIEVED TO BE ACCURATE, BUT THE ACCURACY IS NOT GUARANTEED. THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING ALL LEVELS, LOCATION, TYPES, AND DIMENSIONS OF THE EXISTING UTILITIES PRIOR TO CONSTRUCTION. IF A DISCREPANCY IS FOUND, WORK SHALL CEASE AND THE ENGINEER NOTIFIED. WORK MAY CONTINUE UPON ENGINEERS NOTICE TO PROCEED.

DRAWING FILE: OCEAN CREST BASE 2.DWG
PLOT SCALE: 1" = 20'

EX. CONDITIONS & DEMOLITION PLAN

NC HWY 12 - CHARLES JENKINS LN.
ATLANTIC TOWNSHIP
DARE COUNTY
NORTH CAROLINA

— 100 —

COMMISSION NO.	P2277
SIGNED BY	JJA
DRAWN BY	JJA
CHECKED BY	JJA
EXPIRE DATE	7/5/23

SHEET NO.
X1
OF 2 SHEETS

**Technical Specifications
for
Ocean Crest Path Project**

2023-2024 Multi-purpose Path Improvement Project
Multi-purpose Path Section along NC 12
In the vicinity of Charles Jenkins Lane
Town of Duck, Dare County, North Carolina

Prepared for:

Town of Duck
1200 Duck Road, P.O. Box 8369
Duck, North Carolina 27949

Prepared by:

Anlauf Engineering, P.L.L.C.
4721 W. Eckner Street
Kitty Hawk, North Carolina 27949
(252)489-7143
E-mail: jjanlauf@gmail.com

Project Number: P2277
August 28, 2023

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DIVISION 3 - CONCRETE WORK	
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THE TOWN EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES ASSOCIATED WITH THIS CONTRACT AND IN PARTICULAR ANY SUCH WARRANTIES RELATED TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR THAT THE DESIGN SPECIFICATIONS AND PLANS PROVIDED FOR THE PROJECT ARE SUITABLE AND ADEQUATE TO PRODUCE THE INTENDED PRODUCT. BY BIDDING ON AND ENTERING INTO THIS CONTRACT, CONTRACTOR EXPRESSLY WARRANTS THAT IT HAS CONSIDERED THE DESIGN SPECIFICATIONS AND PLANS FOR THE PROJECT, THAT THE CONTRACTOR CAN PERFORM THE PROJECT PURSUANT TO THE DESIGN SPECIFICATIONS AND PLANS IN A MANNER CONSISTENT WITH THE REQUIREMENTS OF THIS CONTRACT, THAT THE 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 DESIGN SPECIFICATIONS OR PROJECT PLANS."

Division 1

STANDARD CONSTRUCTION SPECIFICATIONS

DIVISION I

GENERAL REQUIREMENTS

1. DEFINITIONS AND ABBREVIATIONS

Unless otherwise defined in the Contract Documents, the following definitions and abbreviations shall apply whenever used. The words directed, required, permitted, ordered, requested, constructed, designated, considered, necessary, prescribed, approved, acceptable, satisfactory, or words of like import, refer to actions, expressions and prerogatives of the Engineer.

1.01 Definitions

Acceptance of Work - All work required by the Contract Documents will be considered accepted upon official action by the Town Council of the Town of Duck. In order to qualify for acceptance, all work specified in the Contract Documents must be completed unless specifically deleted by Contract change orders.

Acts of God - An act of God is to be construed to mean an earthquake, flood, cloudburst, tornado, hurricane or other phenomenon of nature of catastrophic proportions or intensity.

Addenda - Supplemental written specifications or drawings issued prior to execution of the Contract which modify or interpret the Contract Documents by addition, deletion, clarification or correction.

Advertisement - The public announcement inviting bids for work to be performed or materials to be furnished.

Approved Equal - A product, component or process whose use in or on a particular project is specified as a standard for comparison purposes only. The "equal" product, component, or process, shall be the same or better than that named in function, performance, reliability, quality, and general configuration. Determination of equality in reference to the project design requirements will be made by the Engineer, pursuant to Subsection 6.07. Whenever a manufacturer's name brand or model is mentioned, it is to be understood that the phrase "approved equal" is assumed to follow thereafter, whether it does in fact or not.

Attorney - The Town Attorney of the Town of Duck, North Carolina.

Bid - A Proposal.

Bid Bond - The bond required to be submitted with each Proposal, as described in the Proposal Form as a Proposal Guaranty, which assures that the Bidder will enter into a Contract if his Proposal is accepted.

Bidder - Any individual, firm, co-partnership, corporation, or combination thereof, submitting a Proposal in response to the advertisement calling for Bids on the work contemplated either directly or through a duly authorized representative.

Change Order - A written order, issued by Engineer to the Contractor, covering changes in either the Plans, specifications or quantities within the scope of the Contract after award and as further described in Subsections 4.05 and 4.06.

Contract - The written agreement covering the performance of the work and the furnishing of labor, materials, tools and equipment and construction of the work for the Project. The Contract shall include the Contract Documents, , certificates of insurance (as specified in Section 7.06 below), and Performance Bond and Payment Bond (as specified in the Proposal Form); also any and all supplemental agreements amending or extending the work completed which may be required to complete the work in a substantial and acceptable manner. Supplemental agreements are written agreements covering alterations or amendments or extensions to the Contract and include Contract change orders.

Contract Documents – Those documents identified in Section 4.04.A.

Contract Item - A specific unit of work for which a price or basis of payment is provided in the Contract.

Contract Form – That certain document entitled “Contract for Town of Duck, 2020-2021 Multi-purpose Path Improvement Project” to be executed by and between the Town and Contractor after the award of the Contract to the Contractor but before work under the Contract begins.

Contract Price - Either the unit prices or lump sum price or prices named in the Proposal or in properly executed change orders.

Contract Time – This term is defined in Section 8.04, below.

Contract Review Board - The Town of Duck Town Council is the Contract Review Board.

Contract Time - The number of days stated in the Contract Documents for the completion of the work.

Contractor - Any individual, firm, co-partnership, corporation or any combination thereof, who has or have entered into a Contract with the Town for a particular project. Unless context clearly requires otherwise, the term Contractor shall be deemed to refer to the Contractor who entered into the Contract to perform work under the Project.

Day - Unless otherwise designated, days as used in these Standard Specifications will be understood to mean working days. A working day is any and every day shown on the calendar, excluding Saturdays, Sundays and legal holidays.

Easements - The right to use the property of another for a specific purpose or purposes as set forth in a document.

Engineer - The engineer or Environmental Permitting Consultant who represents the Owner, who shall perform his work under the direction of the Owner and, with the approval of the Town, may perform such work through properly authorized officials, employees and agents limited to the particular duties entrusted to them.

Equipment - The machinery, accessories, appurtenances, and manufactured articles to be furnished and/or installed under the Contract.

Improvement - General term encompassing all phases of work to be performed under the Contract and is synonymous to the term project.

Inspector - The authorized representative of the Engineer whose instructions and decisions shall be limited to the particular duties and responsibilities entrusted to him and making detailed inspections of any or all portions of the work or materials therefore.

Lump Sum - A method of payment providing for one all-inclusive payment for the work described to be done, complete and accepted without further measurement, as such work is covered under the applicable lump sum pay item.

Notice - A written communication delivered by hand or by mail to the authorized individual, member of the firm, or officer of the corporation for which it is intended. If delivered or sent by mail, it shall be addressed to the last known business address of the individual firm or corporation. In the case of a Contract with two or more persons, firms, or corporations performing work under such Contract, notice to one shall be deemed notice to all.

NCDOT Standard Specifications - The latest addition of the Specification Document published by the State of North Carolina entitled Standard Specifications for Roads and Structures - North Carolina Department of Transportation. This document is available from the North Carolina Department of Transportation, Raleigh, North Carolina.

Owner - The Town of Duck, Dare County, North Carolina, acting through its legally constituted Town Council. The term Owner is synonymous with the term Town.

Pavement - The uppermost layer of material placed on the traveled way or shoulders. This term is used interchangeably with surfacing.

Performance Bond and Payment Bond - The Bonds submitted by the Contractor and his surety, as specified in the Contract and as more fully described in the Proposal Form.

Plans - The official Project Plans and Standard Plans, profiles, cross-sections, elevations, details and other working supplementary detail drawings or reproductions thereof approved by the Engineer which show the location, character, dimensions, and details of the work to be performed. Plans may either be bound in the same book as the balance of the Contract Documents or bound in separate sets and all are a part of the Contract Documents regardless of the method of binding.

In the above definitions, the following terms are defined:

A) **Standard Plans** - Details of structures, devices or instructions adopted by Town as a standard and referred to in the Contract Documents.

B) **Project Plans** - Specific details and dimensions peculiar to the work and are supplemented by the Standard Plans insofar as the same may apply.

Project - General term encompassing all phases of the Work to be performed under the Contract and is synonymous to the term improvement.

Proposal - The offer of a Bidder, submitted on Owner's official Proposal Form, to perform stated work at the prices quoted in such Proposal. The term Bid is synonymous with the term Proposal.

Proposal Form - That certain document entitled "Proposal", which describes the procedures for bidding on the "Town of Duck, 2020-2021 Multi-purpose Path Improvement Project" and the possible awarding of a contract for said project, as said document is considered prior to completion by a Bidder.

Proposal Guaranty (Bid Bond) - The security furnished with a Proposal to ensure that the Bidder will enter into the Contract if his Proposal is accepted.

Provide - When related to an item of work, the word 'provide' shall be understood to mean furnish and install the work complete in place.

Reference Specifications - Bulletins, standards, rules, methods of analysis or test, codes and specifications of other agencies, engineering societies or industrial associations referred to in the Contract Documents. All such references specified herein refer to the latest edition thereof, including any amendments thereto which are in effect and published at the time of advertising for Bids, or of issuing the permit for the project.

Right-of-Way - A general term denoting public land, property or interest therein acquired for or devoted to a public street, public access or public use.

Roadway - That portion of the street and its appurtenances between curbs, gutters, or ditches primarily used for vehicular traffic.

Scheduled Closing Time - The time and date as set forth in the Request for Bids or any extensions thereof provided by addenda.

Shop Drawings - Supplementary plans or data which the Contract requires the Contractor to submit to the Engineer explaining equipment, methods and materials proposed for use.

Shown - As used herein, the word shown, or as shown, shall be understood to refer to work shown on the Plans in the Contract Documents.

Special Provisions - Requirements peculiar to the project and changes and modifications to the Standard Specifications.

Specifications – the Standard Specifications.

Specified - As used herein, the word specified or as specified means as required by the Contract Documents.

Standard Specifications - The terms, directions, provisions and requirements set forth herein.

Station - A distance of 100 feet measured horizontally along the established centerline of the street, sewer, waterway, canal or other work, unless specified otherwise.

Street - Any street, avenue, boulevard, alley, lane, bridge, bicycle path, road, public thoroughfare or public way and any land over which a right-of-way has been obtained or granted for the purpose of public travel.

Subcontractor - An individual, partnership, firm, corporation or any combination thereof to whom the Contractor sublets part of the Contract.

Surety - Any firm or corporation authorized in the State of North Carolina executing a surety bond or bonds payable to the Town securing the performance of the Contract either in whole or in part.

Ton - A short ton of 2000 lbs.

Town - The Town of Duck, Dare County, North Carolina, acting through its legally constituted Town Council or, when so delegated or authorized, through its Town Manager. The term Owner is synonymous with the term Town

Unit Price - A Contract item of work providing for payment based on an existing unit of measurement; e.g. linear foot or cubic yard.

Use of Pronoun - As used herein, the singular shall include the plural, and the plural the singular; any masculine pronoun shall include the feminine or neuter gender; and the term 'person' includes natural person or persons, firms, co-partnerships, corporations, or associations or combinations thereof.

Utility - Tracks, overhead or underground wires, pipelines, conduits, ducts, or structures owned, operated or maintained in or across the public right-of-way or easement.

Work - All material, labor, tools, plant, vessels, equipment and all appliances, machinery, transportation or appurtenances necessary to perform and complete the Contract and such additional items not specifically indicated or described which can be reasonably inferred as belonging to the item described or indicated and as required by good practice to provide a complete and satisfactory system or structure.

1.02 ABBREVIATIONS

AAN American Association of Nurserymen
AASHTO American Association of State Highway and Transportation Officials
ACI American Concrete Institute
AGA American Gas Association
AED Associated Equipment Distributors
AGC Associated General Contractors of America
AIA American Institute of Architects
AISC American Institute of Steel Construction
ISI American Iron and Steel Institute
ANSI American National Standards Institute, Inc.
APWA American Public Works Association
ASCE American Society of Civil Engineers
ASLA American Society of Landscape Architects
ASME American Society of Mechanical Engineers
ASTM American Society for Testing and Materials
AWPA American Wood Preservers Association
AWS American Welding Society
AWWA American Water Works Association
CRSI Concrete Reinforced Steel Institute
DCM Division of Coastal Management NCDENR
DWQ Division of Water Quality NCDENR
EPA Environmental Protection Agency
FHWA Federal Highway Administration, US Department of Transportation
FSS Federal Specification and Standards, General Services Administration
GS General Statutes of North Carolina
ITE Institute of Traffic Engineers
NEC National Electrical Code
NEMA National Electrical Manufacturer's Association
NLMA National Lumber Manufacturer's Association

NCAC North Carolina Administrative Code
NCDEQ North Carolina Department of Environmental Quality
NCDOT North Carolina Department of Transportation
OSHA Occupational Safety and Health Administration
PCA Portland Cement Association
UL Underwriter's Laboratories, Inc.
USASI United States of America Standards Institute
USACE United States Army Corp of Engineers

2. PROPOSAL REQUIREMENTS

The proposal requirements are contained the Proposal Form.

3. AWARD AND EXECUTION OF CONTRACT

Provisions relating to the award and execution of the Contract are provided in the Proposal Form.

4. SCOPE OF WORK

4.01 Scope of Work

A. Path improvements in accordance with plans entitled:

1. "Town of Duck, NC Hwy 12 – Charles Jenkins Ln., Duck, Dare County, North Carolina" as prepared by Anlauf Engineering, PLLC and dated 7/5/23 (Plan Sheet X1 & C1). Plan set including 2 sheets.

4.02 Plans and Specifications

- A. Plans, Specifications and other Contract Documents will govern the work to be done. Anything mentioned in the Specifications and not shown on the Plans and detailed drawings, or anything shown on the Plans and not mentioned in the Specifications, shall be of like effect as though shown or mentioned in both. Specifications and Plans referred to in any of the Contract Documents shall be considered as being included in the document in which such reference is made. When a particular standard or specification is referred to in the Contract Documents, such reference shall be to the standard or specification including officially adopted revisions or amendments thereto which are in force at the time of advertising for Bids, unless otherwise provided, in writing, by the Town.

4.03 Precedence of Contract Documents

- A. The Contract shall be composed of each and every one of the following listed component parts and all approved revisions thereto (collectively, the "Contract Documents"):
1. Change Orders
 2. Contract Form
 3. Addenda to the Special Provisions
 4. Special Provisions

5. Addenda to Standard Specifications
6. Standard Specifications
7. Plans
8. Drawings
9. Instructions to Bidders contained in the Proposal Form.
10. Proposal

4.04 Conflict of Provisions

- A. In the event of any conflicting provisions or requirements between the component parts of this Contract, the component part having the lowest number, as established in Subsection 4.04 above, shall govern.
- B. Conflicting provisions or requirements in the Contract Documents shall in no way relieve the performance bond and public liability insurance of their respective and specific protection to the Contractor, provided, however, that the sequence provided in Section 4.04 does not conflict with the intent of or harm the product or work in any way. In case of such conflict which would alter the intent of or harm the product or work, the requirement which, in the opinion of the Engineer or Town, will result in the best product or work will govern. It is hereby agreed that the entire project shall be completed in accordance with the full intent of the Contract, regardless of conflicting statements, omissions, or errors. The intent of the drawings and Specifications is to outline and control the work in a manner necessary to result in the best completely finished product practicable, at a minimum cost, incorporating all items. Any omissions in the Plans and Specifications pertinent to the requirements of the specified items are unintentional. If such are found, the Contractor will be required to perform the work in a customary workmanlike manner to achieve the intent as stated above, and the Engineer or Town will make his or its decisions to be equitable to all concerned. To accomplish the intent of this Contract, the Contractor will be required to maintain adequate competent supervisory personnel on the project at all times, to be responsible for all work being done in accordance with the intent of the Plans and Specifications, whether or not the Engineer is, or is not, present. Should the Engineer or his authorized representative find faulty work on any item at any time in the Contract, he shall so inform the Contractor and the Contractor will be required to correct such work by completely removing and replacing, if necessary, all to the satisfaction of the Engineer or Town, and at no cost to the Owner.
- C. It shall be definitely understood that omissions of one or more of the documents comprising the Contract Documents shall not be construed as conflicting provisions. Any requirement given in one documents comprising the Contract Document shall be known to be binding as though it is repeated in all Documents alike. The intent of the Contract is to combine all requirements of all documents comprising the Contract Documents into one.

4.05 Shop Drawings

- A. Plans furnished and included with Specifications show details necessary to comprehensively indicate the work proposed and the results that are intended to be accomplished. The Contractor shall supply and bear the cost of any shop drawing required in connection with the prosecution or construction of any part of such work.

- B. The Contractor shall furnish the specified number of copies of all layout detail, shop and working drawings, requested by the Engineer. Shop drawings shall be of sufficient size and scale to clearly show details. After review and approval by the Engineer, two copies will be returned to the Contractor.
- C. The approval by the Engineer of the Contractor's shop drawings is a general approval relating only to compliance with the intent of the Contract Documents, and shall not constitute a waiver of errors or omissions.
- D. No materials shall be furnished or work done on items requiring shop drawings prior to approval of those drawings.

4.06 Changes in the Work

- A. The Engineer at the direction of the Town Manager may at any time, by written order, make changes in the Plans and/or Specifications and within the general scope thereof. These changes may be in the Contract or result in addition to or deduction from the work to be performed, or the materials to be furnished pursuant to the Contract. Estimated quantities in the Proposal are primarily for bid purposes. No employee, agent, or representative of the Town, with the exception of the Town Manager, has any power to approve any change in the Contract, and it is the responsibility of the Contractor, before proceeding with any change, to satisfy himself that the change has been properly authorized by the Engineer. No change for any extra work, or any other change in the Contract, will be allowed unless the extra work or change has been authorized in writing by the Town Manager and the price, therefore, is stated in such a written authority, provided however, that the Engineer may, in the case of an emergency, authorize changes in the field. In no case shall any payment be made for any changes without first the written change order being agreed to and signed by both the Contractor and the Town Manager. Nothing provided herein shall excuse the Contractor from proceeding with the prosecution of the work as changed. Except as otherwise herein provided, no charge for extra work or materials will be allowed.
- B. The estimate of quantities of work to be done is tabulated in the Proposal and, although stated with as much accuracy as possible, is approximate only and is assumed solely for the basis of calculation upon which the award of Contract shall be made. Payment to the Contractor will be made on the measurement of the work actually performed by the Contractor as specified in the Contract Documents. The Owner reserves the right to increase or diminish the amount of any class of work as may be deemed necessary.
- C. If the actual quantity of any unit item as stated in the Proposal increases or decreases by 25 percent or less, payment for the actual quantity shall be made at the unit price stated in the Proposal. If the actual quantity of any unit item is less than 75 percent of the quantity stated in the Proposal, the Contractor may request, with appropriate documentation, a negotiation of the unit price for that item. Such negotiation shall be at the sole discretion of the Owner. If the actual quantity of any unit item is more than 125 percent of the quantity stated in the Proposal, the Owner may require an equitable reduction of the unit price for that item and the Contract shall be modified accordingly.

4.07 Changed Conditions

- A. The Contractor shall notify the Engineer of changed work site conditions upon their discovery and before they are disturbed. If the Engineer is not given written notice, the Contractor will be deemed to have waived any claim or claims for extra compensation in any manner arising out of the changed or unusual conditions. Changed conditions are as follows:
 - 1) Subsurface or latent physical conditions differing materially from those represented in the contract; or,
 - 2) Unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in the work.
- B. The Engineer will promptly investigate all changed conditions. If the Engineer determines that the changed conditions will materially increase or decrease the costs of any portion of the work, the Town Manager will make an equitable adjustment in the amount of compensation to be paid for the performance of that part of the work involved, the time required, or both. If the Engineer determines that the changed conditions do not justify an adjustment in compensation, and the contractor disagrees with the Engineer's determination, the contractor may submit a written notice of dispute to the Engineer.
- C. In any event, the Contractor shall not be relieved from his obligations to resume construction operations pending a decision as to the validity of a claim, or pending the execution of negotiated agreement to cover additional costs of a claim recognized under the provisions of this section, unless permitted to do so by Owner.

4.08 Disputed Work

- A. If the Contractor considers that a part of the required work is outside the scope of the Contract, or considers any decision of the Engineer to be unfair, or otherwise has a dispute with regard to the performance under the Contract, the contractor shall:
 - 1) immediately give oral notice to the Engineer and Town Manager;
 - 2) before performing the work at issue, obtain a written order from the Town Manager;
 - 3) within 24 hours of receiving the written order, confirm the notice of dispute in writing; and
 - 4) within ten calendar days after receipt of the written order, file a written protest with the Town Manager stating clearly and in detail the basis of dispute, and include an itemized statement of any extra costs which have resulted or would result from the disputed work.
- B. If the Contractor fails to comply with the above procedure, the Town Manager's ruling shall be final and conclusive and the Contractor shall have no claim for additional compensation or time.
- C. Although not to be construed as proceeding under extra work provisions, the Contractor shall keep and furnish records of all disputed work.
- D. Resolution of claims shall be per specification section 7.10 DISPUTE SETTLEMENT.

4.09 Extra Work

- A. The Town Manager shall have the right to require, and the Contractor agrees to do, extra work over and above that which is indicated by the Contract Documents and covered by the unit prices of the Contract or negotiated price or prices, which logically forms a part of the Contract, arising from reasonably unforeseeable conditions, changed requirements or new information. Such additional work shall be undertaken only upon written instructions from the Town Manager. Payment for extra work will be made pursuant to Subsection 9.07.

4.10 Force Account Work

- A. Force account work is extra work that is not covered under unit price or lump sum money items in the Contract Documents and where negotiated price or prices have not been agreed upon. Payment for force account work will be made pursuant to Subsection 9.08.
- B. The Contractor shall maintain records in such a manner as to provide a clear distinction between direct cost of extra work paid for on force account basis and cost of other operations performed in connection with the Contract Documents.
- C. Signed, daily reports in duplicate of the extra work to be paid for on a force account basis shall be furnished to the Town Manager by the Contractor. Materials used will be itemized and direct cost of labor and charges for equipment rental will be furnished by the Contractor or Subcontractor. The Contractor will provide names, identifications, and classifications of workmen, the hourly rate of pay and hours of work, and the size, type, and identification number of equipment and hours of equipment operation.
- D. Material charges shall be substantiated by vendors' invoices with copies of such invoices submitted with the reports, or, if not available, submitted with subsequent reports. In the event said vendors' invoices are not submitted within 15 days after completion of the work, Owner reserves right to establish the cost of such materials at the lowest current price at which said materials are available in the quantities concerned, delivered to the location of the work. The Town Manager will compare his records with the reports furnished by the Contractor, make any necessary adjustments, and compile the cost of extra work paid for on a force account basis on forms furnished by the Owner. When these extra work reports are agreed upon and signed by both parties, they shall become the basis of payment for the work performed.

4.11 Salvage

- A. When shown or specified, the Contractor shall carefully salvage and stockpile within the construction area all castings, pipe, and any discarded facilities to be disposed of by the Owner.

4.12 General Items of Work

- A. In all Contracts the following items of work are understood to be included as described in Division 2 general technical requirements:

Section Item of Work

Section 02110 – Site Clearing

Section 02190 – Erosion & Sedimentation Control

Section 02200 – Earthwork

Section 02520 – Portland Cement Concrete Pavement

Section 03100 – Concrete Formwork

- B. If no pay item is shown in the Proposal for the above items of work, payment shall be considered to be incidental to, or included in, the other items for work in the Contract.

5. CONTROL OF WORK

5.01 Authority of and Coordination between the Town Manager and Engineer

- A. The Contractor shall perform all work to the satisfaction of the Engineer and Town Manager. The Contract and Specifications give the Town Manager authority over the work. For the purpose of determining the Contractor's duties, liabilities or entitlement to compensation or liability for damages, the decision of the Town Manager will be final on all questions including, but not limited to, the following:
- 1) Quality and acceptability of materials and work;
 - 2) Classification and measurement of unit price work;
 - 3) Acceptability of rates of progress on the work;
 - 4) Interpretation of plans and specifications;
 - 5) Fulfillment of the Contract by the Contractor; and,
 - 6) Payments under the Contract.
- B. The Contractor shall at all times carry out and fulfill the instructions and directions of the Engineer or Town Manager, as applicable, relative to the work.
- C. Upon failure on the part of the Contractor to comply with any reasonable order made under the provisions of Contract, the Town Manager shall have the authority to cause unacceptable work to be remedied or removed and replaced, and unauthorized work to be removed and to deduct the cost thereof from any monies due or to become due the Contractor.
- D. The Town Manager has the authority to suspend work for causes set forth in Section 8, particularly Subsection 8.05.
- E. The work will not be considered complete until it has passed final inspection by the Engineer and is accepted by the Owner and met warranty requirements. Interim approval of the work by the Engineer during progress of the work signifies favorable opinion and qualified consent; it does not carry with it certification, assurance of completeness, assurance of quality, or assurance of accuracy concerning details, dimensions, and quantities. Such approval will not relieve the Contractor from responsibility for errors, for improper fabrication, for failure to conform to requirements, or for other deficiencies.
- F. The Engineer shall have authority to make decisions with regard to the Project to the extent that those decisions relate to the technical aspects of the work to be performed under the Contract. Notwithstanding the foregoing, the Town hereby reserves the right

to review and revise any decision made by the Engineer with regard to the Project, the Contract, or the Contract Documents.

- G. Notwithstanding any other provision contained in these Specifications, the Town shall retain authority to make decisions with regard to the Project, the Contract, or the Contract Documents, including, without limitation, the interpretation of conflicting provisions in the Contract Documents, the decision as to whether to enforce provisions of the Contract Documents, and whether to make payment to the Contractor. In making any decision related to the Project, the Contract, or the Contract Documents, the Town may, in its sole discretion, consult with the Engineer or any other person or entity.

5.02 Authority and Duties of Inspectors

- A. Inspectors have the authority to:
- 1) Inspect all work done and materials furnished including preparation, fabrication, or manufacture of materials to be used;
 - 2) Report to the Engineer or Town Manager about the progress of the work and the manner it is performed;
 - 3) Report to the Engineer or Town Manager and notify the Contractor when materials furnished or work performed by the Contractor fail to meet the requirements of the plans and specifications; and
 - 4) Perform such other tasks that may be delegated by the Town Manager or Owner.
- B. Inspectors are not authorized to:
- 1) Accept work; or,
 - 2) Alter or waive the provisions of the Contract.
- C. Failure of the Inspector or Engineer to call the attention of the Contractor to faulty work or infringements upon Plans or Specifications shall not constitute acceptance of said work.

5.03 Inspection

- A. The Contractor shall allow the Engineer or Town Manager every reasonable facility necessary to obtain information about type and quality of materials used in the work, methods used to complete the work, and progress of the work. The Engineer and the inspector shall be allowed access to all parts of the work to ascertain whether or not the work is performed in accordance with the requirements and intent of the Contract.
- B. The Contractor shall furnish, at no expense to the Owner, samples required for testing purposes. The Contractor shall, at any time before final acceptance of the work, remove or uncover portions of the work as directed by the Engineer or Town Manager. The Contractor shall restore the portions of the work to the standard required by the Contract. If the exposed work is acceptable, the uncovering and restoring of the work will be paid for as extra work. If the exposed work is unacceptable, the uncovering and restoring of the work shall be at the expense of the Contractor. Any work done or materials used without approval of the Engineer or Town Manager may be ordered removed and replaced at no expense to the Owner.

- C. When the work affects or may affect property of any other unit of government, political subdivision, utility, or railroad corporation, representatives of that organization shall have the right to inspect the work. Such inspection shall not make any other unit of government, political subdivision, utility, or any railroad corporation a party to the Contract and shall not interfere with the rights of the parties of the Contract.

5.04 Authority of Contractor

- A. The Contractor shall notify the Owner, Town Manager and Engineer in writing of the name, address and telephone number (day and night) of his superintendent who will act as the Contractor's representative and who shall have the authority to act in all matters relating to this Contract. The superintendent shall have full authority to carry out all the provisions of the Contract and to supply materials, equipment, tools and labor without delay for the performance of the work. The Contractor shall also submit in writing to the Owner a résumé of the superintendent's qualifications, years of experience and names of other projects on which he worked in a supervisory capacity. The Contractor shall not remove or replace the superintendent without two weeks prior notice thereof to the Engineer and Town Manager. The Contractor will supervise and direct the work. He has the authority to determine the means, methods, techniques, sequences and procedures of construction, except in those instances where Owner specifies in the Contract, a means, method, technique, sequence or procedure for construction of that item of work.
- B. Subcontractors will not be recognized as having a direct relationship with the Owner. All persons engaged in the work including employees of subcontractors and suppliers will be considered as employees of the Contractor and their work shall be subject to the provisions of the Contract. References in the Contract Documents to actions required of subcontractors, manufacturers, suppliers or any person other than the Contractor, the Owner or the Engineer shall be interpreted as requiring that the Contractor shall cause such subcontractor, manufacturer, supplier or person to perform the specified action.

5.05 Responsibility of the Contractor

- A. It is the responsibility of the Contractor to do all work and furnish all labor, materials, equipment, tools, and machines necessary for the performance and completion of the project in accordance with Contract Documents within the specified time. Materials and construction details built by the Contractor but not a part of the permanent project, shall meet approval of the Engineer, but such approval shall not relieve the Contractor from responsibility for their safety and efficiency.
- B. The Owner shall not be liable or responsible for any accident, loss, or damage happening to work referred to in the Contract Documents prior to completion and acceptance thereof.
- C. The Contractor shall at all times be responsible for the adequacy, efficiency and sufficiency of subcontractors, manufacturers, suppliers and their employees. All subcontractors, manufacturers and suppliers must have sufficient knowledge, skill and experience to perform properly the work awarded to them.

- D. The Contractor shall at all times be responsible for the adequacy, efficiency and sufficiency of his employees. All workers must have sufficient knowledge, skill and experience to perform properly the work assigned to them.
- E. The Contractor, acting through his superintendent, shall give personal attention to and shall manage the work to the end that it shall be prosecuted faithfully. When the superintendent is not personally present at the job site, his previously designated representative shall be available and shall have the authority to act on the Contract.
- F. The Contractor alone shall at all times be responsible for the safety of his and his subcontractor's employees. The Contractor shall maintain the job site and perform the work in a manner which meets the Owner's and Contractor's responsibility under statutory and common law for the provision of a safe place to work.
- G. The Contractor shall at all times conduct his work so as to insure the least possible obstruction to traffic and inconvenience to the general public and the residents in the vicinity of the work and to insure the protection of persons and property. No road or street shall be closed to the public except with the permission of the Engineer, Town Manager and proper governmental authority. Fire hydrants on or adjacent to the work shall be kept accessible to fire fighting equipment at all times. Temporary provisions shall be made by the Contractor to insure the use of sidewalks, private and public driveways and proper functioning of all gutters, sewer inlets, drainage ditches and culverts, irrigation ditches and natural water courses.
- H. The Contractor shall adopt a written safety program complying with the requirements for employee and public safety set forth herein above. Four (4) copies of the Contractor's safety program shall be submitted to the Engineer and Town Manager. Adoption of and compliance with such program and submission of the copies thereof to the Engineer and Town Manager shall be a condition precedent to the Contractor's right to receive progress payments.
- I. The Contractor shall maintain books, records (including but not limited to financial records), and other evidence and documents pertinent to the performance of the work under this Contract in accordance with generally accepted principles and practices.
- J. The Contractor will provide proper facilities to the Owner for access, inspection, and copying at all times. The books, records documents, etc. to be maintained under this paragraph shall be maintained and made available during performance of the Contract and for three (3) years after completion of the work, or settlement of any claims arising thereon, whichever is later.
- K. The Owner's access to such records is not limited to the required retention periods. The Owner and its authorized representative shall have access to such records at any reasonable time for as long as the records are maintained.
- L. The Contractor shall perform the work 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.

- M. The Contractor shall act as an independent contractor and is not an employee, subcontractor, agent, servant, partner nor joint venture of the Town. The Contractor has the right to use its best judgment and efforts to fulfill the terms and obligations of the Contract Documents. Contractor shall further agree and acknowledge the following:
- (1) Contractor will receive no compensation other than that agreed to by the parties as bid by the Contractor plus any compensation agreed to in subsequent change orders and the Contractor, its agents, employees and subcontractors are not subject to nor eligible for any benefits which may be offered by the Town to its employees, such as vacation pay, sick leave, insurance coverage or retirement plan participation. Any such benefits offered by the Contractor shall be the Contractor's sole responsibility.
 - (2) The services to be provided by the Contractor are an independent calling or occupation.
 - (3) The Contractor is expected to use its own skill, judgment and expertise to fulfill its obligations, and is not supervised, directed or controlled by the Town as to the means or methods it should employ except that the Contractor follow the Contract Documents.
 - (4) The Contractor is not required to perform tasks in particular order or sequence, except as provided in the Contract Documents.
 - (5) The Contractor needs no training from the Town as to how to fulfill its duties and responsibilities.
 - (6) The Contractor may determine its own daily schedule and those of its own employees or servants without prior approval of the Town.
 - (7) The Contractor is not required to devote any particular percentage of its time or resources to perform the services required hereunder.
 - (8) The Contractor shall furnish its own equipment and supplies.
 - (9) Although the Contractor may be provided the use of the Town's facilities, such use is provided merely to facilitate the Contractor's coordination with the Town's staff and communication with vendors, other contractors engaged on the project, and members of the community.
 - (10) To the extent the Contractor must procure or maintain any insurance, license, certification or trade membership, it must do so at its own cost.
 - (11) The Contractor shall not be prevented from performing other services for other parties. Contractor may engage in other business endeavors or projects of any kind as long as such activities do not conflict with the Contractor's relationship with the Town as defined hereunder.
- N. The Contractor shall read and review all plans, specifications and supporting documents attached to these specifications within the Appendix.

5.06 Notifications Relative to Contractor's Activities

- A. The Contractor shall take special notice of Subsection 5.05. The Contractor shall obtain prior approval from the Town Manager for closing or partial closing of any street. The Contractor shall, without exception, notify the Fire Department, Police Department, ambulance services, U. S. Postal Service, garbage services, and Dare County Schools when closing any street, or portion thereof, in the Town of Duck for any purpose.
- B. Said notice shall include the limits and approximate duration of the closure. The Contractor shall promptly notify said departments when the streets are again passable for emergency vehicles.
- C. The Contractor shall also cause the least inconvenience possible to businesses, property owners and residents. Each business and residence shall be given an approved, printed notice of a pending closure. Ample time shall be allowed for the movement of vehicles away from the project. In emergencies, Contractor shall notify businesses and residents directly and assist them in leaving the area as needed.
- D. The Contractor shall leave his night emergency telephone number or numbers with the Chief of Police so that contact may be made easily at all times in case of barricade trouble or other emergencies.
- E. Contractors shall request on-site utility locations in accordance with the laws governing utility locations prior to the commencement of work.
- F. When performing work in streets and easements, whether inside or outside Owner's legal boundaries, the Contractor shall notify all of the affected local agencies about the operations so as to properly coordinate and expedite the work in such a manner as to cause the least amount of conflict and interference between the operations and those of other agencies.
- G. Notifications shall include, but not be limited to, the time of commencement and completion of work, names of streets or locations of alleys to be closed, schedule of operations and routes of detours where possible.
- H. Any or all damages or claims resulting from improper or insufficient notification of the affected agencies shall be the responsibility of the Contractor.
- I. Owner shall relocate or cause to be relocated all privately or publicly owned utility conduits, lines, poles, mains, pipes and such other facilities within the jurisdiction and control of Owner where such relocation is necessary in order to conform said utility and other facilities to the plans and ultimate requirements of the project.

5.07 Utilities and Existing Improvements

- A. Information shown as to location of the existing water courses, drains, sewer lines or utility lines which cross or are adjacent to the project has been compiled from the best available sources but is not guaranteed to be accurate.

- B. The Contractor shall provide for the flow of sewers, drains, or water courses as approved by the Engineer.
- C. It shall be the responsibility of the Contractor to determine the exact location of all utilities and service connections thereto. The Contractor shall make his own investigations, including contacting the owners of appropriate utilities and making exploratory excavations to determine the locations and type of existing utilities, including service connections, prior to commencing work which could result in damage to such utilities. The Contractor shall immediately notify the Engineer of any utility discovered by the Contractor which is not shown on the drawings or which is in a different position than shown on the drawings.
- D. In case it should be necessary to remove, relocate, or temporarily maintain a utility because of interference with the work, the work on the utility shall be performed and paid for as follows:
 - 1) When it is necessary to remove, relocate, or temporarily maintain a service connection, the cost of which is not required to be borne by the owner thereof, the Contractor shall bear all expenses incidental to the work on the service connection. The work on the service connection shall be done in a manner satisfactory to the owner thereof; it being understood that the owner of the service connection has the option of doing such work with his own forces, or permitting the work to be done by the Contractor.
 - 2) When it is necessary to remove, relocate, or temporarily maintain a utility which is in the position shown on the drawings, the cost of which is not required to be borne by the owner thereof, the Contractor shall bear all expenses incidental to the work on the utility. The work on the utility shall be done in a manner satisfactory to the owner thereof; it being understood that the owner of the utility has the option of doing such work with his own forces, or permitting the work to be done by the Contractor.
 - 3) When it is necessary to remove, relocate, or temporarily maintain a utility which is not shown on the drawings or is in a position different from that shown on the drawings and were it in the position shown on the drawings would not need to be removed, relocated, or temporarily maintained, the cost of which is not required to be borne by the owner thereof, the Owner will make arrangements with the owner of the utility for such work to be done at no cost to the Contractor, or will require the Contractor to do such work in accordance with specification section 9.07 and/or 9.08 on extra work or force account work.
- E. No representations are made that the obligations to move or temporarily maintain any utility and to pay the cost thereof is or is not required to be borne by the owner of such utility, and it shall be the responsibility of the Contractor to investigate to find out whether or not said cost is required to be borne by the owner of the utility.
- F. The right is reserved to governmental agencies and to owners of utilities to enter at any time upon any street, alley, right-of-way, or easement for the purpose of making changes in their property made necessary by the work and for the purpose of maintaining and making repairs to their property.

- G. The Contractor shall make excavations and borings ahead of work, as necessary, to determine the exact location of interfering utilities or underground structures.
- H. Ordinarily, utility companies responsible for facilities located within the right-of-way will be required to complete any installation, relocation, repair, or replacement prior to the commencement of work by the Contractor. However, when this is not feasible or practicable or the need for such work was not foreseen, such utility owners or Owner shall have the right to enter the right-of-way and upon any structure therein for the purpose of making new installations, changes or repairs. Operations shall be conducted so as to provide the time needed for such work to be accomplished during the progress of the improvement, and at no additional cost to Owner.

5.08 Cooperation Between Contractors

- A. The Owner reserves the right to contract for and perform other or additional work on or near the work covered by this Contract.
- B. When separate contracts are let within the work area, each contractor involved will submit a realistic progress schedule for the Owner's approval. Each party shall have the right to review all schedules. After consultations with the contractors, the Owner will determine acceptable schedules.
- C. Each contractor involved shall assume all liability in connection with the Contract and shall protect and save harmless the Owner from any and all damages or claims that may arise because of inconvenience, delay, or loss experienced by the Contractor due to the presence and operations of other contractors working on or near the same project.
- D. The contractor shall arrange the work and shall place and dispose of the materials being used so as not to interfere with the operations of other contractors on or near the same project.
- E. When a dispute arises between two or more contractors engaged on work in the same or adjacent areas as to the respective rights of each, the Town Manager, or, if directed by the Town Manager, the Engineer will determine the matters at issue and define the respective rights of the various interests involved. The Town Manager's decision shall be final and binding on all parties concerned.
- F. If the contract gives notice of other work that may affect the work of this Contract, the coordination of the work shall be taken into account by the Contractor, and any resulting costs shall be considered incidental work.
- G. In an emergency, the contractor that is immediately accessible may make repairs to a facility or utility of another contractor.

5.09 Survey Service

- A. Construction related surveying services will be the responsibility of the Contractor.

5.10 Protection of Survey Markers

A. Permanent Survey Markers

1. The Contractor shall take necessary measures to insure the preservation of survey monuments, stakes, lot stakes and bench marks. The Contractor shall not disturb permanent survey monuments, stakes, lot stakes or bench marks and shall bear the expense of replacing any that may be disturbed.
2. When a change is made in the finished elevation of the pavement of any roadway in which a permanent survey monument is located, the monument cover shall be adjusted to the new grade without disturbing the underlying monument.

B. Lines and Grades

1. The Contractor shall preserve construction survey stakes and marks for the duration of their usefulness during construction. The cost of replacement shall be an expense of the Contractor

5.11 Protection of Property

- A. The Contractor shall protect all public and private property insofar as it may be endangered by operations and take every reasonable precaution to avoid damage to such property.
- B. The Contractor shall restore and bear the cost of any public or private improvement, facility or structure within the right-of-way or easement which is damaged or injured directly or indirectly by or on account of any act, omission, or neglect in the execution of the work which is not designated for removal but visibly evident or correctly shown on the Plans. The Contractor shall restore any damaged public or private improvement to a condition as good or better than that existing before such damage or injury occurred by repairing, rebuilding, or otherwise effecting restoration thereof, or if this is not feasible, makes a suitable settlement with the Owner of the damaged property, all at no expense to the Owner.
- C. The Contractor shall give reasonable notice to occupants of buildings on property adjacent to the work to permit occupants to remove vehicles, boats, trailers, and other possessions, as well as salvage or relocate plants, trees, fences, sprinkler systems, or other improvements in the right-of-way, which are designated for removal or which may be destroyed or damaged by work operations.
- D. The Contractor shall protect all designated trees and planted areas within the right-of-way or easements. He shall also exercise care and conduct operations so as to minimize damage to new planted areas.

5.12 Protection of Work

- A. Until acceptance of the project, the Contractor shall at all times protect from damage and preserve all materials, supplies, equipment of any description, and all work already

performed, from the nature of the work, the action of the elements, and damage by any person or persons or from any other cause whatsoever.

5.13 Use of Improvement During Construction

- A. Upon request and with approval of the Owner, or upon order of Owner, Contractor will be relieved of the duty of maintaining and protecting certain portions of work which are approved to be placed in service and which have been completed in accordance with the Contract Documents, including cleanup.
- B. Owner shall have the right to take possession of and use any completed or partially completed portions of the improvement. Such use shall not be considered as final acceptance of the improvement or portions thereof.
- C. In addition, such action by Owner will relieve the Contractor of responsibility for injury or damage to said completed portions of work resulting from use by public traffic or from the action of the elements or from any other cause, except injury or damage resulting from Contractor's own operations or from his negligence. Contractor will not be required to again clean up such portions of the improvement prior to field acceptance, excepting for such items of work as result from his operations. However, nothing in this section shall be construed as relieving Contractor from full responsibility for making good work or materials found to be defective.

5.14 Use of Light, Power and Water

- A. The Contractor shall furnish temporary light, power and water complete with connecting piping, wiring, lamps, and similar equipment necessary for the work as approved. The Contractor shall install, maintain and remove temporary lines upon completion of work. The Contractor shall obtain all permits and bear all costs in connection with temporary services and facilities at no expense to Owner. The Contractor shall conform to applicable rules and codes in the use of these facilities.

5.15 Subsurface Data

- A. All information obtained by Engineer regarding subsurface information and groundwater elevations will be available for inspection at the office of the Engineer upon request.
- B. Known utilities and structures expected to be adjacent to or encountered in the work are shown on the Plans. Such information is offered as supplementary information only.
- C. Neither the Engineer nor Owner assumes any responsibility for the completeness or interpretation of such supplementary information.
- D. Logs of test holes, test pits, soil reports, ground-water levels and other supplementary subsurface information are offered as the best available information of underlying materials and conditions at the locations actually tested. Owner will not be liable for any loss sustained by the Contractor as a result of any variance between conditions contained in or interpretations of test reports and the actual conditions encountered during progress of the work.

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- E. The Contractor shall examine the site and available records, as set forth in Proposal Form. The submission of a Proposal shall be conclusive evidence that the Bidder has investigated and is satisfied as to the subsurface conditions to be encountered, as to the character, quality and quantities of work to be performed and materials to be furnished, and as to the requirements of the Contract Documents.

5.16 Verbal Agreements

- A. No verbal agreement or conversation with any officer, agent or employee of the Owner, either before or after execution of the Contract, shall affect or modify any of the terms or obligations contained in any of the documents comprising the Contract. Any such verbal agreement or conversation shall be considered as unofficial information and in no way binding upon Owner.

5.17 Dust, Noise and Pollution Control

- A. The Contractor shall conduct the work in accordance with local laws and ordinances and all regulations of the NCDENR other agencies of the state, and with all laws and regulations of the federal government and in accordance with subsection 7.01. All practicable means shall be exercised to prevent, control and abate the pollution of waters and to maintain reasonable purity of the air. The Contractor shall abate dust nuisance by cleaning up, sweeping, sprinkling with water, or other means as necessary to accomplish the suppression of dust.
- B. The Contractor shall conduct the work in conformity to all applicable laws and regulations governing construction noise.

5.18 Temporary Traffic Control

- A. The Contractor shall provide and be responsible at all times for such flag persons, signs and other devices not otherwise specified to be furnished by the Owner, in conformance with the language below:
 - 1. The Contractor shall maintain traffic flow during construction and shall provide, install, and maintain all traffic control devices in accordance with these project guidelines, the Project Special Provisions, North Carolina Department of Transportation Standard Specifications for Roads and Structures 2012, and the current edition of the Manual of Uniform Traffic Control Devices (MUTCD).
 - 2. The Contractor shall utilize complete and proper traffic controls and traffic control devices during all operations. All traffic control and traffic control devices required for any operation shall be functional and in place prior to the commencement of that operation. Signs for temporary operations shall be removed during periods of inactivity. The Contractor is required to leave the project in a manner that will be safe to the traveling public and which will not impede motorists. All traffic control devices shall be provided and maintained by the Contractor as in Section 1105 of the Standard Specifications.
 - 3. Traffic movements through lane closures on roads with two way traffic shall be controlled by flaggers stationed at each end of the work zone. In situations

where sight distance is limited, the Contractor shall provide additional means of controlling traffic, including, but not limited to, two-way radios, pilot vehicles, temporary traffic signals, or additional flaggers. Flaggers shall be competent personnel, adequately trained in flagging procedures, and furnished with proper safety devices and equipment, including, but not limited to, safety vests and stop/slow paddles.

4. All personnel when working in traffic areas or areas in close proximity to traffic shall wear an approved safety vest, or shirt or jacket which meets the color requirements of the Manual 21 Uniform Traffic Control Devices. (MUTCD).
5. The Contractor shall comply with all applicable regulations including, but not limited to, Federal, State, and local laws, ordinances, and regulations governing safety, health, and sanitation, and shall provide all safeguards, safety devices, and protective equipment, and shall take any other needed actions, on his own responsibility that are reasonably necessary to protect the life and health of employees on the job and the safety of the public, and to protect property in connection with the performance of the work covered by the contract. Failure to comply with any of the requirements for safety and traffic control of this contract shall result in suspension of work as provided in sub article 108-7(2) of the Standard Specifications.

- B. Upon failure to immediately provide the necessary flag persons, or to provide, erect, maintain, and remove barricades, lights, and standard signs when so ordered, Engineer or Town Manager shall be at liberty, without further notice to Contractor or his Surety, to do so and deduct all of the costs thereof from any payments due or coming due to Contractor.

5.19 Removal of Unacceptable or Unauthorized Work

- A. If the Engineer or Town Manager finds the work performed is not in conformance with the Contract, the Engineer or Town Manager may:
 - 1) Reject the work and have it replaced or otherwise corrected by the Contractor at no expense to the Owner, or;
 - 2) Accept the work as suitable for the intended purpose, document the basis of acceptance, and adjust the amount paid to the Contractor.
- B. The Town Manager's judgment concerning acceptability of work will be final. Unacceptable work found before final acceptance of the work shall be corrected or removed as directed by the Town Manager and replaced by work and materials conforming to the requirements of the Contract.
- C. Unauthorized work will not be paid for and may be ordered removed at the Contractor's expense.
 1. Unauthorized work is:
 - a) Work done beyond lines shown on the Plans or established by the Engineer or Contract Documents;
 - b) Work done contrary to the Engineer's or Town Manager's instructions; or,
 - c) Work done without the Engineer's or Town Manager's written authorization.

- D. If, when ordered by the Engineer or Town Manager, the Contractor fails to correct or remove unacceptable work or to remove unauthorized work, the Engineer or Town Manager may have the correction or removal and replacement done by others. The cost shall be borne by the Contractor and may be deducted from payments due or to become due to the Contractor.

5.20 Restoration and Cleanup

- A. Periodically, or as directed by Engineer or Town Manager, as the work progresses, and immediately after completion of the work, Contractor shall clean up and remove all refuse, debris, equipment and unused materials of any kind resulting from the work. Upon failure to do so within twenty-four hours after directed, the work may be done by Owner or third party and the cost thereof be deducted from any payment due Contractor.
- B. As a condition precedent to final acceptance of the project, all equipment and temporary structures, and all rubbish and waste shall be removed and the right-of-way and premises shall be generally cleaned up to conform substantially to conditions as they existed before the commencement of work, as approved.

5.21 Final Inspection

- A. When all on-site construction work on the project is completed, the Contractor shall notify the Engineer and Town Manager in writing that the project is ready for final inspection. The Engineer and Town Manager will make an inspection within 15 calendar days of receiving notification. The Engineer or Town Manager will notify the Contractor, in writing, within ten calendar days thereafter. If all construction work required by the Contract is found complete and satisfactory, this inspection will constitute the final inspection.
- B. If any work is found incomplete or unsatisfactory, the Engineer will give written instructions, at the direction of the Town Manager, as to what shall be done to satisfactorily complete the work. After complying with such instructions, the Contractor shall follow the above procedures of notification, requesting a final inspection.
- C. The Engineer will issue a notice to the Contractor when all the following work is satisfactorily completed.
 - 1) All work required under the contract;
 - 2) All change order work;
 - 3) The final trimming and cleanup work; and,
 - 4) All required certifications, bills, forms, and other documents are received from the Contractor.

5.22 Final Acceptance

- A. After final inspection of all work is made, and the work is found acceptable, the Owner will make final acceptance of the work under the Contract.

- B. The Contractor will be notified, in writing, within ten calendar days after final acceptance of the work.

6. CONTROL OF MATERIALS

6.01 Quality of Materials

- A. Only new materials, parts, products and equipment which conform to specified requirements shall be used in the work, unless directed by the Engineer or Town Manager, the Proposal and Special Provisions to salvage and reuse existing materials. Materials and products which after approval have become unsuitable or unacceptable for use, regardless of cause, will be rejected by the Engineer or Town Manager and shall not be used.

6.02 Sampling and Testing

- A. Tests of materials will be made by Owner in accordance with methods described or designated in the applicable Specifications, and at any time during the production, fabrication, preparation and use of the materials.
- B. Owner reserves the right to require samples and to test products for compliance with pertinent requirements irrespective of prior certification of the products by the manufacturer thereof as set forth in Subsection 6.03.
- C. When tests of materials are necessary, as determined by the Engineer, such tests will be made by and at the expense of Owner unless otherwise specified. The Contractor shall afford such facilities as required for collecting and forwarding samples where practical and withhold from use the materials represented by the samples until tests have been made and materials found equal to requirements of the Specifications or to approved samples. In all cases the required samples shall be furnished without charge and in ample time to permit testing of materials prior to use. No claim will be allowed for any delay caused by awaiting test results. Safety measures and devices to protect those who take the samples shall be provided.
- D. In the absence of any reference Specification, it shall be understood that such materials shall meet the specifications and requirements of the American Society for Testing and Materials (ASTM), or the American Association of State Highway and Transportation Officials (AASHTO), as directed by the Engineer. When there is no pertinent coverage under ASTM or AASHTO, the material concerned shall meet specifications and requirements of applicable commercial standards of the Commodity Standards Division of the U.S. Department of Commerce. Lacking such coverage, materials shall meet requirements established by reputable industry for a high-quality product of the kind involved.
- E. All testing shall be performed by or handled through a testing laboratory as directed by the Engineer and Town Manager.
- F. In the event Owner requests tests and the materials fail, the Contractor shall bear all costs for all subsequent testing necessary to meet specified requirements.

6.03 Certification

- A. For commercial products inclusive of industry standardized products, in lieu of normal sampling and testing procedures by the Contractor and Owner, the Engineer may accept from Contractor two copies of the manufacturer's certification with respect to the product involved, under conditions set forth as follows:
 - 1. Certification shall state that the named product conforms to Owner's requirements and that representative samples thereof have been sampled and tested as specified.
 - 2. Certification shall either be accompanied with a certified copy of test results, or certify that such test results are on file with the manufacturer and will be furnished to Engineer upon request.
 - 3. Certification shall give the name and address of the manufacturer, the testing agency and the date of tests; and shall set forth the means of identification which will permit field determination of the product delivered to the project as being the product covered by the certification.
 - 4. Owner will not be responsible for any costs of certification or for any costs of the sampling and testing of products in connection therewith.

6.04 Inspection Requirements

- A. Access to Engineer, Town Manager or his representatives shall be allowed to all parts of the work and to plants of manufacturers at all times. The Contractor shall furnish them with every reasonable facility for ascertaining if the work meets requirements and intent of the Contract Documents. All samples required for testing purposes shall be furnished at no expense to Owner.

6.05 Inspection By Others

- A. Inspection of work by persons other than representatives of the Owner will not constitute inspection by Owner, except as set forth in Section 6.03.

6.06 Storage and Protection of Materials

- A. Materials shall be stored to assure the preservation of their quality and fitness for the work. Stored materials, even though approved before storage, may again be inspected prior to their use in the work. Stored materials shall be located so as to facilitate their prompt inspection. Approved portions of the right-of-way may be used for storage purposes, including Contractor's equipment, but any additional space required therefore shall be provided by Contractor at his expense. Private property shall not be used for storage purposes without written permission of the property owner or lessee. When requested, copies of such written permission shall be furnished to the Engineer and Town Manager.

6.07 Trade Names, Approved Equals or Substitutions

- A. In order to establish a basis of quality, certain processes, types of machinery or equipment or kinds of materials may be specified either by description of process or by designating a manufacturer by name and referring to his brand or product designation, or by specifying a kind of material. It is not the intent of these Specifications to exclude other processes, equipment or materials of equal value, utility or merit.
- B. Whenever a process is designated or a manufacturer's name, brand, or item designation is given or whenever a process or material covered by patent is designated or described it shall be understood that the words 'or approved equal' follow such name, designation or description, whether in fact they do so or not.
- C. If it is desirable to furnish items of equipment by manufacturers other than those specified as a substitute after the Contract is executed, approval shall be secured prior to placing a purchase order or furnishing same.
- D. If the Proposal includes a list of equipment, materials or articles for which Contractor must name the manufacturer at time of submission of the Bid, no substitutions therefore will be permitted after a Proposal has been accepted, without the express consent of Owner.
- E. The Contractor shall assume full responsibility for all expenses involved in making any required changes in the Contract Documents to accommodate a substitution approved by the Engineer and Town Manager for the convenience of Contractor, or to circumvent any unforeseen difficulty in obtaining a specified article.

6.08 Owner Furnished Equipment and Materials

- A. Equipment and materials furnished by the Owner will be delivered or made available to the Contractor at the locations specified. An inspection of the Owner-furnished equipment and materials shall be made at the time of delivery to the Contractor to satisfy the Owner and the Contractor that the quantity and quality of the equipment and material is satisfactory for use in the work. Thereafter, the Contractor will be responsible for the equipment and material. Deductions will be made from payments due or to become due to the Contractor for any shortages, deficiencies, or damages which may occur after such delivery, and for any demurrage charges.

7. LEGAL RELATIONS AND RESPONSIBILITIES

7.01 Laws and Regulations

A. General

- 1. The Contractor shall keep fully informed of all Federal and State laws, ordinances and regulations, and all orders and decrees or bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the work, or which in any way affect the conduct of work. All such laws, ordinances, regulations, orders and decrees shall be observed and complied with. The Contractor shall protect and indemnify Owner and his representatives against any claim or liability arising from or based on the

violation of any such law, ordinance, regulation, order or decree, whether by Contractor, his Subcontractors, suppliers of materials or services, or others engaged by the Contractor, or their employees.

2. Attention is directed to the General Statutes of the State of North Carolina for public contracts and public works contracts.

B. Protection of the Environment

1. The Contractor's attention is directed to GS, NCAC and all project permits for dealing with the prevention of environmental pollution and the preservation of natural resources that affect the performance of the work. Any unforeseen work relating to the prevention of environmental pollution or the preservation of natural resources shall be considered the responsibility of the contractor.
2. The Contractor shall conduct operations in conformity to the applicable sections of NCAC, laws amendatory thereto, and all pertinent regulations of the NCDENR and other agencies of the state and the federal government, as well as ordinances or resolutions enacted or adopted by local authorities.
3. It is public policy that all practicable means be exercised to prevent, control, and abate the pollution of waters of the state, and to maintain reasonable purity of the air by the control or abatement of air pollution.
4. The Contractor shall exercise every reasonable precaution throughout the life of the Contract to safeguard the air resources of the state by controlling or abating air pollution.
5. Federal, state, and local agencies having a responsibility and/or jurisdiction relating to the environment include, but are not limited to, the following agencies:

U.S. Department of Agriculture
U.S. Department of Health and Human Services
U.S. Environmental Protection Agency
U.S. Corps of Engineers
U.S. Coast Guard
U.S. Department of Labor
North Carolina Department of Environmental Quality
 Division of Land Quality
 Division of Water Resources
 Division of Coastal Management
 Division of Air Quality
 Division of Marine Fisheries
 Division of Waste Management
North Carolina Department of Health and Human Services
North Carolina Department of Transportation
North Carolina Wildlife Resources Commission
Dare County Health Department
NOAA – National Marine Fisheries Service
Local County Courts and Boards of Commissioners
Local Town Councils and Commissions

Local Planning Commissions

7.02 Subcontractors

- A. The Contractor agrees not to assign, transfer, convey or otherwise dispose of the Contract or the right, title or interest therein either in whole or in part, or the power to execute such contract, to any person, firm or corporation without the written consent of the Owner. No portion of the contract shall be sublet, subcontracted or performed by other than the Contractor's own organization except with the written consent of the owner. Requests for permission to sublet or subcontract any portion of the Contract or to have any of the work performed by another organization shall be in writing and accompanied by a demonstration that the organization which will perform the work is experienced and equipped for such work.
- B. Written consent to assign, transfer, convey, sublet, subcontract or otherwise dispose of any portion of the Contract or to have portions of the work performed by other than the contractor's own organization shall not relieve the Contractor of any responsibility under the Contract or for the fulfillment of the Contract.
- C. The Contractor shall perform with the Contractor's own organization Contract work amounting to not less than 40 percent of the amount of the Contract as awarded, except that any items designated in the Contract as specialty items may be performed by subcontract. The cost of any such specialty items may be deducted from the amount of the Contract before computing the amount of work required to be performed by the Contractor's own organization. The term "own organization" refers only to workers employed and paid directly by the Contractor and equipment owned or rented by the Contractor.
- D. The Contractor shall make payment for subcontract work; performance of specialty items and other Contract work performed by others in the same units and on the same basis of measurement as apply under the Contract.
- E. In making payment to subcontractors and to others by whom work under the Contract is performed, the Contractor shall protect against the possibility of overpayment, and shall assume losses that result from overpayment. While the Engineer may estimate the quantities of work performed and of materials on hand for inclusion in progress payments, there is no guarantee of the correctness of such estimates. No incorrect estimate, regardless of by whom or when given, will be binding upon the Owner in final settlement.
- F. The Contractor shall direct and coordinate the operations of subcontractors and others performing the work and shall insure that the orders of the Engineer and or Town Manager are promptly carried out. Failure of the Contractor to control the work of subcontractors and other employees may result in the issuance of orders requiring the cancellation of the subcontracts and the removal of the subcontractors and other employees from the work site.

7.03 No Waiver of Legal Rights

- A. Owner shall not be precluded or stopped by any measurement, estimate or certificate made either before or after completion and acceptance of work or payment therefore, from showing the true amount of character of work performed and materials furnished by the Contractor, or from showing that any such measurement, estimate or certificate is untrue or incorrectly made, or that work or materials do not conform in fact to the Contract.
- B. Owner shall not be precluded or stopped, notwithstanding any such measurement, estimate or certificate, or payment in accordance therewith, from recovering from the Contractor and his Sureties such damages as it may sustain by reason of his failure to comply with terms of the Contract, or from enforcing compliance with the Contract.
- C. Neither acceptance by Owner or by any representative or agent of the Owner of the whole or any part of the work, nor any extension of time, nor any possession taken by Owner, nor any payment for all or any part of the project, shall operate as a waiver of any portion of the Contract or of any power herein reserved, or any right to damages herein provided. A waiver of any breach of the Contract shall not be held to be a waiver of any other subsequent breach.

7.04 Other Contracts

- A. Owner shall have the right to let other contracts to be coordinated with this Contract. The Contractor shall cooperate with and afford such other contractors reasonable opportunity for introduction and storage of materials and for execution of their work. Any matter of dispute shall be decided by the Town Manager, and his decision shall be binding.
- B. If any part of the work depends for its proper execution upon work of any such other Contractor, the Contractor shall inspect and promptly report to the Engineer and Town Manager any defects that affect subsequent work. Failure to do so shall constitute an acceptance of such other Contractor's work as fit and proper for the reception and attachment of his own work and equipment.

7.05 Hold Harmless

- A. Contractor shall defend, indemnify and hold harmless Owner from and against all liability or loss and against all claims or actions based upon or arising out of damage or injury to persons or property caused by or sustained in connection with the performance of this Contract by Contractor except, for losses, claims, or actions resulting from the sole negligence of Owner.
- B. The Contractor shall assume all responsibilities for the work, and bear all losses and damages directly or indirectly resulting to the Contractor, the Owner, or to others on account of the character or performance of the work, unforeseen difficulties, accidents, or any other cause whatsoever.
- C. The Contractor shall assume defense of, indemnify and save harmless the Owner, its officers, and employees from all claims, liability, loss, damage and injury of every kind,

nature and description, directly or indirectly resulting from activities in the performance of the Contract, the ownership, maintenance or use of motor vehicles in connection therewith, or the acts, omissions, operations, or conduct of the Contractor or any Subcontractor under the Contract or any way arising out of the Contract, irrespective of whether any act, omission or conduct of the Owner connected with the Contract is a condition or contributory cause of the claim, liability loss, damage or injury and irrespective of whether act, omission, or conduct of the Contractor or Subcontractor is merely a condition rather than a cause of a claim, liability, loss, damage or injury.

- D. The Contractor shall not be liable for nor be required to defend or indemnify, the Owner relative to claims for damage or damages resulting solely from acts or omissions of the Owner, its officers, agents, or employees.

7.06 Insurance

- A. The Contractor shall provide and maintain general liability, auto liability, property, and workers' compensation insurance for life of this Contract.

1. General Liability Insurance

The Contractor shall maintain an ISO Commercial General Liability insurance policy (or an equivalent policy approved by Owner) with combined single limits of at least \$1,000,000 per occurrence for bodily injury, personal injury, and property damage and an aggregate limit of at least \$2,000,000. The policy shall include coverage for contractual liabilities.

2. Comprehensive Automobile Liability Insurance

The Contractor shall maintain an automobile liability insurance policy with combined single limits of at least \$1,000,000 per occurrence for bodily injury, personal injury, and property damage.

3. Additional Insured Endorsement

The general and automobile insurance policies specified above shall include endorsements naming as an additional insured "the Town of Duck, its agents, employees and officials all while acting within their official capacity as such."

4. Property Insurance

Depending on the nature of the construction contemplated under this contract, Owner may require Contractor to provide property insurance. Refer to Special Provisions section of this Contract.

5. Workers' Compensation Insurance

Contractor, its subcontractors, if any, and all employers working under this agreement are subject employers under the North Carolina Workers' Compensation Law which requires them to provide workers' compensation coverage for all their subject workers.

Contractor is responsible for maintaining workers' compensation insurance for his employees and assuring that his subcontractors, if any, also maintain workers' compensation insurance. Contractor shall defend, indemnify, and hold Owner harmless from any liability for any workers' compensation claims costs, fines, or costs whatsoever arising from Contractor's or his subcontractors' failure to comply.

6. Additional Policies and Special Coverage

B. Refer to the Special Provisions section of this Contract for additional coverage that may be required.

C. Certificates of Insurance

1. Certificates of insurance evidencing all policies required by this Contract shall be delivered to the Owner prior to the commencement of any work. All certificates shall include a 30-day notice of cancellation clause and required additional insured endorsements. The Owner has the right to reject any certificate for unacceptable coverage and/or companies.

7.07 Royalties and Patents

A. The Contractor shall pay all royalties and license fees. The Contractor shall see the Owner free, indemnify and defend Owner, from all loss or damage that may result from the wrongful or unauthorized use of any patented article or process.

7.08 Permits & Reference Documents

A. The following Permits and Supporting Data apply to this project:

1. n/a

B. The Following Plan Sheets apply to this project:

1. "Town of Duck, NC Hwy 12 – Charles Jenkins Ln., Duck, Dare County, North Carolina" as prepared by Anlauf Engineering, PLLC and dated 7/5/23 (Plan Sheet X1 & C1). Plan set including 2 sheets.

C. The following easement documents apply to this project:

1. Temporary Construction Easement, Ocean Crest Subdivision, Right-of-way of E. Charles Jenkins Ln., Duck, Dare County, North Carolina, as prepared by Anlauf Engineering, PLLC and dated 8/3/23.

2. Temporary Construction Easement, Leigh Ann Lichtenberger & John Tirella, 101 E. Charles Jenkins Lane, Lot 17 Oceancrest Subdivision, Duck, Dare County, North Carolina, as prepared by Anlauf Engineering, PLLC and dated 8/3/23.

3. Temporary Construction Easement, Erin Elizabeth & John Anthony Sobanski, 103 Yolanda Terrance, Lot 18 Oceancrest Subdivision, Duck, Dare County, North Carolina, as prepared by Anlauf Engineering, PLLC and dated 8/3/23.

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4. Temporary Construction Easement, Christina Bright Campbell, 105 Yolanda Terrance, Lot 19 Oceancrest Subdivision, Duck, Dare County, North Carolina, as prepared by Anlauf Engineering, PLLC and dated 8/3/23.
 5. Permanent Multi-purpose Path Easement, David F. & Cheryl L. Conner, 100 E. Charles Jenkins Lane, Lot 54 Oceancrest Subdivision, Duck, Dare County, North Carolina, as prepared by Anlauf Engineering, PLLC and dated 8/3/23.

7.09 Payment of Obligations

- A. Contractor shall: (1) Make payment promptly as due, to all persons supplying to such contractor labor or material for the prosecution of the work provided in this contract. (2) Pay all contributions or amounts to the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract. (3) Not permit any lien or claim to be filed or prosecute against the state, county, school district, municipality, municipal corporation, or subdivision thereof on account of any labor or material furnished. (4) Pay to the Department of Revenue all sums withheld from employees.
- B. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the contract or subcontractor by any person in connection with this contract as such claim becomes due, the proper officer or employees representing Owner may pay such claim to the person furnishing the labor or services and charge the amount of the payment against the funds due or to become due the Contractor by reason of this contract.
- C. The payment of a claim in the manner authorized above shall not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claims.

7.10 Dispute Settlement

- A. In the event the Contractor has filed a written protest in accordance with Section 4.09 Disputed Work, the Owner shall review the written protest and related documents and perform such investigations as the Owner deems appropriate and will try to transmit its decision in writing to the Contractor within 30 days from the date of receipt of the written protest.
- B. In the event the Owner elects to do so, the Owner may establish a "Claims Review Board" either to assist in reviewing appeals hereunder or to consider Contractor appeals directly.
- C. Subject to the provisions of Section 7.10.E. below, during the pendency of a written protest any related work performed by the Contractor shall be done at the Contractor's risk unless authorized by the Town Manager.
- D. [reserved]
- E. Where a written protest relates to only a portion of the work to be performed under this Contractor, the Contractor shall not delay that portion of the work to which the written protest does not relate, unless the Contractor shall have written permission or written direction from the Town Manager to do so.
- F. [reserved]

- G. The parties hereby stipulate and consent that jurisdiction and venue shall be exclusively for all matters arising under this agreement in the courts of the State of North Carolina.
- H. All terms and provisions of this agreement shall be construed according to North Carolina law, it being agreed by the parties that the agreement was entered into in the State of North Carolina.

7.11 Protection of Other Governmental Authorities

- A. Whenever work under the Contract affects or may affect public property owned by or under the jurisdiction of any governmental authority, agency or district, including governmental subdivision other than the Owner, the Contractor shall indemnify and save harmless such governmental authority, its officers, agents and employees, from loss damage or claim of loss or damage to such property or the use thereof, arising from work under the Contract. Any bond or insurance and any special guarantee deposit required by such governmental authority, shall be supplied before beginning any portion of the work which affects or may affect the property of such governmental authority or the use thereof.

7.12 Public Safety and Convenience

- A. The Contractor shall conduct the project with proper regard for the safety and convenience of the public. When the project involves use of public ways, flag persons shall be provided when directed, and means of free access to all fire hydrants, service stations, warehouses, stores, houses, garages and other property shall be maintained.
- B. When access to a business or businesses may be confusing for the traveling public due to operations of the contractor, the Contractor shall provide adequate signage to clarify alternate or existing access to the business(as). Private residential driveways shall be closed only with approval of the Town Manager or specific permission of the property owner.
- C. Normal operation of public transit vehicles shall not be interfered with unless otherwise authorized. The contractor shall not obstruct or interfere with travel over any public street or sidewalk without approval. Open trenches and excavations shall be provided with adequate barricades of an approved type which can be seen from a reasonable distance. At night, all open work and obstructions shall be marked by lights. The Contractor shall install and maintain all necessary signs, lights, flares, barricades, railings, runways, stairs, bridges and facilities. The Contractor shall observe all safety instructions received from Engineer, Town Manager or governmental authorities, but following of such instructions shall not relieve Contractor from his responsibility or liability for accidents to workmen or damage or injury to person or property.
- D. Emergency traffic such as police, fire and disaster units shall be provided reasonable access to the work area at all times.
- E. The Contractor shall be liable for any damages which may result from failure to provide such reasonable access or failure to notify the appropriate authority.

7.13 Personnel Safety

- A. The Contractor shall be responsible for conditions of the job site, including safety of all persons and property during performance of the work. This requirement will apply continuously and not be limited to normal working hours. Safety provisions shall conform to the applicable federal, state, county, and local laws, ordinances and codes.
- B. Where any of these are in conflict, the more stringent requirement shall be followed. The duty of the Engineer to conduct construction review of the Contractor's performance is not intended to include review of the adequacy of the Contractor's safety measures in, on, or near the construction site.

7.14 Detours

- A. All detours caused by work operations, or for convenience of the Contractor, shall be constructed and maintained at no expense to Owner. Plans for such detours shall be submitted to Engineer and Town Manager for approval.
- B. The Contractor shall construct and maintain temporary detours to provide adequate passage of public traffic and protection of the work at all times. If a detour established by the Contractor causes or may cause difficulty or confusion regarding access to a business, the Contractor shall provide signs to direct the traveling public to the business.
- C. Detours within the limits of the project such as side street crossings, temporary bridges over freshly placed concrete, or utilization of one or more lanes of the construction area for maintenance of traffic shall be the responsibility of the Contractor.
- D. If, in the judgment of the Engineer, one-way piloted traffic is necessary, it shall be provided for as set forth in Section 02105 - Temporary Traffic Control. The Engineer may recommend if flagging and piloting can be dispensed with after working hours. In the event that flagging and piloting are required after working hours as a result of carelessness or negligence on the part of the Contractor to properly condition work at the end of the day, such piloting and flagging shall be provided by Contractor at no expense to Owner.
- E. Upon failure to immediately provide, maintain, or remove suitable detours or detour bridges when ordered to do so by Engineer or Town Manager, Owner may without notice to Contractor or his Surety provide, maintain, or remove the detour and deduct costs thereof from any payments due or coming due to Contractor.

7.15 Labor

- A. Upon notification in writing from the Town Manager, the Contractor shall remove immediately from the job for its duration any laborer, workman, mechanic, foreman, superintendent, or other person employed who is found to be incompetent, intemperate, troublesome, disorderly or otherwise objectionable, or who fails or refuses to perform his work properly and acceptably.
- B. Attention is directed to the North Carolina General Statutes relative to unlawful employment practices or discrimination by employers against any employee or applicant

for employment because of race, religion, color, sex, or national origin. It is an unlawful employment practice for an employer, because of the race, religion, color, sex, or national origin of any individual, to refuse to hire or employ or to bar or discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.

- C. In the event the Contract is funded in whole or in part by federal funds, the Contractor shall comply with all provisions of Executive Order No. 11246 and of the rules, regulations, and relevant orders of the Secretary of Labor.
- D. In the event of the Contractor's noncompliance with the nondiscrimination clauses of a Contract so funded, or with any such rules, regulations, or orders, the Contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for future government contracts or federally assisted construction contracts, in accordance with procedures authorized in Executive Order No. 11246, and such other sanction may be imposed and remedies invoked as provided in Executive Order No. 11246, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- E. If it is necessary to perform construction work on Saturdays, Sundays or legal holidays, or outside the eight (8) hour regular working day, Town Manager shall be notified of intent to do so one day prior to commencing such overtime work. In any event, all work shall be subject to Town Council approval. Prior to the start of such work, the Contractor shall arrange with the Engineer and/or Town Manager for continuous or periodic inspection of the work, surveys, and tests of materials, when necessary. Contractor shall be responsible for any additional costs incurred for inspection of work, surveys, and tests of materials necessitated by such overtime work.

7.16 Use of Explosives

- A. The use of explosives is prohibited.

7.17 Rights-of-Way, Easements and Premises

- A. Construction activities shall be confined within property lines, limits of easements and limits of construction permits as shown or specified in the Contract Documents, unless arrangements are made with owner(s) of adjacent private property. Prior to the use of any private property outside these specified boundaries, written permission of the property owner(s) shall be filed with the Town Manager; upon terminating such usage, a release from all damages, signed by the property owner(s), shall be filed with the Town Manager. Contractor shall save and hold harmless Owner from any loss or claim for damages resulting from unauthorized use of private property.
- B. The specified work areas shall not be unreasonably encumbered with materials and equipment, and permits for special occupancy and use of the specified work areas shall be obtained from the proper agencies and all associated costs borne by the Contractor. The Engineer's directions regarding signs, advertisements, fires, and smoking will be followed.

7.18 Waste Sites

- A. Shall be permitted through the NCDENR, NCDOT or other local, state or federal agency having jurisdiction of the type and nature of the waste.
- B. Either type of waste site shall be operated in such a manner as to meet all safety and health requirements of state and local agencies. Sites, operations, or the result of such operations, which create a nuisance problem, or which result in damage to public or private properties will not be permitted.
- C. Permits for dumping on sites designated in the Contract Documents or by the Engineer will be provided by Owner. The Contractor shall obtain any necessary permits for other sites at no expense to Owner. In selecting and obtaining fill sites for excess materials, the Contractor shall be aware of restrictions and regulations related to fill of wetlands, floodways, floodplains, drainage ways, erosion control, etc., and shall obtain all necessary approvals and permits related to the fill. Copies of issued permits will be furnished to Engineer prior to commencing filling operations. Materials shall not be deposited on an unimproved dedicated street without permission of the Engineer.
- D. Where waste sites are designated in the Contract Documents, the operations shall be performed as directed; and upon completion, the Contractor shall uniformly clean and shape the area as directed.
- E. Where there is additional waste excavation in excess of that needed for the project or for predesignated sites, this material shall be disposed by securing and operating a waste site in conformance with the general requirements hereinbefore described. Contractor may accept any reimbursement that can be secured from the sale of such material.

7.19 Vermin Control

- A. At the time of occupancy by Owner, any structure or structures entirely constructed under the Contract shall be free of rodents, insects, vermin or pests. The Contractor shall arrange and pay for extermination work as may be necessary as part of the Contract work within the Contract time. Work shall be performed by a licensed agency in accordance with the requirements of governing authorities. The Contractor shall assume responsibility for any injury to persons or property resulting from extermination work for the elimination of any offensive odors resulting from extermination operations.

8. PROSECUTION AND PROGRESS OF WORK

8.01 Contractor's Construction Schedule

- A. Before starting work, the Contractor shall submit a proposed construction schedule to the Engineer and Town Manager. If it is desirable to carry on operations in more than one location simultaneously, a schedule shall be submitted for each location two weeks in advance of beginning such operations. In the event that the Contractor's proposed construction schedule does not meet the necessary construction program schedule as determined by Owner, the Contractor shall resubmit a schedule that conforms as approved.

- B. The schedule shall show the proposed order of work and indicate the time required for completion of the major items of work. This working schedule shall take into account the passage or handling of traffic with the least practicable interference therewith and the orderly, timely and efficient prosecution of work. It will also be used as an indication of the sequence of the major construction operations and as a check on the progress of work, but does not become a part of the Contract.
- C. If requested by the Engineer or Town Manager, the Contractor shall provide weekly progress schedules of expected project activities. The progress schedules shall indicate the Contractor's plan of prosecution of the work in sufficient detail to enable the Contractor, the Town, and the Engineer to plan, coordinate, appraise, document, and control their respective Contract responsibilities. The schedule of work, and the work forces and equipment supplied by the Contractor, shall be adjusted periodically as necessary to allow for the completion of the Contract within the Contract Time.

8.02 Preconstruction Conference

- A. A pre-construction conference with the Town Manager, Engineer, and Contractor will be provided. A Contractor's attendance at the said preconstruction conference is mandatory.

8.03 Notice To Proceed

- A. A written "Notice to Proceed" will be given after the Contract has been executed and the Performance Bond and Payment Bond, and all required insurance certificates have been filed with and approved by the Owner. No work shall commence under the Contract until such written notice has been given.
- B. Notice to Proceed for the project may be delayed by Owner until required utility relocation, construction, or reconstruction has been completed or has progressed to a satisfactory degree of conformance which will allow initial contract work to commence.
- C. Work shall commence within ten days after the date of the Notice to Proceed, or by such other date or time period specified in the Notice to Proceed. The actual date of commencement of work, or the last allowable date for commencement as specified in the Notice to Proceed, whichever is earlier, shall establish the date for commencement of the Contract time. The Contractor shall notify the Town Manager forty-eight (48) hours in advance of the actual time and place work will be started.

8.04 Contract Time

- A. Except as otherwise agreed by the Town and Contractor in writing, the Contract Time shall be that period that begins upon the execution of the Contract and ends March 15, 2024.
- B. Time shall be considered the essence of the Contract.
- C. If, in the judgment of the Town Manager, insufficient forces are being employed, or inadequate equipment and methods are used, or if progress is for any reason unduly delayed, he may instruct the Contractor in writing to increase his force or equipment, or

adopt improved methods to expedite the work, and the Contractor shall heed and follow such instructions, but conformity to the Town Manager's instructions shall not relieve the Contractor of any of his responsibilities under the Contract.

- D. If the Contractor at any time falls behind its proposed schedule of work, the Town Manager may request and the Contractor shall supply a new schedule of work along with a statement regarding the increased forces or equipment or new construction methods to be employed on the work in order to complete the work within the Contract Time. Failure to supply a schedule of work and sufficient forces and equipment to complete the work within the Contract Time may be declared a breach of contract by the Town Manager.
- E. The Contractor shall complete the work called for under the Contract within the Contract Time or adjusted Contract Time.

8.05 Suspensions Of Work

- A. Suspension by Owner

- 1. The Contractor shall immediately suspend work on the project wholly or in part as directed by the Owner for good and sufficient reason. In the event of such suspension, Owner shall, except in emergency, and except as hereinafter provided, give Contractor three days' notice and work shall be resumed within five days after notice has been given by Owner to Contractor to do so. Owner shall allow Contractor an extension of time for completion corresponding to the total period of temporary suspension, and shall reimburse him for necessary rental of unused equipment, services of watchpersons and other unavoidable expenses by reason of the suspension without fault of Contractor.
- 2. Contractor shall not be entitled to damages, intangible or overhead costs or anticipated profits from such temporary suspension.

- B. Suspension by Engineer or Town Manager

- 1. The Contractor shall immediately suspend work on the project wholly or in part as directed by the Town Manager or, with the Town Manager's written authority, the Engineer, pursuant to Subsections 5.01 and 5.02 due to: (1) failure to correct unsafe conditions for working personnel, the general public or Owner's employees, (2) failure to carry out provisions of the Contract Documents, or (3) failure to carry out orders or directions, for such periods as the Engineer or Town Manager may deem necessary due to conditions considered unsuitable for the performance of the work or for any reason deemed to be in the public interest.
- 2. The Contractor shall immediately suspend work on the project wholly or in part as directed by the Town Manager or, with the Town Manager's written authority, the Engineer, for such periods as the Engineer may deem necessary, pursuant to Subsection 5.19 for failure to immediately correct defective and unacceptable work.

C. Suspension by Contractor

1. Suspending operations because of seasonal conditions or other unsuitable conditions pursuant to Subsection 8.06 shall require the concurrence of the Town Manager.

D. Responsibility of Contractor

1. Voluntary or involuntary suspension or slowdown, with or without the approval of the Town Manager or Engineer, and suspension of work ordered by the Town Manager or Engineer will not be grounds for claims or damages, idle equipment or labor, or extra compensation. No allowance or compensation will be made on account of such suspensions of work except as provided hereinbefore and as provided in Subsection 8.06.
2. At the commencement of, and during any suspensions of work, the Contractor shall be responsible for the care of work performed and take every precaution to prevent any damage or deterioration of the work. The Contractor shall be responsible for work, including temporary protection devices to warn, safeguard, protect, guide and inform traffic during suspension, the same as though its performance had been continuous and without interferences.
3. The Contractor shall be responsible and bear all costs for providing suitable provisions for traffic control and for maintenance and protection of the work during suspension for cause. If the Contractor fails to provide for temporary traffic control and to maintain the work, the Engineer or Town Manager may immediately proceed to maintain the work. The cost of such maintenance shall be deducted from payments due or to become due to the Contractor.

E. Resumption of Work

1. In all cases of suspension, work will be resumed only upon written order of the Engineer or Owner.

8.06 Delays and Extensions

- A. Contract completion time may be subject to adjustment during the progress of the work at the written request of the Contractor, for causes beyond the control of Contractor and which the Town Manager, with the advice of the Engineer, determines actually affected the time necessary for completion of work under the Contract.
- B. The Town Manager or Engineer will not consider adjustment of Contract Time based on shortage or inadequacy of labor and equipment, negligence or fault of Contractor and other deficiencies or lacks which are within the province of Contractor's control or responsibility. Causes which will be given consideration in justifying adjustment of Contract time will include, but are not limited to, the following:
 1. Errors, changes, or omissions in the Contract Documents.

2. Failure of Owner, its representatives and its other contractors to act promptly in carrying out obligations and duties.
 3. Failure of Owner to submit the Contract Documents, or a part thereof, to the Contractor for execution within the specified time contained in Subsection 3.01 of the Proposal Form.
 4. Performance of extra work under Subsection 4.10.
 5. Court orders enjoining the prosecution of the project, strikes, acts of God which shall include action of the elements not reasonably foreseeable by the Contractor, or act of Owner not authorized by the Contract or permitted by law.
- C. A Contract time extension will be considered only if the Contractor has given written notice to Town Manager and Engineer of the cause of delay within ten days after the beginning thereof and notice to Town Manager or Engineer of the termination thereof within five days after such termination, and make claim for such extension prior to the Contract completion date. The decision by the Town Manager, with advice from the Engineer, of the reasonable term of any extension or denial thereof shall be final.
- D. An adjustment of Contract time, as herein provided, shall be Contractor's sole remedy for any delay in completion of the project arising from causes beyond the control of Contractor, and in no event shall Contractor be entitled to collect or recover any damages, loss or expense incurred by reason of such delay.

8.07 Liquidated Damages

- A. The Contractor agrees to pay \$100 per calendar day for damages for delay sustained by the Town by reason of the Contractor's failure to timely perform its obligations under the Contract. Such damages include, but are not limited to, the cost of prolonged administration, supervision and inspection and resolution of traffic and public relations issues surrounding the delayed completion. In submitting a Bid, Contractor the amount of liquidated damages as stated above is a reasonably accurate forecast of the probable damages for delay that would be sustained by Town in the event of a delay in completion. Such liquidated damages shall not be the exclusive remedy of Town, but shall be in addition to any other remedies Town may have for breach of the Contract and shall be in addition to any actual provable damages, other than for delay, sustained by Town by reason of a breach of the Contract by Contractor.
- B. When the Contractor believes that all work on the project has been completed, the Contractor will set up a walk-through inspection with the Engineer and Town Manager, unless the Town Manager elects not to participate in such inspection. A "punch list" of all unfinished or unacceptable items will be made. The Contractor will finish all punch list work before the end of time allowed for the project. If work has not been completed by the end of the time allowed for the project, liquidated damages shall be charged for such delayed completion as provide above and shall be in addition to any other remedies the Town may have for breach of the Contract.

8.08 Contractor's Representative

- A. Before starting work an authorized representative shall be designated who shall have complete authority to represent and to act for Contractor, in his absence from the work site, in all directions given him by the Town Manager or Engineer. Contractor, or his

authorized representative, shall supervise the work, and shall be present on site continually during its progress, including such times as only Subcontractors may be actively working on the project. If called for in the Contract Documents, an office shall be maintained on or adjacent to the project site. The Contractor shall keep a complete copy of the Plans, Permits and Specifications on or near the site at all times. If Contractor and his authorized representative are not present on any part of the work where it may be necessary to give instructions, directions may be given by Engineer or Town Manager to the superintendent or foreman who may have charge of that particular part of the project, and such order shall be received and followed. Such directions shall not be deemed to change the status of Contractor or Subcontractor, not to make Owner an employer, nor to give Owner direct responsibility for the methods and manner of the work. Such directions of major importance will be confirmed in writing. Any direction will be so confirmed in each case on written request from the Contractor.

8.09 Conflicts, Errors, Omissions, and Additional Drawings

- A. All plans shall be checked and compared prior to construction and Engineer notified of any discrepancies or omissions in order to permit correction by Engineer. Coordination of Plans and Specifications is intended. Labor and materials required for the work shall be furnished if indicated on one and not the other as fully as if mentioned or indicated on both; and should any work or materials be reasonably required or intended for carrying the project to completion which are inadvertently omitted on the Plans and Specifications, the same shall be furnished as fully as if particularly delineated or described. The intent of the Plans and Specifications is to show and describe a complete project within the limits stated. Dimensions shown on Plans shall be followed rather than scale measurements. Whenever it appears that the Contract plans are not sufficiently detailed or explicit, the Engineer may furnish additional detailed drawings or written instructions.
- B. In case of conflict between requirements set forth in the Contract Documents the provisions for order of precedence in Subsection 4.04.A shall apply.

8.10 Owner's Right To Do Work

- A. Neglecting to prosecute the project properly, or failing or refusing to perform any of the terms or conditions of the Contract, will permit Owner to supply or correct any deficiency or defect without prejudice to any other remedy. Such action by Owner shall be taken only after three days' notice by Engineer or Owner to Contractor and his Surety, unless in the judgment of the Owner, an emergency or danger to the work or to the public exists, in which event action of Owner, as set forth above, may be taken without any notice whatsoever. The cost of such action by owner shall be deducted from the payment then or thereafter due Contractor. The Contractor shall pay Owner any costs in excess of such payment due.

8.11 Termination of Contract

- A. All terms and conditions of the Contract are considered material, and failure by Contractor to comply with any of said terms or conditions shall, at Owner's option, be deemed a breach of contract. Upon such failure, Owner shall have the right, whether an alternative right is provided or not, to declare the Contract terminated. Issuance by

Owner of an order stating that the Contract is terminated, and service of a copy of said order upon Contractor and his Surety, shall be deemed a complete termination of the Contract. Upon the Contract being so terminated, Owner may retain all sums due under the Contract and both the Contractor and his Sureties shall be liable under his bond for all losses, expenses and damages caused to Owner by reason of his failure to complete the Contract, and Surety shall be required, at Owner's option, to complete the project. Notwithstanding such termination, Contractor and his Sureties shall remain liable under the terms of the Contract for work performed prior to such termination. The Engineer will recommend to the Town the payment due Contractor for work performed prior to the date of Contract termination.

- B. Town and Contractor may agree to terminate the contract: (1) If work under the contract is suspended by an order of a public agency for any reason considered to be in the public interest other than by a labor dispute or by reason of a third party judicial proceeding relating to the work other than a suit or action filed in regards to a labor dispute; and (2) If the circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the public works.
- C. Reimbursement for mobilization expenses, when not included in the contract as a separate pay item, including moving equipment to and from the work, will be considered where the volume of work completed is too small to compensate the Contractor for these expenses under the Contract prices. When an item for mobilization appears in the Contract as a separate pay item, the amount to be paid the Contractor will be the mobilization amount earned in accordance with Section 02100.
- D. Acceptable materials obtained by the Contractor and not incorporated in the work may be purchased from the Contractor at actual cost as shown by receipted bills.

8.12 Default By Contractor

- A. The Owner may, without prejudice to any other right or remedy and after giving the Contractor and Contractor's surety seven days' written notice, terminate the employment of the Contractor if the Contractor should:
 - 1) Be adjudged bankrupt or experience dissolution, termination of existence, insolvency, business failure or discontinuance as a going business, appointment of a receiver of any property of, for the benefit of creditors by, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against contractor.
 - 2) Make a general assignment for the benefit of the Contractor's creditors;
 - 3) Have a receiver appointed on account of contractor's insolvency;
 - 4) Fail to supply enough properly skilled workers, proper materials, or adequate equipment for the efficient prosecution of the work;
 - 5) Fail to make prompt payment to subcontractors or suppliers;
 - 6) Disregard laws, ordinances, or the instructions of the Engineer, Town Manager, or Town; or
 - 7) Fail to comply with any term, obligation, or covenant or condition contained in this contract or the associated permits, within seven (7) days after receipt of written notice from Owner demanding such compliance.

- B. The Owner will take possession of the premises and all materials, tools, and appliances as well as all other materials on which the Contractor has received partial payment. The Owner may finish the work by any method the Owner deems expedient.
- C. The Contractor shall not be entitled to receive any further payment until the work is completed. On completion of the work, determination shall be made by the Town, with the advice of the Engineer, of the total amount the Contractor would have been entitled to receive for the work had the Contractor completed the work. The difference between the total amount and the amounts previously paid to the Contractor shall be called the unpaid balance and if the unpaid balance exceeds the expense incurred by the Owner in completing the work, including expense for additional managerial and administrative services, the excess will be paid to the Contractor, with the consent of the surety. If the expense incurred by the Owner exceeds the unpaid balance, the amount of the excess shall be paid to Owner by the Contractor or the surety.
- D. Upon completion of the project by others, Contractor will be entitled to the return of all material which has not been used in the work or which has not been paid for, and for all plant, tools, equipment and other property, provided, however, that no claim will be allowed because of usual and ordinary depreciation, loss, wear and tear. None of the foregoing provisions, or the provisions in Subsection 8.11, shall be construed to require Owner to complete the work, nor to waive or in any way limit or modify the provisions of the Contract relating to the fixed and liquidated damages suffered by Owner on account of failure of Contractor to complete the project within the time prescribed.

8.13 Completion and Acceptance

- A. After completion of the work specified in the Contract, and completion of the final inspection, the Engineer will recommend to the Owner that the work be accepted and payment be made.
- B. No payment made under the Contract except the final payment shall be evidence of the performance of the Contract, either wholly or in part, and no payment shall constitute an acceptance of unauthorized or defective work or improper material.
- C. A certificate of completion or letter of acceptance of the project, submitted by the Engineer or other officer of the Owner, shall constitute final acceptance of the work on the date of the certificate or letter. Such certificate or letter of acceptance shall not constitute an acceptance of any unauthorized work.
- D. The acceptance of the work shall not prevent the Owner from making claim against the Contractor for defective work.

8.14 Final Warranty

- A. The work is guaranteed by the Contractor for a specified period from the date of final acceptance by the owner. If no warranty period is specified, the work shall be guaranteed for one year from the date of final acceptance by the owner. The Contractor's performance bond shall remain in effect during the warranty period. If, within the warranty period, repairs or changes are required in connection with the work, the Contractor shall promptly, without expense to the Owner:

- 1) Place in satisfactory condition all guaranteed work;
- 2) Correct all damage to the building site, equipment or contents which is the result of the use of materials, equipment or workmanship which are inferior, defective, or not in accordance with the terms of the contract; and,
- 3) Correct any work, material, equipment, or contents of building, structure or site disturbed in fulfilling the guarantee.

- B. Repairs, replacements or changes made under the warranty requirements shall be warranted for the specified warranty period, or for one year, beginning on the date of the acceptance of the repairs, replacements or changes.
- C. If the Contractor fails within ten days to proceed to comply with the terms of this warranty, the owner may have the defects corrected. The Contractor and Contractor's surety shall be liable for all expense incurred. In case of an emergency where delay would cause serious loss or damage, repairs may be made without notice to the Contractor and the Contractor or Contractor's surety shall pay the cost.

9. MEASUREMENT AND PAYMENT

9.01 Measurement of Quantities

- A. Payments shall be based on measurements of completed work in accordance with the United States Standard Measures. Units of measurement for payment shall be shown or specified. In calculating quantities, all lengths and areas will be based on horizontal and vertical measurement, unless otherwise specified.
- B. Basis is defined as the particular standard unit of measurement which will be applied to a particular item of work as shown on the Proposal for a specific Contract. Each basis of measurement herein set forth is generally applicable and will be in effect; however, in case of conflict, the order of precedence will conform to Subsection 4.04.A.
- C. Volume of materials dredged will be determined by hydrographic surveys. Pay quantities will be determined from the calculated volume of material dredged. Payment will not be made for materials resulting from exceeding the approved width and depth of the canals to be dredged.

9.02 Scope of Payment

- A. Quantities listed in the proposal do not govern final payment. These quantities are estimates only for purposes of obtaining competitive bids. Payments to the Contractor will be made only for actual quantities of Contract items performed in accordance with terms of the Contract and for items of work actually performed as Extra Work or under supplemental agreement in accordance with the terms of the Contract.
- B. The Contractor shall accept the compensation, as herein provided, in full payment for furnishing all materials, labor, tools, equipment and incidentals, excluding those specified in Subsection 4.09, necessary for performing all work under the Contract, also for all loss, damage or liability arising from the nature of the work, or from the action of the elements, subject to provisions of Subsection 6.06 or from any unforeseen difficulties

which may be encountered during prosecution of the work, until final acceptance by Owner.

9.03 Payment Schedule

- A. The Contractor may submit a request for partial payment on a monthly basis, or other interval as approved by the Town Manager. The amount of partial payments will be based on the work accomplished and accepted as the last day of the approved pay period. All requests for payment shall be made on the form furnished to the Contractor by the Town Of Duck. The form shall be completely and legibly filled out with all appropriate information supplied and shall be signed by an authorized representative of the Contractor. Minority Business (MB) and Women's Business (WB) participation shall be listed in the appropriate spaces on all requests for payment. If there is no participation the word "None" or the figure "0" shall be entered. An amount equal to ten percent (10%) of the total amount due on the partial pay estimate will be deducted and retained until after the final inspection. One hundred percent (100%) payment shall be made after successful completion of the work as verified by the final inspection.

9.04 Verification of Work

- A. Reserved

9.05 Compensation for Alteration of Contract

- A. Unless changes and alterations in Plans or Quantities, Contract Documents, or details of construction materially change the character of work to be performed or unit costs thereof, Contractor shall accept as payment in full, so far as Contract items are concerned, payment at the same unit prices as are provided under the Contract for accepted quantities of work done. If the work involved is measured on a lump sum basis, the adjustment of the lump sum for the increases or decreases shall be as specifically set forth in the applicable section of these Standard Specifications.
- B. If, however, the character of work or unit costs thereof are materially changed, pursuant to Subsection 4.07, compensation for such work will be made on such basis as may have been agreed to in advance of the performance of work, or in case no such basis has been previously agreed upon, then an allowance may be made, either for or against the Contractor, in such amount as the Town, with the advice of the Engineer, may determine to be fair and equitable.

9.06 Eliminated Items

- A. Owner shall have the right to eliminate, omit or cancel (herein collectively termed elimination) portions of the Contract Documents relating to construction of any items or part of any item by payment to the Contractor of a fair and equitable amount covering all items of actual costs incurred directly in connection with eliminated work and prior to the date of elimination of work by order of the Town. Where practicable, work completed before elimination shall be paid for at unit prices, otherwise Contractor will be allowed a profit percentage on materials used and construction work actually performed at rates as provided in Section 4.11 for force account work, but no allowance will be made for anticipated profits. Acceptable materials ordered by Contractor, delivered to

the work site, or properly stored at sites approved by the Engineer Or Owner prior to date of elimination of work by order of the Town may be purchased from Contractor by Owner at actual cost, and thereupon shall become the property of Owner.

9.07 Payment for Extra Work

- A. Extra work shall be paid at prices agreed upon between Contractor and Owner, but in no event exceeding unit prices established in the Contract.
- B. When such order pertains to work of a class or classes for which no unit prices are established, then the agreed adjustment shall be based either on unit prices decided on fair and equitable grounds or shall be a lump sum similarly decided, as Owner may determine, or such work may be done as Extra Work at force account. In no case shall any claim for Extra Work be made unless ordered as such.

9.08 Payment for Force Account Work

- A. Whenever the Contractor is directed by written notice from the Engineer as the Owner's representative, to perform extra work on a time and material basis, the Contractor shall furnish labor, equipment, and materials necessary to complete the work in a satisfactory manner and within a reasonable period of time. For the work performed, payment will be made for the documented actual necessary expense of the following:
 - 1) Field and office labor, including estimating and procurement personnel and foremen, who are directly assigned to the time and materials work (actual payroll cost, including wages, fringe benefits as established by law). The cost of labor shall include any employer payments to or on behalf of the worker for health and welfare, pension, vacation and similar purposes. Where subsistence and travel allowances are required for performance of extra work, the charges shall consist of the actual amount paid to each worker. No other fixed labor burdens will be considered unless approved in writing by the Owner.
 - 2) Material delivered and used on the designated work, including sales tax, if paid by the Contractor or his subcontractor.
 - 3) Rental, or equivalent rental cost of equipment, including necessary transportation, for items having a value in excess of \$100. When equipment is not rented, the equivalent rental cost of equipment shall be based on the standard rental rates for Contractor-owned equipment, but in no event shall exceed the rental rates set forth in the "Rental Rate Blue Book for Construction Equipment" and the "Rental Rate Blue Book for Older Construction Equipment" which are published by the Equipment Guidebook Company, P.O. Box 10113, Palo Alto, CA 94303. For equipment not listed in said document, the rental rate shall be as listed by the local section of the Associated General Contractors. If the equipment is not listed by the Associated General Contractors, the rental rate will be mutually agreed upon in writing between the Contractor and Owner prior to the use of said unlisted equipment. The reasonable cost of moving equipment onto and off the job site shall be included, but equipment rental shall not be paid when the equipment is inoperative due to breakdowns. Individual pieces of equipment or small tools having a replacement value of \$100 or less shall be considered as included in the overhead allowance and no additional payment therefore shall be made.

a. When equipment is used on the extra work for less than five (5) days, hourly rates shall be used. Less than thirty (30) minutes of operation shall be considered $\frac{1}{2}$ hour of operation. When equipment is used on the extra work for more than five (5) days, weekly rates shall apply. In this case, less than four (4) hours of operation shall be considered to be $\frac{1}{2}$ day of operation.

b. Rental or equivalent rental costs will be allowed for only those days or hours during which the equipment is in actual use. Rental and transportation allowances shall not exceed the current rental rates prevailing in the locality. The rentals allowed for equipment shall be understood to cover all fuel, supplies, repairs, and renewals.

c. The Owner reserves the right to furnish such materials and equipment as he deems expedient, and the Contractor shall have no claim for profit or added fees on the cost of such materials and equipment.

4) One percent (1%) for additional bond, when required and approved by the Owner.

5) Additional insurance (other than labor insurance) as required and approved by the Owner.

6) Professional services shall be included in "actual necessary expense" only when the Owner has determined that such services are necessary and the provision of such services has been authorized in advance in writing by the Engineer.

a. To the preceding actual necessary expenses, there shall be added the following fixed fees for either the Contractor or subcontractor actually executing the work:

A fixed fee of 20 percent (20%) of the cost of Item a

A fixed fee of 15 percent (15%) added to the cost of Items b and c

A fixed fee of 6 percent (6%) added to the cost of Items d and e

A fixed fee of 10 percent (10%) added to the cost of Item f

B. An additional fixed fee of 10 percent (10%) shall be allowed the Contractor for the administrative handling of portions of the work that are executed by an approved subcontractor. No additional fixed fee will be allowed for the administrative handling of work executed by a subcontractor of a subcontractor, unless by written permission from the Owner.

C. The added fixed fees shall be full compensation for the cost of general supervision, overhead, profit, and any other general expense.

D. If a dispute occurs over payment for work provided on a time and material basis, the dispute shall not be cause for stopping work.

E. The Contractor shall maintain accurate records for all work performed on a time and material basis. These records will reflect all the actual necessary expenses pertaining to the extra work and shall at all times be available for audit by the Owner.

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- F. The Contractor's records shall make clear distinction between the direct costs of work paid for on a time and materials basis and the costs of other work. The Contractor shall furnish the Engineer report sheets in duplicate of each day's work. The daily report sheets shall itemize the labor, materials and equipment used. The daily report sheets shall provide names or identifications and classifications of workers, the hours worked, the sizes, types, and identification numbers of equipment, and hours operated. Daily report sheets shall be signed by the Contractor or his authorized agent and verified by the Engineer.
 - G. To receive partial payments and final payment for time and materials work, the Contractor shall submit to the Engineer and Town Manager in a manner approved by the Engineer, detailed and complete documented verification of the Contractor's and any of his subcontractor's actual costs incurred. Material and rental charges shall be substantiated by copies of vendors' invoices. Such costs shall be submitted within thirty (30) days after said work has been satisfactorily completed.

9.09 Progress Payments and Retainage

- A. Payments for all work under the Contract will be made at the price or prices bid therefore, and those prices shall include full compensation for all incidental work.
- B. Progress estimate of work performed in any calendar month will be made by the Engineer before the last week of that month. These estimates shall include value of labor performed and materials incorporated in the work since commencing work under the Contract. Such estimates need not be made by strict measurements and may be approximate only, may relate to the cost schedule mentioned herein, and shall be based upon the whole amount of money that will become due according to terms of the Contract when project has been completed. The Engineer may in special circumstances include in progress estimates up to eighty-five percent of the cost of Contractor of materials delivered to the site, properly stored, protected from damage and insured, provided that after any such payment such materials must be used in the particular project; Engineer may require receipted invoices prior to payment.
- C. If the Contract price is determined, in whole or in part, on a lump sum basis, Contractor shall prepare an estimated cost schedule relating thereto and have Engineer approve same before commencing work; progress estimates based on said estimated cost schedule shall be the basis for progress payments.
- D. Progress payment will be made by Owner on a monthly basis no later than the 20th day of the subsequent month of work performed, except that, additional days may be required when a payment is accompanied by one or more of the following: an extension of completion time, change order or extra bill. Payment may be made via use of checks or warrants at the option of Owner for the amount of the approved estimate. Notwithstanding any other payment provision herein, the Owner may retain up to ten percent (10%) retainage on payments made pursuant to this Contract, but only after the Owner has made a determination that such retainage made be withheld pursuant to GS 143-134.1.

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- F. Monies retained will be released to Contractor following official acceptance of the project by the Town Council of the Town of Duck. The Town Engineer may recommend early release of partial retainage, if any, if all work is completed.
 - G. If Contractor fails to complete the project within the time limit fixed in the Contract or any extension thereof, no estimate may be accepted for progress or other payments allowed thereafter until the project is completed.
 - H. The making of progress payments shall under no circumstances be construed as an acceptance of any of the work or materials under the Contract.

9.10 Deferment of Payments

- A. No partial or final payment will be made until all orders made by Engineer to Contractor in accordance with the Specifications are compiled with, or until all claims or liens filed or prosecuted against Owner, its officer or employees contrary to provisions of the Contract are satisfied.
- B. In the event a complaint or charge of unlawful employment practices is filed against the Contractor by anyone, including the Owner, no further payments will be made on the Contract until such time as the issue is resolved.

9.11 Final Estimate and Payment

- A. The Engineer, Project Inspector, and Town Manager shall be notified when work is considered complete and Town Manager, with the advice of the Engineer, shall, within fifteen (15) days after receiving notice, either accept the work or notify Contractor of work yet to be performed on the Contract. If accepted, Engineer shall so notify Contractor, and will make a final estimate and recommend acceptance of the work as of a certain date. Upon approval and acceptance by Owner, Contractor will be paid a total payment equal to the amount due under the Contract including all retainage, if any.
- B. As a further prerequisite to final payment, Contractor shall execute and deliver to Owner, in form approved by the Attorney, a receipt for all amounts paid or payable to Contractor under the Contract, and a release and waiver of all claim against Owner growing out of, or connected with, the Contract and furnish satisfactory evidence that all amounts due for labor, materials and other obligations under the Contract have been fully and finally settled or are fully covered by insurance protecting Owner, its officers, agents and employees as well as Contractor.
- C. If Owner declares a default of the Contract, and Surety completes said Contract, all payments after declaration of default and retainage held by Owner, if any, shall be paid to Surety and not to Contractor in accordance with terms of the Contract.

9.12 Acceptance of Final Payment

- A. Acceptance by Contractor of final payment shall release Owner and Engineer as agent of Owner from all claims and all liability to Contractor for all things done or furnished in connection with the work, and every act of Owner and others relating to or arising out of the work. No payment, however, final or otherwise, shall operate to release Contractor

or his Sureties from obligations under the Contract and the performance, payment, and other bonds and warranties, as herein provided.

Division 2

SECTION 02110 - SITE CLEARING

PART 1 - GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings, and general provisions of Contract, including general and Supplementary Conditions and Division 1, Specification Sections apply to this Section.

1.02 SUMMARY

- A. This Section includes, but is not limited to the following:

1. Protection of existing vegetation.
2. Removal of vegetation.
3. Topsoil stripping.
4. Clearing and grubbing.
5. Removing above-grade improvements.
6. Removing below-grade improvements.

1.03 PROJECT CONDITIONS

- A. Traffic:

1. Conduct site clearing operations to ensure minimum interference with roads, streets, walks and other adjacent occupied or used facilities. Do not close or obstruct streets, walks or other occupied or used facilities without permission from the Owners or NCDOT.

- B. Protection of Existing Improvements:

1. Provide protections necessary to prevent damage to existing improvements indicated to remain in place.
2. Restore damaged improvements to their original condition, as acceptable to property owners.

- C. Protection of Existing Trees and Vegetation:

1. Protect existing vegetation indicated to remain in place during preconstruction meeting, or outside the limits of grading, against unnecessary cutting, breaking or skinning of roots. Provide adequate temporary guards to protect trees and vegetation to be left standing.
2. Repair or replace vegetation damaged by construction operations, in a manner acceptable to the Owner.
3. Replace vegetation which cannot be repaired and restored to full-growth status, as determined by Owner.

PART 2- PRODUCTS

Not Applicable to this Section

PART 3- EXECUTION

3.01 SITE CLEARING

A. General

1. Remove trees, shrubs, grass and other vegetation, improvements, or other obstructions as required to permit installation of new construction. Remove similar items elsewhere on site or premises as specifically indicated. "Removal" includes digging out and off-site disposing of stumps and roots.
2. Cut minor roots and branches of trees indicated to remain in a clean and careful manner, where such roots and branches obstruct installation of new construction.

B. Topsoil

1. Topsoil is defined as soil found in a depth of not more than 18 inches from existing ground surface. Satisfactory topsoil is reasonably free of subsoil, clay lumps, stones, and other objects over 2 inches in diameter, and without weeds, roots, and other objectionable material.
2. Under new pavement areas outside of existing pavement areas strip topsoil encountered in a manner to prevent intermingling with underlying subsoil or other objectionable material. Topsoil stripping shall extend (2) feet beyond all paving limits.
3. Remove growths of grass or other vegetation from areas before stripping.
4. Dispose of unsuitable or excess topsoil same as specified for disposal of waste material.

C. Clearing & Grubbing

1. Clear site of trees, shrubs and other vegetation, except for those indicated to remain during preconstruction meeting and those outside clearing limits.
2. Completely remove stumps, roots and other debris protruding through ground surface.
3. Fill depressions caused by clearing and grubbing operations with satisfactory soil material, unless further excavation or earthwork is indicated. Place fill material in horizontal layers in accordance with Section 02200 Earthwork, 3.07 B.

D. Removal of Improvements

1. Remove existing above-grade and below-grade improvements as indicated and as necessary to facilitate new construction. For the specified sections of roadways to be rebuilt or otherwise improved, remove all existing asphalt pavement. The asphalt pavement removed from this street section may be milled and utilized as reclaimed material to be used in combination with aggregate base materials. Reclaimed asphalt shall be submitted for testing of gradation and materials and satisfactorily pass test prior to use as subbase.

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E. Site Drainage

1. Contractor to maintain positive drainage throughout the Site Clearing operation so as to avoid standing water on work surfaces.

3.02 DISPOSAL OF WASTE MATERIALS

- A. Burning is permitted if allowed by local authorities. Contractor is responsible for obtaining any local burning permits.
- B. Remove waste materials and unsuitable or excess topsoil from property and dispose of in a legal manner.

END OF SECTION 02110

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SECTION 02190 - EROSION & SEDIMENTATION CONTROL

PART 1 - GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings, and general provisions of Contract, including general and Supplementary Conditions and Division 1, Specification Sections apply to this Section.

1.02 SUMMARY

- A. The extent of the work required under this section is that required to minimize water, air, and soil erosion and siltation.
- B. Temporary erosion control measures which may be necessary include, but are not limited to, temporary berms, dikes, dams, drainage ditches, silt basins, silt ditches, perimeter swales, slope drains, structures, vegetation, mulches, mats, netting, gravel or any other methods or devices that are necessary to control or restrict erosion. Temporary erosion control measures may include work outside the right-of-way or construction limits where such work is necessary as a result of construction such as borrow pit operations, haul roads, plant sites, equipment storage sites, and disposal of waste or debris. The Contractor shall be liable for all damages to public or private property caused by silting or slides originating in waste areas furnished by the Contractor.

1.03 SUBMITTALS

- A. Silt Fence

1.04 QUALITY ASSURANCE

- A. Furnish certification from supplier that materials are as specified.
- B. Applicable Codes and Standards:
 - 1. North Carolina Sedimentation Pollution Control Act of 1973, as amended and revised, and the Rules and Regulations promulgated pursuant to the provisions of said act.
 - 2. North Carolina Department of Environment and Natural Resources - EROSION AND SEDIMENT CONTROL PLANNING & DESIGN MANUAL, latest edition, herein referred to in this Section as the Practice Standards and Specifications.
 - 3. North Carolina Department of Transportation (NCDOT) Standard Specifications for Roads and Structures latest edition.
 - 4. Contractor is encouraged to contact the County Soil and Water Extension Service for site specific seeding recommendations.
 - 5. In the event of conflict between the regulations listed above and the requirements of these specifications, the more restrictive requirement shall apply.

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1.05 SANCTIONS

- A. Failure on the part of the Contractor to perform the necessary measures to control erosion, siltations, and pollution will result in the Engineer notifying the Contractor to take such measures. In the event that the Contractor fails to perform such measures within 24 hours after receipt of such notice, the Engineer may suspend the work as provided above, or may proceed to have such measures performed with other forces and equipment, or both. The cost of such work performed by other forces will be deducted from monies due the Contractor on his contract.

PART 2- PRODUCTS

2.01 SEEDING

- A. Seeding grasses and legumes shall meet the requirements of Section 6.11 of the Practice Standards and Specifications.
- B. Use certified seed for permanent seeding. This seed shall meet published North Carolina Standards and should bear an official "Certified Seed" label.

2.02 SILT FENCE

- A. Silt fence shall be a synthetic filter fabric of at least 95% by weight of polyolefins or polyester, which is certified by the manufacturer or supplier as conforming to the requirements of ASTM D 6461.
- B. Steel posts shall be a minimum of five (5) feet long made of 1.33 lb / linear foot steel. Posts shall be secured to fabric in a manner that does not affect the structural integrity of the fabric.

2.03 SOD

- A. Plant Material: Sod shall have a plant material that is high-quality, healthy and vigorous. The contractor shall select a variety that is well-adapted to the region and expected level of maintenance.
- B. Soil Amendments: lime and complete fertilizer, incorporated to a depth of 4-6 inches.
- C. Surface: smooth and firm; not compacted clay or pesticide treated soil.
- D. Irrigation: contractor shall water the sod until properly established.

PART 3- EXECUTION

3.01 GENERAL

- A. The Contractor shall take whatever measures are necessary to minimize soil erosion and siltation, and water, air and noise pollution caused by his operations. The Contractor shall also comply with the applicable regulations of all legally constituted authorities relating to pollution prevention and

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control. The Contractor shall keep himself fully informed of all such regulations which in any manner affect the conduct of the work, and shall at all times observe and comply with all such regulations. In the event of conflict between such regulations and the requirements of the specifications, the more restrictive requirements shall apply.

- B. The Contractor shall exercise every reasonable precaution throughout the life of the project to prevent the eroding of soil and the silting of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces, or other property. All disturbed areas not to be paved and left exposed will, within 30 working days of completion of any phase of grading, be planted or otherwise provided with either temporary or permanent ground cover, devices, or structures sufficient to restrain erosion.
- C. Prior to suspension of operations on the project or any portion thereof, the Contractor shall take all necessary measures to protect the construction areas, including but not limited to borrow sources, soil type base course sources, and waste areas, from erosion during the period of suspension.
- D. Provide diversion ditches and berms as necessary to prevent concentrated flow of water across disturbed areas.
- E. Stockpile excavated material on the opposite side of the utility trenches from the watercourses to the extent that is possible.
- F. In the event that stockpiles are placed on the watercourse side of the trench, provide silt fence or silt berms with stone filter outlets along the entire length of the stockpile that is on the watercourse side of the trench. Upon the completion of backfilling, the measures shall be removed and the site graded to its natural grade or as shown on plans.
- G. Maintain natural buffer zones along all watercourses sufficient to retain all visible siltation within the first 25 percent of the buffer width.
- H. Provide a settling basin with a gravel filter outlet for all water pumped from trenches or de-watering equipment. Pumping of that water directly into any stream, pond, or watercourse is prohibited.
- I. Tamp, fertilize, seed and mulch the disturbed areas as soon as practicable after line is installed and, in all cases, no later than 30 days after completion of the line segment or work at a particular site.
- J. When construction operations are suspended for more than 30 days, provide temporary seeding and mulching of all disturbed areas including those areas in which further construction is necessary.
- K. Erosion control measures installed by the Contractor shall be acceptably maintained by the Contractor.

3.02 SEEDING

- A. See Drawings for seeding mixture.

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- B. Seeding for erosion control shall be performed in accordance with the recommended outlined in the Practice Standards and Specifications.
- C. Soil Amendments: Apply lime and fertilizer according to soil test, or apply 3,000 - 5,000 lb/acre ground agricultural limestone and 1,000 lb/acre 10-10-10 fertilizer.
- D. Mulch: Apply 4,000 lb/acre grain straw or equivalent cover of another suitable mulch. Anchor straw by tacking with asphalt, netting, or roving or by crimping with a mulch anchoring tool. A disk with blades set nearly straight can be used as a mulch anchoring tool. Anchor netting and erosion control fabric at the edge of pavement with a 2 foot wide ribbon of ABC Stone ("crusher run").
- E. All seeded areas will be fertilized, re seeded as necessary, and mulched according to these specifications to maintain a vigorous, dense vegetative cover.

3.03 SODDING

- A. Install sod within 36 hours of harvest.
- B. Store rolls or pallets of sod in the shade during installation.
- C. Rake soil surface to break crust just prior to laying sod, or irrigate soil lightly if the weather is hot. Do not install on hot, dry soil, compacted clay, frozen soil, gravel, or soil that has been treated with pesticides.
- D. Install strips of sod with their longest dimension perpendicular to the slope and stagger in a brick-like pattern. Do not stretch or overlap. All joints should butt tightly against each other. Match angled ends correctly to prevent voids. Use a knife or masons trowel to trim and fit irregular shaped areas.
- E. Roll sod lightly after placement to ensure a firm soil contact.
- F. Irrigate soil until soil is wet to a depth of 4 inches and keep moist until the grass takes root.

3.04 WATER AND AIR POLLUTION

- A. The Contractor shall exercise every reasonable precaution throughout the life of the project to prevent pollution of rivers, streams, and water impoundments. Pollutants such as chemicals, fuels, lubricants, bitumens, raw sewage, and other harmful waste shall not be discharged into or alongside of rivers, streams, or EROSION & SEDIMENTATION CONTROL 02190-4 impoundments, or into natural or man made channels leading thereto.
- B. The Contractor shall comply with all State or local air pollution regulations throughout the life of the project.

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3.05 DUST CONTROL

- A. The Contractor shall control dust throughout the life of the project within the project area and at all other areas affected by the construction of the project, including, but not specifically limited to, unpaved secondary roads, haul roads, access roads, disposal sites, borrow and material sources, and production sites. Dust control shall not be considered effective condition, public nuisance, or condition endangering the value, utility, or appearance of any property.

3.06 NOISE CONTROL

- A. The Contractor shall exercise every reasonable precaution throughout the life of the project to prevent excessive and unnecessary noise. The Contractor shall choose his methods so as to minimize the disturbance of area residents.

3.07 SILT FENCE

- A. Silt fence shall be installed in locations shown on Drawings and in accordance with details shown on Drawings.

END OF SECTION 02190

SECTION 02200 - EARTHWORK

PART 1 - GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and general provisions of Contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

1.02 SUMMARY

- A. This Section includes the preparation of the subgrade for placement of Aggregate Base Course material.

- 1. Refer to Section 02231 for Aggregate Base Course specifications.

1.03 DEFINITIONS

- A. Excavation: Excavation consists of removal of material encountered to subgrade elevations indicated and subsequent disposal of materials removed.
- B. Unauthorized Excavation: Unauthorized excavation consists of removal of materials beyond indicated subgrade elevations or dimensions without specific direction of Engineer. Unauthorized excavation shall be at Contractor's expense.
- C. Subgrade: The undisturbed earth or the compacted soil layer immediately below granular subbase, drainage fill, or topsoil materials.
- D. Structure: Buildings, foundations, slabs, tanks, curbs, or other man-made stationary features occurring above or below ground surface.
- E. Topsoil: Topsoil is defined as soil found in a depth of not more than 18 inches from existing ground surface.
- F. Undercut: Soil excavation deeper than 18 inches below existing ground surface.

1.04 QUALITY ASSURANCE

- A. Applicable Codes and Standards:
 - 1. North Carolina Department of Transportation (NCDOT) Standard Specifications for Roads and Structures latest edition.
- B. Testing and Inspection Service: The Owner will, at their discretion, employ and pay for a qualified independent geotechnical testing and inspection laboratory EARTHWORK 02200-1 (Geotech) to perform soil testing and inspection services during the work. Contractor to schedule Geotech at

applicable phases of the work.

- C. Finish Subgrade Elevation: Final subgrade elevation shall be within 0.05' of plan elevations.

1.05 SITE CONDITIONS

- A. Existing Utilities: Locate existing underground utilities in areas of excavation work. If utilities are indicted to remain in place, provide adequate means of support and protection during earthwork operations. Call North Carolina One Call 800-632-4949.
1. Should uncharted, or incorrectly charted, piping or other utilities be encountered during excavation, consult utility owner immediately for directions. Cooperate with utility companies in keeping respective services and facilities in operation. Repair damaged utilities to satisfaction of utility owner.
 2. Do not interrupt existing utilities serving facilities occupied by others, during occupied hours, except when permitted in writing by Engineer and then only after acceptable temporary utility services have been provided.
 3. Provide minimum of 48-hour notice to Engineer, Owner, and User and receive written notice to proceed before interrupting any utility.
 4. Demolish and completely remove from site existing underground utilities indicated to be removed. Coordinate with utility companies for shutoff of services if lines are active.
- B. Use of Explosives:
1. Use of explosives is not permitted.
- C. Protection of Persons and Property:
1. Barricade open excavations occurring as part of this work and post with warning lights.
 2. Operate warning lights as recommended by authorities having jurisdiction.
 3. Protect structures, utilities, sidewalks, pavements, and other facilities from damage caused by settlement, lateral movement, undermining, washout, and other hazards created by earthwork operations.
 4. Perform excavation by hand within dripline of large trees to remain. Protect root systems from damage or dry-out to the greatest extent possible. Maintain moist condition for root system and cover exposed roots with moistened burlap.
 5. Contractor to establish and maintain positive drainage throughout the work area to prevent deterioration of subgrade within pavement, sidewalk, driveways, and any building areas.

PART 2- PRODUCTS

2.01 SOIL MATERIALS

- A. Satisfactory soil materials are defined as those complying with ASTM D2487 soil classification groups

SW, SP, SP-SM, and SM, unless otherwise approved by Owner's Geotech.

- B. Unsatisfactory soil materials are defined as those complying with ASTM D2487 soil classification groups SC, CL, ML, OL, CH, MH, OH, and PT.
- C. Subbase Material: Naturally or artificially graded mixture of natural or crushed gravel, crushed stone, crushed slag, and natural or crushed sand.
- D. Backfill and Fill Materials: Satisfactory soil materials free of plastic clay, rock or gravel larger than 2 inches in any dimension, debris, waste, frozen materials, vegetation and other deleterious matter.

PART 3- EXECUTION

3.01 EXCAVATION

- A. Excavation is unclassified and includes excavation of all muck, rock, and other materials required to obtain subgrade elevations indicated, regardless of character of materials and obstructions encountered.
- B. Earth excavation includes excavation of pavements and other obstructions visible on surface; underground structures, utilities, and other items indicated to be demolished and removed; together with earth and other materials encountered that are not classified as rock or unauthorized excavation.
- C. Proof-roll subgrades before filling with satisfactory soils and 1 or aggregate base course materials. Proof-rolling shall be done under the observation of the Owner's Geotech and / or Owner's Engineer. Proof-rolling shall be done with a fully loaded tandem dump truck to identify soft pockets and / or areas of excessive yielding.
- D. If unsuitable bearing materials are encountered, at the required subgrade elevations, the Contractor shall notify the Engineer. The Engineer and/or the Geotech shall make the determination as to the delineation and management of the unsuitable bearing materials. If a detailed delineation of the extent of the unsuitable bearing material is required, the Contractor, at the direction of the Engineer and/or the Geotech, shall prepare a topographic survey of the area with unsuitable bearing materials. The topographic survey shall consist of topographic shots taken on an appropriate scale grid pattern that encompasses the entire area in EARTHWORK 02200-3 question. Grid pattern shall be approved by Engineer and survey work shall be done under the observation of the Owner's Geotech and/or Engineer. After removal of unsuitable material, and before placement of suitable fill, the Contractor shall conduct a second topographical survey with shots taken on a like scale grid pattern. These surveys will be used as the basis for determining the amount of under-excavation and basis for payment for additional fill material. The surveys to be prepared for determining the quantity of under-excavation shall be at the Contractor's expense and shall be prepared by a North Carolina Registered Land Surveyor. No action shall be taken without authorization by the Owner, Engineer, and Geotech.

- E. Earth excavation includes excavation under building footings, slabs on grade, and or driveways.

3.02 STABILITY OF EXCAVATIONS

- A. General: Comply with Federal, State and local codes, ordinances and requirements of agencies having jurisdiction.
- B. Slope sides of excavations to comply with Federal, State and local codes, ordinances and requirements of agencies having jurisdiction. Shore and brace where sloping is not possible because of space restrictions or stability of material excavated. Maintain sides and slopes of excavations in safe condition until completion of backfilling.
- C. Shoring and Bracing: Provide materials for shoring and bracing, such as sheet piling, uprights, stringers, and cross braces, in good serviceable condition. Maintain shoring and bracing in excavations regardless of time period excavations will be open. Extend shoring and bracing as excavation progresses. Contractor shall be responsible for reviewing OSHA and other applicable regulations for shoring and bracing and submit drawings in accordance with the regulations to the Engineer prior to commencement of work. When required by OSHA, drawings shall be sealed by a properly licensed professional engineer.
- D. Provide permanent steel sheet piling or properly treated timber sheet piling wherever subsequent removal of sheet piling might permit lateral movement of soil under adjacent structures. Cut off tops a minimum of 2 ft.-6-inches below final grade and leave permanently in place.

3.03 DEWATERING

- A. Prevent surface water and subsurface or ground water from flowing into excavations and from flooding project site and surrounding area.
 - 1. Do not allow water to accumulate in excavations. Remove water to prevent softening of excavation areas and any undercut areas that may cause soil changes detrimental to stability of subgrade and other excavated areas. Provide and maintain pumps, well points, sumps, suction and discharge lines, and other dewatering system components necessary to EARTHWORK 02200-4 convey water away from excavations.
 - 2. Establish and maintain temporary drainage ditches and other diversions outside excavation limits to convey ground water, rain water and water removed from excavations to collecting or runoff areas. Do not use trench excavations as temporary drainage ditches.

3.04 STORAGE OF EXCAVATED MATERIALS

- A. Stockpile excavated materials acceptable for backfill and fill where directed. Place, grade, and shape stockpiles for proper drainage.
 - 1. Locate and retain soil materials away from edge of excavations.
 - 2. Slope all temporary and /or permanent stockpiled materials to prevent slope failures.

- B. Dispose of excess excavated soil material and materials not acceptable for use as backfill or fill in legal disposal area.

3.05 EXCAVATION FOR PAVEMENTS

- A. Cut surface under pavements to comply with cross-sections, elevations and grades as indicated.

3.06 BACKFILL AND FILL

- A. General: Place soil material in layers to required subgrade elevations, for each area classification listed below, using materials specified in Part 2 of this Section.

- 1. Under grassed areas, use satisfactory excavated or borrow material.
- 2. Under walks and pavements, use subbase material, satisfactory excavated or borrow material, or a combination.

3.07 SUBGRADE PREPARATION AND COMPACTION

- A. Surface Preparation Recommendations:
 - 1. Remove all vegetation, topsoil, organic and unsuitable materials. Proof-roll subgrades before filling with satisfactory soils and/or aggregate base course materials. Proof-rolling shall be done under the observation of the Owner's Geotech and/or Owner's Engineer. Proof-rolling shall be done with a fully loaded tandem dump truck to identify soft pockets and I or areas of excessive yielding.
 - 2. Plow strip, or break up sloped surfaces steeper than 1 vertical to 4 horizontal to a depth of 6" ± so that fill material will bond with existing surface.
 - 3. When existing ground surface has a density less than that specified under "Compaction" for particular area classification, break up ground surface, pulverize, moisture-condition to optimum moisture content, and compact to required depth and percentage of maximum density.
- B. Place backfill and fill materials in layers not more than 8 inches in loose depth for material compacted by heavy compaction equipment, and not more than 4 inches in loose depth for material compacted by hand-operated tampers.
- C. Before compaction, moisten or aerate each layer as necessary to provide optimum moisture content. Compact each layer to required percentage of maximum dry density or relative dry density for each area classification. Do not place backfill or fill material on surfaces that are muddy, frozen, or contain frost or ice.
- D. Place backfill and fill materials evenly adjacent to structures, piping, or conduit to required elevations. Prevent wedging action of backfill against structures or displacement of piping or conduit by carrying material uniformly around structure, piping, or conduit to approximately same elevation

in each lift.

- E. Control soil and fill compaction, providing minimum percentage of density specified for each area classification indicated below. Correct improperly compacted areas or lifts as directed by Owner provided Geotech if soil density tests indicate inadequate compaction.
- F. Compaction:
 - 1. Natural soils shall be compacted to a dry density of at least 95% of the modified Proctor maximum dry density (ASTM D1557).
 - 2. Fill material shall be compacted to a dry density of at least 95% of the modified Proctor maximum dry density (ASTM D1557).
- G. Moisture Control: Where subgrade or layer of soil material must be moisture conditioned before compaction, uniformly apply water to surface of subgrade or layer of soil material. Apply water in minimum quantity as necessary to prevent free water from appearing on surface during or subsequent to compaction operations.
- H. Remove and replace, or scarify and air dry, soil material that is too wet to permit compaction to specified density.
- I. Stockpile or spread soil material that has been removed because it is too wet to permit compaction. Assist drying by discing, harrowing, or pulverizing until moisture content is reduced to a satisfactory value.

3.08 GRADING

- A. General Uniformly grade areas within limits of grading under this Section, including adjacent transition areas. Smooth finished surface within specified tolerances, compact with uniform levels or slopes between points where elevations are indicated or between such points and existing grades.
- B. Finish surfaces free from irregular surface changes and as follows:
 - 1. Pavements: Shape surface of areas under pavement to line, grade, and cross-section, with finish surface not more than 1/2 inch above or below required subgrade elevation.
- C. Compaction: After grading, compact subgrade surfaces to the depth and indicated percentage of maximum or relative density for each area classification.

3.09 FIELD QUALITY CONTROL

- A. Quality Control Testing During Construction:
 - 1. All stripping of topsoil, excavation, proof-rolling, selection and compaction of fill shall be

under the direct control of the Geotech hired by, retained and paid for by the Owner and approved by the Engineer. The Contractor, Geotech, and Engineer shall establish a program that provides the necessary field supervision, field or laboratory testing and other quality control monitoring and testing which may be required in order to meet the requirements of all site work.

2. Perform field density tests in accordance with ASTM D 1556.
 3. Field density tests may also be performed by the nuclear method in accordance with ASTM D 2922, providing that calibration curves are periodically checked and adjusted to correlate to tests performed using ASTM D 1556. In conjunction with each density calibration check, check the calibration curves furnished with the moisture gages in accordance with ASTM D 3017.
 4. If field tests are performed using nuclear methods, make calibration checks of both density and moisture gages at beginning of work, on each different type of material encountered, and at intervals as directed by the Owner's Geotech.
 5. Percent of Maximum Dry Density Requirements: As described in 3.07 F of this Section.
- B. Paved Areas: Perform at least one field density test of subgrade for every 6,000 sq.ft. of paved area, but in no case fewer than three (3) tests per area of work tested per event.
- C. Compacted Fill for Paved Areas: In each compacted fill layer, perform one field density test for every 6,000 sq.ft. every other lift of overlaying paved area, but in no case fewer than three (3) tests per area of work tested per event.

3.10 EROSION CONTROL

- A. Provide erosion control methods in accordance with Section 02190- Erosion and Sediment Control and the North Carolina Department of Environment & Natural Resources, Land Quality Section.

3.11 MAINTENANCE

- A. Protection of Graded Areas: Protect newly graded areas from traffic, standing water, and erosion. Keep free of trash and debris.
- B. Repair and re-establish grades in settled, eroded, and rutted areas to specified tolerances.
- C. Reconditioning Compacted Areas: Where completed compacted areas are disturbed by subsequent construction operations or adverse weather, scarify surface, reshape, and compact to required density prior to further construction.
- D. Settling: Where settling is measurable or observable at excavated areas during general project warranty period, remove surface (pavement, lawn, or other finish), add backfill material, compact, and replace surface treatment. Restore appearance, quality, and condition of surface or finish to match adjacent work, and eliminate evidence of restoration to greatest extent possible.

3.12 DISPOSAL OF EXCESS AND WASTE MATERIALS

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- A. Removal from Owner's Property: Remove waste materials, including unacceptable excavated material, trash, and debris, and dispose of it off Owner's property in a legal manner.

END OF SECTION 02200

SECTION 02520 - PORTLAND CEMENT CONCRETE PAVING

PART 1 - GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

1.02 SUMMARY

- A. This Section includes the extent of Portland Cement concrete paving shown on Drawings.
- B. Concrete walks, curbs, steps, ramps, curb inlets, basin overflow boxes, flagpole foundations, thrust blocks, clean out pads, light pole bases, transformer pads, and other site related items, complete with reinforcement.
- C. Prepared subbase is specified in Section 02200 - Earthwork.

1.03 SUBMITTALS

- A. Mix Design: Submit proposed mix design and obtain approval by Engineer prior to commencement of concrete work.
- B. Ready Mix Delivery Tickets: ANSI/ASTM C94.
- C. Provide samples, manufacturer's product data, test reports, and materials certifications as required in referenced sections for concrete and joint fillers and sealers.

1.04 QUALITY ASSURANCE

- A. Applicable Codes and Standards:
 - 1. Comply with standards specified in these specifications.

1.05 JOB CONDITIONS

- A. Traffic Control: Maintain access for vehicular and pedestrian traffic as required for other construction activities.
- B. Concrete shall not be placed during "cold weather". "Cold Weather" is defined as more than three (3) consecutive days, the following conditions exist:
 - 1. The average daily air temperature is less than 5°C (40°F) and,
 - 2. The air temperature is not greater than 10°C (50°F) for more than one-half of any 24 hour period.

PART 2- PRODUCTS

2.01 MATERIALS

- A. Forms: Steel, wood, or other suitable material of size and strength to resist movement during concrete placement and to retain horizontal and vertical alignment until removal. Use straight forms, free of distortion and defects.
 - 1. Use flexible spring steel forms or laminated boards to form radius bends as required.
- B. Coat forms with non-staining form release agent that will not discolor or deface surface of concrete.
- C. Welded Wire Mesh: Welded plain cold-drawn steel wire fabric, ASTM A 185.
- D. Reinforcing Bars: Deformed steel bars, ASTM A 615, Grade 60.
- E. Concrete Materials:
 - 1. All materials shall be furnished by the Contractor and shall be new.
 - 2. Cement shall be air entrained and shall otherwise conform to Type I or Type II ASTM C 150, Specifications for Portland Cement.
 - 3. Aggregates shall conform to the requirements of ASTM Specification C-33 unless otherwise specified. Coarse aggregates for concrete having exterior surface exposed:
 - (a) 95% to 100% shall pass a 1-1/2-inch sieve,
 - (b) 35% to 70% shall pass a 3/4-inch sieve,
 - (c) 10% to 20% shall pass a 3/8-inch sieve, and
 - (d) not over 5% shall pass a No. 4 sieve

*(Percentages are by weight)
 - 4. Water shall be clean and free from injurious amounts of oil, salt, acid, alkali, organic matter or other deleterious substances.
 - 5. Air-entraining admixtures shall conform to ASTM C-260.
- F. Vapor-Barrier: 4 mil polyethylene to be placed under slabs.
- G. Expansion Joint Materials: Comply with industry standards for preformed expansion joint fillers and sealers.

2.02 CONCRETE MIX, DESIGN AND TESTING

- A. Comply with requirements for concrete mix design, sampling and testing, and quality control and as herein specified.
 - 1. Frequency of Testing
 - a. The following three criteria establish the required minimum sampling frequency for each class of concrete:
 - (1) Once each day a given class is placed, nor less than

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- (2) Once for each 150 cubic yards of each class placed each day, nor less than
 - (3) Once for each 5000 sq.ft. of slab or wall surface area placed each day.
 - 2. Samples for strength tests are to be taken on a strictly random basis if they are to measure properly the acceptability of the concrete. To be representative, the choice of times of sampling, or the batches of concrete to be sampled, are to be made on the basis of chance alone, within the period of placement. Batches should not be sampled on the basis of appearance, convenience or other possibly biased criteria, the statistical analysis lose their validity. Not more than one test should be taken from a single batch, and water may not be added to the concrete after the sample is taken.
 - 3. Test reports should be promptly distributed to the Town and the Engineer to allow timely identification of either compliance or the need for corrective action.
- B. Design mix to produce normal-weight concrete consisting of portland cement, aggregate, water-reducing or high-range water-reducing admixture (superplasticizer), air-entraining admixture, and water to produce the following properties:
 - 1. Compressive Strength: 4000 psi, minimum at 28 days, unless otherwise indicated.
 - 2. Slump Limits: 8 inches minimum for concrete containing high-range water-reducing admixture (superplasticizer); 3 inches for other concrete.
 - 3. Air Content: 5 to 8 percent.

PART 3 EXECUTION

3.01 SURFACE PREPARATION

- A. Remove loose material from compacted subbase surface immediately before placing concrete.

3.02 FORM CONSTRUCTION

- A. Set forms to required grades and lines, braced and secured. Install forms to allow continuous progress of work and so that forms can remain in place at least 24 hours after concrete placement.
- B. Check completed form work for grade and alignment to following tolerances:
 - 1. Top of forms not more than 1/8 inch in 10 feet.
 - 2. Vertical face on longitudinal axis, not more than 1/4 inch in 10 feet.
- C. Clean forms after each use and coat with form release agent as required to ensure separation from concrete without damage.
- D. Slope step treads at 1/4 inch per foot to drain.

3.03 REINFORCEMENT

- A. Locate, place and support reinforcement as specified on Drawings, unless otherwise indicated.

3.04 CONCRETE PLACEMENT

- A. General: Comply with requirements of industry standards for mixing and placing concrete, and as herein specified.
- B. Do not place concrete until subbase and forms have been checked for line and grade. Moisten subbase if required to provide a uniform dampened condition at time concrete is placed. Do not place concrete around manholes or other structures until they are at required finish elevation and alignment.
- C. Place concrete by methods that prevent segregation of mix. Consolidate concrete along face of forms and adjacent to transverse joints with internal vibrator. Keep vibrator away from joint assemblies, reinforcement, or side forms. Use only square-faced shovels for hand-spreading and consolidation. Consolidate with care to prevent dislocation of reinforcing, dowels, and joint devices.
- D. Use bonding agent at locations where fresh concrete is placed against hardened or partially hardened concrete surfaces.
- E. Deposit and spread concrete in a continuous operation between transverse joints as far as possible. If interrupted for more than 1/2 hour, place a construction joint.
- F. When adjacent pavement lanes are placed in separate pours, do not operate equipment on concrete until pavement has attained sufficient strength to carry loads without injury.
- G. Place concrete in 2 operations; strike off initial pour for entire width of placement and to the required depth below finish surface. Lay fabricated bar mats immediately in final position. Place top layer of concrete, strike off, and screed.
- H. Remove and replace portions of bottom layer of concrete that have been placed more than 15 minutes without being covered by top layer or use bonding agent if acceptable to Engineer.

3.05 JOINTS

- A. General: Construct expansion, weakened-plane (contraction), and construction joints true to line with face perpendicular to surface of concrete. Construct transverse joints at right angles to the centerline, unless otherwise indicated. Place joints for concrete walks at 5 ft. on center or as indicated on Drawings.
- B. When joining existing structures, place transverse joints to align with previously placed joints, unless otherwise indicated.
- C. Weakened-Plane (Contraction) Joints: Provide weakened-plane (contraction) joints, sectioning concrete into areas as shown on Drawings. Construct weakened-plane joints for a depth equal to at least 1/4 concrete thickness, as follows:
 - 1. Tooled Joints: Form weakened-plane joints in fresh concrete by grooving top portion with a recommended cutting tool and finishing edges with a jointer.

- D. Construction Joints: Place construction joints at end of placements and at locations where placement operations are stopped for more than 1/2 hour, except where such placements terminate at expansion joints.
 - 1. Construct joints as shown or, if not shown, use standard metal keyway section forms.
 - 2. Where load transfer-slip dowel devices are used, install so that one end of each dowel bar is free to move.
- E. Expansion Joints: Provide pre molded joint filler for expansion joints abutting concrete curbs, catch basins, manholes, inlets, structures, walks, and other fixed objects, unless otherwise indicated.
- F. Furnish joint fillers in one-piece lengths for full width being placed wherever possible. Where more than one length is required, lace or clip joint filler sections together.
- G. Protect top edge of joint filler during concrete placement with a metal cap or other temporary material. Remove protection after concrete has been placed on both sides of joint.
- H. Fillers and Sealants: Comply with industry standards for preparation of joints, materials, installation, and performance.

3.06 CONCRETE FINISHING

- A. After striking-off and consolidating concrete, smooth surface by screeding and floating. Use hand methods only where mechanical floating is not possible. Adjust floating to compact surface and produce uniform texture.
- B. After floating, test surface for trueness with a 10 ft. straightedge. Distribute concrete as required to remove surface irregularities, and refloat repaired areas to provide a continuous smooth finish.
- C. Work edges of slabs, gutters, back top edge of curb, and formed joints with an edging tool, and round to 1/2 inch radius, unless otherwise indicated. Eliminate tool marks on concrete surface.
- D. After completion of floating and when excess moisture or surface sheen has disappeared, complete troweling and finish surface as follows:
 - 1. Broom finish by drawing a fine-hair broom across concrete surface perpendicular to line of traffic. Repeat operation if required to provide a fine line texture acceptable to Engineer.
 - 2. On inclined slab surfaces, provide a coarse, non-slip finish by scoring surface with a stiff-bristled broom, perpendicular to line of traffic.
- E. Do not remove forms for 24 hours after concrete has been placed. After form removal, clean ends of joints and point-up any minor honeycombed areas. Remove and replace areas or sections with major defects, as directed by the Engineer.

3.07 CURING

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- A. Protect and cure finished concrete paving in compliance with applicable requirements of industry standards. Use membrane-forming curing and sealing compound or approved moist-curing methods.

3.08 REPAIRS AND PROTECTIONS

- A. Repair or replace broken or defective concrete, as directed by Engineer.
- B. Defective or Broken concrete sections will be removed in their entirety and reconstructed in accordance with this specification section.
- C. Protect concrete from damage until acceptance of work. Exclude traffic from pavement for at least 14 days after placement. When construction traffic is permitted, maintain pavement as clean as possible by removing surface stains and spillage of materials as they occur.
- D. Sweep concrete pavement and wash free of stains, discolorations, dirt, and other foreign material just before final inspection.

END OF SECTION 02520

Division 3

SECTION 03100 – CONCRETE FORM WORK

PART 1- GENERAL

1.01 GENERAL DESIGN GUIDELINES

- A. Inspection by Owner's Testing Agency does not relieve the Contractor of contract responsibilities.
- B. Provide chamfers at top of foundation and at all outside corners of exposed formed concrete surfaces, including structural and architectural concrete.
- C. Inspection of form work and reinforcing is required before concrete is placed.
- D. Form work shall be tight at joints and corners to prevent leakage.

PART 2 - PRODUCTS

2.01 FORM TIES

- A. Form work Panels: Specify material appropriate for finish desired.
- B. Form release treatment
 - 1. Coordinate form release oils or other products with materials to be applied over concrete (i.e. damp-proofing, waterproofing and finish materials).
 - 2. Form oil is prohibited where stucco, plaster or paint is to be applied to formed concrete surfaces.
- C. Form ties shall be plastic cone type – break-away only.
 - 1. Exception: For high lift pours where concrete pressure will exceed the capabilities of the plastic cone ties, design a form tie system that will withstand pressures and that can be patched in a manner suitable to receive applied damp-proofing and waterproofing.

PART 3 - EXECUTION

3.01 INSTALLATION

- A. Specify period of curing time required before shoring removal and form removal is allowed.

3.02 FIELD QUALITY CONTROL

- A. Notification: Contractor shall work with the Owner to schedule Owner's inspections and testing.

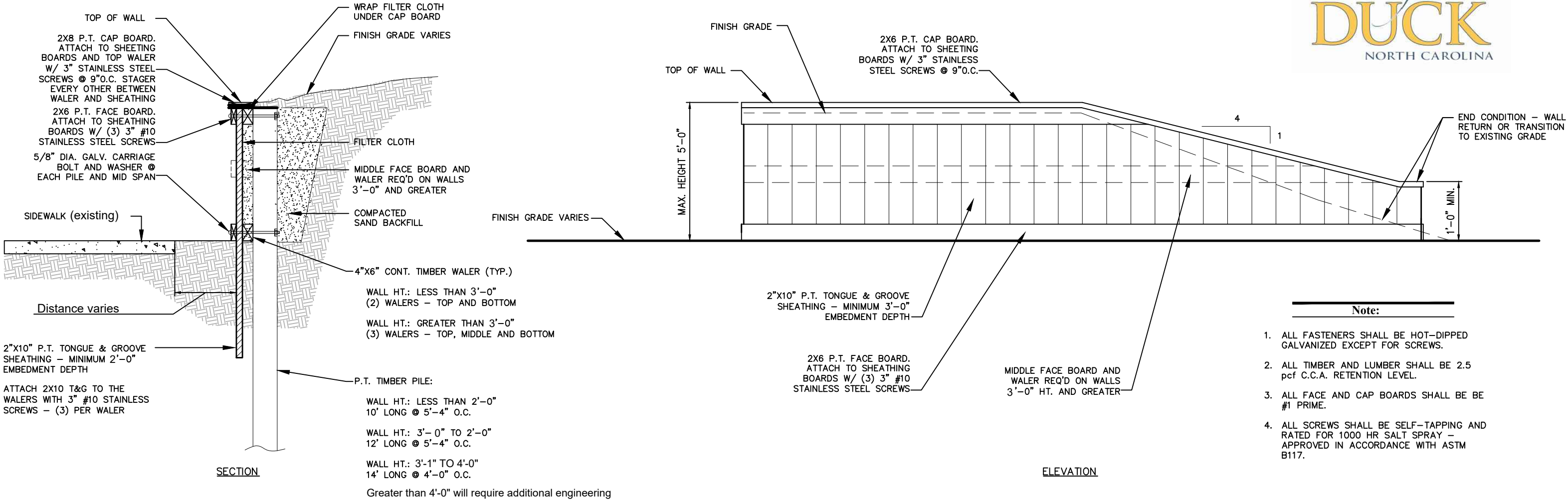
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- B. Owner will provide formwork inspection for Owner's information at Owner's expense.
- C. Contractor will be provided with Owner's inspection information and may use information as a part of Contractor's quality control. However, Owner does not represent that the frequency or type of inspection is adequate to assure compliance with contract requirements. Contractor shall provide additional testing and inspections needed to assure contract compliance, at Contractor's expense.
- D. Additional inspections or re-inspections required for quality control shall be at Contractor's expense.

END OF SECTION 03100



1 Typical Wood Retaining Wall
N.T.S.

