

AGREEMENT

THIS AGREEMENT, made the ____ day of _____ in the year of 2016 by and between _____ hereinafter called the Party of the First Part and Town of Sunset Beach, hereinafter called the Party of the Second Part.

WITNESSETH:

That the Party of the First Part and the Party of the Second Part for the consideration herein named agree as follows:

1. Scope of Work: The Party of the First Part shall furnish and deliver all of the materials and perform all of the work in the manner and form as provided by the following enumerated plans, specifications and documents, which are attached hereto and made a part thereof as if fully contained herein, titled:

Invitation to Bid - Beach Access Walkway Extensions

Consisting of the following sheets: Title, **(Final Engineered Drawings will be available at the Pre-Bid Meeting scheduled for January 22, 2016 at 11:00 PM.**

Dated: _____ and the following addenda:

Addendum No. ____ Dated: _____ Addendum No. ____ Dated: _____
Addendum No. ____ Dated: _____ Addendum No. ____ Dated: _____

2. That the Party of the First Part shall commence work to be performed under this Contract on a date to be specified in a written order of the Party of the Second Part and shall fully complete all work hereunder by **May 23, 2016**. For each day in excess thereof, liquidated damages shall be as stated in the Notice to Bidders. The Party of the First Part, as one of the considerations for the awarding of this Contract, shall furnish to the Party of the Second Part a construction schedule setting forth planned progress of the project broken down by the various divisions or part of the work and by calendar days. If the Party of the First Part fails to begin the work under the Contract within the time specified, or the progress of the work is not maintained on schedule, or the work is not completed within the time above specified, or fails to perform the work with sufficient workmen and equipment or with sufficient materials to ensure the prompt completion of said work, or shall perform the work unsuitably or shall discontinue the prosecution of the work, or if the Party of the First Part shall become insolvent or be declared bankrupt or commit any act of bankruptcy or insolvency, or allow any final judgment to stand against him unsatisfied for a period of forty-eight (48) hours, or shall make an assignment for the benefit of creditors, or for any other cause whatsoever shall not carry on the work in an acceptable manner, the Party of the Second Part may give notice in writing, sent by certified mail, return receipt requested, to the Party of the First Part and his surety of such delay, neglect, or default, specifying the same, and if the Party of the First Part within a period of fifteen (15) days after such notice shall not proceed in accordance therewith, then the Party of the Second Part shall, declare this Contract in default, and, thereupon, the surety shall promptly take over the work and complete the performance of this Contract in the manner and within the time frame specified. In the event the surety shall fail to take over the work to be done under this Contract within fifteen (15) days after being so notified and notify the Party of the Second Part in writing, sent by certified mail, return

receipt requested, that he is taking the same over and stating that he will diligently pursue and complete the same, the Party of the Second Part shall have full power and authority, without violating the Contract, to take the prosecution of the work out of the hands of said Party of the First Part, to appropriate or use any or all Contract materials and equipment on the grounds as may be suitable and acceptable and may enter into an agreement, either by public letting or negotiation, for the completion of said Contract according to the terms and provisions thereof or use such other methods as in his opinion shall be required for the completion of said Contract in an acceptable manner. All costs and charges incurred by the Party of the Second Part, together with the costs of completing the work under Contract, shall be deducted from any monies due or which may become due said Party of the First Part and surety. In case the expense so incurred by the Party of the Second Part shall be less than the sum which would have been payable under the Contract, if it had been completed by said Party of the First Part, then the said Party of the First Part and surety shall be entitled to receive the difference, but in case such expense shall exceed the sum which would have been payable under the Contract, then the Party of the First Part and the surety shall be liable and shall pay to the Party of the Second Part the amount of said excess.

3. The Party of the Second Part hereby agrees to pay to the Party of the First Part for the faithful performance of this Contract, subject to additions and deductions as provided in the specifications or proposal, in lawful money of the United States as follows:

\$ _____

Summary of Contract Award:

4. On or before the 20th day of each calendar month, the Party of the Second Part shall make payments to the Party of the First Part on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by the First Party, less five percent (5%) of the amount of such estimate which is to be retained by the Second Party until all work has been performed strictly in accordance with this Contract and until such work has been accepted by the Second Party. The Second Party shall not require further retainage after fifty percent (50%) of the work has been satisfactorily completed on schedule as referred to as "Payment Request".
5. Upon submittal by the First Party of evidence satisfactory to the Second Party that all payrolls, material bills, and other costs incurred by the First Party in connection with the construction of the work have been paid in full, final payment on account of this Contract shall be made within thirty (30) days after the completion by the First Party of all work covered by this Contract and the acceptance of such work by the Second Party.
6. It is further mutually agreed between the parties hereto that if at any time after the execution of this Contract and the surety bonds hereto attached for its faithful performance, the Second Party shall deem the surety or sureties upon such bonds to be unsatisfactory, or if, for any reason, such bonds cease to be adequate to cover the performance of the work, the First Party shall, at its expense, within five (5) days after the receipt of notice from the Second Party so to do, furnish an additional bond or bonds in such form and amount, and with such surety or sureties as shall be satisfactory to the Second Party. In such event no further payment to the First Party shall be deemed to be due under this Contract until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the Second Party.

7. E-VERIFY. CONTRACTOR shall comply with the requirements of Article 2 of chapter 64 of the General Statutes. Further, if CONTRACTOR utilizes a subcontractor, CONTRACTOR shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the day and date first above written in 3 counterparts, each of which shall without proof or accounting for other counterparts, be deemed an original Contract.

Witness:

Contractor: (Trade or Corporate Name)

(Proprietorship or Partnership)

By: _____

Attest: (Corporation)

Title: _____
(Owner, Partner, or Corp. President or Vice President Only)

By: _____

Title: _____
(Corp. Sec. or Asst. Sec. Only)

(Corporate Seal)

Town of Sunset Beach

Witness:

By: _____

Title: Town Administrator

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Signature of Finance Officer