



COUNTY OF CURRITUCK
Advertisement for Bids
Carova Beach Park Bulkhead Repair
Date of Issue: June 29, 2020

The County of Currituck, North Carolina (“County”) requests bids for Carova Beach Park Bulkhead Repair project in Carova, North Carolina.

Bids will be received until **3:00 p.m.** on **Thursday July 16, 2020.** Bids received after this deadline will not be accepted.

A Pre-bid meeting will be at 2:00 p.m. on July 6, 2020 at the Carova Beach Park (Address: 2100 Ocean Pearl Rd, Corolla, NC 27927). Attendance is required.

Contract documents are available on the Currituck County ‘Bids & RFPs’ website:

<https://co.currituck.nc.us/bids-rfp/>

or hard copies for a cost of \$75 from:

Coastal Engineering & Surveying, Inc.
Office: (252) 261-4151
Bob Scheller, P.E.
Email: bob@coastales.com

Upon award and contract execution, construction is anticipated to begin in August 2020.
Duration of construction is 45 days.

This is an informal bid. Bids will not be opened publicly and read aloud. The bids will be evaluated and contract will be awarded in accordance with the statutory requirements. All bidders must meet the licensing requirements under Chapter 87 of the N.C. General Statutes. Small Business Entities, Women Owned Businesses and Minority Owned Businesses are encouraged to submit bids.

Instructions to Bidders
Carova Beach Park Bulkhead Repair
Date of Issue: June 29, 2020

1.0 Submission of Bids

Bids will be received until **3:00 p.m on Thursday, July 16, 2020.**

Bids submitted shall include the following items:

- (1) One copy of General Contracting License
- (2) One copy of Bid Form

All bids must be made on the required Bid Form. The Bid Form must be fully completed and executed when submitted.

Bids must be marked “Carova Beach Park Bulkhead Repair” and may be submitted by (in order of preference) email, hand-delivery, mail, or fax to:

Currituck County Attorney’s Office
Attention: Rebecca Gay, Contract Purchasing Agent
Email: Rebecca.Gay@CurrituckCountyNC.Gov
Hand-Delivery: 153 Courthouse Road, Suite 207 Currituck, NC 27929
Mail: 153 Courthouse Road, Suite 210, Currituck, NC 27929
Fax: (252) 232-3551

Any bid received after the time and date specified shall not be considered. It is the Contractors responsibility to verify receipt of any bids submitted to the County prior to the deadline. The County may waive any informalities or minor defects or reject any all bids.

This is an informal bid. Bids will not be publicly opened and read aloud. No Bidder may withdraw a bid within 5 days after the actual date of the opening thereof.

Award will be made to the lowest responsive, responsible bidder.

2.0 Pre-Bid Meeting

Pre-bid meeting will be at 2:00 p.m. on July 6, 2020 at the Carova Beach Park (Address: 2100 Ocean Pearl Rd, Corolla, NC 27927). Attendance is mandatory.

3.0 Questions

Written questions and requests for clarification shall be submitted via e-mail to Bob Scheller at bob@coastales.com no later than 5:00 pm on July 9, 2020. All questions requiring additional information will be responded in an addendum no later than July 13, 2020. All addenda shall become part of the Contract Documents.

4.0 Additional Instructions

Funding for this project is provided by the Federal Emergency Management Agency's Public Assistance Grant Program (FEMA - 4465 - DR - NC). The awarded contractor shall be required to comply with all applicable federal, state, and local procurement laws, regulations, and procedures.

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the contract throughout.

Each Bidder is responsible for inspecting the site, understanding the scope of work, specifications, plans, and for reading and being thoroughly familiar with the Bid Documents.

Contractor awarded the project will be required to:

- Execute Agreement included herein;
- Provide a form W-9; and
- Provide Certificate of Insurance verifying required insurance described in General Terms and Conditions.

Scope of Work
Carova Beach Park Bulkhead Repair
Date of Issue: June 29, 2020

The Scope of Work for this project includes:

1. Demolish the existing approximately 110 ± feet of failed bulkhead along the northern edge of Carova Beach Park;
2. Construct a new bulkhead in the failed area per the approved drawings.
3. Place new structural fill/backfill compacted against the new bulkhead to return the area back to their original grades.
4. Place a minimum of 4 inches of new topsoil over the disturbed area and plant grass seed.

Bid Form
Carova Beach Park Bulkhead Repair
Date Issued: June 29, 2020
Bids Due: 3:00 pm on July 16, 2020

The bid items shall be shown in both words and figures. In case of discrepancy, the amount in words shall govern.

The bid item price shall include labor, materials, overhead, tools, equipment, transportation, profit, insurance, taxes, site repair, clean-up and all other incidentals to cover the finished work.

The Bidder agrees that this bid shall be valid and may not be withdrawn for a period of five (5) calendar days after the scheduled closing time for receiving bids.

Award will be made to the lowest responsive, responsible bidder.

The undersigned has carefully examined the scope of work and requirements and hereby declares that he/she will complete the project in the manner prescribed in the specifications and for the following lump sum price:

Bid Item 1: Demolish failed portion of existing bulkhead, construct new bulkhead, place structural fill/backfill to return area to original grade (-4")

(Lump Sum) \$ _____ for approximately 110 ± linear feet @ _____ per linear foot

_____ @ _____ per linear foot

Write out total dollar amount in words

Additive Bid Item 1: Import new topsoil (min 4") and plant grass seed

Lump sum \$ _____ for 500 square feet @ \$ _____ per sqft

_____ @ _____ per sqft

Write out total dollar amount in words

GRAND TOTAL BID AMOUNT (Sum of Bid Item 1 and Additive Bid Item 1):

(Lump Sum) \$ _____

Write out total dollar amount in words

Bidder has examined all Bid Documents and the following Addenda, receipt of which is hereby acknowledged:

Addendum Date:

Addendum Number:

Respectfully submitted this _____ day of _____, 2020.

Name of Company

Contractors Licenses Number

Signature of Authorized Representative / Title

Print Name

Address

Email

**NORTH CAROLINA
CURRITUCK COUNTY**

CONTRACT FOR CAROVA BEACH PARK BULKHEAD REPAIR

This Contract is made this ____ day of _____ 2020, by and between the COUNTY OF CURRITUCK, NORTH CAROLINA, a body corporate and politic existing pursuant to the laws of the State of North Carolina, (the "Owner") and _____, a North Carolina *corporation* existing and organized pursuant to the laws of the State of North Carolina, (the "Contractor").

WHEREAS, pursuant to Chapter 143, Article 8 of the General Statutes of North Carolina and Currituck County, North Carolina Purchasing Policy the County requested bids for the Carova Beach Park Bulkhead Repair; and

WHEREAS, Contractor submitted the lowest responsive, responsible bid consistent with the Owner's needs; and

NOW THEREFORE, in consideration of the mutual benefits, promises, and undertakings, the sufficiency and receipt of which are acknowledged, the following terms and conditions are agreed to by the parties to this Contract:

1. **Incorporation by Reference.** The following are made a part hereof as if the same were fully set forth herein, and if any discrepancies arise between the documents, they will prevail in the following order: (1) this Contract including the General Terms and Conditions, (2) Contractor's Bid Form dated _____, 2020, (3) Project Specifications, and (4) Plans. This procurement is governed by Chapter 143, Article 8 of the General Statutes of North Carolina and Currituck County, North Carolina Purchasing Policy. All terms and conditions of statutes, policies and procedures are hereby adopted and incorporated by reference herein.
2. **Contract Term.** The Contract shall be for a period of 45 consecutive days from the issuance of the Notice to Proceed.
3. **Contract Cost.** The Contract shall be for a total bid amount of _____ (\$_____).
4. **Changes to Contract.** This Contract and its references constitute the entire contract and understanding between the parties with respect to the matters contained herein. The contract supersedes any prior contracts, negotiations, proposals, agreements and/or understandings, whether verbal or written, relating to the subject matter hereof. This contract may be modified, amended or extended only by a written instrument executed by both parties.

5. **Liquidated Damages.** Contractor and Owner recognize that time is of the essence and that the Owner will suffer financial and other losses if the Work is not completed within 30 days of the Notice to Proceed. The parties also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner \$250 per day for each work day that expires after the 30 calendar day completion period.
6. **Termination.** This Contract may be terminated by either party at any time upon 15 days written notice to the other party. Upon the termination of this Contract, Contractor shall prepare and provide to County a list of all pending unfinished business involving Contractor.
7. **Notices.** Any notices required shall be in writing, unless otherwise permitted hereunder, and shall be deemed received five (5) days after mailing of same in the U. S. Mail with postage prepaid at the addresses set forth below or upon actual receipt:

Notice to Owner shall be made to:

Ben Stikeleather, County Manager
County of Currituck
153 Courthouse Road, Suite 204
Currituck, NC 27929

Notice to Contractor shall be made to:

8. **General Terms and Conditions.** During the term of this Contract, Contractor agrees to procure and maintain insurance which meets all Owner's requirements in the General Terms and Conditions.
9. **Counterparts.** This Contract may be executed in one or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signed signature pages may be transmitted by facsimile or as an attachment to an email, and any such signature shall have the same legal effect as an original.

10. **Severability.** If any provision of this Contract is determined to be unenforceable, invalid or illegal, then the enforceability, validity and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

11. **Indemnity.** The Contractor agrees to indemnify and hold harmless the Owner from all loss, liability, claims or expense, including attorney's fees, arising out of or related to the Project and arising from bodily injury including death or property damage to any person or persons caused in whole or in part by the negligence or misconduct of the Contractor except to the extent same are caused by the negligence or misconduct of the Owner. It is the intent of this provision to this provision to require the Contractor to indemnify the Owner to the fullest extent permitted under North Carolina law.

The Owner agrees to indemnify and hold harmless the Contractor from all loss, liability, claims or expense, including attorney's fees, arising out of or related to the Project and arising from bodily injury including death or property damage to any person or persons caused in whole or in part by the negligence or misconduct of the Owner except to the extent same are caused by the negligence or misconduct of the Owner. It is the intent of this provision to this provision to require the Owner to indemnify the Contractor to the fullest extent permitted under North Carolina law.

12. **Miscellaneous.** This Contract shall be governed by the laws of the State of North Carolina. Jurisdiction and venue for any litigation arising out of or involving this Agreement shall lie in the North Carolina General Court of Justice in Currituck County, North Carolina, and such litigation shall be brought only in such courts. All pronouns used herein shall refer to every gender. Headings or titles in this Contract are only for convenience and shall have no meaning or effect upon the interpretation of the provisions of this Contract. This Contract is the entire agreement between the parties and may not be amended or modified, except by writing, signed by each party. If any provision of this Contract is determined to be unenforceable, then the remaining provisions of this Contract shall be interpreted as in effect as if such unenforceable provision were not included therein.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day first written above.

Attest

County of Currituck

Leeann Walton
Clerk to the Board

_____(Seal)
Ben Stikeleather
County Manager

[COUNTY SEAL]

Attest

[Contractor]

By: _____ (Seal)

Print Name and Title:

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

Sandra Hill
Finance Officer

GENERAL TERMS AND CONDITIONS

1. GENERAL

It is understood and agreed that by submitting a bid that the Contractor has examined these contract documents and specifications and has visited the site of the Work, and has satisfied himself relative to the Work to be performed. The Contractor agrees to accept the premises in their present condition and agrees to make no additional demands on the County for bringing the premises up to the standards of the specifications.

2. DEFINITIONS

Owner: "Owner" shall mean, the County of Currituck, North Carolina.

Contractor: "Contractor" shall mean the entity that will provide the services to the Owner.

Contract Documents: "Contract Documents" shall consist of the Notice to Bidders; General Terms and Conditions of the Contract; special conditions if applicable; the drawings and specifications, including all bulletins, addenda or other modifications of the drawings and specifications incorporated into the documents prior to their execution; the bid; the contract; the performance bond if applicable; and insurance certificates. All of these items together form the contract.

3. INTENT AND EXECUTION OF DOCUMENTS

The drawings and specifications are complementary, one to the other. That which is shown on the drawings or called for in the specifications shall be as binding as if it were both called for and shown. The intent of the drawings and specifications is to establish the scope of all labor, materials, transportation, equipment, and any and all other things necessary to provide a complete job. In case of discrepancy or disagreement in the Contract Documents, the order of precedence shall be: Form of Contract, specifications, large-scale detail drawings, small-scale drawings.

In such cases where the nature of the work requires clarification by the Owner, the Owner shall furnish such clarification. Clarifications and drawings shall be consistent with the intent of the Contract Documents, and shall become a part thereof.

4. AS-BUILT MARKED-UP CONSTRUCTION DOCUMENTS

Contractor shall provide one complete set of legible "as-built" marked-up construction drawings and specifications recording any and all changes made to the original design during the course of construction. In the event no changes occurred, submit construction drawings and specifications set with notation "No Changes."

The Owner must receive “As-built” marked-up construction drawings and specifications before the final pay request can be processed.

5. WORKING DRAWINGS AND SPECIFICATIONS AT THE SITE

The Contractor shall maintain, in readable condition at his job site one complete set of working drawings and specifications for his work including all shop drawings. Such drawings and specifications shall be available for use by the Owner or his authorized representative.

The Contractor shall maintain at the job site, a day-to-day record of work-in-place that is at variance with the contract documents. Such variations shall be fully noted on project drawings by the Contractor and submitted to the Owner upon project completion and no later than 30 days after acceptance of the project.

6. MATERIALS, EQUIPMENT AND EMPLOYEES

- a. The Contractor shall, unless otherwise specified, supply and pay for all labor, transportation, materials, tools, apparatus, lights, power, fuel, sanitary facilities and incidentals necessary for the completion of his work, and shall install, maintain and remove all equipment of the construction, other utensils or things, and be responsible for the safe, proper and lawful construction, maintenance and use of same, and shall construct in the best and most workmanlike manner, a complete job and everything incidental thereto, as shown on the plans, stated in the specifications, or reasonably implied therefrom, all in accordance with the contract documents.
- b. All materials shall be new and of quality specified, except where reclaimed material is authorized herein and approved for use. Workmanship shall at all times be of a grade accepted as the best practice of the particular trade involved, and as stipulated in written standards of recognized organizations or institutes of the respective trades except as exceeded or qualified by the specifications.
- c. No changes shall be made in the Work except upon written approval and change order of the Owner.
- d. Products are generally specified by ASTM or other reference standard and/or by manufacturer’s name and model number or trade name. When specified only by reference standard, the Contractor may select any product meeting this standard, by any manufacturer. When several products or manufacturers are specified as being equally acceptable, the Contractor has the option of using any product and manufacturer combination listed.

- e. However, the Contractor shall be aware that the cited examples are used only to denote the quality standard of product desired and that they do not restrict bidders to a specific brand, make, manufacturer or specific name; that they are used only to set forth and convey to bidders the general style, type, character and quality of product desired; and that equivalent products will be acceptable.
- f. If at any time during the construction and completion of the work covered by these contract documents, the language, conduct, or attire of any workman of the various crafts be adjudged a nuisance to the Owner or if any workman be considered detrimental to the work, the Contractor shall order such parties removed immediately from the site.
- g. The Contractor shall cooperate with the Owner in coordinating construction activities.
- H. The Contractor shall maintain qualified personnel and effective supervision at the site at all times during the project, and exercise the appropriate quality control program to ensure compliance with the project drawings and specifications. The Owner is responsible for determining compliance with the drawings and specifications.

7. CODES, PERMITS AND INSPECTIONS

The Contractor **shall obtain the required permits**, give all notices, and comply with all laws, ordinances, codes, rules and regulations bearing on the conduct of the work under this contract. If the Contractor observes that the drawings and specifications are at variance therewith, he shall promptly notify the Owner in writing. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, codes, rules and regulations, and without such notice to the Owner, he shall bear all cost arising there from.

All work under this contract shall conform to the current North Carolina Building Code and other state and national codes as are applicable.

8. PROTECTION OF WORK, PROPERTY, THE PUBLIC SAFETY REQUIREMENTS

- a. The Contractor shall be responsible for the entire site and the construction of the same and provide all the necessary protections as required by laws or ordinances governing such conditions and as required by the Owner. He shall be responsible for any damage to the Owner's property or that of others on the job, by himself, his personnel or his subcontractors, and shall make good such damages. He shall be responsible for and pay for any claims against the Owner arising from such damages.

- b. The Contractor shall adhere to the rules, regulations and interpretations of the North Carolina Department of Labor relating to Occupational Safety and Health Standards for the Construction Industry (Title 29, Code of Federal Regulations, Part 1926 published in Volume 39, Number 122, Part 11, June 24, 1974 Federal Register), and revisions thereto as adopted by General Statutes of North Carolina 95-126 through 155.

- c. The Contractor shall provide all necessary safety measures for the protection of all persons on the work, including the requirements of the AGC Accident Prevention Manual in Construction as amended, and shall fully comply with all state laws or regulations and North Carolina Building Code requirements to prevent accident or injury to persons on or about the location of the work. He shall clearly mark or post signs warning of hazards existing, and shall barricade excavations and similar hazards. He shall protect against damage or injury resulting from falling materials and he shall maintain all protective devices and signs throughout the progress of the work.

9. SUBCONTRACTS AND SUBCONTRACTORS

The Contractor is, and remains fully responsible for, his own acts or omissions as well as those of any subcontractor or of any employee of either. The Contractor agrees that no contractual relationship exists between the subcontractor and the Owner in regard to the contract, and that the subcontractor acts on this work as an agent or employee of the Contractor.

10. CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, and LABOR SURPLUS AREA FIRMS

The County of Currituck encourages all businesses, including minority, women-owned businesses to respond to all solicitations. In addition, if subcontracts are let, the awarded Contractor must ensure that the necessary affirmative steps are taken:

- a. Place qualified small, minority, and woman-owned businesses on solicitations lists;
- b. Assure that such businesses are solicited when they are potential sources;
- c. Divide total requirement, when economically feasible, into smaller tasks or quantities to permit maximum participation by such businesses;
- d. Establish delivery schedules, where requirements permit, which encourage such businesses to respond;
- e. Use service and assistance from such organization as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

The Contractor shall include these special provisions in all subcontracts for this Contract. Failure on the part of the Contractor to carry out the requirements set forth in the special provision may constitute a breach of contract and after proper notification may result in termination of the contract or other appropriate remedy.

11. CONTRACTOR-SUBCONTRACTOR RELATIONSHIPS

The Contractor agrees that the terms of these Contract Documents shall apply equally to a Subcontractor as to the Contractor, and the Contractor agrees to take such action as may be necessary to bind each Subcontractor to these terms. The Owner reserves the right to limit the amount of portions of work to be subcontracted as hereinafter specified.

12. CHANGES IN THE WORK AND CLAIMS FOR EXTRA COST

- a. The Owner may have changes made in the work covered by the contract. All extra work shall be executed under conditions of the original contract.
- b. Except in an emergency endangering life or property, no change shall be made by the Contractor except upon receipt of approved change order from the Owner authorizing such change. No claim for adjustments of the contract price shall be valid unless this procedure is followed. Should a claim for extra compensation by the Contractor be denied by the Owner, the Contractor may pursue his claim in accordance with G.S. 143-135.3.
- c. In determining the values of changes, either additive or deductive, Contractors are restricted to the use of the following methods:
 - 1) Where the extra work involved is covered by unit prices quoted in the proposal, or subsequently agreed to by the Contractor and Owner, the value of the change shall be computed by application of unit prices based on quantities, estimated or actual as agreed of the items involved, except in such cases where a quantity exceeds the estimated quantity allowance in the contract by one hundred percent (100%) or more. In such cases, either party may elect to proceed under subparagraph c (2) herein. If neither party elects to proceed under c (2), then unit prices shall apply.
 - 2) The contracting parties shall negotiate and agree upon the equitable value of the change prior to issuance of the change order, and the change order shall stipulate the corresponding lump sum adjustment to the contract price.

- d. Under Paragraph "b" and Methods "c(2)" above, the allowances for overhead and profit combined shall be as follows: all contractors (the single contracting entity (prime), his subcontractors(1st tier subs), or their sub-subcontractors (2nd tier subs, 3rd tier subs, etc.) shall be allowed a maximum of 10% on work they each self-perform; the prime contractor shall be allowed a maximum of 5% on contracted work of his 1st tier sub; 1st tier, 2nd tier, 3rd tier, etc. contractors shall be allowed a maximum of 2.5% on the contracted work of their subs. ; Under Method "c(1)", no additional allowances shall be made for overhead and profit. In the case of deductible change orders, under Method "c(2)" and Paragraph (b) above, the contractor shall include no less than five percent (5%) profit, but no allowances for overhead.
- e. The term "net cost" as used herein shall mean the difference between all proper cost additions and deductions. The "cost" as used herein shall be limited to the following:
- 1) The actual costs of materials and supplies incorporated or consumed as part of the work;
 - 2) The actual costs of labor expended on the project site; labor expended in coordination, change order negotiation, record document maintenance, shop drawing revision or other tasks necessary to the administration of the project are considered overhead whether they take place in an office or on the project site.
 - 3) The actual costs of labor burden, limited to the costs of social security (FICA) and Medicare/Medicaid taxes; unemployment insurance costs; health/dental/vision insurance premiums; paid employee leave for holidays, vacation, sick leave, and/or petty leave, not to exceed a total of 30 days per year; retirement contributions; worker's compensation insurance premiums; and the costs of general liability insurance when premiums are computed based on payroll amounts; the total of which shall not exceed thirty percent (30%) of the actual costs of labor;
 - 4) The actual costs of rental for tools, excluding hand tools; equipment; machinery; and temporary facilities required for the work;
 - 5) The actual costs of premiums for bonds, insurance, permit fees and sales or use taxes related to the work.

Overtime and extra pay for holidays and weekends may be a cost item only to the extent approved by the Owner.

- f. Should concealed conditions be encountered in the performance of the work below grade, or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the contract documents, the contract sum and time for completion may be equitably adjusted by change order upon claim by either party made within thirty (30) days after the condition has been identified. The cost of such change shall be arrived at by one of the foregoing methods. All change orders shall be supported by a unit cost breakdown showing method of arriving at net cost as defined above.
- g. Change orders shall be submitted by the Contractor in writing to the Owner for review and approval. The Contractor will provide such proposal and supporting data in suitable format. Delay in the processing of the change order due to lack of proper submittal by the Contractor of all required supporting data shall not constitute grounds for a time extension or basis of a claim. Within fourteen (14) days after receipt of the Contractor's accepted proposal including all supporting documentation required by the Owner, the designer shall prepare the change order and forward to the contractor for his signature or otherwise respond, in writing, to the contractor's proposal. Within seven (7) days after receipt of the change order executed by the Contractor, the designer shall, certify the change order by his signature, and forward the change order and all supporting data to the owner for the owner's signature. The owner shall execute the change order, within seven (7) days of receipt.
- h. A Change Order, when issued, shall be full compensation, or credit, for the work included, omitted or substituted. It shall show on its face the adjustment in time for completion of the project as a result of the change in the work.
- i. If, during the progress of the work, the Owner requests a Change Order and the Contractor's terms are unacceptable, the Owner, may require the Contractor to perform such work on a time and material basis whereupon the Contractor shall proceed and keep accurately on such form as specified by the Owner, a correct account of cost together with all proper invoices, payrolls and supporting data. Upon completion of the work a Change Order will be prepared with allowances for overhead and profit per paragraph d. above and "net cost" and "cost" per paragraph e. above. Without prejudice, nothing in this paragraph shall preclude the owner from performing or to have performed that portion of the work requested in the Change Order.

13. TERMINATION FOR CONVENIENCE

Owner may at any time and for any reason terminate Contractor's services and work at Owner's convenience, after notification to the Contractor in writing via certified mail. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Contract.

Upon such termination, Contractor shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Contract; plus, (2) such other costs actually incurred by Contractor as approved by Owner; (3) plus ten percent (10%) of the cost of the balance of the work to be completed for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Contractor prior to the date of the termination of this Contract. Contractor shall not be entitled to any claim or claim of lien against Owner for any additional compensation or damages in the event of such termination and payment.

14. OWNER'S RIGHT TO DO WORK

If, during the progress of the work, the Contractor fails to prosecute the work properly or to perform any provision of the contract, the Owner, after seven (7) days' written notice sent by certified mail, return receipt requested, to the Contractor, may perform or have performed that portion of the work. The cost of the work may be deducted from any amounts due or to become due to the Contractor, such action and cost of same having been first approved by the designer. Should the cost of such action of the Owner exceed the amount due or to become due the Contractor, then the Contractor shall be liable for and shall pay to the Owner the amount of said excess.

15. REQUESTS FOR PAYMENT

Requests for payment will be submitted by the Contractor to the Currituck County Engineering Department. Requests may not be submitted for work that is not yet complete.

Final payment will be made within forty-five (45) consecutive days after acceptance of the work, receipt of marked-up "as-built" drawings and specifications and final pay request.

16. MINIMUM INSURANCE REQUIREMENTS

The Contractor shall not commence work until he has obtained all required insurance and verifying certificates of insurance have been approved by the Owner.

These certificates shall document that coverages afforded under the policies will not be cancelled, reduced in amount or coverages eliminated until at least thirty (30) days after mailing written notice, by certified mail, return receipt requested, to the insured and/or Owner of such alteration or cancellation. If endorsements are needed to comply with the notification or other requirements of this article copies of the endorsements shall be submitted with the certificates.

- a. Worker's Compensation and Employer's Liability. The Contractor shall provide and maintain, until final acceptance, workmen's compensation insurance, as required by law, as well as employer's liability coverage with minimum limits of \$100,000.
- b. Commercial General Liability Insurance. Combined single limit no less than \$1,000,000 per occurrence and \$2,000,000 aggregate.
- c. Commercial Automobile Liability. Combined single limit no less than \$1,000,000. Coverage shall include liability for owned, non-owned, and hired automobiles.
- d. Additional Insured. Contractor agrees to endorse the County as Additional Insured on Commercial General Liability and Commercial Automobile Liability.
 - e. Certificate Holder. Certificate Holder shall be listed as: County of Currituck, 153 Courthouse Road, Currituck, NC 27929.

17. CLEANING AND RESTORATION OF SITE

The Contractor shall keep the site and surrounding area reasonably free from rubbish at all times and shall remove debris from the site from time to time or when directed to do so by the Owner. Before final inspection and acceptance of the project, the Contractor shall thoroughly clean the site, and completely prepare the project and site for use by the Owner.

At the end of construction, the Contractor shall oversee and implement the restoration of the construction site to its original state.

18. GUARANTEE

The Contractor shall unconditionally guarantee materials and workmanship against patent defects arising from faulty materials, faulty workmanship or negligence for a period of twelve (12) months following the final acceptance of the work and shall replace such defective materials or workmanship without cost to the Owner.

Where items of equipment or material carry a manufacturer's warranty for any period in excess of twelve (12) months, then the manufacturer's warranty shall apply for that particular piece of equipment or material. The Contractor shall replace such defective equipment or materials, without cost to the Owner, within the manufacturer's warranty period.

Additionally, the Owner may bring an action for latent defects caused by the negligence of the Contractor, which is hidden or not readily apparent to the Owner at the time of final acceptance, in accordance with applicable law.

19. TAXES

North Carolina Sales Taxes and Use Tax do apply to materials entering into the Work (N.C. Sales and Use Tax Regulation No. 42, Paragraph A), and such costs shall be included in the bid proposal and contract sum.

Local Option Sales and Use Taxes do apply to materials entering into the Work as applicable (Local Option Sales and Use Tax Act, Regulation No. 57), and such cost shall be included in the bid proposal and contract sum.

20. EQUAL OPPORTUNITY CLAUSE

During the performance of this Contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- d. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- h. The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any

further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

21. Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

22. Procurement of Recovered Materials

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

- a. Competitively within a timeframe providing for compliance with the contract performance schedule;
- b. Meeting contract performance requirements; or
- c. At a reasonable price.

Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

23. Access to Records

The following access to records requirements apply to this Contract:

- a. The Contractor agrees to provide the County of Currituck, the N.C. Division of Emergency Management, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

- b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- d. In compliance with the Disaster Recovery Act of 2018, the County of Currituck and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

24. DHS Seal, Logo, and Flags

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

25. Compliance with Federal Law, Regulations, and Executive Orders

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

26. No Obligation by Federal Government

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

27. Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

Project Specifications
Carova Beach Park Bulkhead Repair
Date of Issue: June 29, 2020

1. Shall install safety fence around the proposed construction area. Provide protection for wild horses. There is a bath house septic drain field that shall also be protected.
2. Perform demolition of the failed portion of the existing bulkhead. Remove from site all materials produced during this demolition.
3. Construct per design the new bulkhead.
4. Place structural fill/backfill to return the failed area back to the original ground surface elevation.
5. Place/spread a minimum of four (4) inches of new topsoil of the re-graded area.
6. Placed grass seed over the topsoil.
7. Contractor is responsible for delineating the project limits of disturbance to ensure all construction work is within failed bulkhead area.
8. Contractor is responsible for locating utilities prior to construction and any damages caused during construction.
9. Contractor shall implement access control measures (orange safety fence) for boat ramp/parking and people traffic, to include but not limited to: warning signs, fencing, and barrels.