



**RIVERWALK SOUTH PILING
& GIRDER REPLACEMENT**

Contract: PS-SE-0226

Project Manager

Ryan FitzGibbon

Email: ryan.fitzgibbon@wilmingtonnc.gov

Phone: (910) 341-0089

SUBMIT BIDS TO

Christine R. Karem, Sr. Contract Specialist

929 North Front Street, 10th Floor Wilmington, NC 28401

Phone: (910) 765-0463

Email: christine.karem@wilmingtonnc.gov

Date Issued: February 12, 2026

Date Due: March 12, 2026, 3:00 PM

Pre-Bid Meeting: February 20, 2026 at 10:30 AM

Location: 929 North Front Street, 10th Floor,
Wilmington, NC 28401

**RIVERWALK SOUTH PILING
& GIRDER REPLACEMENT
CONTRACT NO: PS-SE-0226**

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ADVERTISEMENT FOR BID
CITY OF WILMINGTON, NC
RIVERWALK SOUTH PILING & GIRDER
REPLACEMENT
CONTRACT NUMBER: PS-SE-0226

Pursuant to North Carolina General Statute 143-129, sealed proposals addressed to the Sr. Contract Specialist, P. O. Box 1810, 929 N. Front Street, 10TH Floor Wilmington, NC 28402, and marked "RIVERWALK SOUTH PILING & GIRDER REPLACEMENT" will be received until 3:00 p.m., Thursday, March 12, 2026. The City will receive SINGLE PRIME BIDS ONLY for this project.

Project Description: Perform maintenance and repair of the Piles and Girders near Elijah's including:

- Replacing six (6) LVL girders with PT lumber
- Replacing timber ties and fasteners
- Modify existing piles to accept new girders

All firms submitting bids for the proposed work must be properly licensed under Chapter 87, N. C. General Statutes. The bidder's license number must appear on the outside of the envelope.

Pre-Bid Meeting: Friday, February 20, 2026, at 10:30 AM

Location: 929 N. Front Street, 10th Floor, Wilmington, NC 28401

MBE/WBE/HUB/DBE OBLIGATION:

The City and its contractor agree to ensure that MBE/WBE/HUB/DBEs have the maximum opportunity to participate in the performance of the contract and subcontracts financed in whole or in part with the City of Wilmington funds provided under this agreement. In this regard, bidders and contractors shall take all necessary and reasonable steps in accordance with N.C.G.S. § 143-128 to ensure that MBE/WBE/HUB/DBE firms have the maximum opportunity to compete and perform under this bid, any change orders and any subsequent contract. The City of Wilmington and its contractors shall not discriminate on the basis of race, color, national origin, sex, age, national origin, religion, or disabilities in the award and/or performance of this contract. A complete copy of the City of Wilmington's MBE/DBE policy is available for inspection at the Purchasing Manager's Office.

If the bidder fails to achieve the contract goal stated herein, it is required to provide documentation demonstrating that it made a good faith effort in attempting to meet the established goals. A bid which fails to meet these requirements will be considered non-responsive and will be rejected.

Submission of any Bid sign signifies the Contractor's agreement that their Bid and content thereof, are valid for ninety (90) calendar days following the submission deadline and will become part of the contract that is negotiated between the City of Wilmington and the successful Contractor. All prices submitted with the Bid shall remain in effect for the ninety (90) day period.

The City of Wilmington reserves the right to award and/or reject any and/or all Bids and waive technicalities or irregularities. Questions concerning the proposed contract terms and conditions should be directed to the Purchasing Division. The City of Wilmington hopes to receive your Bid for this Invitation.

Sincerely,
Christine R. Karem
Sr. Contract Specialist
M/WBE Coordinator
February 12, 2026

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

AFFIDAVIT AND CERTIFICATE OF
NON-COLLUSION, NON-SUSPENSION AND NON-CONVICTION

The undersigned, being first duly sworn, deposes and says:

1. I understand that for the purposes of this affidavit, the term "bidder" shall include the person(s), firm(s), or corporation(s) signing this affidavit, the undersigned's subcontractor(s), subsidiary(ies) and affiliate(s) and any officer, director, employee or agent of the bidder; and the term "conviction" shall include guilty pleas, pleadings of nolo contendere and similar pleas.

2. This Affidavit and Certificate is made in accordance with Article 3 of Chapter 133 of the North Carolina General Statutes; I certify that this proposal is made without prior understanding, agreement, or connection with any person(s), firm(s), or corporation(s) making bids or proposals; I further certify that the bidder has not entered into any agreement with any other bidder or prospective bidder or with any other person(s), firm(s) or corporation(s) relating to the price named in said proposal, nor any agreement or arrangement under which any person(s), firm(s) or corporation(s) is to refrain from bidding, nor any agreement or arrangement for any act or omission in restraint of free competition among bidders; I understand collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards; and I further certify that the bidder will abide by all terms of this bid or proposal.

3. The bidder is not suspended or debarred from bidding by any federal or state governmental agency that is providing funds for this contract.

4. The bidder is not presently charged in an indictment or information with engaging in any conspiracy, combination, or other unlawful act in restraint of trade or any similar charges in any federal court or a court of this or any other state.

5. The bidder, within one year immediately preceding the date of this affidavit, has not been convicted of charges or engaging in any conspiracy, combination, or other unlawful act in restraint of trade or similar charges in any federal court or a court of this or any other state.

6. If, during the time of this proposal, from the date advertised to the date bids are opened, the bidder is indicted or convicted of bid-rigging, I understand this proposal shall be rejected and not considered for award.

7. I hereby affirm that all information contained in this affidavit is true, correct, accurate and complete, and any untrue, incorrect, inaccurate or incomplete statements will result in the disqualification and rejection of this proposal. I certify that I am authorized to sign this bid and to make the representations set forth herein on behalf of myself and the bidder.

This the _____ day of _____, 2026.

COMPANY NAME _____

BY: _____
(Owner, Partner, or Corporate President, Vice
President or Assistant Vice President only)

ATTEST:

(Secretary, Assistant Secretary,
Cashier or Assistant Cashier only)

(CORPORATE SEAL)

(TO BE EXECUTED ON BEHALF OF THE CONTRACTOR)

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public, certify that
(Name)

_____ personally came
(Name of Secretary, Assist. Sec., Cashier, Assist. Cashier)

before me this day and acknowledged that he (she) is _____
(Secretary, Assist. Sec.,

_____ of _____, a
Cashier, Assist. Cashier) (Name of Corporation)

corporation, and that by authority duly given and as the act of the corporation, the foregoing Affidavit
was signed in its name by its _____,
(President, Vice President, Assist. Vice President)

sealed with its corporate seal, and attest by himself (or herself) as its

(Secretary, Assist. Sec., Cashier, Assist. Cashier)

WITNESS my hand and official seal, this the _____ day of _____, 2026.

Notary Public

My Commission Expires: _____

(NOTARY SEAL)

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

AFFIDAVIT of COMPLIANCE
with N.C. E-VERIFY STATUTES

I, _____ (hereinafter the "Affiant"), duly authorized by
and on behalf of _____ (hereinafter the "Employer") after
being first duly sworn deposes and says as follows:

1. I am the _____ (President, Manager, CEO, etc.) of the Employer and possess the full authority to speak for and on behalf of the Employer identified above.
2. Employer understands that "E-Verify" means the federal E-Verify program operated by the United States Dept. of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law.
3. _____ Employer employs 25 or more employees in the State of North Carolina, and is in compliance with the provisions of N.C. Gen. Stat. §64-26. Employer has verified the work authorization of its employees through E-Verify and shall retain the records of verification for a period of at least one year.

_____ Employer employs fewer than 25 Employees and is therefore not subject to the provisions of N.C. Gen. Stat. §64-26.
4. All subcontractors engaged by or to be engaged by Employer have or will have likewise complied with the provisions of N.C. Gen. Stat. §64-26.
5. Employer shall keep the City of Wilmington informed of any change in its status pursuant to Article 2 of Chapter 64 of the North Carolina General Statutes.

Further this affiant sayeth not.

This the _____ day of _____, 20____.

Affiant

STATE OF NORTH CAROLINA

COUNTY OF _____

Sworn to and subscribed before me, this the _____ day of _____, 20____.

[NOTARY SEAL]

Notary Public

My commission expires: _____

GENERAL PROVISIONS

Section G

INSTRUCTION TO BIDDERS

SPECIAL NOTICE

G-1.01 The name of a certain brand, make, manufacturer, or definite specification is to denote the quality standard of the article desired, but does not restrict bidders to the specific brand, make, manufacturer, or specification named; it is to set forth and convey to the prospective bidders the general style, type, character, and quality of the article desired.

G-1.02 The award of each contract will be made to the lowest responsible bidder as soon as practicable; provided, that in the selection of equipment or materials a contract may be awarded to a responsible bidder other than the lowest in the interest of standardization, or if ultimate economy is clearly evident.

If the project is being bid under the single and multiprime bidding methods, the CITY reserves the right to award the contract in whichever manner is in the best interest of the CITY taking into consideration the total cost of the project, including but not limited to contract administration and preparation costs.

The award of the contract represents a preliminary determination as to the qualifications of the bidder, the availability of funds for the project, and other matters precedent to the City's execution of the contract. No legally-binding acceptance of the offer set forth in the Contractor's bid occurs until the City executes the contract.

G-1.03 If any person contemplating submitting a bid for the proposed contract is in doubt as to the true meaning of any part of the plans, specifications, or other proposed contract documents, he may submit to the Engineer a written request for an interpretation thereof. The person submitting the request will be responsible for its prompt delivery. An interpretation of the proposed documents will be made only by addendum duly issued, and a copy of such addendum will be mailed or delivered to each person receiving a set of such documents. The City of Wilmington will not be responsible for any other explanations or interpretations of the proposed documents.

G-1.04 SEALED BIDS REQUIRED INSTRUCTIONS:

In accordance with the attached copy of advertisement and the following specifications, proposals will be received by the Purchasing Division of the City of Wilmington, North Carolina, at 929 N. Front Street 10th Floor, Purchasing Manager's Office, on the date and time designated in the Advertisement, when they will publicly open and read the proposals properly submitted for Municipal Improvements in the City of Wilmington, North Carolina. Firms submitting single and multi-prime bids must enclose these in separate sealed, clearly marked envelopes.

If bids are requested for single and multi-prime contracts, bids will be received, but not opened, for the separate prime contracts one (1) hour prior to the deadline for submission of single prime bids. All bids will be opened at the time for receipt of the single prime bids.

G-1.04.1 Proposals must be placed in a sealed envelope and addressed to The Purchasing Manager, City of Wilmington, North Carolina. The envelope shall show the name and address of the bidder and be plainly marked to show the project name and number and section (if applicable), as given in the Advertisement. The envelope must also be marked on the face to show the Contractor's North Carolina Contractor's License Number. Bid forms are contained in this bound copy of the Contract Documents, copies of the proposal pages may be submitted.

shown on the plans are approximate only, and no claim will be made against the City Council for any excess or deficiency, and no allowance will be made for the failure of the bidder to estimate correctly the difficulties attending the execution of the work.

G-1.04.6 Bidders are cautioned to adhere strictly to the spirit of the specifications in submitting their tenders, and it will be considered bad form to submit a proposal, expecting concessions after being awarded the contract by proposing the use of inferior materials and methods of construction for cheapening the work. The Engineer, Owner, or City desires to aid the Contractor in every legitimate way to carry on the work economically and expeditiously as set out in these specifications, and no alternate bids will be allowed unless requested in the proposal.

G-1.04.7 Where bids are received on Unit Prices, the City Council reserves the right, to authorize an increase of fifty percent (50%) of the amount of work set out in the proposal, or to decrease it to an extent equal to fifty percent (50%) of actual cost of the original work predicted on the unit prices given in the proposal. Such increase or decrease shall not vitiate or annul the contract agreement hereinafter entered into. In the event of a discrepancy in the unit prices and the extended prices the unit prices shall prevail.

G-1.04.8 The bidder shall be required to produce substantial evidence that he is properly qualified to carry out the work as set out in the specifications. The qualifications required of all bidders are as follows: Thorough knowledge and experience in work of this character; labor and equipment in such quantities and quality as to enable the Contractor to carry on the work economically and expeditiously; financial condition must be such as not to require aid from the City Council, other than the regular monthly estimates.

G-1.04.9 The City Council will not consider any bid or award of contract to any person, firm, or corporation, who has defaulted in any obligation to the City of Wilmington, or who, in the opinion of the Council, failed to perform his work satisfactorily as to character or time.

G-1.04.10 The City reserves the right to reject any and all bids, or to accept the bid, or bids on the entire project, or any section of the project, as given in the Proposal, which, in its opinion, is to the best interest of the City.

G-1.04.11 The Contractor's attention is especially called to the fact that he will be requested by the Council and will be expected to push this work at all speed possible.

G-1.05 CONTRACT SURETY OF PERFORMANCE BOND: ~~DELETED~~

G-1.06 INSURANCE REQUIREMENTS: Before commencing any work, the Contractor shall procure insurance in the contractor's name and maintain all insurance policies for the duration of the contract of the types and in the amounts listed in Section G-1.06. The insurance shall provide coverage against claims for injuries to persons or damages to property which may arise from operations or in connection with the performance of the work hereunder by the contractor, his agents, representatives, employees, or subcontractors, whether such operations by himself/herself or anyone directly or indirectly employed by him/her.

G-1.06.1 COMMERCIAL GENERAL LIABILITY: Contractor shall maintain Commercial General Liability (CGL) and if necessary, Commercial Umbrella Liability insurance with a total limit of not less than \$3,000,000 each occurrence for bodily injury and property damage/\$6,000,000 Aggregate. If such CGL insurance contains a general aggregate limit, it shall apply separately to this project/location, or the general aggregate shall be twice the required limit. CGL insurance shall be written on Insurance Services Office (ISO) "occurrence" form CG 00 01 covering Commercial General Liability or its equivalent and shall cover the liability arising from premises, operations,

independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The City of Wilmington, its officers, officials, agents, and employees are to be covered as additional insureds under the CGL by endorsement CG 20 10 or CG 20 33 **AND** CG 20 37 or an endorsement providing equivalent coverage as respects to liability arising out of activities performed by or on behalf of the contractor; products and completed operations of the contractor; premises owned, leased or used by the contractor; and under the commercial umbrella, if any. The coverage shall contain no special limitations on the scope of protection afforded to the City of Wilmington, its officers, officials, agents, and employees.

There shall be no endorsement or modification of the CGL or Umbrella Liability limiting the scope of coverage for liability arising from explosion, collapse, underground property damage, or damage to the named insured's work, when those exposures exist.

The insurer shall agree to waive all rights of subrogation against the City of Wilmington, its officers, officials, agents and employees for losses arising from work performed by the contractor for the City of Wilmington.

G-1.06.2 WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY: Contractor shall maintain Workers' Compensation as required by the general statutes of the State of North Carolina and Employer's Liability Insurance. The Employer's Liability, and if necessary, Commercial Umbrella Liability insurance shall not be less than \$3,000,000 each accident for bodily injury by accident, \$3,000,000 each employee for bodily injury by disease, and \$3,000,000 policy limit.

The insurer shall agree to waive all rights of subrogation against the City of Wilmington, its officers, officials, agents and employees for losses arising from work performed by the contractor for the City of Wilmington.

The U.S. Longshore and Harborworker's Compensation Act endorsement shall be attached to the policy when the services will be on or in close proximity to navigable waterways. The Maritime Coverage endorsement (WC 00 02 01) shall be attached to the policy when the contracted services involve the use of watercraft.

G-1.06.3 BUSINESS AUTO LIABILITY: Contractor shall maintain Business Auto Liability and, if necessary, Commercial Umbrella Liability insurance with a limit of not less than \$3,000,000 for each accident. Such insurance shall cover liability arising out of any auto, including owned, hired, and non-owned autos. Business Auto coverage shall be written on ISO form CA 00 01, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in ISO form CA 00 01.

Pollution liability coverage equivalent to that provided under the ISO pollution liability-broadened coverage for covered autos endorsement (CA 99 48) shall be provided, and the Motor Carrier Act endorsement (MCS 90) shall be attached when those exposures exist.

Contractor waives all rights against the City of Wilmington, its officers, officials, agents and employees for recovery of damages to the extent these damages are covered by the business auto liability or commercial umbrella liability insurance obtained by Contractor pursuant to G-1.06.03 of this agreement.

The contractor's Business Auto Liability insurance shall be primary as respects the City of Wilmington, its officers, officials, agents, and employees. Any other insurance or self-insurance maintained by the City of Wilmington, its officers, officials, and employees shall be excess of and not contribute with the contractor's insurance.

G-1.06.4 OWNERS AND CONTRACTORS' PROTECTIVE LIABILITY INSURANCE: DELETED

G-1.06.5 BUILDERS RISK INSURANCE: DELETED

G1-1.06.6 INSTALLATION FLOATER:

1. The contractor shall purchase and maintain in-force Installation Floater insurance for the installation of material. Such insurance shall be written in an amount equal to the replacement cost of the material. The insurance shall apply on a replacement cost basis.
2. Insured property shall include portions of the work located away from the site but intended for use at the site and shall also cover portions of the work in transit.
3. Installation Floater insurance shall name the City of Wilmington as the loss payee.
4. Installation Floater insurance shall, at a minimum, cover the perils insured under the ISO special causes of loss for (CP10 30).
5. Installation Floater insurance shall include coverage for floods. (It is required if there is a flood exposure.)
6. Any deductible applicable to the Installation Floater shall be paid by the Contractor.
7. If the City of Wilmington is damaged by the failure of the Contractor to maintain Installation Floater insurance, then the Contractor shall bear all reasonable costs properly attributable to that failure.

G1-1.06.7 PROFESSIONAL LIABILITY INSURANCE: DELETED

G1-1.06.8 ENVIRONMENTAL PROFESSIONAL LIABILITY INSURANCE: DELETED

G1-1.06.9 BAILEE COVERAGE (INCLUDING TRANSIT): DELETED

G1-1.06.10 CONTRACTORS POLLUTION LIABILITY INSURANCE: DELETED

G1-1.06.11 PROTECTION & INDEMNITY: DELETED

G1-1.06.12 ABUSE/MOLESTATION COVERAGE: DELETED

G1-1.06.13 ACCIDENT INSURANCE: DELETED

G1-1.06.14 ELECTRONIC DATA LIABILITY INSURANCE: DELETED

G1-1.06.15 FIDELITY COVERAGE: DELETED

G1-1.06.16 GARAGE LIABILITY AND/OR COMMERCIAL GENERAL LIABILITY: DELETED

G1-1.06.17 GARAGEKEEPER'S LEGAL LIABILITY: DELETED

G1-1.06.18 ON-HOOK CARGO: DELETED

G1-1.06.19 NETWORK SECURITY AND PRIVACY LIABILITY: DELETED

G1-1.06.20 TECHNOLOGY ERRORS & OMISSIONS: DELETED

G1-1.06.21 RAILROAD PROTECTIVE LIABILITY INSURANCE: DELETED

G1-1.06.6 DEDUCTIBLES AND SELF-INSURED RETENTIONS: The contractor shall be solely responsible for the payment of all deductibles to which such policies are subject, whether or not the City is an insured under the policy.

G1-1.06.7 MISCELLANEOUS INSURANCE PROVISIONS: The policies are to contain, or be endorsed to contain, the following provisions:

1. Each insurance policy required by this contract shall be endorsed to state that coverage shall not be canceled by either party except after 30 days prior written notice has been given to the City of Wilmington, PO Box 1810, Wilmington, NC 28402-1810.
2. If Contractor's liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

G1-1.06.8 ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers licensed to do business in the State of North Carolina with an A.M. Best's rating of no less than A VII unless specific approval has been granted by the City.

G1-1.06.9 EVIDENCE OF INSURANCE: The Contractor shall furnish the City with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements prior to commencing the work, and thereafter upon renewal or replacement of each certified coverage until all operations under this contract are deemed complete. Evidence of additional insured status shall be noted on the certificate of insurance as per requirements in Section G1-1.06. This Certificate shall be in six (6) counterparts and, when the contract is signed by the Contractor, a copy thereof shall be inserted in each copy of the contract documents and upon insertion shall become a part of such documents.

With respect to insurance maintained after final payment in compliance with requirements, an additional certificate(s) evidencing such coverage shall be provided to the City with final application for payment and thereafter upon renewal or replacement of such insurance until the expiration of the period for which such insurance must be maintained.

G1-1.06.10 SUBCONTRACTORS: Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein. Commercial General Liability coverage shall include independent contractors' coverage, and the contractor shall be responsible for assuring that all subcontractors are properly insured.

G1-1.06.11 CONDITIONS:

1. The insurance required for this contract must be on forms acceptable to the City.
2. The contractor shall provide that the insurance contributing to satisfaction of insurance requirements in G1-1.06 shall not be canceled, terminated or modified by the contractor without prior written approval of the City.
3. The contractor shall promptly notify the Safety & Risk Manager at (910) 341-5864 of any accidents arising in the course of operations under the contract causing bodily injury or property damage.
4. The City reserves the right to obtain complete, certified copies of all required insurance policies, at any time.
5. Failure of the City to demand a certificate of insurance or other evidence of full compliance with these insurance requirements or failure of the City to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
6. By requiring insurance herein, the City does not represent that coverage and limits will necessarily be adequate to protect the Contractor and such coverage and limits shall not be deemed as a limitation of Contractor's liability under the indemnities granted to the City of Wilmington in this contract.
7. The City shall have the right, but not the obligation of prohibiting Contractor or any subcontractor from entering the project site or withhold payment until such certificates or

other evidence that insurance has been placed in complete compliance with these requirements is received and approved by the City.

G-1.07 DELETED

G-1.08 DELETED

G-1.09 DELETED

G-1.10 DELETED

G-1.11 PAYMENT OF EMPLOYEES: The Contractor, and each of his Sub-contractors, shall pay each of his employees, engaged in work on this project, in full (less deductions made mandatory by law) not less often than on the Contractor's regular pay days, which shall be normally each week.

G-1.12 PAYMENT: Payment by the City to the Contractor will be made under either one of the following procedures:

G1.12.1 Public Construction Contracts equal to or greater than one hundred thousand dollars (\$100,000)

A. The City shall retain five percent (5%) of any periodic payment due a Contractor.

B. When the project is fifty percent (50%) complete, the City, with written consent of the surety, shall not retain any further retainage from periodic payments due the Contractor if the Contractor continues to perform satisfactorily and any nonconforming work identified in writing prior to that time by the Architect, Engineer, or City has been corrected by the Contractor and accepted by the City Engineer, Architect, Engineer, or Project Manager. If the City determines the Contractor's performance is unsatisfactory, the City may reinstate retainage for each subsequent periodic payment application up to the maximum amount of five percent (5%). The project shall be deemed fifty percent (50%) complete when the Contractor's gross project invoices, excluding the value of materials stored off-site, equal or exceed fifty percent (50%) of the value of the contract, except the value of materials stored on-site shall not exceed twenty percent (20%) of the contractor's gross project invoices for the purpose of determining whether the project is fifty percent (50%) complete.

C. 50% complete means:

- Gross project invoices, excluding material stored off site, of the value of the contract.
- The value of materials stored on-site shall not exceed 20% of the gross project invoices.

G-1.12.2 PAYMENT ON UNIT PRICE CONTRACTS: Not later than 30 workdays after receipt of a City approved invoice the City will make partial payment to the Contractor, on the basis of a duly certified approved estimate by the City Engineer, Project Architect or City Project Manager of the work performed during the preceding calendar month by the Contractor, in accordance with item 12.1.1 above.

G-1.12.3 PAYMENT ON LUMP SUM CONTRACTS, THIRTY DAYS OR MORE IN DURATION: Not later than 30 workdays after receipt of a City approved invoice and acceptance of work performed during that period, the City will make partial payment to the Contractor on the basis of a duly certified approved estimate by the City Engineer, Architect, Designer or Project Manager of the work performed during the preceding calendar month by the Contractor, and the value of the materials on the job, but not installed. The City will retain five percent (5%) of the amount of each such estimate in accordance with item 12.1.1 above. For purposes of preparing these monthly estimates, after the execution of the Contract, the Contractor will be required to submit to the City Engineer, Architect, Designer or Project Manager a breakdown of his lump sum bid in sufficient detail to permit an accurate determination of the progress of the work.

G-1.12.4 UNSATISFACTORY PERFORMANCE AND RETAINAGE: Retainage of the a maximum of 5% may be reinstated if the performance of the Contractor is unsatisfactory as determined by the City.

G-12.5 Within 60 days after the submission of a pay request and one of the following occurs, as specified in the contract documents, the owner with written consent of the surety shall release to the contractor all retainage on payments held by the owner: (i) the City receives a certificate of substantial completion from the Project Manager, Architect, Engineer, or Designer in charge of the project; or (ii) the owner receives beneficial occupancy or use of the project. However, the City may retain sufficient funds to secure completion of the project or corrections on any work. If the City retains funds, the amount retained shall not exceed two and one-half (2 ½) times the estimated value of the work to be completed or corrected. Any reduction in the amount of the retainage on payments shall be with the consent of the contractor's surety.

G1.12.6 Release of Retainage shall be in accordance with G.S. 143-134.1.

G1.12.7 There will be no retainage on periodic or final payments made by the City or prime contractor on public construction contracts in which the total project costs are less than one hundred thousand dollars (\$100,000).

G-1.12.8 PAYMENT ON LUMP SUM CONTRACTS, THIRTY DAYS OR LESS IN DURATION: Where the time for completion of work, as stated in the proposal, is thirty (30) calendar days, or less, the City will make one payment in full upon completion of work and acceptance by the City Council. No partial or interim payments will be made.

G-12.9 The Prime contractor and all Subcontractors working on the project shall comply with G.S. 143-134.1 in regards to payments to all subcontractors

G-12.9 Nothing in this section shall prevent the City from withholding payment to the contractor in addition to the amounts authorized under G.S. 143-134.1 for unsatisfactory job progress, defective construction not remedied, disputed work, or third-party claims filed against the owner or reasonable evidence that a third-party claim will be filed.

G1-12.10 Payment to Subcontractors by Prime Contractor or General Contractor
In accordance with N.C. Gen. Stat. § 22C, within seven days of receipt by the prime contractor of each periodic or final payment, the prime contractor shall pay the subcontractor based on work satisfactorily completed or service satisfactorily provided under the subcontract. Additionally, the Contractor shall pay the undisputed portions of subcontractors' invoices within one hundred five (105) calendar days of the date of subcontractor's invoice, independent of any payment by the City to the Contractor. If the Contractor withholds any retainage pending final completion of any subcontractor's Work, the Contractor is required to pay the retainage so withheld within seven (7) calendar days after such subcontractor completes his Work satisfactorily, regardless of any

payment of retainage by the City to the Contractor. The Contractor's failure to pay subcontractors as provided herein shall be a material breach for which the City may cancel the Contract.

If any periodic or final payment to the subcontractor is delayed by more than seven days after receipt of periodic or final payment by the prime contractor, the prime contractor shall pay the subcontractor interest, beginning on the eighth day, at the rate of one percent (1%) per month or fraction thereof on unpaid balance as may be due.

A subcontract on a contract governed by this section may include a provision for the retainage on periodic payments made by the prime contractor to the subcontractor. However, the percentage of the payment retained: (i) shall be paid to the subcontractor under the same terms and conditions as provided to the Prime Contractor and shall not exceed the percentage of retainage on payments made by the owner to the prime contractor. Subject to section G-1.12.4, any percentage of retainage on payments made by the prime contractor to the subcontractor that exceeds the percentage of retainage on payments made by the owner to the prime contractor shall be subject to interest to be paid by the prime contractor to the subcontractor at the rate of one percent (1%) per month or fraction thereof.

Nothing in this section shall prevent the prime contractor at the time of application and certification to the City from withholding application and certification to the City for payment to the subcontractor for unsatisfactory job progress; defective construction not remedied; disputed work; third party claims filed or reasonable evidence that claim will be filed; failure of subcontractor to make timely payments for labor, equipment, and materials; damage to prime contractor or another subcontractor; reasonable evidence that subcontract cannot be completed for the unpaid balance of the subcontract sum; or a reasonable amount for retainage not to exceed the initial percentage retained by the owner.

The Prime contractor shall comply in all respects with G.S. 143-134.1 in all manners in payments to any and all subcontractors.

Neither the City's nor contractor's release of retainage on payments as part of a payment in full on a line-item of work shall affect any applicable warranties on work done by the contractor or subcontractor, and the warranties shall not begin to run any earlier than either the owner's receipt of a certificate of substantial completion from the architect, engineer, or designer in charge of the project or the owner receives beneficial occupancy.

G-1.13 COMMENCEMENT AND COMPLETION OF WORK: The Contractor for the construction of improvements under this contract shall commence work under his contract within ten days after written notice by the City PURCHASING MANAGER and shall fully complete all work thereunder within the time stated in the proposal form.

G-1.14 EXISTING CONDITIONS: The Contractor, in signing this contract, acknowledges that he has read these Specifications and is familiar with their terms; that he has studied the plans and drawings, which are entirely clear to him; that he has been over the ground where the work is to be done, and has fully acquainted himself with the existing conditions; that he is fully prepared to sustain all losses or damages incurred by the action of the elements, or from any unforeseen obstructions, or encumbrances that may be encountered in the prosecution of the work; is prepared to provide the necessary tools, appliances and machinery, skilled and unskilled labor and materials of all kind as specified, and to guarantee that on completion, all work will be in strict compliance with the plans and specifications.

G-1.15 SUBLETTING OR ASSIGNMENT OF CONTRACT: The Contractor shall keep the work under his own control, and shall not assign, by power of attorney, or otherwise, nor sublet the work or any part thereof, without the written consent of the City. The Contractor shall perform on the site

and with his own organization work equivalent to at least thirty percent (30%) of the work to be performed under this Contract. If, during the progress of the work hereunder, the Contractor requests a reduction of such percentage, and the City Manager determines that it would be to the City's advantage, the percentage of the work required to be performed by the Contractor's own organization may be reduced; provided prior written approval of such reduction is obtained by the Contractor from the City Manager. The Contractor shall submit in writing the name of such Sub-contractor as he intends employing, the portion of the work which he is to do, the dollar amount of the work, indication as the MBE/WBE/HUB/DBE status of the subcontractor, his place of business, and such other information as the City may require, in order to know whether said Sub-contractor is reputable, reliable and able to properly perform the work he proposes to do and to determine the effort made by the bidder in securing MBE/WBE/HUB/DBE subcontractors. Also, with respect to each Sub-contractor, the Contractor shall either submit certification by his insurance carrier that such Sub-contractor is covered under the provisions of his policy or submit a certificate from the Sub-contractor's insurer that the Sub-contractor is covered, in accordance with Paragraphs G-1.05 through G-1.10, inclusive.

The Contractor shall not, either legally or equitably, assign any of the monies payable under this Contract, or his claim thereto, except on the consent of the City.

Written consent by the City to sublet or assign any portion of the contract shall not be construed to relieve the Contractor, or surety, of any responsibility for the fulfillment of the Contract.

INTENT OF SPECIFICATIONS

- G-1.16 INTENT: The intent of these specifications is to provide for the work herein enumerated to be constructed of the best materials of their respective kinds, and perfectly suited to the work contemplated. The work to be fully completed in every detail for the purpose designed, and it is hereby understood that the Contractor, in accepting this contract, agrees to furnish skilled labor, and everything necessary to complete the work in a workmanlike and satisfactory manner.
- G-1.17 CONTRACT: In order that the contractor may understand the scope of the work to be performed and the details of its construction, several documents have been prepared, and it is understood and agreed by and between the contracting parties that the following documents form, and are essential parts of the complete contract: Advertisement, Information for Bidders, General and Technical Specifications, Proposal, Specific Contract, Contractor's Bond, Drawings, Plans, Maps, MBE/WBE/HUB/DBE policy and Profiles, attached or herein described, and others that may be prepared from time to time governing and illustrating the work to be done under the terms of the contract, and all of which shall have the same weight as if embodied herein.
- G-1.18 SPECIFICATIONS: The General Provisions of the Specifications give in detail the duties and obligations of the two parties to the contract, the procedure of the work, and manner in which payments are to be made under the contract. The Technical Specifications, following, give in more detail the characteristics and requirements of the several classes of materials and special instructions governing the methods of construction. Where there is conflict, the Technical Specifications shall always take precedence over the General Specifications.

DEFINITIONS

- G-1.19 DEFINITIONS: Wherever in the Specifications, Proposal, Contract, or Bond the following terms, pronouns, or abbreviations used in their stead, occur, the intent and meaning shall be interpreted as follows:

A. N. S. I.

American National Standards Institute

A. S. T. M.
American Society for Testing and Materials

A. W. S.
American Welding Society

A. W. W. A.
American Water Works Association

A. A. S. H. T. O.
American Association of State Highway and Transportation Officials

Bid Bond

BID BOND: The security to be furnished by the bidder as guaranty of good faith to enter into a contract with the City for the proposed work, if such work is awarded to him.

Bidder

The person, or persons, partnership, firm or corporation submitting a proposal for the work contemplated.

Change Order

A written order from the Engineer signed by the Contractor and the City of Wilmington authorizing addition, deletion or revision in the work or an adjustment in the price or time for completion. All change orders must be approved by the City Manager and all change orders exceeding \$500,000.00 must be approved by Wilmington City Council.

City

The word City in these specifications refers to the City of Wilmington, North Carolina, the party of the second part to the contract, also referred to herein as the "Owner".

City Council or Council

The word Council, or City Council, refers to the City Council, the governing body of the City of Wilmington.

Contractor

The person, or persons, partnership, firm or corporation who enters into the contract awarded him by the City.

Drawings

All drawings, or reproductions thereof, pertaining to the construction of the work, which are approved by the Engineer for such purpose.

Engineer

The word Engineer, as used in these specifications, refers to the consulting engineer whose name appears on the drawings and/or to the City Engineer, and to his or their properly authorized assistants, limited to the duties entrusted to them.

Extra Work

A written order to the Contractor, signed by the Engineer, ordering a change in, or an addition to the work done, from that originally shown by the drawings and specifications. An authorized Change order shall be issued for this work.

F. S.
Federal Specifications

General Specifications

All requirements and provisions contained in this document.

Performance Bond

The approved form of security executed by the Contractor and his surety, guaranteeing complete execution of the contract.

Bond Proposal

Written offer submitted by the bidder in the required manner to perform the work contemplated.

N. C. S. H. C. or N. C. H. C. Specifications

North Carolina State Highway Commission, Raleigh, North Carolina, and to their "Standard Specifications of Roads and Structures," latest edition.

Request for Contract Payment

The form was supplied by the City and completed by the Contractor to request periodic payments on the contract. This form also includes a MBE/WBE/HUB/DBE payment form.

Special Provisions

Statements modifying or changing the requirements or provisions of the General Specifications or adding new requirements or provisions thereto.

Specifications

The General Specifications, Special Provisions, and all written or printed agreements and instructions pertaining to the performance of the work, and to the quantity and quality of the materials to be furnished under the contract.

Standard Details

The Standard Detail drawings, or reproductions thereof, which pertain to the standard method of construction of the work, and which are approved by the Engineer.

Surety

The corporate body, which is bound with and for the contractor, that is primarily liable to the contractor for the acceptable performance of the contract and for the completion of the work.

Phrases

Wherever, in the specifications, or upon the drawings, the words "As required", "As permitted", or words of like import are used, it shall be understood that the direction, requirements, or permission of the Engineer is intended; and similarly, the words "approved", "acceptable" and "satisfactory", or words of like import shall mean approved, acceptable, or satisfactory to the Engineer.

MBE/WBE/HUB/DBE POLICY

The policy adopted by the City Council. A copy of the entire policy is available for inspection at the office of the Purchasing Manager.

THE DUTIES AND AUTHORITY OF THE ENGINEER DEFINED

G-1.20 INTERPRETATIONS AND CORRECTIONS: It is agreed by and between the contracting parties that the Engineer shall make all necessary explanations as to the meaning and intent of these specifications, and correct any errors, discrepancies or omissions that occur in the plans and specifications; it is further agreed that the Engineer shall, in all cases, determine the amount, quality, acceptability, and fitness of the several classes of work which are to be paid for under the contract; and it is also agreed that the Engineer shall act as referee upon all questions arising between the parties of this contract, and in all differences that occur between contractors working on adjoining sections concerning the work to be done under the terms of the contract, and the Engineer's decision shall be final and binding.

G-1.20.1 INTERPRETATIONS OF PLANS AND/OR SPECIFICATIONS PRIOR TO RECEIPT OF BIDS: If any prospective bidder feels that there are items within the plans or specifications, in the work proposed, or upon the site contemplated, which need clarification or interpretation, he shall, prior to the date and time for the receipt of bids, address a written statement to the Engineer, covering the points which he feels need clarification. It shall be the responsibility of the person addressing the inquiry to see that such a request is in the hands of the Engineer in sufficient time for proper consideration and answer. Upon receipt of such a written request, the Engineer will make a determination and if, in his opinion, interpretation, clarification and/or change should be made in the plans and/or specifications, he will inform each holder of the plans and specifications in writing of his decision or findings in the matter in question. No other procedure will be followed in interpretation or addendum to these specifications, and the City of Wilmington will not be responsible for any change unless made in accordance with this procedure.

Questions related to the proposed project, including questions concerning the plans and specifications will be addressed by the City or Engineer up to Seven (7) calendar days prior to the bid opening. No addenda will be issued after this time.

G-1.21 FIELD WORK: The Engineer shall give all necessary base lines and benchmarks and information of like character for the guidance of the contractor, and all the work shall accurately conform thereto. Any work done without established lines, grades, may be ordered removed and replaced, without additional expense to the City.

G-1.22 INSPECTION: All materials and workmanship will be inspected by the Engineer, and the Contractor will be held to the spirit of the specifications at all times, the intent of such inspection being simply to obtain work of a high character, and one in which both parties to the contract can take pride.

G-1.23 ALTERATIONS: It is agreed by the contracting parties that the Engineer may at all times, before or after the commencement of the work, make alterations, or changes in the location, alignment, grades, materials and methods of construction that is desired, regardless of whether the location of such work be as shown on the plans upon which bids have been invited, and such change shall not vitiate or annul this contract, but the Engineer will determine the value of said work, and should such change diminish the amount of work to be done, no claim shall be made by the Contractor for damages on the grounds of anticipated profits from the part disposed with, but should the plan of a particular piece of work be altered or changed after commencement of said work and result in extra cost to the Contractor, the Engineer shall determine and certify a fair equitable value therefor, and his decision shall be final and binding.

G-1.24 INSPECTORS: Should it be found necessary, in the opinion of the Engineer, to appoint inspectors to pass upon the quality, amount, and general character of the work and the materials incorporated therein, such person, or persons, who, in the opinion of the Engineer, are deemed competent, may be appointed. The duties of this office are purely supervisory, and their decisions are subject to review by the Engineer.

EXTRA WORK

G-1.25 EXTRA WORK: The Contractor shall do any work not otherwise herein provided for when, and as ordered by the Engineer in writing by himself or specially authorized assistants. In the event that a mutually agreed price is not arrived at prior to the accomplishment of this extra work, the Contractor shall keep a strict account of the labor, equipment, and material used on said extra work, and shall give the Engineer an itemized statement each day of the amount. He shall further furnish the Engineer with bills, accounts and vouchers relating to the cost and access to all accounts concerning this work.

G-1.25.1 Request for reimbursement for Extra Work must be submitted by the Contractor within ten (10) days of the date upon which such extra work is accomplished, and subject request for reimbursement must bear on its face the authorizing number of the written order issued by the Engineer.

G-1.25.2 No request for reimbursement on account of additional work will be honored by the Engineer unless previously authorized by him in the manner stated.

G-1.26 PROTECTION: When such work is being carried on under the written instructions of the Engineer, and the work is damaged from whatever cause due to the carelessness or neglect of properly protecting it, or the use of improper materials, or inferior workmanship, such part thereof as the Engineer directs shall be removed and replaced by the Contractor at his own expense.

G-1.27 PAYMENT: For all such extra work, as authorized under the terms of Paragraph G-1.25, where it is possible for the Contractor and the Engineer to arrive at a mutually agreeable price (either lump sum or unit price) for this extra work in advance of the actual accomplishment of said work, this price may be used. In the event that this is not possible or practicable, the Contractor shall receive the reasonable cost of said work, plus ten percent (10%) of such cost. The decision of the Engineer shall be final upon all questions of the amount and value of extra work. The Engineer will include in such valuation the cost to the Contractor of all materials used, all labor, Social Security and insurance on labor only, common and skilled, labor foremen, and the fair rental of all machinery used for the period of such use. The Engineer will not include in this valuation any cost or rental of small tools, buildings, any portion of the time of the Contractor or superintendent, clerical help, overhead expenses or any allowance for the use of capital, these items being considered as covered by the ten percent (10%) added to the reasonable cost.

G-1.28 TIMEKEEPER: The Engineer shall have the right to appoint a timekeeper to represent the City on extra work, and the Contractor shall furnish him all necessary facilities for obtaining a correct record of the time and the materials incorporated in the work. The Engineer shall have the right to designate what force shall be employed, the compensation therefor and the foreman shall be approved by the Engineer.

G-1.29 OBSERVANCE OF THE LAW: In all operations connected with the work, the Contractor shall observe and obey all the precepts of the law, the ordinances and regulations of the Federal, City, County and State. The Contractor shall provide and maintain such barriers, signals, red lights, and watchmen to effectually prevent any accident in consequence of the work, and the Contractor shall be responsible and liable for all damage to life or property occasioned in any way by his acts

or that of his agents.

- G-1.30 **DISPOSITION OF CLAIMS:** In the event of injuries or damages to persons or property of any kind legally existing along, or adjacent to the work, the Contractor agrees to make repairs or payment for damages or injuries as may be necessary, and should the Contractor fail to promptly repair or satisfy any legal complication that arises, after being notified in writing by the Engineer, the right is conferred upon the CITY to deduct the cost thereof from any money due, or to become due, the Contractor under the terms of the contract. All claims arising under this contract shall be settled to the satisfaction of the Engineer within sixty (60) days after notification to the Contractor of such claims, unless proceedings are entered into in a court of law.
- G-1.31 **PATENTS:** Should the Contractor use any patented invention, article or contrivance in the construction or maintenance of the work, or any part thereof embraced in these specifications, the fee or royalty for the use of such patented article as aforesaid shall be included in the Contractor's proposal; and the Contractor agrees to hold the City harmless against any and all demands for such fees or royalties; and before final payment to the Contractor he shall furnish satisfactory evidence that all such claims have been settled.
- G-1.32 **PRIVATE PROPERTY:** The Contractor shall not enter, or occupy with men, tools, machinery and materials, any property except that under the control of the City without the consent of the Engineer, and then only with written consent of the property owner. A copy of this written consent shall be given or mailed to the Engineer.
- G-1.33 **LAYING OUT THE WORK:** The Engineer will provide a base line for alignment purposes and a benchmark for vertical control. All construction offset stakes, forms, and batter boards shall be set by the contractor and are subject to review and approval by the Engineer, however, such approval of these items shall not relieve the Contractor of his responsibility to construct the work to the line and grade shown on the plans.
- G-1.34 **UNAUTHORIZED WORK:** Any work done without lines, levels and instructions having been given by the Engineer, or without the supervision of an Inspector, will not be estimated or paid for, except when such work is authorized by the Engineer. Work so done, without the authority of the Engineer, may be ordered removed and replaced at the Contractor's cost.
- G-1.35 **RESPECT FOR FIELD RECORDS:** The Contractor shall carefully preserve and maintain the proper position of all lines, stakes and grade boards until authorized to remove them. Any work that shows lack of alignment or grade where the Engineer's control stakes are missing, or the position of the points, stakes, or grades indicate that they have been carelessly maintained, such work shall be removed and replaced at the Contractor's expense. If, in the opinion of the Engineer, the Contractor does not utilize reasonable care in preserving control stakes, he shall be required to pay for all expenses involved in the replacement of these stakes.
- G-1.36 **INSPECTION OF MATERIALS:** The Contractor shall furnish and deliver on the ground where it is to be used all materials suitable for the purpose intended. All materials and workmanship shall be subject to the Engineer's inspection, approval, or rejection at all times, and this inspection and approval during the progress of the work does not relieve the Contractor of repairs or renewal where the work has been damaged, proven defective, or overlooked, and on demand of the Engineer any work found not in conformity with the specifications shall be removed at once and replaced in accordance with the specifications.
- G-1.37 **WORKERS:** Only competent and skilled workers of each class shall be employed on the work, and if the Engineer notifies the Contractor that any common or skilled workers, including those superintending the work, are unfaithful, disobedient, disorderly, or unsatisfactory, such worker, or workers shall be taken off of this project not again employed upon the work without the consent of the Engineer.

G-1.38 PROSECUTION OF WORK: The Contractor shall begin the work provided for under the terms of the contract within ten (10) days after written notice by the Purchasing Manager and shall diligently prosecute and fully complete same within the time stated in his proposal. The Contractor shall prosecute the work in such manner, time and place as directed by the Engineer, and he shall carry out without delay all orders and instructions given by the Engineer. During the absence of the Contractor, a qualified representative shall have authority to direct the work and to receive orders and instructions from the Engineer; but this direction by the Engineer for prosecuting the work shall not relieve the Contractor of any of the obligations or liabilities assumed under the contract.

G-1.39 SANITATION: Necessary sanitation conveniences for the use of workers employed upon the work shall be constructed and maintained by the Contractor, in strict accordance with the provisions of the City-County, and State Health Departments. The Contractor shall obey and enforce the aforesaid rules and regulations, including preventative measures where the workers have been exposed to infections and communicable diseases.

G-1.40 PUBLIC TRAFFIC: The Contractor shall maintain, in a safe and practical way, the roadways that are now used by the public or individuals that neither may be unnecessarily delayed nor inconvenienced on account of the work being carried on by the Contractor. The Contractor will be responsible for all injuries, damages to persons or property incurred by such person, or persons, firm or corporation on account of the acts or claims of negligence by the Contractor to the aforesaid while passing over the public or private roadways. The Contractor will be required to repair or make reparation for any damage that he may have caused to the roadways, public or private, immediately after discontinuing traffic along such route, or when authorized to do so by the Engineer.

G-1.41 BARRICADES AND LIGHTS:

G-1.41.1 Travel upon streets or any intersecting alley, street, or private driveway shall not be inconvenienced needlessly, nor shall any street or alley be wholly obstructed for more than two blocks at any one time, except in special cases where a greater distance may be allowed by the Engineer.

G-1.41.2 Whenever a street is closed, the Contractor shall cause plainly worded signs, announcing such fact, to be placed with proper barricades at the nearest cross street upon each side of such obstruction, and upon intersecting streets.

G-1.41.3 The Contractor shall also maintain sufficient warning lights during the hours of darkness in and about the work which is under way, and it is his full responsibility to see that such lights are lit and kept lit from sunset to sunrise.

G-1.41.4 The Contractor shall also provide and maintain suitable detour signs so as to warn the public of work under way, and to guide them around the work in progress where it would be dangerous for them to proceed through the working area.

G-1.41.5 If required by the Engineer, the Contractor shall also provide watchmen, or signalmen for protection and guidance of the public.

G-1.41.6 All barricades, lights, signage, flagging, and signalmen shall be established and operate in accordance with City requirements and North Carolina Department of Transportation.

G-1.42 DRAINAGE: The Contractor shall maintain an unobstructed flow of the natural and artificial drains at all times, and in the event, it is necessary during the prosecution of work to obstruct the free flow of either, the Contractor shall provide for flow of water in such manner that no damage

shall result, or a nuisance be created.

- G-1.43 **CLEANING UP:** On the completion of any part of the work, the Contractor shall remove all surplus earth, materials of construction, debris, and refuse from the work as directed by the Engineer. On the final completion of the work, all debris over the entire contract, which is a result of work by the Contractor, shall be moved or destroyed as directed by the Engineer.
- G-1.44 **INCIDENTAL WORK:** The duties of the Contractor have been set out in these specifications in a broad manner, with the intent of bringing to the attention of the Contractor his responsibilities under the contract, and any details of the work not specifically mentioned, but obviously necessary for carrying on, and the completion of the work shall be considered incidental thereto, and as being a part of and included with the work for which prices have been named in the proposal, the Contractor will not be entitled to any additional compensation therefor.
- G-1.45 **CONTRACTOR'S CLAIM FOR DAMAGES:** In the event the Contractor is of the opinion that he should be compensated for damages sustained by reason of some act of the City, its agents or employees, the amount of such claims shall be itemized, and a detailed report shall be furnished the Engineer by the Contractor within ten (10) days after the date it is claimed such damages were sustained. If the Contractor fails to file his claim in the manner and within the time named but presents such claim at a later date when it would be impossible to make a thorough investigation, such claims will be forfeited and invalidated, and payment of the alleged damages will be disallowed.
- G-1.46 **EXTENSION OF TIME:** No extension of time will be made the Contractor for completing the work on account of ordinary and usual delays, such as the condition of the weather, and lack of material, accidents, and the occurrence of such will not relieve the Contractor from the necessity of maintaining the rate of progress agreed upon. The City will have the right, upon the recommendation of the Engineer after investigation, to extend the time for completion when extraordinary delays or accidents of unusual nature are incurred over which the Contractor has no possible control; but such action on the part of the City shall not operate or be construed to waive any of the rights of the City under this Contract and the Performance Bond. In the event the Contractor fails to complete the work in the specified time named in the proposal, and is permitted to continue and complete the work as if such time had not lapsed, such permission shall not be deemed a waiver in any respect by the City of any liability for extra expense thereby incurred arising from the noncompletion of said work, within the specified time, but such liability shall remain in full force against the Contractor.
- G-1.47 **TIME FOR COMPLETION AND LIQUIDATED DAMAGES:** It is hereby understood and mutually agreed, by and between the Contractor and the City, that the date of beginning and the time for completion as specified in the contract of work to be done hereunder are **ESSENTIAL CONDITIONS** of this contract.

The beginning date of the construction period shall be ten (10) days following the date on the NOTICE TO PROCEED letter duly mailed by the Purchasing Manager to the contractors' address indicated in the bid documents.

The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the City, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

If the said Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the City, then the Contractor does hereby

agree, as a part consideration for the awarding of this contract, to pay to the City the amount specified in the contract, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the contract for completing the work.

The said amount is fixed and agreed upon by and between the Contractor and the City because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the City would in such event sustain, and said amount is agreed to be the amount of damages which the City would sustain and said amount shall be retained from time to time by the City from current periodical estimates.

It is further agreed that time is of the essence of each and every portion of this contract and of the specification wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be to the essence of this contract.

Provided, that the Contractor shall not be charged with liquidated damages or any excess cost when the City determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to the City; Provided further, that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due to any preference, priority or allocation order duly issued by the City.

G-1.48 SALVAGED MATERIALS: Any used materials removed from the site of the construction, such as granite curb, manhole and catch basin castings, pipe, fill materials, which materials will not be re-used under this contract, are the property of the City of Wilmington. The pipe, curb, castings, etc., shall be carefully removed by the Contractor and delivered to the City Lot at Tenth and Fanning Streets, where a receipt will be given. Excess fill material will be dumped on disposal areas indicated by the Engineer. The Contractor will be charged with any salvaged materials which he cannot account for as having delivered, as specified.

G-1.49 FINAL ESTIMATE: The Engineer shall certify to the City in writing when, in his opinion, the Contractor has performed all that is set out in the contract and the specifications relative to the construction, and the Engineer shall show in such certificate the amount of work done from actual measurement, and the value of such work under and according to the prices named in the proposal. The City, on acceptance of said certificate, shall pay unto the Contractor within thirty (30) days thereafter the amount remaining due, and that part of the estimate remaining unpaid and including all money retained in the monthly estimates and for other causes under the contract.

The acceptance by the Contractor of the final payment shall release the City of any and all claims, liabilities and obligations to the Contractor for any and all work done, and materials furnished, or for any act of the City or its agents or employees affecting the same. Before final payment is made, the Contractor shall submit an affidavit to the Engineer, stating that he has fully paid all bills for equipment, materials, or labor used on this project.

G-1.50 INSPECTION AND TESTING MATERIALS: Whenever in these contract documents, inspection and testing of materials is called for, the selection of bureaus, laboratories and/or agencies for such inspection and testing is subject to the approval of the Engineer.

G-1.50.1 Documentary evidence satisfactory to the Engineer that the materials have passed the required inspection and testing must be furnished to the City by the Contractor prior to the incorporation of such materials in the work, when required by the Engineer, and rejected materials must be promptly removed from the premises.

G-1.50.2 Wherever an outside testing laboratory is employed for testing of materials to be incorporated in this contract, the City of Wilmington shall employ and pay said laboratory for services rendered.

G-1.51 CONTRACTOR'S USE OF PUBLIC WATER: The Contractor shall comply with all requirements of the Cape Fear Public Utility Authority for use of public water.

G-1.52 PRECAUTIONS PRIOR TO AND DURING EXCAVATION OF ANY STREETS: No excavation, tree removal or clearing shall be begun by the Contractor upon any street within the City, or any area upon which work is to be done under this contract until he has notified and arranged for an authorized representative of the utility companies and departments which maintain underground systems within the City of Wilmington (water, sewer, electric, telephone and gas) to go over all areas to be graded, excavated or cleared, and designate the location of all hidden or underground facilities, lines, cables, pipes, or other structures and adequately mark these for proper protection during the progress of the proposed construction. The City will use its best offices to require that the owners of utilities which are in physical interference with the work relocate their utilities with utmost speed when these obstructions are encountered. In case any obstruction so located or placed as to interfere with the work, is unexpectedly encountered, the Contractor shall at once notify the Engineer of the locality and circumstances, and the place shall be passed over until satisfactory arrangements can be made. The Contractor shall make no claim against the City for damages arising out of such a delay.

G-1.52.1 Any utility which requires relocation due to physical interference with the proposed construction will be required to be relocated by the owners by the City under its franchise agreement with the operators of said utility.

G-1.52.2 Any utility line which, in the opinion of the Engineer, does not require relocation due to physical interference with the proposed project shall be the responsibility of the Contractor to protect during the progress of the work. In the event of damage to any such line upon which a repair cost is claimed, this claim shall be paid by the Contractor. Where the utility owner has given incorrect or insufficient information to the Contractor as to the location of its underground lines, then the Contractor shall be relieved of the costs of repair, which shall then be borne by the utility company or operating department.

G-1.52.3 Under no circumstances, however, shall machine excavation, grading or cut of any nature be made in a street, or areas where high voltage underground cable or gas distribution lines, services, or mains are situated without the continuous presence of an authorized representative of the owning utility who is capable of "shutting down", "cutting off", discontinuing, or taking such other action as may be necessary to prevent a dangerous condition or occurrence of said utility lines, cables or facilities are damaged during such operations.

G-1.52.4 Should the location or position of any underground or surface obstruction be such that in the opinion of the Engineer its removal, replacement, realignment, or change is required for the prosecution of the work, and it shall be deemed desirable or expedient by the Engineer, the Contractor shall perform such work as may be required as Extra Work under this Contract. (See G-1.25, G-1.26, G-1.27, and G1.28).

G-1.53 RIGHTS-OF-WAY: The City shall furnish all needed rights-of-way for the project, but in the event that any certain rights-of-way and grounds necessary for the purpose of this Contract be not acquired by the City until after the beginning of the work, the Contractor shall so arrange the procedure of work as to allow time for the acquisition of such rights-of-way, and the City will not reimburse, or be liable to the Contractor for any losses resulting from, or incident to, such delay. As soon as the rights-of-way in question have been acquired, the Contractor shall at once proceed with the work thereon with such forces as will insure its prompt completion, but if there is such delay in procuring the right-of-way in question that there will not remain a reasonable length of time before the date set for the completion of this particular work, this fact shall operate so as to extend the time for completion of the particular work affected and to compensate for the actual time lost.

G-1.54 USE OF A PORTION OF THE WORK: Whenever, in the opinion of the Engineer, any portion of the work is completed, or is in an acceptable condition for use, it shall be used for the purpose intended. Such use shall not be held in any way as an acceptance of that portion of the work used, or as a waiver of any of the provisions of these specifications. Necessary repairs or renewals in any section of the work due to defective materials, defective workmanship, or natural causes, under the instructions of the Engineer shall be performed by the Contractor at no additional cost to the City.

G-1.55 EXCISE TAX ON MATERIALS OR FEDERAL TRANSPORTATION TAX, EXEMPTION THEREON: Wherever existing Federal Laws concerning Federal Excise Taxes and Federal Transportation Tax provide that the City of Wilmington is exempt from payment of such tax on items purchased by it, and these laws and regulations permit the extension of this exemption to the Contractors performing work for the City, the City will supply affidavits as to the existence and nature of the Contract, as requested by the Contractor for his use in filing with his vendors and transportation agencies to make his purchases for work under this Contract exempt from such taxes; providing (1) that the Contractor shall have filed an affidavit with the City that his bid on this contract does not include any costs of said taxes, and (2) that the materials for which he will request exemption from tax will be only those materials, which upon completion of the Contract will have actually been incorporated into the work under this Contract, and upon receipt of final payment by the Contractor will become the property of the City of Wilmington.

G-1.56 REQUIRED RECORDS ON SALES AND USE TAX: In order that the City may substantiate a refund claim for sales and use taxes, the Contractor shall furnish the City certified statements in triplicate, setting forth the cost of building materials, supplies and fixtures, and equipment which become a part of, or are annexed to any building or structure being erected, altered, or repaired under contract with the City and the amount of sales and/or use taxes paid thereon.

In the event the Contractor makes several purchases from the same vendor, such certified statement must indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices and the sales and use taxes paid thereon. Such a statement must also include the cost of any tangible personal property withdrawn from the Contractor's warehouse stock which is incorporated in the work, and the amount of sales and use tax paid thereon by the Contractor. The Contractor shall also obtain similar certified statements by his Sub-contractors and submit them to the City.

Bidders are reminded that an additional Two percent (2%) North Carolina Sales Tax is now collected on all sales made within certain counties. Purchases within these counties will require separate certified statements for this 2% tax. This statement shall give the vendor's name, invoice number, total amount of invoice, date of invoice, the amount of the special 2% tax paid and the County in which the purchase was made. In the event that the Contractor wishes to file a combined certified statement showing the 4% tax and the 2% tax separately, this will be acceptable provided he gives the counties in which the 2% tax was paid.

This certified statement must be submitted to the City Engineer monthly, and all certified statements shall be submitted before final payment is made for work performed under this contract.

G-1.57 SURFACE AND SUB-SURFACE STRUCTURES: The Contractor shall be held responsible for the proper replacement of all bridges, crossings, or like structures.

In case any pipe or other obstruction, located or placed so as to interfere with the work is unexpectedly encountered, the Contractor shall at once notify the Engineer of the locality and circumstances, and the place shall be passed over until satisfactory arrangement can be made, without any claim for damages arising from such delay.

Should the location or position of any underground or surface obstruction be such that, in the opinion of the Engineer it must be relocated, and he deems it desirable or expedient that the Contractor undertake the necessary work, the Contractor will undertake to accomplish such work as directed by the Engineer, as provided under the sections of these Specifications dealing with Extra Work.

The Contractor is to take all risks and shall be responsible for all expenses and damage attending the presence or proximity of any gas or water pipe, or public or private sewers or drains, conduits, or other structures located in such a manner as shall not, in the opinion of the Engineer, require shifting, accommodating, or removing.

- G-1.58 **SETTLEMENT OVER EXCAVATION:** The Contractor shall be entirely responsible for all settlement over any and all trenches and excavations which may have been cut along the line of his work at any time prior to the completion of his contract, and for a period of twelve (12) months after completion of his contract.
- G-1.59 **TEMPORARY SUSPENSION OF WORK:** The Engineer shall have the authority to suspend the work, wholly or in part, for such period or periods as may be deemed necessary due to unsuitable weather, or other such conditions as are considered unfavorable for the suitable prosecution of the work, or for such time as is necessary due to the failure on the part of the Contractor to carry out orders given, or perform any or all provisions of the Contract. If it should be necessary to stop work for an indefinite period, the Contractor shall store all materials necessary in such a manner that they will not deteriorate or become damaged in any way, and he shall take every precaution necessary to prevent damage or deterioration of the work performed, provide suitable drainage by opening ditches, shoulder drains, etc., and erect structures where necessary. The Contractor shall not suspend the work without authority from the Engineer. Neither the failure of the Engineer to notify the Contractor to suspend the work on account of bad weather, nor permission from the Engineer to continue work during bad weather shall be cause for the acceptance of any work which does not comply in every respect with the Contract and Specifications.
- G-1.60 **EQUAL OPPORTUNITY REQUIREMENTS:** The Contractor agrees that it will in carrying out the terms of this agreement, comply with the provisions of Executive Order 11246 entitled "Equal Employment Opportunity".

In complying with the provisions of Executive Order 11246, the Contractor agrees as follows:

- (a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex 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 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 or national origin.
- (c) 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 worker 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.

(d) 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.

(e) 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 Department of Housing and Urban Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(f) 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 federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 or September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include 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.

(h) EXEMPTIONS TO EQUAL OPPORTUNITY CLAUSE: (1) Contracts and sub-contracts not exceeding \$10,000.00 (other than Government bills of lading) are exempt. The amount of the contract rather than the amount of the Federal Financial Assistance shall govern in determining the applicability of this exemption. (2) Except in the case of subcontractors for the performance of construction work at the site of construction, the clause shall not be required to be inserted in sub-contracts below the second tier. (3) Contracts and sub-contracts not exceeding \$100,000.00 for standard commercial supplies or raw materials are exempt.

G-1.61 SAFETY: The contractor and each of his subcontractors shall comply at all times with all regulations of the Occupational Safety and Health Administration and all labor laws and regulations of the State of North Carolina applicable to safety. Such standards include 29 CFR Part 1926 and applicable standards from 29 CFR Part 1910 of the Code of Federal Regulations.

The contractor and each of his subcontractors shall maintain adequate protection against damage to life and property during the work and shall provide and maintain all necessary protective devices until completion and acceptance of the work by the City.

In any emergency threatening life or property not considered by the contractor as coming under the provisions provided in this Section G-1.61 the contractor may act at his own discretion to prevent or alleviate the threatening situation without authorization by the City.

G-1.62 Contractor shall obtain building, electrical, mechanical and plumbing permits for all work under the Contract. There will be no fee for obtaining these permits.

G-1.63 GENERAL CONTRACTOR: In the event the bid and subsequent contract require separate prime contractors for the various phases of the work, the Contractor receiving the GENERAL CONSTRUCTION contract shall act as the General Contractor for the project in regard to scheduling of the work and other duties generally carried out by the General Contractor.

G-1.64 PLANS AND SPECIFICATIONS: All firms receiving an award on a section of the contract shall receive free of charge from the City of Wilmington two (2) complete sets of plans and specifications for the project. For Single prime contracts involving multiple subcontractors, the primary subcontractors (HCAC, Plumbing, and Electrical or specialty item specifically bid as a separate item) shall receive up to two (2) complete sets of plans and specifications. Any further sets required by the contractor shall be charged to the contractor at the cost of reproduction.

G-1.65 DISPUTES: Any disputes in excess of \$15,000 shall be processed in accordance with Section 13 of the contract.

Rev. 5/23crk

NEW HANOVER COUNTY

CONTRACT FOR CONSTRUCTION SERVICES

THIS CONTRACT, made this the ____ day of _____, 202 by and between the CITY OF WILMINGTON, NORTH CAROLINA, a Municipal Corporation located in New Hanover County (hereinafter called "CITY"); and 1. a corporation organized under the laws of the State of _____; 2. a non-profit corporation organized under the laws of the State of _____; 3. an unincorporated association having its principal place of business in _____; 4. a resident of _____; or 5. owner of a partnership organized under the laws of the State of _____, with its principal offices in _____ (hereinafter called "CONTRACTOR").

W I T N E S S E T H:

1. Purpose

The CITY hereby employs the CONTRACTOR to furnish all labor, materials and equipment to perform all work in manner and form as specified by the attached plans, specifications and documents consisting of, but not limited to: Advertisement, Instructions to Bidders, General Conditions, Technical Specifications, Proposal and Affidavit, Contract and Performance and Payment Bonds, which are incorporated as if fully set out, for the following:

RIVERWALK SOUTH PILLING & GIRDER REPLACEMENT as specified herein and on the plans, specifications, contract documents, drawings, addenda and change orders (if any).

2. Term of Contract/Liquidated Damages

The CONTRACTOR shall commence the work to be performed under this contract within ten (10) days of receipt of a written order from the Purchasing Manager and shall complete all work hereunder within 30 calendar days of the date of beginning. The CONTRACTOR further agrees to pay, as liquidated damages, the sum of \$00.00 for each consecutive calendar day thereafter as hereinafter provided in Paragraph G-1.47 of the General Conditions.

3. Extra Work

In the event extra work is necessary, not set forth or contemplated in this contract, the CONTRACTOR agrees to faithfully perform all such work under a written change order from the CITY, setting forth and describing fully the work to be done. The CITY hereby agrees to pay to the CONTRACTOR, for any such extra work, upon presentation of properly prepared, itemized statements of cost computed as follows:

- (a) The CONTRACTOR shall be allowed to charge for labor used at the actual payroll charges during the time actually spent on extra work,
- (b) He shall be allowed to add on labor charges the percentage shown in Paragraph 8 of the Proposal for Workmen's Compensation Insurance, Social Security and other payroll charges,
- (c) The rate for such equipment, this hourly

rate to be for operating hours only, (d) The CONTRACTOR shall be allowed to charge for material purchased by him and used on extra work orders the amount charged to him by the vendor upon presentation of paid invoices, (e) The CONTRACTOR shall be allowed to add to the costs of said work arrived at enumerated above ten (10%) percent of materials, cost of equipment and actual payroll cost for overhead and profit.

4. Payment

4.1 The CITY agrees to pay to the CONTRACTOR for the faithful performance of this contract, subject to any additions or deductions as provided for in the Specifications or Proposal, and in accordance with the prices as set forth, subject to any additions which may be due under Paragraph 3 of this Agreement, Unit Prices and/or lump sum price, as set forth in the Proposal, the estimated total cost of _____

4.2 Not later than 30 work days after receipt of a City approved invoice the City will make partial payment to the Contractor on the basis of a duly certified approved estimate by the City Engineer of the work performed during the preceding calendar month by the Contractor, and the value of the materials on the job, but not installed, less ten (5%) percent of the amount of such estimate, which is to be retained by the CITY until all work has been performed strictly in accordance with this contract and until such work is accepted by the CITY.

4.3 Invoices, or estimates or the cost of work performed, through June 30th, must be received by the 10th calendar day of July.

4.4 Upon submission by the CONTRACTOR of evidence satisfactory to the CITY that all payrolls, materials, bills and any other liabilities or costs incurred by the CONTRACTOR in connection with the construction of this work has been paid in full, final payment on account of this contract shall be made within thirty (30) days after completion by the CONTRACTOR of all work covered by this agreement and the acceptance of such work by the CITY.

5. Performance Bond - THIS SECTION HAS BEEN WAIVED

It is agreed that if, at any time after the execution of this contract and the surety bond attached for its faithful performance, the CITY shall deem the surety or sureties upon such bond to be unsatisfactory, or if for any reason such bond ceases to be adequate to cover the performance of the work, the CONTRACTOR shall, at his expense, within five days after receipt of notice from the CITY to do so, furnish an additional bond or bonds in such form and amount, and with such surety, or sureties, as shall be satisfactory to the CITY.

6. Insurance; Proof of Coverage

The CONTRACTOR shall take out and maintain, during the life of this contract, all insurance required under Paragraph G-1.06 of the General Provisions, and shall, at execution of this contract, attach to each of the counterparts thereof documentary proof of compliance in the form of a Certificate from his insurer, stating the amount, policy numbers, and kinds of insurance carried. This certificate shall also contain a statement by the insurer that he will notify the City of Wilmington by Registered Mail twenty (20) days prior to any cancellation or lapse of the insurance shown on this certificate. It is further agreed that the CONTRACTOR shall furnish the CITY with one memorandum copy of the policy, or policies, shown on this certificate at the time of the signing of this contract.

7. Guarantee

The CONTRACTOR hereby agrees to guarantee, for a period of one year after date of final payment, the work accomplished under this Contract. The CONTRACTOR agrees to repair at no cost to the CITY any defects due to faulty workmanship or materials which may appear in his work during this period.

8. Release and Indemnity

To the fullest extent permitted by law, the CONTRACTOR shall release, indemnify, keep and save harmless the CITY, its agents, officials and employees, from any and all responsibility or liability for any and all damage or injury of any kind or nature whatever (including death resulting therefrom) to all persons, whether agents, officials or employees of the CITY or third persons, and to all property proximately caused by, incident to, resulting from, arising out of, or occurring in connection with, directly or indirectly, the performance or nonperformance by CONTRACTOR (or by any person acting for the CONTRACTOR or for whom the CONTRACTOR is or is alleged to be in any way responsible), whether such claim may be based in whole or in part upon contract, tort (including alleged active or passive negligence or participation in the wrong), or upon any alleged breach of any duty or obligation on the part of the CONTRACTOR, its agents, officials and employees or otherwise. The provisions of this Section shall include any claims for equitable relief or for damages (compensatory or punitive) against the CITY, its agents, officials, and employees including alleged injury to the business of any claimant and shall include any and all losses, damages, injuries, settlements, judgments, decrees, awards, fines, penalties, claims, costs and expenses. Expenses as used herein shall include without limitation the costs incurred by the CITY, its agents, officials and employees, in connection with investigating any claim or defending any action, and shall also include reasonable attorneys' fees by reason of the assertion of any such claim against the CITY, its agents, officials or employees. The CONTRACTOR expressly understands and agrees that any performance bond or insurance protection required by this agreement, or otherwise provided by the CONTRACTOR, shall in no way limit the CONTRACTOR'S responsibility to release, indemnify, keep and save harmless and defend the CITY as herein provided. The intention of the parties is to apply and construe broadly in favor of the CITY the foregoing provisions subject to the limitations, if any, set forth in N.C.G.S. 22B-1.

9. Personnel

It is mutually agreed that CONTRACTOR is an independent contractor and not an agent of the CITY, and as such the CONTRACTOR shall not be entitled to any CITY employment benefits, such as, but not limited to, vacation, sick leave, insurance, workmen's compensation, or pension and retirement benefits.

10. Conflict of Interest

No paid employee of the CITY shall have a personal or financial interest, direct or indirect, as a contracting party or otherwise, in the performance of this agreement.

11. Non-Waiver of Rights

It is agreed that the CITY'S failure to insist upon the strict performance of any provision of this agreement, or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any rights under this agreement.

12. Suspension or Termination of Agreement

- 12.1 In the event that review of Contractor's performance shows non-conformance to the attached scope of service or other terms or conditions contained herein as a result of the Contractor's errors, omissions or negligent acts, the contractor shall be in breach of this Agreement and the City may take corrective action as it deems necessary including, but not limited to, withholding or reduction of payment.
- 12.2 The City shall also have the right to suspend this Agreement upon written notice to the Contractor. Such suspension may be made for any of the following reasons: (a) violations or non-compliance with the contract terms, (b) violations of OSHA laws or regulations, (c) violations of Federal or State environmental and health laws or regulations, (d) operating City valves without permission, (e) moving City supplied water meters without permission, (f) failure to adequately plan for the protection of underground utilities during construction, (g) violation of any City ordinances or regulations or (h) verbal abuse of any City employees or others. In addition, any such violations may result in the Contractor being disqualified from bidding on future City projects. The written notice of suspension shall state the reasons for suspension and allow for a review period of ten (10) days during which the Contractor shall be provided with an opportunity to respond with an explanation or a justification, and/or shall undertake any reasonable remedial action required by the City. If, in the opinion of the City, the Contractor has not addressed the reasons for suspension at the completion of the ten (10) day suspension period, the City shall have a right to terminate this Agreement whereupon all obligations of the City to the Contractor shall cease.
- 12.3 The City may, at any time, terminate this contract for the City's convenience and without cause. Upon receipt of written notice from the City of such termination for the City's convenience, the Contractor shall (a) cease operations as directed by the City in the notice; (b) take actions necessary, or that the City may direct, for the protection and preservation of the work; and (c) except for work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing sub- contracts and purchase orders and enter into no further sub-contracts and purchase orders. In the event that this project is terminated for the convenience of the City, the Contractor shall be paid for services performed to the date of termination and costs incurred by reason of such termination, but such costs shall not include anticipated profit on unperformed work. (In no event will the amount due contractor in the event of termination for convenience exceed that amount set forth in Paragraph 4.1 of this Agreement. Contractor shall be paid for all reimbursables, as defined herein, which are due him.)
- 12.4 If after notice of termination of this contract under the provisions of Paragraph 12.2, it is determined for any reason that the Contractor was not in default under the provisions of such paragraph, or that the default was excusable under the provisions of this contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued by the City for convenience as set forth in Paragraph 12.3.
- 12.5 Nothing contained herein shall prevent the City from pursuing any other remedy which it may have against the Contractor including claims for damages.

13. Contract Disputes

In accordance with G.S. 143-128.1(8) the parties agree to mediate contract disputes in excess of \$15,000.00. Within ten (10) days of such contract disputes, the parties shall select a mediator that is certified pursuant to all of the parties involved in the dispute. If the parties cannot agree on a mediator or do not timely select a mediator, the City shall select the mediator. The parties and the mediator shall agree upon the mediator's rate of compensation. The parties to the dispute shall

share in the payment of the mediator's compensation with the City paying a minimum of one-third of the compensation if the City is a party to the dispute.

14. Assignment of Agreement

It is mutually agreed by the parties hereto that this agreement is not transferable by either party to this agreement without the consent of the other party to this agreement.

15. Subcontracts

The CONTRACTOR shall utilize no subcontracts for carrying out the services to be performed under this agreement without the written approval of the CITY.

16. Entire Agreement

The agreement constitutes the entire understanding of the parties.

17. Binding Effect

The agreement shall be binding upon the heirs, successors, assigns, agents, officials, employees, independent contractors, and subcontractors of the parties.

18. Continuing Obligation

The parties will make and execute all further instruments and documents required to carry out the purposes and intent of the agreement.

19. Reference

Use of the masculine includes feminine and neuter, singular includes plural; and captions and headings are inserted for convenience of reference and do not define, describe, extend or limit the scope of intent of the agreement.

20. Interpretation

All of the terms and conditions contained herein shall be interpreted in accordance with the laws of the State of North Carolina. In the event of a conflict between the various terms and conditions contained herein or between these terms and other applicable provisions, then the more particular shall prevail over the general and the more stringent or higher standard shall prevail over the less stringent or lower standard.

21. Saving Clause

If any section, subsection, paragraph, sentence, clause, phrase or portion of this contract is for any reason held invalid, unlawful, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

22. Other Laws and Regulations

CONTRACTOR will comply with any and all applicable federal, state and local standards, regulations, laws, statutes and ordinances including those regarding toxic, hazardous and solid wastes and any pollutants; public and private nuisances; health or safety; and zoning, subdivision or other land use controls. CONTRACTOR will take all reasonably necessary, proper or required safety, preventative and remedial measures in accordance with any and all relations and directives from the North Carolina Department of Human Resources, the United States Environmental

Protection Agency, the North Carolina Department of Environmental Quality, Health Departments, and any other federal, state or local agency having jurisdiction, to insure the prompt prevention or cessation (now or in the future) of violations of either the applicable provisions of such standards, regulations, laws, statutes, and ordinances or any permits or conditions issued thereunder. CONTRACTOR specifically acknowledges and agrees that CONTRACTOR, and any subcontractors it uses, has complied with and shall continue to comply with the provisions of the federal E-Verify program in compliance with Article 2 of Chapter 64 of the North Carolina General Statutes. CONTRACTOR shall maintain adequate safeguards with respect to sensitive customer information in conformance with and pursuant to 16 C.F.R. §681.1 and in accordance with N.C. Gen. Stat. §132-1.10 and §75-65.

23. Amendments

This agreement shall not be modified or otherwise amended except in writing signed by the parties.

24. Non-Discrimination

CONTRACTOR will take affirmative action not to discriminate against any employee or applicant for employment or otherwise illegally deny any person participation in or the benefits of the program which is the subject of this agreement because of race, creed, color, sex, age, disability or national origin. To the extent applicable, CONTRACTOR will comply with all provisions of Executive Order No. 11246, the Civil Rights Act of 1964, (P.L. 88-352) and 1968 (P.L. 90-284), and all applicable federal, state and local laws, ordinances, rules, regulations, orders, instructions, designations and other directives promulgated to prohibit discrimination. Violation of this provision, after notice, shall be a material breach of this agreement and may result, at CITY'S option, in a termination or suspension of this agreement in whole or in part.

25. Authority to Act

Each of the persons executing this Agreement on behalf of CONTRACTOR does hereby covenant, warrant and represent that the CONTRACTOR is a duly organized and validly existing legal entity authorized to transact business within the State of North Carolina, that the CONTRACTOR has full right and authority to enter into this Agreement, and that each and all persons signing on behalf of the CONTRACTOR were authorized to do so.

26. Counterparts.

This Agreement may be executed in several counterparts, including separate counterparts. Each shall be an original, but all of them together constitute the same instrument.

27. No Publicity.

No advertising, sales promotion or other materials of the CONTRACTOR or its agents or representations may identify or reference this Contract or the CITY in any manner absent the written consent of the CITY. Notwithstanding the forgoing, the parties agree that the CONTRACTOR may list the CITY as a reference in responses to requests for proposals, and may identify the CITY as a customer in presentations to potential customers.

28. Immunity Not Waived

This Agreement is governmental in nature, for the benefit of the public. CONTRACTOR acknowledges that City reserves all immunities, defenses, rights or actions arising out of City's sovereign status under applicable law. No waiver of any such immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of City's entry into this Agreement.

29. CITY Not Liable For Special or Consequential Damages.

The CITY shall not be liable to the CONTRACTOR, its agents or representatives or any subcontractor for or on account of any stoppages or delay in the performance of any obligations of the CITY, or any other consequential, indirect or special damages or lost profits related to this Contract.

30. Public Records.

CONTRACTOR acknowledges that the CITY is a public entity, subject to North Carolina's public records laws (N.C.G.S. § 132) and that any documents related to this Agreement may be subject to disclosure pursuant to state law in response to a public records request or to subpoena or other judicial process.

If CONTRACTOR believes documents related to the Agreement contain trade secrets or other proprietary data, CONTRACTOR must notify the CITY and include with the notification a statement that explains and supports CONTRACTOR'S claim. CONTRACTOR also must specifically identify the trade secrets or other proprietary data that CONTRACTOR believes should remain confidential.

In the event the CITY determines it is legally required to disclose pursuant to law any documents or information CONTRACTOR deems confidential trade secrets or proprietary data, the CITY, to the extent possible, will provide CONTRACTOR with prompt written notice by certified mail, fax, email, or other method that tracks delivery status of the requirement to disclose the information so CONTRACTOR may seek a protective order from a court having jurisdiction over the matter or obtain other appropriate remedies. The notice will include a time period for CONTRACTOR to seek court ordered protection or other legal remedies as deemed appropriate by CONTRACTOR. If CONTRACTOR does not obtain such court ordered protection by the expiration of said time period, the CITY may release the information without further notice to CONTRACTOR.

31. Minority Business Enterprise (MBE)

The CITY desires that minority business enterprises have the maximum opportunity to participate in the performance of this contract and will:

31.1 Promote affirmatively (where feasible) in accordance with North Carolina General Statute 143-129, together with all other applicable laws, statutes and constitutional provisions, the procurement of goods, services in connection with construction projects for minority owned business enterprises.

31.2 Insure that competitive and equitable bidding opportunities are followed to afford minority business enterprises participation. Strive to obtain contract and subcontract awards to minority business enterprises.

31.3 Identify and communicate to the minority business enterprises community procedures and contract requirements necessary for procurement of goods and services for construction projects and subcontracts.

31.4 Provide technical assistance as needed.

31.5 Promulgate and enforce contractual requirements that the general CONTRACTOR or all construction projects shall exercise all necessary and reasonable steps to insure that minority business enterprises participate in the work required in such construction contracts.

The CONTRACTOR shall insure that minority business enterprises have the maximum opportunity to compete for and perform portions of the work included in this contract and shall not discriminate on the basis of race, color, national origin or sex. The CONTRACTOR shall include this special provision, Minority Business Enterprise (MBE), in all subcontracts for this contract. Failure on the part of the CONTRACTOR to carry out the requirements set forth in this special provision may constitute a breach of contract and after proper notification may result in termination of the contract or other appropriate remedy.

A minority business enterprise is defined as a business, with at least fifty-one (51%) percent owned and controlled by minority group members. The minority ownership must exercise actual day-to-day management. Minority group members may consist of Black Americans (an individual of the Black race of African origin), Hispanic Americans (an individual of a Spanish speaking culture and origin at parentage), Asian Americans (an individual of a culture, origin or parentage traceable to the areas of the Far East, Southeast Asia, the Indian subcontinent and the Pacific Islands), Indian Americans (an individual who is an enrolled member of a Federally recognized Indian tribe, or recognized by the tribe as being an Indian, as evidenced by a certification of a tribal leader), American Aleuts or any recognized minority group approved by the CITY.

A Woman Business Enterprise is a business with at least fifty-one (51%) percent owned and controlled by women who exercise actual day-to-day management.

The CONTRACTOR shall exercise all necessary and reasonable steps to insure that Minority Business Enterprises and Woman Business Enterprises participate in the work required in this contract. The CONTRACTOR agrees by executing this contract that he will exercise all necessary and reasonable steps to insure that this special provision contained herein on Minority Business Enterprise is complied with.

IN WITNESS WHEREOF, the CITY has caused this agreement to be duly executed in its name and behalf and the CONTRACTOR has caused this agreement to be duly executed in its name and behalf and its corporate seal to be hereunto affixed, and attested to.

CITY OF WILMINGTON, NORTH CAROLINA

BY:

Becky Hawke, City Manager

WITNESS:

Daryle L. Parker, Purchasing Manager

APPROVED AS TO FORM:

Gina Essey, Assistant City Attorney

FINANCE OFFICER'S CERTIFICATION STATEMENT

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act this the _____ day of _____, 202 .

Martha Wayne, Director of Finance

Project String: _____

Org./Obj.: _____ Project: _____

Amount of Contract: _____

Req#: _____

Federal ID Number: 56-6000239

INSURANCE CERTIFICATES

(Staple Insurance Certificates as required
under Paragraph G-1.06 to this sheet)

CITY OF WILMINGTON

NORTH CAROLINA

**PROPOSAL
FOR
Riverwalk South Piling & Girder Replacement
CONTRACT #: PS-SE-0226
PROJECT #: 2TRST1110**

1. The undersigned, having carefully examined the site of the proposed work, the entire Bidding Document, including but not limited to the Advertisement, Special Notice, General Provisions, Technical Specifications, MBE/WBE/HUB/DBE documents and requirements, Federal Requirements (if any), Contract and Plans and/or Standard Details attached hereto, all of which are fully understood and hereby agreed to, proposes to furnish all materials, labor, equipment and plant necessary to complete in-place the specified improvements, in strict accordance with the above-mentioned bidding documents.
2. Where an interpretation as to specifications is necessary, or as to the character of the work performed, or as to further instructions relating to the work, before or during construction, the undersigned bidder hereby agrees that (hereinafter called "ENGINEER") shall be the authority and his word shall be final.
3. The prices, as stated, are for the work completed and also include all charges and expenses for furnishing all labor, materials, equipment, and plans for completing the specified work in the manner specified in the specifications and according to the instructions of the ENGINEER, unless otherwise shown in the Proposal.
4. If awarded this contract, the undersigned agrees to begin construction on the date to be specified in the written order by the Purchasing Manager and to complete all work within 90 calendar days of the date of beginning. The CONTRACTOR further agrees to pay, as liquidated damages, the sum of \$230.00 for each consecutive calendar day thereafter, as hereinafter provided in paragraph G-1.47 of the General Conditions.
5. The undersigned hereby certifies that this Proposal is made without connection with any person or persons making bids or proposals for the above work and that the bid is in all respects fair and without collusion or fraud.
6. The undersigned understands and agrees that all extra work shall be done and paid for as provided under the applicable sections of the specifications. In the event that extra work is necessary, the percentage to be added to the actual payroll cost to cover Social Security, small hand tools, office overhead on labor-management only, Workmen's Compensation Insurance, and other insurance for labor costs shall be 5% percent.

All extra work shall be done using actual payroll and material costs, and a profit of ten percent (10%) of the total cost shall be added thereto. All items of materials shall be billed to the CITY on the extra work invoice, and a delivery slip from the vendor shall be submitted therewith to verify the actual cost. No additional profit will be allowed on materials other than the normal overall ten percent (10%) above stated. Items not provided for above shall be agreed upon between the CONTRACTOR and the ENGINEER prior to invoicing.

8. The undersigned understands that, if awarded this contract, he must guarantee, for a period of one year after the date of final payment, all work accomplished under this contract to the extent that he

will repair any defects due to faulty workmanship or materials which may appear in his work during this period.

9. The undersigned supplies the information recorded below for use in the preparation of the contract documents in event of contract award:

9.1 Please indicate the type of business organization:

- i. Proprietorship _____
- ii. Partnership _____
- iii. Corporation _____
- iv. Limited Liability Co. _____

9.2 If the business is a Corporation, please answer the following questions:

Name and title of officers, authorized by Corporate Resolution, who will execute the contract on behalf of the corporation (generally President and Secretary).

The firm is incorporated in what state?

If a firm is a foreign corporation, does the firm have a certificate of authority from the North Carolina Secretary of State? _____

9.3 If the business is a Partnership, please answer the following:

Name in full or all general partners and addresses:

_____ Is this
a limited or general partnership? _____

If a limited partnership, what is the state of registration? _____

If the business is a foreign limited partnership, does the business have a certificate of authority from the North Carolina Secretary of State? _____

9.4 If the business is a Proprietorship, please answer the following:

Name of owner: _____

9.5 If the business is a limited liability company, please answer the following:

List the names and titles of managers or member managers who will execute the contract on behalf of the company. _____

What is the state of the organization? _____

If the business is a foreign limited liability company, does the business have a certificate of authority from the North Carolina Secretary of State? _____

9.6 For all bidders:

If the business operates under an assumed name, what is the assumed name? _____

Has a certificate of assumed name been filed in the New Hanover County Registry? _____

If so, please provide the recording information. Deed Book _____ at Page _____.

10. Additional Information - Please respond to each:

10.1 North Carolina Taxpayer Identification Number:

10.2 Does your company have an Affirmative Action Plan
Yes _____ No _____

11. The undersigned proposes to accomplish the work as described in the following at the unit prices and/or lump sum price shown:

LUMP SUM BASE BID: \$ _____

LUMP SUM BID IN WORDS: _____

12. The undersigned understands that the award under this Proposal will be made to the lowest responsible bidder as described in Section G-1.02 of the General Provisions, on the proposal page or in Section 15 Special Conditions.

13. The undersigned acknowledges receipt of any Addendums issued to this Project by recording the Addendum number and date acknowledged below:

Addendum #1: _____ Dated: _____
Addendum #2: _____ Dated: _____
Addendum #3: _____ Dated: _____

If awarded the work, I/we agree to begin work as soon as we are given the notice to proceed and complete the work ready for occupancy within the specified time limits.

This Proposal is submitted by:

Company Name

Signed by: _____
Authorized Person's Signature

Type or Print the Name of the Person Signing Above

Title: _____

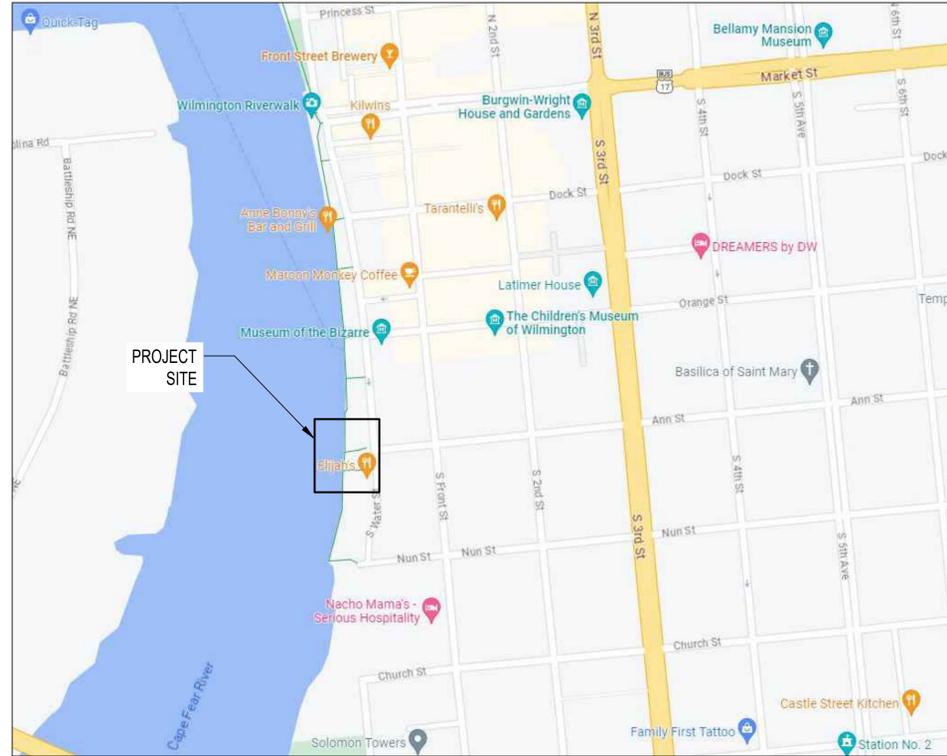
Address: _____

Zip _____

Phone: _____

Date: _____

North Carolina Contractor's License Number: _____



LOCATION MAP

N.T.S.

STRUCTURAL NOTES

GENERAL NOTES:

1. THE STRUCTURAL NOTES SHALL BE USED IN CONJUNCTION WITH THE STRUCTURAL DRAWINGS.
2. THIS STRUCTURE HAS BEEN DESIGNED IN ACCORDANCE WITH THE PROVISIONS OF THE 2018 NC BUILDING CODE.
3. THE CONTRACTOR SHALL FIELD VERIFY THE DIMENSIONS, ELEVATIONS, AND OTHER REQUIREMENTS NECESSARY FOR THE PROPER CONSTRUCTION AND ALIGNMENT OF THE STRUCTURE.
4. THE CONTRACTOR SHALL MAKE ALL MEASUREMENTS NECESSARY FOR FABRICATION AND ERECTION OF STRUCTURAL MEMBERS.
5. ALL SPECIFICATIONS REFER TO LATEST EDITION.

TIMBER:

1. ALL LUMBER SPECIFIED AS NO. 1 STRUCTURAL, SYP - UNLESS OTHERWISE NOTED. LUMBER SHOULD BE PRESSURE TREATED TO MEET UC5B STANDARDS. FIELD CUTS ARE TO BE TREATED WITH COPPERS #50.
2. LVL MATERIAL IS SPECIFIED AS MINIMUM GRADE: E=1.8 Fb = 2950.
3. FASTENERS ARE SPECIFIED AS 12 GAUGE, STAINLESS STEEL SCREWS - UNLESS SPECIFIED OTHERWISE BY TIMBER TIE MANUFACTURER.
4. ALL TIMBER TIES ARE SPECIFIED AS SIMPSON STRONG TIE, INC. Z MAX COATING. TIES ARE TO BE INSTALLED PER MANUFACTURER'S INSTALLATION INSTRUCTION.
5. TIMBER PILE SPECIFIED AS SYP CLASS B, 12" BUTT PER ASTM D 25.

STRUCTURAL STEEL:

1. ALL STRUCTURAL STEEL TO BE HOT DIPPED GALVANIZED UNLESS NOTED OTHERWISE.
2. STRUCTURAL STEEL:
 - A. NUTS: ASTM A563
 - B. WASHERS: ASTM F844
 - C. MISCELLANEOUS STEEL: ASTM A36
3. WELDING TO COMPLY WITH AWS RECOMMENDATIONS FOR EACH SPECIFIC WELD AND THE WELDER TO BE CERTIFIED FOR EACH SPECIFIC WELD THEY ARE PERFORMING. USE E70 SERIES ONLY.

ENVIRONMENTAL:

1. THE CONTRACTOR IS RESPONSIBLE TO PREVENT CONTAMINATES, DEBRIS, POLLUTION, OR SEDIMENT FROM ENTERING THE WATERWAY. THE CONTRACTOR WILL NOT DIRECTLY RETURN WATER OR ALLOW STORM WATER TO DIRECTLY ENTER THE WATERWAY.
2. THE CONTRACTOR IS RESPONSIBLE TO USE SCREEN OR OTHER PROTECTIVE EQUIPMENT TO KEEP CONSTRUCTION DEBRIS FROM ENTERING THE WATERWAY. THE OWNER RETAINS THE THE AUTHORITY TO REQUIRE ADDITIONAL ENVIRONMENTAL PROTECTION IF THE CONTRACTOR HAS NOT INSTALLED ADEQUATE PROTECTION TO BE AFFECTIVE.

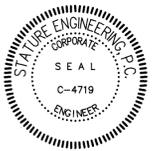
MISCELLANEOUS:

1. THE CONTRACTOR IS RESPONSIBLE FOR TEMPORARY SHORING AND BRACING REQUIRED TO HOLD THE STRUCTURE IN PROPER ALIGNMENT UNTIL PERMANENT SUPPORTS ARE IN PLACE.
2. **THE STRUCTURAL DRAWINGS DO NOT ADDRESS SAFETY. SAFETY IS SOLELY THE GENERAL CONTRACTOR'S RESPONSIBILITY. SAFETY MUST BE THE MOST IMPORTANT FACTOR AT ALL TIMES DURING CONSTRUCTION. SAFETY CANNOT BE COMPROMISED AT ANY TIME.



**STATURE
ENGINEERING**

STRUCTURAL ENGINEERING
& PROJECT MANAGEMENT
P.O. BOX 100
WALLACE, NC 28466
P: 910-655-1020



PROJECT TITLE

**RIVERWALK SOUTH
PILING & GRIDER
REPLACEMENT**

WILMINGTON, NC

SHEET TITLE

**STRUCTURAL
NOTES, LOCATION
PLAN**

ISSUE BLOCK

MARK	DATE	DESCRIPTION

PROJECT NO: 23009M
DATE: 12/26/2024
SCALE: AS NOTED
DRAWN BY: SSW PROJ MGR: EBP

S1

