

MAYOR
Michael L. Alvarez

MAYOR PRO TEM
David L. Cohn



TOWN COUNCIL
Robert W. Allen
Christopher M. King
Darlene T. Luther
David K. Waddell

Indian Trail Town Council Meeting
July 10, 2012
Civic Building
6:30 p.m.

1. **CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE**
2. **ADDITIONS AND DELETIONS** **action**
3. **MOTION TO APPROVE AGENDA** **action**
4. **ABC BOARD INTERVIEW AND APPOINTMENT**
 - a. Robert Laatz
5. **PRESENTATIONS**
 - a. [Staff Service Award Recognition](#)
6. **PUBLIC COMMENTS**
7. **CONSENT AGENDA** **action**
 - a. [Approval of June 26, 2012 Special and Regular meeting minutes](#)
 - b. [Revision to Law Enforcement Contract](#)
 - c. [2012 Stormwater Maintenance Contract Renewal](#)
 - d. [Budget Amendments](#)
 - e. [Approval of Solid Waste Agreement](#)
8. **PUBLIC HEARINGS** **action**

– Please adhere to the following guidelines:

 - *Proceed to the podium, and state your name and address clearly;*
 - *Be concise; avoid repetition; limit comments to three (3) minutes or less;*
 - *Designate a spokesperson for large groups*

- a. [ZM2012-002 Brandon Oaks: a request to rezone 2 parcels from R-20 to SF-4 with PED Overlay 1. Properties were annexed on 6-1-2012 by Annexation No. 131](#)

9. BUSINESS ITEMS

- a. [Poplin Road Sidewalk Contract](#)

10. DISCUSSION ITEMS

- a. Discussion of proposed future infrastructure projects
- b. Discussion pertaining to better communication between Town Officials/Boards/Committees to include discussion about recent request received by the Public Safety Committee. This item was requested by Mayor Alvarez.

11. MANAGERS REPORT

12. COUNCIL COMMENTS

13. CLOSED SESSION

action

14. ADJOURN

action

**To speak concerning an item on the Agenda, please print your name and address on the sign up sheet on the table prior to the meeting. Each speaker will be limited to 3 minutes.
AS A COURTESY, PLEASE TURN CELL PHONES OFF WHILE MEETING IS IN PROGRESS**



TO: Mayor and Town Council

FROM: Miriam Lowery, Human Resources

DATE: 6/20/12

SUBJECT: Staff Service Award Recognition

We would like to present a recognition award on Tuesday, July 10, 2012 to an employee who will complete five years of service in 2012. The employee will be identified and given an engraved glass paperweight in honor of their service by the Town Manager.

We would like the recognition ceremony at the Town Council meeting to become our regular method of employee recognition for employees with milestone anniversaries (5,10,15,20+ years). Other types of employee recognition or appreciation will be held at other times during the year.



Town of Indian Trail
Minutes of Town Council
Special Meeting
June 26, 2012
Civic Building
5:45 P.M.

The following members of the governing body were present:

Mayor: Michael L. Alvarez

Council Members: Robert Allen, David Cohn, Christopher King, Darlene Luther, and David Waddell.

Staff Members: Town Manager Joe Fivas, Town Clerk Peggy Piontek, and Town Attorney Keith Merritt.

CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Alvarez called the meeting to order.

TOWN OF INDIAN TRAIL ABC BOARD INTERVIEWS

Mr. Fivas informed Council there are three applicants tonight to be interviewed, after which the Council needs to determine the following: one candidate that submitted his application late by a couple of days and Council can waive that

requirement or interview all three and we will post it for the public for a week and then come back and make a decision at the July 10th meeting providing an opportunity for others to apply, be interviewed and considered by Council. Council can then appoint their choice at the July 10th meeting. Mr. Fivas advised it would be best to establish the ground rules prior to starting the interview process.

Robert Allen made a motion to approve extending for another week allowing other folks to apply also.

Council voted unanimously in favor of the motion.

a. ABC Board * Jan Brown * Gary D'Onofrio * Steven Long

Jan Brown

Mr. Brown provided his address, advised that he has been a member of the ABC Board and is currently reapplying.

Ms. Luther asked Mr. Brown What motivated him to submit his application. Mr. Brown responded initially original spoken in favor of ABC Board, provided recommendation for positions (accountant, attorney and a good bank) which was taken by Council. He believes the Board has served the community well and provided their accomplishments over the last 2 years and anticipated endeavors in the upcoming years, advising that speaks well for itself and he would like to continue to give back to the community.

Mr. Cohn asked Mr. Brown what non-profit, civic or government involvement do you have? Mr. Brown replied he is on his community HOA Board, the Indian Trail Planning Board and the Indian Trail ABC Board. He wants to give back to the community; he has the time and resources.

Mr. Waddell asked: Do you have any ideas on how Indian Trail can improve its public participation? Mr. Brown replied to show up. Mr. Waddell requested that Mr. Brown expand on that. He recommended that Council pass the word that the ABC Board meetings are an open forum, as word of mouth is the best advertising.

Mr. Allen asked Mr. Brown: What his vision is where the ABC Board could/would go within the next 5 years? Mr. Brown responded with current and expected sales figures advising they are an asset to the community. He advised an example is the anticipated scholarship for Sun Valley High School, along with the need for an additional 2000 square feet obtained for warehouse purposes, as well as the low rental rate the Board negotiated.

Mr. King advised that his question was redundant because it inquired about any experience in this field, as Mr. Brown has served on the ABC Board and Planning Board; he's very satisfied and had no comment

Mayor Alvarez asked Mr. Brown: As a current member of the ABC Board, how do you feel the ABC Board can improve its process of communication? Mr. Brown responded that the Board could probably improve on getting information posted more expeditiously. However, he feels success speaks louder than words, advising the State ABC Board has referred to them as a reference to others who are interested in opening stores on how to get it done right.

Gary D'Onofrio

Ms. Luther asked Mr. D'Onofrio: what motivated you to submit your application to serve on a Board for the Town? Mr. D'Onofrio responded that he has lived here since 2005 and in 2006 took keen interest in local affairs and what was going on. One of his pivotal interests was alcohol sales, beer and wine, liquor by the drink and an ABC store. He explained this was part of what motivated him to run for Council, acknowledging that this matter was one of his platforms on which he ran. He stated that he was proud to bring that vote to the citizens and was successful. Mr. D'Onofrio went onto explain the process in which the store was created, acknowledging the fine job conducted by the present Board members. Since he's been involved in the issue early on, he feels he can add something to it.

Mr. Cohn asked Mr. D'Onofrio what he can add to make it better. Mr. D'Onofrio replied that transition planning will be very important for this operation,

suggesting that Council reaches out to talent early on, gauge interest for willing individuals and have them in the pipeline so that when Mr. Porter and Mr. Hinson's term expire there are people of a similar caliber in to continue running the operation. His occupation is a Territory Manager which requires an analytical mind to surmise a situation and determine how to propel it and make it more successful. He would like to get the store to the point from a distribution perspective that the distributions equal 1 cent of the tax revenue, if accomplished he would feel successful.

Mr. King asked Mr. D'Onofrio if he has any private/public sector experience which could help you give input to this Board.

Mr. D'Onofrio replied he is Manage a territory for an insurance company and his expertise is property and casualty insurance with about 120 independent insurance agents and it is his job to manage the premium on books, to grow it each year with required targets and objectives.

Mr. Allen asked Mr. D'Onofrio what his vision is where the ABC Board could/would go within the next 5 years? Mr. D'Onofrio replied the credit should be given to the current Board members who have gotten the store up and running and the success that it is, but obviously there's a need for this service in the area that enable those results. Ascertaining whether there is a service need in another location in Indian Trail for a satellite location would be something to consider. Although a business, it's a public operation and he feels everything we do should be better and the best experience for our citizens and the public in general and the ABC store is no different.

Mr. Waddell asked Mr. D'Onofrio how communication between the Board and Town can be improved. Mr. D'Onofrio replied he doesn't know he's not there yet. One of the things noticed recently was agendas, minutes and publication on town's website seemed to be lacking. He researched many other jurisdictions, discovering we're not doing any better or worse than the rest, but is that where we want to set the bar? From the outside looking in transparency and communication between ABC Board and Council can be improved. Having been a

Council Member, he believes he can bring that to the ABC Board, as he understands public concern.

Mayor Alvarez asked Mr. D'Onofrio if other boards are lacking is that justification for us lacking also. Mr. D'Onofrio replied that's what he said, he does not think that's where we have to set our bar, we need to strive and do better. He's uncertain of the circumstances, but someone should be able to stay on it and make sure it gets done.

Steven Long

Ms. Luther asked Mr. Long what motivated you to submit your application to serve on a Board for the Town? Mr. Long replied his interest in beverages and serving the town. His experience includes being a bartender, owning a restaurant and managed bars. Initial involvement was to discover what was going on with the Board, once satisfied he felt he should move forward and jump in and help out. He wanted to clarify to everyone whether he's appointed to a board he will be here to help the town move forward.

Mr. Cohn asked Mr. Long what he would do to improve the Board and do you see things that need to be improved. Mr. Long replied anything human needs to be improved at some time; he is not knowledgeable enough of what issues are on the table at the current time.

Mr. King asked Mr. Long do you have any private/public sector experience which could help you give input to this Board. Mr. Long replied 24/7 historic diner in Buckhead, Atlanta, bar tended throughout college, managed bars, cost control, 20 years in personnel business. Pinching pennies to get the most out of it for the community.

Mr. Allen asked Mr. Long what his vision is where does he want to see Indian Trail in 5 years? Mr. Long replied better roads, public safety, and the parks definitely. He's excited about where Indian Trail is going now.

Mr. Waddell asked Mr. Long what responsibility a Board Member has with respect to the enforcement of the liquor laws. Mr. Long described how he had instituted supply responsibility policy with previous employees and that he would go and ensure that all facilities have the correct information is on the supply of the facilities that sell the alcohol. He explained that he is passionate in all that he does.

Mayor Alvarez asked Mr. Long how important is communication between the ABC Board, the Town Council and the public? Mr. Long replied it is the most important thing; information should be thorough and timely. If the people have questions they should be given answers to prevent any suspicion.

Mr. Fivas restated that Council voted not to make a decision tonight and make a decision at the July 10th meeting. He informed Council that Mr. Brown is also interviewing for the Planning Board and Mr. Long has also applied for the Planning Board as well, inquiring if Council wants to re-interview them again or is the information given tonight satisfactory.

ADJOURN

Robert Allen made a motion to adjourn
Council voted unanimously in favor of the motion.

APPROVED:

Michael L. Alvarez, Mayor

Attest:

Peggy Piontek, Town Clerk



Town of Indian Trail
Minutes of Town Council
June 26, 2012
Civic Building
6:30 P.M.

The following members of the governing body were present:

Mayor: Michael L. Alvarez

Council Members: Robert Allen, David Cohn, Christopher King, Darlene Luther, and David Waddell.

Staff Members: Town Manager Joe Fivas, Town Clerk Peggy Piontek, Town Attorney Keith Merritt, Director of Community & Economic Development Kelly Barnhardt, Planning Director Shelley DeHart, Finance Director Marsha Sutton, Town Engineer Scott Kaufhold, and Tax Collector Janice Cook.

CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Alvarez requested Eagle Scout William Leugers to lead the Pledge of Allegiance.

ADDITIONS AND DELETIONS

Mayor Alvarez requested a motion to delete the item he requested (10d) from tonight's agenda and put it on for a later discussion.

Robert Allen made a motion to approve deleting item 10d

Council voted unanimously in favor of the motion.

Christopher King made a motion to approve deleting discussion item 10a to the July 10th meeting.

Council voted unanimously in favor of the motion.

Christopher King made a motion to approve moving the Public Comments item 6 to item 4 and extend the time approximately 15-20 minutes due to the number of speakers.

Council voted unanimously in favor of the motion.

Mr. Fivas noted as a point of reference that the public comments item is to be moved to item 4 after we do the presentations. Mayor Alvarez confirmed he was correct.

MOTION TO APPROVE AGENDA

Christopher King made a motion to approve the agenda.

Council voted unanimously in favor of the motion.

PRESENTATIONS

a. Recognition of Greyson McCluskey for his Wouldn't it be Cool Award

Mike Tank a representative of Time Warner Cable, sponsors of the contest advised that Greyson McCluskey was selected the winner of this nationwide contest.

Mayor Alvarez read the Certificate of Recognition and congratulated Greyson on his achievements.

b. Eagle Scout Recognition for William Leugers

Mayor Alvarez read the Certificate of Recognition and congratulated William on his achievements.

c. Recognition of Town of Indian Trail staff Milestone Anniversaries

Mr. Fivas informed the audience of his pride in all staff members and indicated that recognizing them publicly is the favorite part of his job. He called each staff member up individually, explained their job titles and responsibilities. He congratulated each one and presented them with a small token of appreciation. Staff members receiving recognition for 5 years of service are: Peggy Piontek, Craig Thomas, Vicky Watts, Miriam Lowery, Roberta Chang and Scott Kaufhold.

PUBLIC COMMENTS

Art Spurr, 4100 Woodcreek Court, Indian Trail, NC apologized for the misconception taken by his fellow vets. It was not his intention to discredit the United States or especially that Wall. As a combat veteran of Vietnam, that wall means a whole lot to him and he expressed his apology again. He stated that he is concerned; the Constitution of the United States is our most important document, it's the governing document. As he looks at things in Indian Trail that bother him which he has expressed and does not see any changes. He commented on the State and Federal corruption, unresolved problems and reflected on what a great Country it was and can be but currently feels we're going down the tubes. The Country is in a state of economic decline. Mr. Spurr advised that the flag is only red, white and blue cloth but tells the story of a people and nation. He feels that the flag is no longer flown throughout the world or respected for what we stood for. Mr. Spurr advised that we need to stand up as a people and recognize we need to change what's going on in our Country or we're going to lose it. The public must open their eyes and look around or it will be lost. Mr. Spurr held a flag from combat and compared it to the one displayed at the meeting. Mr. Spurr said he honors his combat veterans, those that have died, because they died for a purpose, the Constitution of the United States against all enemies including domestic. Once again he expressed his apology to his fellow veterans if they felt he had done anything that discredited them as that was not his intention.

Severin Jacobsen, 3905 Waters Reach Lane, Indian Trail, NC thanked all the staff recognized tonight for doing a great job and thanked Mr. Spurr for his apology. However he choose to demonstrate with the American Flag without a poster or any indication of what he was demonstrating against. Naturally he drew ire of the veterans as they thought he was demonstrating against them. Mr. Jacobsen recited an item from the Rules and Regulations of the American flag. He referred to Mr. Spurr's explanation of protesting his concerns of local, state and national corruption stating that the Flag being displayed upside down is not appropriate. Mr. Jacobsen advised that he feels Mr. Spurr dishonored the veterans, and flag; requesting he be removed from Public Safety Committee.

Shirley Howe, 3905 Clearwater Drive, Indian Trail, NC stated her disgust at the disrespect exhibited to the American Flag by Mr. Spurr and Mr. Baer. Ms. Howe referred to a radio interview in which Mr. Spurr stated that freedom of speech was the issue, stating that this is a ploy and requested consideration of the real circumstances. Ms. Howe explained the appearance and purpose of the Vietnam Wall in Indian Trail, advising this should have been a solemn time to reflect, honor and respect the fallen brave men and women who served in the Vietnam War. Ms. Howe reviewed Mr. Spurr's explanation, advising that the distress signal was a lame excuse and could have been accomplished with a protest sign. She stated that it's obvious that those attending had no idea of the purpose of the upside down flag. Ms. Howe advised this is yet another way this group could bring exaggerated, negative, untrue statements and facts to get attention. She stated that if they felt the need to protest, use a sign, not our

flag as a prop to further prompt your personal agenda. Ms. Howe acknowledged Mr. Boze for his actions towards this group, especially calling the town's previous Mayor John Quinn and encouraging him to advise Mr. Baer to take his flag down as well. She stated that Mr. Spurr's apology is admirable.

Jonathan Baer, 5517 Rogers Road, Indian Trail, NC recited the Oath of Enlistment that he took and he continues to keep. He inquired if the Council keeps their oath.

Michael Faulkenberry, Picketts Circle, Indian Trail requested all children leave the building as what he has to say is not for young ears to hear, and a deputy stand beside him.

Mr. Merritt pointed out that part of the introductory read by the Mayor states that we want to give comments that are civil and acceptable for anyone who may be in our audience, including the young.

Mr. Faulkenberry referred to a posting on Face Book in which Mr. Allen referred to a "freak show" and including Mr. Faulkenberry name. He asked the Veterans if they considered that respect from Council Members. He explained that is why Mr. Spurr and Mr. Baer protested with the flag. He pointed out that he was accused of being a part of the demonstration, but there are no photographs to indicate that. Mr. Faulkenberry advised that any other accusations forthcoming could result in a defamation of character court case.

Carlton Aldrich, 2033 Fripp Lane, Indian Trail, NC requested Council immediately remove Mr. Spurr from the Public Safety Committee. He advised that he does not construe Mr. Spurr to be morally, emotionally or cognitively fit to serve on such a committee. He advised Council of his military background and that of his family, advising that the day this demonstration took place was Flag Day and the arrival of the Vietnam Wall intended to be a respectful and unifying community event, to set aside petty biases, fixations and hatred, suspending political ambitions, to quietly pay homage to our fallen soldiers. Mr. Aldrich stated that Mr. Spurr & Mr. Baer selfishly diverted attention away from the solemn session and upon themselves by displaying an inverted American Flag.

Phillip G. Anderson, 13624 Providence Road, Weddington, NC addressed the same issue as has been previously stated and recited title 4, chapter 1, article 8 of the US Flag Code advising that the main point of the code is to show respect to the flag at all times. Mr. Anderson pointed out several different ways a flag could be displayed inappropriately acknowledging that most citizens would not realize it. However when it is hung upside down, it would be noticed. Mr. Anderson then recited the many ways intentional disrespect can be shown to the flag, naming

off several groups that would do it intentionally, including terrorists and al qeda putting Mr. Spurr and Mr. Baer in the same crowds.

Brian Boze, 100 VFW Lane, Indian Trail, NC thanked the Town Council for their support of the Wall. He stated the reason he is here today is because this matter has gotten out of hand, especially with the article in the EJ which totally misrepresents the facts stating that he violated Mr. Spurr and Mr. Baer's Constitutional rights. Mr. Boze stated that Mr. Spurr choose on June 14th (National Flag Day) to fly the flag upside down and no other sign stating his purpose. He spoke with John Quinn twice that day and Mr. Quinn told him he advised them to stand down. No one can provide him with one example of how they violated Mr. Spurr and Mr. Baer's rights. It was Mr. Quinn who told them to take down the flag, not the VFW. However, they do not have any Constitutional rights on VFW property. As the Commander of the VFW Post he has a duty to maintain order and peace on that property, which he took, by barring Mr. Spurr from that property during that event. Mr. Boze reflected on the chaos that could have occurred if Mr. Spurr was seen at the event after his demonstration. He cautioned Mr. Baer and Mr. Spurr, as veterans, to read the Uniform Code of Military Justice (UCMJ) as when they do things that are disrespectful UCMJ applies. He expressed a wish to separate the VFW from the Town issues and problems. They are veterans, they support veterans that's what they do and he doesn't need to see them dragged through the mud again in a newspaper article with people agreeing with it.

Ken Howe, 6205 Clearwater Drive, Indian Trail, NC advised he is also a veteran and read certain excerpts from the Flag Code, stating it is considered a living thing emblematic of our pride for our Nation. Mr. Howe read it's a precious possession to be displayed proudly as a symbol of our great Country. Mr. Howe emphasized that it should never be displayed with the Union down except in extraordinary circumstances of dire distress, extreme danger to life or property. This dishonorable action against our flag, our country, our military and our government is unforgivable and dishonorable to every true American.

Steven Chip Long, 1012 Cranston Crossing Place, Indian Trail, NC addressed the unfortunate incident of the young child who was abused and is now struggling for life in the hospital. It takes a village to raise a child and only one heinous act to awaken us all to what is really important in our village, our children. He has become increasingly involved in our town to make Indian Trail the best he can be, with no hidden agenda, trying to stay uniquely detached and objective of what he observed. He believes this Mayor and Council are working hard to move us in the right direction. Mr. Long stated that the issue at hand was that it was the wrong symbol, time and place to demonstrate distain with the Country and Town Hall. Mr. Long concluded by saying there is a child with 90% brain damage, can we not turn some of this focus

on the negative and put it on the positive for our children and make this a better place to live instead of conspiracies theories etc.

INDIAN TRAIL BOARD INTERVIEWS

Mr. Fivas explained that Mr. Vaughn is a current Member of the Board and has chosen not to attend tonight. Ms. Higgins provided Council with a letter as to why she was unable to attend this evening.

Mayor Alvarez confirmed that Council has chosen not to re-interview Mr. Brown this evening.

a. **Planning Board** * Gary Vaughn * Cathi Higgins * Kelly D’Onofrio *
Phillip Lopp * Cheryl Mimy * Tim Rogers

Town Clerk, Peggy Piontek advised Council they have been provided a recommendation from the Planning Board Chairman to move Ms. Higgins and Mr. Brown from alternate seats to regular member seats on the Planning Board. Should Council choose to do so, that would leave 1 regular seat and 3 alternate seats on the Planning Board for appointment.

Robert Allen made a motion to approve appointing Jan Brown and Cathi Higgins as regular seat members of Planning Board.

Motion Passed 4 - 1 with David Waddell opposing.

Kelly D’Onofrio

Mr. Allen asked Ms. D’Onofrio what motivated her to submit her application to serve on a Board for the Town? Ms. D’Onofrio replied she has lived here for 7 years, it's a great place to live which has tremendous potential and she wanted to do her part to make it the best it could be.

Mr. King asked Ms. D’Onofrio what non-profit, civic or government involvement do you have? Ms. D’Onofrio replied none at the moment but has served on Union County Public Schools.

Mr. Waddell asked Ms. D’Onofrio how she would define moving forward and progress. Ms. D’Onofrio replied it’s on a great path currently with great initiatives in the works pertaining to transportation, parks, capital improvements, tremendous development, mentioning a few sites advising with proper planning we should be expecting that’s the best for Indian Trail.

Mr. Cohn asked Ms. D’Onofrio if she considered joining any other Boards or Committees. Ms. D’Onofrio replied no, as she is just not that familiar with the other ones. She has followed all

the meetings in the last 5-6 years and feels she has a good grasp on where the town started and where it's going.

Ms. Luther asked Ms. D'Onofrio if she is very involved with Union County Mommies. Ms. D'Onofrio replied yes. Ms. Luther informed the Council that being involved with that group she provided emails with ideas on what people want. Ms. Luther stated Ms. D'Onofrio knows what's going on and is fully informed and highly recommends her for the position.

Mayor Alvarez commented that Ms. Luther makes a good point that being involved with Union County Mommies does provide information for what the citizens are thinking and desiring.

Cheryl Mimmy

Mr. King asked Ms. Mimmy what motivated her to submit her application to serve on a Board for the Town? Ms. Mimmy replied she had the opportunity to volunteer she just moved from New Jersey where she was a former PTA President for 2 years, and wants to get involved in community.

Mr. Cohn asked Ms. Mimmy if she has any experience other than the PTA. Ms. Mimmy replied she owned and operated day care center for over 11 years, went to school for political science, got involved in communities prior to having children.

Mr. Allen asked Ms. Mimmy if she considered joining any other Board or Committee. Ms. Mimmy replied she checked off a few of them. I'm just looking for the opportunity to serve and be involved in the community as much as she can to make it a better place.

Mr. Waddell asked Ms. Mimmy how she would define moving forward. Ms. Mimmy replied for her it's just not looking at the past and trying to do your best to strive for a better community.

Darlene Luther made a motion to approve appointing Kelly D'Onofrio as regular seat and Chip Long as alternate - *Ms. Luther withdrew this motion*

Darlene Luther made a motion to approve appointing Kelly D'Onofrio as regular member. Motion Passed 4 - 1 with David Waddell opposing.

Darlene Luther made a motion to approve appointing Steven Chip Long as an alternate member.

Council voted unanimously in favor of the motion.

David Waddell made a motion to approve appointing Cheryl Mimmy as alternate member.

Motion Passed 3 - 2 with Robert Allen, and Darlene Luther opposing.

Darlene Luther made a motion to approve reopening the application process for more applicants for an additional 30 days.

Motion Passed 4 - 1 with David Cohn opposing.

b. Board of Adjustment

* Christopher Chopelas

* Kathy Broom

Christopher Chopelas

Mr. King asked Mr. Chopelas what motivated him to submit his application to serve on a Board for the Town? Mr. Chopelas replied he has been on the Board of Adjustment (BOA) for 2.5 years at the time he was looking for a way to get involved and serve in community. He has been a resident since 1998 and when this opportunity came up he was accepted as an alternate when a regular seat opportunity presented itself, he applied.

Mr. Waddell asked Mr. Chopelas what advice he would give to Council to encourage others to sign up for various committees and boards. Mr. Chopelas replied that many people may think they may have to give more time than necessary. He explained the BOA process. He recommends citizens look at all the committees and boards and see what they do and what is involved.

Mr. Cohn advised that he recommends Mr. Chopelas highly; he appreciates everything that both Mr. and Mrs. Chopelas have done they work hard in their community.

David Cohn made a motion to approve appointing Christopher Chopelas as a regular seat member to the Board of Adjustment.

Council voted unanimously in favor of the motion.

Council took and returned from a brief break.

Kathy Broom

Mr. King asked Ms. Broom what motivated her to submit her application to serve on a Board of Adjustment for the Town? Ms. Broom replied she has been on the Planning Board and is interested in giving the BOA a try.

Mr. Cohn asked Ms. Broom if she had any ideas how Indian Trail can improve its public participation? Ms. Broom replied just getting the word out on what the community is doing, she feels the town has improved a lot in the last 5 years, it's helpful.

Ms. Luther asked Ms. Broom why she is applying for the BOA and not the Planning Board. Ms. Broom replied she has served on the Planning Board for 2 terms; she enjoyed it but wanted a change.

Mr. Allen asked Ms. Broom what her vision is for Indian Trail in next 5 years. Ms. Broom replied she would like to see more controlled growth, she believes that sometimes developers are given too much control of our town, she would like to see projects that consider the environment around them. Ms. Broom referred to a couple of current projects that she feels will have negative impacts on our town.

Mr. Cohn asked Ms. Broom what projects she thinks will have a negative impact. Ms. Broom replied that the project at Sun Valley was not well thought out; she believes that traffic will be a big issue for the town that DOT will not take responsibility for that traffic and we will have to spend our time and funds to fix it.

Ms. Luther asked Ms. Broom if she felt the same way about the ABC Store as well, that she didn't see it as a fit for Indian Trail. Ms. Broom replied not particularly.

Robert Allen made a motion to approve extending application process another 30 days. Motion Passed 4 - 1 with David Waddell opposing.

CONSENT AGENDA

- a. Approval of June 12, 2012 minutes
- b. 2011/2012 Powell Bill Map **(Copy on file in Engineering Department and is incorporated herein by reference.)**
- c. Budget Amendments **(Copy attached hereto and made a part of these minutes.)**
- d. Tax refunds over \$500**(Copy attached hereto and made a part of these minutes.)**
- e. Approval of DOT Construction Agreement
- f. Approval of revised purpose for Special Meeting on July 12, 2012 at 7:30 pm

Christopher King made a motion to approve the Consent Agenda - *Mr. King withdrew his motion.*

Mr. Waddell requested item 7e be removed from the Consent Agenda for further discussion.

David Waddell made a motion to approve removing item e from Consent Agenda.
Council voted unanimously in favor of the motion.

David Waddell made a motion to approve moving item 7e to 9c
Council voted unanimously in favor of the motion.

Christopher King made a motion to approve the Consent Agenda.
Council voted unanimously in favor of the motion.

PUBLIC HEARINGS

- a. Public hearing on \$1.25 million installment loan for land purchase - This item was published in the Charlotte Observer on Saturday June 16, 2012 and again on Friday June 22, 2012**

Mayor Alvarez opened and closed the public comments portion of the public hearing as no one had signed up to speak.

Mr. Fivas advised this is an extension of the last meeting where we set the public hearing for today. This is a process to get the public input. We went through an RFP process for an installment loan on some property and this is fulfilling our regulatory public hearing on the item.

- b. Public Hearing on \$8,500,000 Park General Obligation Bond - This item was published in the Enquirer Journal on Friday June 15, 2012**

Mayor Alvarez opened and closed the public comments portion of the public hearing as no one had signed up to speak.

Mr. Fivas advised that no decision will be made on the public hearing on this matter, that will be handled under Business items (a) and (b). There are very specific motions that must be made and that information has been provided to you in your meeting packet. Should Council decide to approve it the accurate terminology has been provided by our legal counsel.

BUSINESS ITEMS

- a. Adoption of Resolution for the General Obligation Bond Order for \$8,500,000, introduced on June 12, 2012.**

Mr. Fivas advised this is the actual adoption of the resolution, once the public hearing is opened and closed, a motion must be made to adopt the Bond Order as it was introduced at the June

12, 2012 meeting. Functionally what this does is moves us through the regulatory process of putting a bond ballot referendum on for the November election.

Robert Allen made a motion to adopt the bond order as it was introduced at the June 12, 2012 meeting.

Motion Passed 4 - 1 with David Waddell opposing. **(Copy attached hereto and made a part of these minutes.)**

b. Adoption of Resolution setting the Special Bond Referendum and Directing the Publication of Notice of a Special Bond Referendum and Notification of the Union County Board of Elections.

Robert Allen made a motion to adopt the Resolution setting a Special Bond Referendum and Directing the Publication of Notice of a Special Bond Referendum and Notification of the Union County Board of Elections.

Motion Passed 4 - 1 with David Waddell opposing. **(Copy attached hereto and made a part of these minutes.)**

c. Approval of DOT construction agreement

This item was removed from the Consent Agenda for further discussion by a motion made by Mr. Waddell.

Mr. Waddell requested clarification on this matter.

Mr. Fivas explained that we have gone through two different parallel processes:

- 1) Discussions with the DOT on getting improvements at the Sun Valley area and those improvements would include a lane widening on Wesley Chapel Stouts along with another lane at the corner of Sun Valley High School, and one at the corner across from that, totaling 3 additional lanes providing more turning ability making the intersections more efficient. This will include some sidewalk and curb on the Sun Valley side, along with a traffic light for the new entrances at the theatre project to help control the traffic there as well for a sum of \$200,000 worth of town contribution. The DOT's contribution is 3-4 times that amount.
 - 2) The additional funds included in this are for the changes that Council has already approved to put pedestrian heads at the corners for safety, pedestrian friendly crosswalks on all for corners, pedestrian heads at Mustang Drive for safety in crossing.
- The DOT has put those two processes in this agreement, allowing them to put it out to bid with completion hopeful in the fall.

David Waddell made a motion to approve the DOT construction agreement.

Council voted unanimously in favor of the motion. **(Copy attached hereto and made a part of these minutes.)**

DISCUSSION ITEMS

a. **Discussion on Community Infrastructure Initiative** - *this item was removed as a result of a motion made under Additions and Deletions to be placed on the July 10th Agenda.*

b. **Discussion of Town Council summer meeting schedule**

Mr. Fivas explained there will be our scheduled meeting on July 10th and then on July 12 staff has scheduled a stakeholders meeting to discuss the park design. Historically we have not met for the second meeting in July; staff doesn't have a reason at this point to meet. We would then return at the first meeting on August 14th, removing the August 28th as well. Mr. Fivas advised that within the next 60 days we will need to approve a park design so the Council can go to the public with this information.

By consensus Council agreed to Mr. Fivas's recommended schedule.

c. **ABC Board minutes and agendas** - This matter was requested by David Waddell.

Mr. Waddell advised that he requested this item as a response to the "buz" around about the lack of minutes and communication with the ABC Board. He commented that when Mr. Brown's term expired, there was a lapse and referred to an idea presented to him by Mr. Fivas to appoint a replacement late the year before the next term expires so that individual can be prepared when his/her term begins. Mr. Waddell asked what Council feels is a reasonable expectation for the minutes to be produced and the town can place on the website.

Wes Hinson, a member of the ABC Board replied that there have been some circumstances which have prevented them from holding certain scheduled meetings and having them transcribed. In addition, Mr. Hinson informed Council that the Board only meets once a month, so the minutes would not be approved before the following meeting a month later, barring any additional unexpected circumstances.

Mr. Waddell suggested that the ABC Board post if there is no meeting. Mr. Hinson advised they will notify the town for posting, they will improve the quality of their minutes to include anything voted on in connection with the budget or monthly financials which is posted on the

State website and provide the information on how to obtain it. They are still a young Board and trying to work these things out.

Mr. Fivas requested clarification on when the Council would like to start the process of recruiting future applicants for the ABC Board. By consensus Council said 3-4 months prior to the term expiration.

d. Discussion on Conduct and Ethical behavior of all Council, Committee & Board Members - This matter was requested by Mayor Alvarez - *this item was removed as a result of a motion made under Additions and Deletions.*

MANAGERS REPORT

Mr. Fivas advised they received an impromptu invitation this afternoon to tour the new Stone Theater, they are anticipating opening hopefully before July 4th. Mr. Fivas said it's beautiful inside, nicest theater he has ever been in, everything from customer service and appearance is unbelievable. Mr. Fivas reminded everyone that the Independence Day Parade is on July 4th.

COUNCIL COMMENTS

Mr. Cohn stated that it's very unfortunate about Mr. Spurr but we need to move on. He appreciated some of the nice things said tonight about our town and what we can do to make it a better town. It gets old hearing about conspiracies. It appears the same people who are offended, are the ones that create the conspiracies, let's all get along and work together to make Indian Trail better.

Mr. Allen stated that anxiety and excitement are chemically the same thing, there was much discussion about the flag tonight, he appreciates that Mr. Fivas refers to July 4th as Independence Day it's important to remember that. Mr. Allen presented 10 small flags to be passed down the Council desk. He recommended that everyone should go out there and celebrate our Independence.

Mr. King stated that there is no gray area when it comes to supporting the constitution, you do or you don't.

Mayor Alvarez thanked everyone for coming, suggested we keep things proactive which leads to more understand of transparency. He stated that although Mr. Spurr left, it took a lot of guts to come up here and apologize in front of a lynch mob. Mayor Alvarez spoke of a young girl struggling for life, knowing that because she was not killed by the abuser there are no laws to protect this child, suggesting that our petty little differences are just that, petty, let's focus on

what's important. Mayor Alvarez advised he reached out to the family and Mr. Jeff Gerber and is happy to report that Kilah's law is in motion.

Mr. Waddell stated that he appreciates the town staff. He commented that he likes to take his check to the Town for his privilege license rather than mailing it because they are nice people and great to talk to. He looks forward to the opportunity to meet the ones he hasn't yet. In regards to the flag, Mr. Spurr's display and how it was perceived, it's his belief that it comes down to a simple question of where your loyalty is. He doesn't think badly about anyone who served the flag and honors the flag, he understands how they perceived that. He related a family story.

Ms. Luther stated that it was not a lynch mob, it was the reaction of people who were legitimately offended by the actions the day the moving wall came in. She believes it because they were quite eloquent in their presentations and it was far, far from a lynch mob. She agreed with Mr. King about the Constitution and agrees that Mr. Spurr had the right to do it, the problem she has was his deliberate choice to do it during the arrival of the Moving Wall. Ms. Luther stated that it seems like a circus around here with all the media stuff on every story that comes up if people breath the wrong way, they get bombarded with emails about what they've done wrong, it's ridiculous and is a circus that has been going on for so long, so if you don't want to be looked at as a circus show stop the 3 ring circus..

CLOSED SESSION

None

ADJOURN

Darlene Luther made a motion to adjourn Council voted unanimously in favor of the motion.

APPROVED:

Michael L. Alvarez, Mayor

Attest:

Peggy Piontek, Town Clerk



TO: Mayor and Town Council

FROM: Joseph A. Fivas

DATE: July 5th, 2012

SUBJECT: Amendment to Union County Law Enforcement Agreement

After the adoption of the FY 2012-13 Town budget, the Town agreed to increase the total number of Union County Deputies from 18 Deputies to 19 Deputies. This agenda item is an Amendment to our agreement with the County and changes the total number of contracted Deputies. The Amendment also contains additional changes pursuant to the time frame to give the Town budget information, and other administrative changes.

The adopted budget may also add an additional two Deputies this fall if awarded a Governor's Highway Safety Program Grant. If we are formally awarded this grant, then we may have to amend this Agreement as well.

jaf

COUNTY OF UNION

THIS AMENDMENT, made and entered into this 24 day of May, 2012, by and among Union County, North Carolina, hereinafter referred to as "County," the Town of Indian Trail, hereinafter referred to as "Town," and the Sheriff of Union County, hereinafter referred to as the "Sheriff," shall modify and supersede as indicated that agreement among the parties dated the 8th day of August, 2008, as modified by amendments dated September 15, 2008 and November 5, 2009, hereinafter collectively referred to as the "Agreement."

WITNESSETH

WHEREAS, the parties entered into the Agreement for the stationing of eighteen Deputy Sheriffs, two of which with the rank of Sergeant, and one of which with the rank of Lieutenant, in order to increase the level of law enforcement protection traditionally provided by the Sheriff; and

WHEREAS, the parties now desire to increase the number of Deputy Sheriffs within the Town limits from eighteen (18) Deputy Sheriffs to nineteen (19) Deputy Sheriffs.

NOW THEREFORE, in consideration of the parties' continuing obligations under the Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do each contract and agree with the other as follows:

1. Page 1, Section 1. Delete the first sentence of this section which reads: "The Sheriff agrees to station eighteen (18) Deputy Sheriffs (15 deputies, 2 deputy sheriffs with the rank of Sergeant, and 1 deputy sheriff with the rank of Lieutenant) within the municipal limits of the Town of Indian Trail." Replace this sentence in its entirety with the following:

The Sheriff agrees to station nineteen (19) Deputy Sheriffs (16 deputies, 2 deputy sheriffs with the rank of Sergeant, and 1 deputy sheriff with the rank of Lieutenant) within the municipal limits of the Town of Indian Trail.

2. Page 2, Section 8. The following changes should be made to this section:

The Town agrees to pay the County an annual amount equal to Ninety Percent (90%) of the County's ~~actual~~ cost of providing services pursuant to this Agreement, which annual amount shall cover services on a fiscal year basis, July 1 to June 30, which amount shall be referred to as the "Contract

Price.” The County’s ~~actual~~ cost shall be determined annually by the Union County Finance Department, in cooperation with the Sheriff’s Office, on the basis of an average unit cost per deputy sheriff multiplied by the number of deputy sheriffs providing services pursuant to this Agreement. Not later than ~~April 30~~ March 31 of each year, the County shall provide to the Town the Contract Price for the upcoming fiscal year. The Contract Price shall be paid by the Town, in advance, in four equal installments on the first day of each calendar quarter without receipt of invoice or other notice from the County that the quarterly payment is due. The parties agree that the Contract Price for the ~~2008-2009 fiscal year shall be a maximum of \$877,290.00~~. The parties agree that the Contract Price for the ~~2009-2010 fiscal year shall be \$891,890.00~~, 2012-2013 fiscal year shall be \$1,449,189.00, and that this amount shall be increased based upon the hiring ~~dates~~ date of the ~~five~~ one additional deputy sheriffs ~~sheriff~~ assigned to the Town during the ~~2009-2010~~ 2012-2013 fiscal year. The Union County Finance Department will provide the Town with notice of the amount of this increase, and the Town shall pay ~~for the total amount of this increase in lump sum~~ the increased amount on a pro-rated basis for the first quarter the deputy is hired and then pay the quarterly increase amount every remaining quarter. The initial payment for the increased amount shall be paid by the Town within thirty (30) days of receipt of such notice of increase, with the remaining increased payments for the fiscal year paid in accordance with the quarterly payment schedule for the Contract Price.

Section 8 shall now read:

The Town agrees to pay the County an annual amount equal to Ninety Percent (90%) of the County’s cost of providing services pursuant to this Agreement, which annual amount shall cover services on a fiscal year basis, July 1 to June 30, which amount shall be referred to as the “Contract Price.” The County’s cost shall be determined annually by the Union County Finance Department, in cooperation with the Sheriff’s Office, on the basis of an average unit cost per deputy sheriff multiplied by the number of deputy sheriffs providing services pursuant to this Agreement. Not later than March 31 of each year, the County shall provide to the Town the Contract Price for the upcoming fiscal year. The Contract Price shall be paid by the Town, in advance, in four equal installments on the first day of each calendar quarter

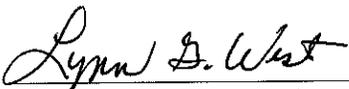
without receipt of invoice or other notice from the County that the quarterly payment is due. The parties agree that the Contract Price for the 2012-2013 fiscal year shall be \$1,449,189.00, and that this amount shall be increased based upon the hiring date of the one additional deputy sheriff assigned to the Town during the 2012-2013 fiscal year. The Union County Finance Department will provide the Town with notice of the amount of this increase, and the Town shall pay the increased amount on a pro-rated basis for the first quarter the deputy is hired and then pay the quarterly increase amount every remaining quarter. The initial payment for the increased amount shall be paid by the Town within thirty (30) days of receipt of such notice of increase, with the remaining increased payments for the fiscal year paid in accordance with the quarterly payment schedule for the Contract Price.

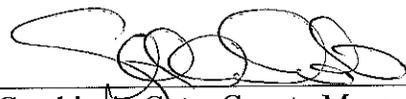
3. Except as herein amended, the terms and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this Amendment to be duly executed, this the day and year first above written.

ATTEST:

UNION COUNTY

BY: 
Lynn West, Clerk to the Board

BY: 
Cynthia A. Coto, County Manager

ATTEST:

TOWN OF INDIAN TRAIL

BY: _____

BY: _____

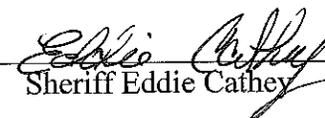
This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Town Finance Officer

WITNESS:

SHERIFF OF UNION COUNTY

BY: 

BY: 
Sheriff Eddie Cathey

Approved as to Legal Form BFW



Town of Indian Trail

Memo

TO: Mayor and Town Council

FROM: Scott J. Kaufhold, P.E., Town Engineer 

DATE: 7/3/12

COUNCIL DATE: 7/10/12

SUBJECT: 2012 Stormwater Maintenance Contract Renewal

General Information:

The Stormwater Maintenance Contract is a source of funds for continuous work to improve and maintain the existing stormwater system. The 2012 contract was awarded to Bullseye Construction on February 28, 2012 in the amount of \$237,610.00. Renewals are subject to the terms and conditions of the original contract including but not limited to work availability, termination and unit price. Renewal amendments will be executed by the Town Council.

Staff recommends renewal extension of the 2012 Stormwater Maintenance Contract.

Required Action:

Approval

Attachment:

2012 Stormwater Maintenance Contract Extension Agreement

CONTRACT EXTENSTION

**2012 STORM WATER MAINTENANCE CONTRACT
PROJECT NUMBER:
750-2012-001**

The Town of Indian Trail ("Town") and the contractor identified below by its signature ("Contractor") hereby mutually agree to extend the contract between them, which is identified above and was executed by them on or about ____ (hereafter, the "Contract").

The Contract shall be extended through and including 11:59 p.m. on _____, 20___. All other terms and conditions within the Contract, specifically including those for payment, remain in full force and effect.

Contractor shall provide the required performance and payment bonds and insurance certificates, as specified in the Contract, at execution of this contract extension ("Extension").

AGREED TO:

**OWNER:
TOWN OF INDIAN TRAIL
INDIAN TRAIL, NORTH CAROLINA**

ATTEST:

By: _____ By: _____
Town Manager Town Clerk

Date: _____ Date: _____

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

By: _____
Finance Officer

Date: _____

CONTRACTOR:

Printed legal name of entity: _____

By: _____

Printed name of person signing: _____

Title of person signing: _____

Date: _____



TO: Mayor and Town Council
FROM: Joe Fivas
CC: Marsha Sutton, Jennifer Smith
DATE: July 05, 2012
SUBJECT: Budget Amendments for July 10th Meeting

1. Reallocate funds within Economic Development.
2. Reallocate funds within Finance Department.
3. Reallocate funds within Planning Department.
4. Reallocate funds for Year End Reallocation.
5. Reallocate funds within Powell Bill Funds.
6. Reallocate funds for right of way and adjacent properties.
7. Reallocate funds department for Year End Reallocation.

If Council has any questions, please contact the Finance Director at 704-821-5401.



PO Box 2430

Indian Trail, NC 28079

PLANNING AND NEIGHBORHOOD SERVICES DEPARTMENT

Memo

To: Mayor and Town Council
From: Shelley DeHart, AICP
CC: Joseph Fivas, Town Manager
Date: 7/6/2012
Re: Environmental Service Contract

On June 12, 2012, Town Staff finalized the Request for Proposal (RFP) process for Town Solid Waste Services by presenting the recommended Service Provider – Waste Pro of North Carolina for your consideration. The Council approved the recommended provider directing staff to negotiate contract terms with provider.

Staff has completed negotiations providing the draft contract for your consideration and approval. The table on page two reflects negotiations which has resulted in expanded services for our residents as well as cost savings to the Town. Service highlights are:

- *Curbside pick-up for*
 - *Solid Waste pick-up every week in New 96 gallon roll-out cart*
 - *Recycling pick-up every other week in 96-gallon roll-out cart*
 - *Yard Waste & Leaf pick-up every other week (bagged & bundled)*
 - *Extended Leaf pick-up during high peak season*
 - *Bulk & E-Waste pick-up three times a year*
 - *Christmas Tree pick-up*
- *Free Recycling pick-up at Public Schools*
- *Commitment from the provider to establish a local facility within 12-months.*
- *Customer Service Software*

Staff is coordinating with Waste Pro on the implementation plan and all services are scheduled to be in place by September 1, 2012. After the implementation plan is complete, Waste Pro and the Town will begin active community education on all new services for residents.

Service	Current Contract Service	Proposed Services
Weekly Solid Waste	Yes	Yes
Recycling –	18 gal bin every week	96 gallon cart – Every Other Week
Yard Waste -	Fee for Service Option	Yes – EOW – curbside/bin
Extended Leaf (peak mo.)	No	Yes
Bulk Waste Pick-up	No	Yes – 3 times a year
E-Waste	No	Yes – 3 times a year
School Recycling Service & Education	No	Yes – free
Bonterra Alleyway	No	Yes – smaller/lighter truck
Christmas Tree Pick-up	No	Yes
24/7 Tracking Software	No	Yes
Town Event Service	No	Yes
Portable Toilets - Events	No	Yes
New Service Equipment	No	Yes
New Branded Roll Out Carts (1-Solid Waste 1- Recycling) Town will own after 5-years	No	Yes
Town Facility Service – Including Park	No	Yes

Burning Regulations: If the Town begins bi-weekly yard waste service for residential homes, state law dictates that there is no burning of leaves and yard waste materials. The Town’s Public Safety Committee has already recommended a new burning ordinance which will come before Council for adopt at a future meeting.

Staff Recommendation: Approve the Draft 2012 Solid Waste Contract

Attachment – Draft 2012 SW Contract



SPECIFICATIONS AND AGREEMENT

SOLID WASTE AND RECYCLABLES COLLECTION AND DISPOSAL

THIS CONTRACT made and entered into this ___ day of _____, 2012 by and between the Town of Indian Trail, a North Carolina municipal corporation (the “Town”) and Waste Pro of North Carolina, Inc., a North Carolina corporation (the “Company”).

WITNESSETH:

WHEREAS, the Town is desirous of securing the services of the Company to provide equipment, personnel and management for collection, transportation and disposal of the Town’s Municipal Solid Waste (MSW), Bulk Waste, E Waste, Yard Waste and Recyclables including processing and disposal of the Recyclables at an acceptable processing center for Recyclables; and

WHEREAS, the Company desires to provide these services for the Town, having experience in the collection, transportation and disposal of solid waste, bulk waste and recycling to the appropriately approved site(s);

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

Disclosure of Sub-Contractors: At any time the Company decides to use a subcontractor for solid waste services, the Company shall submit information about the subcontractor sufficient for the Town to determine compliance with all of the requirements of this Agreement as stipulated herein. Written approval of the Town Manager is required before the use of a contractor.

Schedule of Payment: The amount due the Company shall be paid by the Town to the Company monthly on or before the last working day of each calendar month following the month which the billing covers, beginning in August, 2012. This payment schedule will be based upon the Company properly invoicing the Town for the monthly amount by the fifteenth (15th) day of the month. The Company’s sole recourse for payment is with the Town only, and not to any customer of the Town.

Hours of Operation Collection shall not begin prior to 7:00 a.m. of the standard time then in effect, and shall be completed no later than 7:00 p.m.

SECTION 1 - DEFINITIONS

For the purpose of this collection services contract, hereinafter referred to as "Contract", the definitions contained in this Section shall apply unless otherwise specifically stated.

Appliances see White Goods.

Building Material see Construction Debris.

Bulk Waste means large items of solid waste such as furniture, mattresses, white goods, and other items too large for the Roll-Out Cart, including any oversized wastes whose large size precludes or complicates their handling by normal solid waste collection. Bulk Waste as defined here shall include property owner or tenant generated building materials only.

Side Door Pick-up means rear-yard or special handling service provided to those individuals unable to place their Residential Garbage, Recycling or Bulk Waste curbside for collection due to Physical Impairment and where no person(s) capable of placing the Residential Garbage, Bulk Waste or Recycling curbside resides at the dwelling.

Collection Schedule means the days of collection authorized by the Contract.

Collection Services means Residential Garbage, Recyclables, Bulk Waste, E-Waste, and Yard Waste collection, as described herein.

Computer Equipment means any desktop central processing unit, any laptop computer, the monitor or video display unit for a computer system, and the keyboard, mice, and other peripheral equipment as defined in N.C.G.S 130A-309.91. Computer equipment does not include a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or other medical devices as that term is defined under the federal Food, Drug, and Cosmetic Act.

Contract means this Agreement as executed for the provision of solid waste collection services in the Town, including all of the provisions, responsibilities, procedures, remedies, and attachments without exception.

Contract Administrator means the Town's Planning and Neighborhood Services Director, or designee, assigned to administer this Contract on behalf of the Town.

Contract Term means the duration of the Contract, measured from the Starting Date as set forth in this Agreement.

Courtesy Collections means special collection requests by the Town that the Company shall be responsible for providing within the same time period as regularly scheduled collections.

Customer means the recipient of collection services within the Town, provided through this Contract, and includes Residential Units and designated Non-Residential Locations

Damages means agreed to, actual, compensatory, consequential, continuing, direct, irreparable, punitive, presumptive, proximate and/or rescissory damages incurred by the Town, the payment of which shall not be an exclusive remedy.

Designated Collection Area means the geographic area of which the Company will provide collection and other services pursuant to the Contract. Collection points will be at the curb for Residential Garbage, Recycling Materials, Bulk & E-Waste, Yard Waste Materials and in the back or side yard for Customers receiving Carry-Out Collection service for bagged Residential Garbage.

Designated Disposal Facility means a facility to which Garbage and Bulk Waste collected under the Contract must be delivered. The disposal facility for Residential Garbage and Bulk Waste collected as part of this contract will be determined by the Town, and any temporary or permanent facility change must be pre-approved by the Town.

Designated Non-Residential Location means a non-residential location in the Service Area that receives collection and other solid waste services from the Company. An example would be public facilities or Union County Public Schools serving town residents.

Designated Recycling Facility means a Materials Recovery Facility selected by the Town for delivery of Recyclables collected under this Contract. The facility shall be designed, operated, and legally permitted for the purpose of receiving, sorting, processing, storing, or preparing Recyclables for sale.

Electronic Waste (E-waste) means computer equipment, televisions, and residential consumer products that contain a circuit board. This category would include any printing device such as a printer, a scanner, a combination print-scanner-fax machine, or other device designed to produce hard paper copies from a computer; stereo equipment; telephones, cell phones, and similar recyclable products. E-waste does not include electronics from an automobile, an appliance or a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or other medical devices as that term is defined under the federal Food, Drug, and Cosmetic Act.

Fiscal Year means the Town fiscal year that runs from July 1 through June 30.

Hazardous Waste means waste, in any amount, which is defined, characterized, or designated as hazardous by the United States Environmental Protection Agency or appropriate State agency by or pursuant to federal or state law, or waste, in any amount, which is regulated under federal or state law; as well as all waste defined as "Hazardous Waste" in this Agreement. For the purposes of this Agreement, the term Hazardous Waste shall also include, but is not limited to, motor oil, gasoline, liquid paint, and aerosol paint cans.

Hot Load means any vehicle carrying solid waste observed to be smoldering, smoking, on fire, giving off odors, or leaking a caustic or corrosive substance.

Implementation Plan means a document describing in detail the activities that will be undertaken and the schedule that will be followed to successfully implement the Company's collection services under this

Contract on the Start Date. The Implementation Plan shall include a description of how the Company will evaluate routing and determine routes.

Littering means allowing spilled or wind-blown materials to come from the vicinity of the Company's truck hopper or to fall to the ground as the Roll-Out Carts are emptied.

Material Recovery Facility or MRF means a site used for the collection, storage, and processing of Recyclables.

Miss means any Request for Service of a missed collection reported to the Town.

Non-Routine Collection means annual Christmas tree collection for recycling purposes and Town Special Events such as Community Clean-ups.

Operations Facility means a Company owned business location within the Town's jurisdiction that houses daily business operations, equipment, and employees.

Physical Impairment means a condition that renders an individual physically unable to bring a Roll-Out Cart either to the curb or for whom the undertaking of such an act would clearly and seriously threaten that person's health.

Putrescible means wastes that will decay or become rotten such as meats, dairy products, vegetables, fruits, etc. that are normally the source of odors and are attractive to insects.

Producer means an occupant of a Residential Unit or Designated Non-Residential Location who generates solid waste.

Recyclables means solid waste including but not limited to newsprint and inserts; glass food and beverage containers, plastic soft drink and liquor bottles; aluminum, steel, or tin cans; plastic milk jugs; and other items determined to be recyclable by the written mutual agreement between the Town and the Company.

Recyclables Cart means that container designated and authorized by the Town based upon the container's depth, size, and material and identified solely for Recyclables. Carts shall be branded and instructional hot stamped as determined by the Town. It shall be subject to the collection regulations pertaining to Recyclables.

Refuse means all non-putrescible material discarded for disposal as Residential Garbage.

Repeat Collection Miss means two or more collection misses at any one Residential Unit, Designated Non-Residential Location, or other designated collection point during any one (1) calendar month.

Request for Service means reported customer service requests or discovered missed collection of Residential Garbage, Recyclables, Yard Waste, or Bulk or E-Waste from any one Residential Unit, Designated Carry-out Collection Locations, Designated Non-Residential Locations or Courtesy Collections. Usually this request is transmitted electronically to the Company, through the use of TracEZ, or by phone and can also be referred to as a work order.

Residential Garbage means residential waste including but not limited to animal and vegetable matter; non-hazardous residential waste materials; properly contained medical waste; discarded food or beverage containers; glass wrapped to protect collectors if it should become broken; discarded toys, clothing and other residential items; but excluding liquids of any kind. For the purpose of this Contract, Residential Garbage also includes garbage generated by Designated Non-Residential Locations.

Residential Unit means any single-family dwelling or rental unit with less than two dwelling units at one location.

Roll-Off Container means the large steel bulk waste container usually 20-cubic yard capacity placed in the Town or larger placed at construction or clean-up sites to contain larger volumes of bulk waste for hauling to a disposal or recycling site.

Roll-Out Cart means the green (or any other color) plastic Roll-Out Cart supplied by the Company to Customers or other designated producers for the collection of Residential Garbage or Recyclables.

Route Manager means the employee designated by the Company as the Company's primary representative with regard to matters involving this Contract.

Service Area means the area(s) within the Town limits served by the Company and any annexations, if granted.

Television means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying of television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of 9 inches or larger whose display technology is based on cathode ray tube (CRT), plasma, liquid crystal (LCD), digital light processing (DLP), liquid crystal on silicon (LCOS), silicon crystal reflective display (SXR), light emitting diode (LED), or similar technology marketed and intended for use by a consumer primarily for personal purposes as defined in N.C.G.S. 130A-309.91. The term does not include computer equipment.

Valid Miss means any missed Request for Service or solid waste collection determined by the Town to result from Company negligence or omission.

Vehicle Leaks and Spills means leaks consisting of a constant drip of fluids or fluid spills that leave visible puddles or "staining" upon the pavement. These fluids can be any of the motor fluids, hydraulic fluids, or waste liquids from the compactor unit.

White Goods means all discarded refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, dishwashers, clothes dryers, and other similar domestic large appliances. Commercial large appliances are not included in this definition.

Yard Waste means grass, leaves, limbs, trimmings, or other plant or vegetative material generated by the Customer and separated and placed at curbside for collection. Yard Waste is prohibited from municipal landfills in the State of North Carolina.

SECTION 2 - CONTRACT TERM AND COMMENCEMENT

2.1 Performance Commencement

The term of this Agreement shall commence on August 1, 2012 and terminate on July 31, 2017 (the "Initial Term") unless this Agreement is terminated earlier by Town Council as herein provided. This Agreement may be renewed for two (2) year terms, renewable one term at a time. The decision to renew will be solely the Town's. Notice of the intent to renew will be made at least ninety (90) days prior to the expiration of the Initial Term or the then current Renewal Term. If renewal results in changes in the terms or conditions, such changes must be in writing as an amendment to the original contract. Such amendment will not become effective until fully executed by both parties.

From August 1, 2012 to August 31, 2012 the Town shall be charged the rates included in this contract for solid waste, recycling and yard debris pick-up. The services shall be weekly solid waste collection and weekly recycling. The provider will only provide service to the current yard waste customers. On September 1, 2012, all of the contracted services should be operational and charged accordingly. The Company will refund any residents requesting a refund for yard waste services.

2.2 Transition prior to Commencement Date of this Contract

Company understands and agrees that the time between the formal Contract signing and August 1, 2012 is intended to provide the Company with sufficient time to, among other things, order equipment and prepare necessary routing changes. Company shall be responsible for the provision of all collection services beginning August 1, 2012 or as agreed upon by both parties. Accordingly, Company shall provide collection services as set forth in this Contract no later than August 1, 2012.

2.3 Implementation Planning

The Company shall prepare an updated implementation plan upon signing the contract. By July 15, 2012 the Company and Town shall meet and discuss the status of the Implementation Plan and its implementation.

2.4 Waste Pro shall provide the following: Waste Pro shall provide for all expenses associated with developing printing and distribution of the following public information items:

- a. Two (2) notices concerning collection changes and/or service changes in the newspapers in general circulation within the Town. Company will complete design and place these ads. Town will review the ads.
- b. One (1) Town newsletter inserts for Town customers. Town and Company to both design, produce. Town will mail inserts with quarterly newsletter in July 2012 and Oct 2012. Company will pay 20% of mailing and printing costs of newsletter.
- c. One (1) direct mail or drop-off piece advertising changes in collection service. Company to develop and produce the letter to all customers receiving the service.

2.5 Waste Pro to provide the following in accordance with the RFP:

- a. To provide Community Service, public outreach and education through participation in and support of nine (9) annual local community events with exhibits, educational materials, staff

participation and/or financial support as appropriate to enhance these events and to promote environmental stewardship, waste reduction and recycling in partnership with the Town of Indian Trail.

b. To provide a new fleet of collection equipment and to maintain this fleet in excellent operational condition towards the goal of minimizing leaks and spills of fluids and debris onto the public rights-of-way and on private property in accordance with this contract and the RFP. At the beginning of the Contract, the age of the fleet shall be less than 5 years old. Each vehicle in the fleet shall include Town approved identifying graphics such as Town Logo and/or other Town of Company graphic identifiers to be selected by Company Town Council in prominent locations

c. Provide Town personnel access to maintenance facility and to maintenance records for verification of preventative maintenance program upon request during business hours.

d. Provide the Town with a comprehensive list of all equipment (including VIN numbers) servicing the Town of Indian Trail prior to the end of March and September of each year while this agreement or any amendment to this agreement remains in effect. In addition to the VIN number, this list shall include at a minimum the purchase date, a sufficient description of vehicle to classify its type and use, the assigned use and serviceability status and any other information requested by the Town in writing. Equipment assigned to the Indian Trail operation shall remain at the Indian Trail location unless it is replaced due to age or mechanical condition. Replacement equipment shall be of the same classification and shall be new or refurbished equipment of the same class.

e. Provide on-call Bulk and E-Waste Collection and disposal for town residents outside of the planned three collection events at a rate of \$35.00 per pick-up. This fee shall be paid by the resident. The Town is not responsible for associated disposal fee.

f. Provide and maintain an operations center located within the Town limits. Company will establish a new facility with the Town's jurisdictional boundary within a (12) twelve month period from the execution of the initial term of this contract. Failure by the Company to establish a facility by August 1, 2013 shall invoke a penalty of \$1000 per month. The Company may submit a time extension request in writing a minimum of 60 days prior to the August 1st 2013 deadline.

2.6 Transition upon Expiration of this Contract

a. **Continuation of Company's Service:** If the Town does not exercise its right to renew this Contract, the Town will attempt to award a new agreement at least six (6) months prior to the expiration of this Contract. In the event a new agreement has not been awarded within such time frame, Company shall provide Collection Services to the Town on a month-to-month basis for up to fifteen (15) months after the expiration of this Contract, at the then established rates as identified in Contract terms, if the Town requests this service with at least thirty (30) days notice to the Company.

b. **Schedule for Termination of Company's Service:** Prior to the termination of this Contract, Company shall work with the Town to ensure that there is no interruption or reduction of service when the Company ends its services to the Town. If a new contract is awarded to a hauler other than the Company, the Company shall coordinate and cooperate with the newly selected hauler, as well as the Town, to minimize any disruptions in the service provided to the public.

SECTION 3 - GENERAL COLLECTION REQUIREMENTS

3.1 Scope of Service -The Company shall provide the following collection and disposal services to Town (“Services”):

a. **Residential Garbage Collection:** Commencing on the Start Date, the Company shall provide collection and disposal services for Solid Waste to each Town-approved *single-family* residence (approximately 11,513) in a Cart specifically designed for the storage and collection of Solid Waste on a scheduled basis once each week.

b. **Residential Recycling Collection:** Commencing on the start date, the Company shall provide collection and disposal services for Recyclables to each Town-approved single-family residence (approximately 11,513) in a Cart specifically designed for the storage and collection of Recyclables on a scheduled basis once every other week.

c. **Residential Roll-Out Carts:** the Company shall provide and deliver two new Roll-Out Carts to each occupied single-family residences. For Residential Garbage, each residence is authorized one (1) Roll-Out Cart with a Town label or logo. For Recyclables, each resident is authorized one (1) Roll-Out Cart with a Town label or logo. Cart colors, type, and branding shall be determined by the Town. A third cart may be requested by a resident for yard-debris disposal. Company may utilize existing Town Roll-Out Carts purchased from the Town to meet the request. The Town shall retain ownership of all Roll-Out Carts after completion of the initial term of the Contract. The Company shall provide a listing of all occupied single-family unit addresses associated with the new cart delivery as a base line for billing purposes.

1. **Purchase of Existing Roll-Out Carts:** Company will purchase the current Carts owned by the Town (approximately 12,000 units) at a cost of \$20.00 per Cart. The Company will submit payment to the Town within (90) ninety days of the execution of the initial term of this contract.

2. **Provision & Maintenance of Roll-Out and Recyclables Carts:** Except as otherwise provided for in this Agreement, the Company will be responsible for providing and delivering Roll-Out and Recyclables Carts to Customers, and delivering replacement Roll-Out and Recyclables Carts for those which are lost, stolen, damaged or worn beyond their useful life. The Company will also be responsible for repair of all Roll-Out and Recyclables Carts.

d. **Bulk Waste Collection:** The Company shall provide to each Town-approved residence Bulk Waste and White Goods collection at the curb (3) three times per year, at times pre-arranged by the Company and the Town. The Company will advertize and give written notification residents of the upcoming special collection events.

e. **Electronic Waste Collection:** The Company shall provide to each Town-approved residence E-Waste collection at the curb (3) three times per year, at times pre-arranged by the Company and the Town. Company shall process these electronic waste materials for delivery to an electronics recycling facility approved by the Town and certified as R2, e-steward or ISO 14000 in order to meet State of NC certification requirements.

- f. **Yard-Waste and Leaf Collection:** The Company shall provide to each Town-approved residence (approximately 11,513) every other week Yard Waste collection at the curb. The material will need to be bundled and tied or put into plastic or paper bags. Carts will be made available to residents upon request, but will not be required should any resident decline to use this method to collect their yard waste. Expanded leaf pick up (up to 50 bags per pick-up) will be provided during peak periods to be determined at a future date. (Not to exceed two months).
- g. **Roll-Out and Recyclable Cart Placement:** Company shall return Roll-Out Carts and Recyclable Carts to their original position, taking care not to block access to driveways or mailboxes, and close all Roll-Out Cart and Recyclable Cart lids after it has been emptied. Failure to meet these performance standards will be subject to damages specified herein.
- h. **Town Facility Collection:** the Company will provide all Town facilities with solid waste, recycling, bulk and E-Waste services at no charge during the term of this contract.
- i. **Public School Service:** the Company will provide free recycling pick up services and recycling education to public schools that serve the children of the Town. The Town will collaborate with the Company on an implementation phasing plan. Schools located within the Town's jurisdictional boundaries shall have the established service within the first (12) twelve months of the initial contract term. The Town shall receive recycling credit in the amount of \$10/ton for school recycling waste.
- j. **Disposal:** All refuse collected for disposal by the Company shall be hauled to a Town approved landfill, transfer station, or yard waste site. The disposal charges shall be the responsibility of the Town. The Company may request the Town to pay for associated cost (reasonable cost) related to hauling refuse collected to a new Town designated disposal facility. This request shall be submitted to the Town in writing a minimum of 30-days prior to changing to a new disposal facility.
- k. **Alley Collection Service:** the Company shall provide alleyway collection service for the Bonterra neighborhood alleyways with a 16 yard (or smaller) vehicle.
- l. **Holiday Collection Service:** the Company shall provide Christmas Tree pick-up for Town residents free of charge as well as increased holiday waste during the Christmas and New Year holidays. Extra waste shall be bagged and placed adjacent to the roll out carts.
- m. **Customer Service:** the Company shall establish and maintain tracking software (Trac Ez) that provides tracking and reporting capabilities for the Town. This program shall also provide the customers the ability to submit service requests to the Company 24 hrs/day, 7 days per week. The Company shall collaborate with the Town on a customer service process to be approved by the Town by August 1, 2012.
- n. **Special Events:** the Company shall supply the Town with Solid Waste and Recycling disposal containers and service for nine (9) small events in and around our park system per year, one comprehensive Community Clean-up & Recycling Day, July 4th and Town Christmas Parade. Service to include supplying portable toilets per Town request for events. The Company shall also provide roll-offs for up to 3 events per year for Town designated special neighborhood clean-up initiatives.
- o. **Natural Disaster Storm Debris Removal:** the Company shall provide Storm Debris Removal resulting from a natural disaster for the Town following an agreement to be approved by the Town Council no later than January 1, 2013. The agreement shall be a collaboration on all terms and an amendment to this contract.

3.2 Service Area

The Town hereby gives, grants, and awards to the Company the exclusive right to pickup, collect, and transport for disposal or processing Residential Garbage, Recyclables and Bulk Waste from all Residential Unit and Designated Non-Residential Location collection points within the Service Area, as described herein. A map of the Service Area is presented in Appendix 1.

3.3 Materials to be Collected

- a. The Company shall provide alley collection and curbside collection of Residential Garbage, Recyclables, Yard Waste and Leaf, Bulk Waste and E-Waste placed for collection in accordance with the Collection Schedule in the Designated Collection Area, and as further described in Sections 3.1.
- b. The Company shall not collect material in the same truckload from both Recyclables Carts and Roll-Out Carts, unless the Company has identified the Recyclables Carts as containing an excess of non-recyclable material. If the Company's equipment operator collects one or more Roll-Out Carts and one or more Recyclables Carts in the same truckload without permission from the Town, the Company shall be assessed Damages in the amount of one thousand dollars (\$1,000) per incident and the Town may declare it an event of default.

3.4 Requests for Service

Request for Service – Request for service shall be transmitted by phone, email, or tracking a software from the Town or Customer to the Company. All requests shall be entered into the tracking software for reporting purposes. Requests may consist of:

- Request for New Service: this means newly occupied residential unit that requires roll-out cart delivery and start of service.
- Request for Service: this means a request for missed collection or cart repair or replacement for an existing customer.

3.5 Penalties

Penalties may be levied if documented in an incident report presented by the Town to the Company. Penalties will be deducted from the monthly payment made by the Town to the Company. Disagreements will be subject to the review and resolution procedures provided in the contract.

Action or Omission	Penalties
Commencement of residential collection prior to 7:00 a.m. or continuance after 7:00 p.m. except as expressly permitted.	\$100.00 per incident (each truck on each route is a separate incident).
Failure to collect spilled materials.	Twice the cost of cleanup to the Town plus \$1,000 each incident
Leakage from Company vehicles or vehicle contents.	\$500 each vehicle, each inspection.

Failure to collect any and all garbage, recyclable materials, and Yard Waste within one business day after notification.	\$250.00 each incident
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Collection from residential premises on other than the day specified excluding inclement weather or holiday schedule.	\$50.00 per structure.
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Collection and disposal of recyclables as if solid waste or trash.	\$1,000.00 per incident.
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Misrepresentation by Company in records or reporting.	\$1,500 per incident.
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Failure to make required reports on time.	\$500.00 per incident.
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Failure to maintain clean and sanitary vehicles.	\$250.00 per vehicle per occurrence.
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The above

table is not an exclusive list of the acts or omissions for which a penalty may be assessed. Also, the contract shall include provisions detailing those acts and omissions of the Company which shall be considered violations or breaches of the contract. The contract will reserve to the Town the right to exercise any and all remedies it may have with respect to these and other violations and breaches. Any schedule of penalties shall not affect the Town's ability to terminate the contract for breach.

SECTION 4 - ROUTING AND COLLECTION SCHEDULES

4.1 Route Maps

a. The Company shall bi-annually review the existing collection maps and evaluate workloads and service areas for effectiveness and efficiency in light of changed population density and/or distribution. When adjustments are warranted, the Company shall submit detailed route maps, one (1) set each for Residential Garbage, Recyclables, Yard-Waste and Bulk and E-Waste collection, to the Town for the Town's review, with a draft being submitted by May 30 so that final approval will be no later than August 1 of each year of this Agreement. Each set of detailed route maps must show, for each collection day, the areas to be collected, the starting point for collection, and the exact direction and sequence of travel of the streets and alleys for each route to be collected. The Company shall include a summary of the route maps, indicating the number of Residential Units and Designated Non-Residential Locations to be collected each collection day, and the number of Residential Units and Designated Non-Residential Collection Locations per route, for Residential Garbage, Recyclables, Yard-Waste and Bulk Waste collection. The summary shall also show the number of Residential Units and Designated Non-Residential Locations, which would be affected by changes in their current collection days, and an explanation of those changes.

b. Residential Garbage, Recyclables, and Yard-Waste collection routes must be evenly spread over the five (5) collection days of the week. The Town will review the Company's route maps to ensure that all areas to be collected are included, and that routing does not result in dangerous collection practices.

- c. Route maps shall be submitted in reproducible, approved GIS format. All street names must be legible. The Company may request current street maps showing parcel information from the Town's GIS manager. Once a format is agreed upon, all future route maps shall be prepared using the same format.
- d. The Company shall use its best efforts to minimize the number of Residential Units and Designated Non-Residential Locations that are affected by collection day changes as a result of its initial routing plans.
- e. Any routing change, which results in a change of collection days for any Residential Units and Designated Non-Residential Locations, requires compliance with the notification process. The Company shall be responsible for costs associated with notification processes required as a result of any approved routing or collection day changes in accordance with Section 4.2.

4.2 Routing and Collection Day Changes

- a. In the event collection days or routes become unbalanced due to population changes or other reason, the Town may allow the Company to make revisions to its initial approved route maps. The Company shall submit any requests for changes in routing or collection schedules to the Town for the Town's review and approval as follows:
 - 1. Not less than six (6) weeks prior to the week proposed for a routing change for five (5) routes or less to become effective. The Town will approve or disapprove the request within two (2) weeks of receipt.
 - 2. Not less than twelve (12) weeks prior to the week proposed for a routing change for more than five (5) routes or a collection day change to become effective. The Town will approve or disapprove the request within six (6) weeks of receipt.
- b. All such changed routes must be documented in the same detail as the original route maps supplied by the Company, as described in Section 4.1, and must include the reasons for the requested change and the number of Residential Units and Designated Non-Residential Locations affected in each route. Changes shall involve easily identifiable route and area boundaries for ease in communicating the change to Customers.
- c. The Company shall not request any routing or collection day changes without a valid reason because of the resulting confusion to Customers and increases in the number of customer service calls which must be handled by Town staff.
- d. The Town may require the Company to phase in collection day changes and any changes affecting more than five (5) routes.
- e. Any requests from Company for routing or collection schedule changes, which result in any changes in collection days for any Residential Unit or Designated Non-Residential Location, must comply with the notification requirements outlined in Section 4.3.

4.3 Collection Day Change Notification Process

- a. The Company shall be responsible for the full cost and provision of notification to all Residential Units and Designated Non-Residential Locations affected by any change in routes or collection schedules, which has been approved by the Town, which alters the day of collection. The Company shall submit a notification plan for the Town's review and approval, at the time of

submittal of any request for collection day changes. The notification plan shall outline the process recommended by the Company.

b. Notification must be received by each affected Residential Unit or Designated Non-Residential Location not less than one (1) week nor more than two (2) weeks prior to the starting date of such change. Notice shall be made in writing to each individual Customer. Such notice shall include the reason for the change and a telephone number and e-mail address to contact if further information is desired. The method of notification may be a letter sent through the U.S. Postal Service to every affected Customer of record, or the same letter or a door hanger hand-delivered door-to-door (either handed to the Customer or left at each service address). The method and date of notification and the proposed content of the notice letter or door hanger must be reviewed and approved by the Town. The Town may conduct random inspections to ensure notification procedures are being followed.

c. The Company is also responsible for ensuring that its equipment operators are fully informed of any approved change, and that the change is accomplished with a minimum of disruption to Customers and daily operations.

4.4 Collection Impediments

a. A number of collection impediments may require special effort by the Company to provide collection service. Collection impediments of any type, in any portion of the Service Area including streets and alleys, shall not result in disruption of collection service. When conditions require special efforts to complete collection service, the Company shall make these additional efforts at no additional cost to the Town. The Town will be open to discussing special situations that may prove an extreme hardship on Company. If this special effort requires the distribution of additional Roll-Out Carts due to an unavoidable delay in collection services, the Company will distribute them and will notify the affected Customers.

b. If the impassability of the street or alley due to extreme weather conditions is anticipated to last for only one or two scheduled collection days, the Town may elect to delay collection services until conditions improve.

c. Periodically major renovation is necessary to maintain the infrastructure of the Town. This renovation includes such activities as replacing gas, water, and sewer lines, surfacing or resurfacing streets, and replacing wiring for telephone, or cable television. If the Town Manager (or his designee) is notified in advance of these activities, the Town will notify the Company. However, it is not uncommon for work to be initiated without prior notification. Alternate collection service must be provided during this period of disruption. Each circumstance must be evaluated individually to determine the appropriate alternative. The Company shall notify the Town of the nature of the disruption, its location, and the Company's recommended alternative to provide service. The Town will either approve the alternative method or require the Company to use a different collection method.

d. When materials of any kind are placed in the street or alley in such a way that the collection vehicle cannot proceed down the street or alley, the Company shall immediately notify the Town. The Company will attempt to locate the individual responsible for the material and have them remove it.

e. If an illegally parked vehicle blocks a street or alley, the Company must inform the Town contact of the situation and request removal of the vehicle. Removal of the vehicle usually occurs

in a matter of hours, thus collection must be provided on the scheduled day. If the vehicle is not removed by the end of the collection day and there is no other access to the Roll-Out Carts, the Company shall, upon notification to and approval by the Town, provide collection at start of shift on the following day. The Company is responsible for follow-up with the Town until the vehicle is removed and shall inform the Town when the vehicle is removed.

SECTION 5 - EQUIPMENT

5.1 Collection Vehicles

- a. The Company shall provide and maintain during the Contract Term a fleet of collection vehicles sufficient in number and capacity to perform the services described in this Agreement. All equipment shall be appropriately licensed and comply with all applicable federal, state, and local laws and regulations. The Company shall provide and use only such equipment, material, and facilities as are capable of performing quality and timely services required by this Agreement. The fleet shall be sufficient to handle the special requirements of adverse weather and holiday overloads. The Company's collection vehicles shall be maintained by the Company and kept in good repair and working order. The Company shall furnish, at its sole expense, whatever backup or substitute equipment may be required to continue performance of the services. All collection vehicles shall have enclosed bodies.
- b. The Company may use new or used equipment so long as the equipment is capable of performing the required services in accordance with this Agreement. Collection equipment utilized in this Agreement shall be not more than five (5) years old upon commencement of this Agreement.
- c. The noise level for collection vehicles during the stationary compaction process shall not exceed seventy-five (75) decibels at a distance of twenty-five (25) feet from the collection vehicle and at an elevation of five (5) feet from the ground elevation of such vehicle.
- d. Periodically when requested, the Company shall supply the Town within 48 hours of request with a list of all equipment to be used in providing services and shall notify the Town of additions or deletions as they occur.
- e. The Company shall maintain a dedicated fleet solely for use to provide Town of Indian Trail collection services included in this Contract. With Town approval, vehicles used in the provision of services under this Agreement may be used for other purposes if the Company has provided prior written notice to the Town. Any such use shall not interfere in any way with the Company's provision of services under this Agreement.
- f. The Company shall be responsible for arranging for tare weights of all collection vehicles to be obtained prior to the Starting Date, and shall periodically, upon request from the Town, arrange for updating tare weights. (Removed 5.1 g)

5.2 Collection Vehicle Cleaning

- a. All collection vehicles must be kept clean, in sanitary condition, and good repair at all times.
- b. The Company shall ensure that all collection vehicles are washed as required to reduce possible odor and vector problems.

c. Company's collection vehicles shall also be empty of all Residential Garbage and Bulk Waste prior to collection of Recyclables and shall be empty of all Recyclables prior to collection of Residential Garbage and Bulk Waste.

5.3 Emergency Unloading

a. While the Town recognizes that an occasional emergency such as a Hot Load may require unloading a collection vehicle in the field, the Company shall recollect this material within two (2) hours of the unloading. The Company shall notify the Town immediately of such an event and shall take whatever measures are necessary to ensure that no fire danger exists. The area must be litter free after the re-collection. The Company shall notify the Town when the material has been collected; at which time the Town may conduct a follow-up inspection to ensure that the clean up has been completed to the satisfaction of the Town.

b. If the Company fails to collect the load and notify the Town of such collection within four (4) hours, the Company shall pay the Town in Damages one hundred dollars (\$100) for each four (4) hour period such load is not collected. If the material is not collected in a timely manner, the Town may, in addition to assessing Damages for time delays, assess Damages of \$2,000 to collect the load, and will invoice the Company the cost to repair any damage to the Town's streets, sidewalks or other infrastructure as soon as the Town can assess the costs of such damages to infrastructure.

c. The Town shall not be liable to Company for any damage to Company's collection vehicles or injury to Company's personnel, or any other damage or injury, as a result of a Hot Load.

5.4 Vehicle Leaks & Spills

Minimizing hydraulic fluid and oil leaks and spills on public or private streets and parking lots is a high priority for the Town of Indian Trail. The Company shall maintain equipment in top mechanical condition, and the operator shall exercise vigilance in observing for leaks and spills that may develop during the collection day and take immediate corrective action to stop the leak or spill and call for cleanup of hydraulic fluid or oil present upon the public or private streets or parking lots in accordance to the following standards.

a. The Company's collection vehicles shall be repaired or removed from service immediately if any spill or leak is a result of a mechanical problem. The Company shall be responsible for applying absorbent materials, clean up, and disposal in a manner which complies with all federal, state, and local laws and regulations, of all oil spills and hydraulic fluid or other leaks associated with its provision of services. In the event of a spill or leak, the Company shall immediately notify the Town and shall send a representative to the location of the incident. If the spill or leak is in a street location and/or is a public safety hazard, the Company shall also immediately request the Planning and Neighborhood Services Department to notify Union County Sheriff Department and Town Engineering Department to dispatch traffic control and any other required public safety personnel. The Town and the Company will evaluate the spill or leak to determine proper handling. The Town must approve the Company's recommended clean-up plan, which may require steam cleaning. The clean up must commence as soon as possible but no later than four (2) hours following the spill or leak. After application of absorbent materials is complete, the Company is responsible for removal of the absorbent material and/or cleaning of the street, if necessary. The Company shall notify the Town when the clean up is completed so that a follow-

up inspection can be conducted to ensure that the clean up has been completed to the satisfaction of the Town. Any fluids associated with the spill or the cleanup shall be recovered for proper disposal and shall **NOT** be released into the stormwater system.

b. In the event the vehicle operator fails to remove the leaking vehicle from service or call for the on-call mechanic to make field repairs, and continues collecting the route spreading puddles of hydraulic fluid or oil throughout the road system, the Company shall be subject to Damages as listed in Section 3.5.

5.5 Vehicle Identification

Each Company vehicle will be clearly identified with the Company name, a vehicle number, and a local telephone number that can be clearly read.

SECTION 6 - DISPOSAL AND PROCESSING SITES

6.1 Ownership of Solid Waste Materials

The Company shall not assert or claim any property rights to Residential Garbage, Recyclables, and Yard Waste placed for collection under this Agreement.

6.2 Designated Disposal and Recycling Facilities

- a. All Residential Garbage, Recyclables, Yard Waste and Bulk and E-Waste shall be delivered to a facility designated by the Town.
- b. If the Company delivers Recyclables to the landfill, Damages in the amount of one thousand dollars (\$1,000.00) per incident will be assessed.
- c. The Town shall receive a payment of at least \$10.00 per Ton of Recyclable Material. The Company may deliver recyclables to a Material Recovery Facility of the Company's choosing only after receiving prior written approval from the Town. The Company shall become responsible for Recyclables once collected from Residential Units. Any revenue associated with the sale of Recyclables collected as part of the Contract shall be paid directly to the Town. The Town shall not be liable for any charges or penalties associated with the delivery of materials in route to the Materials Recovery Facility.
- d. The Company shall be responsible for abiding by all rules and policies pertaining to the delivery of Garbage, Yard Waste and Bulk and E-Waste as directed by the Designated Disposal Facility, and delivery of Recyclables as directed by the Designated Recycling Facility. A copy of the current policies and procedures for the Designated Disposal Facility will be provided by the Company, and are subject to modification from time to time.

SECTION 7 - WORK SCHEDULE

7.1 Collection Days

Routes for Residential Garbage, Recyclables, and yard-waste collection must be spread out evenly over five (5) collection days. Bulk and E-Waste collection will be scheduled for curbside pick-up three (3) times per year.

7.2 Hours of Collection

No Residential Garbage, Recyclables, Yard-Waste and Bulk Waste collection shall commence prior to 7:00 a.m., and the Company must request permission to continue collection after 7:00 p.m.

7.3 Holiday Collection

Collection services shall be delayed one (1) day for each observed holiday. For example, if Friday is a holiday then collections normally scheduled on Friday will be collected on Saturday. The Designated Disposal Facility is closed on Thanksgiving Day and Christmas Day. The Company shall observe the following holidays: New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day. Company may decide to observe any or all of the above mentioned holiday by suspension of collection service on the holiday, but must meet his obligation as required.

SECTION 8 - PERSONNEL AND SAFETY

8.1 Contact

a. Throughout the Contract Term, the Company shall establish and maintain a local office capable of receiving Requests for Service electronically and by telephone, and to dispatch appropriate trucks and personnel to collect Missed Collections or to respond to service complaints such as Littering, Private Property Damage, or Vehicle Leaks and Spills. All Company personnel shall be directed by a Route Manager permanently stationed within the Town after 12-month of commencement of this contract. The Company shall furnish the Town the name of the Route Manager prior to the Starting Date and shall notify the Town immediately if the Route Manager is changed at any time. The Company's Route Manager shall serve as the contact person for dealings and communications with the Company. A request to the Company's representative shall always constitute a request to the Company.

b. A responsible person in charge shall be present at the Company's local office during the time period 8:00 a.m. to 5:00 p.m. from Monday through Friday, and on Saturday when collection is scheduled, with the authority to make decisions relevant to operations under this Agreement. Route supervisors will be accessible by telephone between the hours from 5:30 a.m. to 8:00 p.m. on all days when collection operations are in progress. The names and phone numbers of emergency representatives shall be given to the Town prior to the Starting Date, and shall be updated as soon as any changes are made. Company's emergency representative shall be responsible for responding to any Requests for Service from the Town on non-collection days and evenings. If Friday is a scheduled collection day, misses will be collected on Saturday.

c. The Town will designate a contact person for operational issues and a contact person for Agreement administration issues. It is, however, recognized that daily operational communications will occur at all levels of staff. To the extent that these communications facilitate job performance, they are encouraged.

d. The Company shall provide, at the Company's cost, sufficient communicating devices to facilitate good two-way communication between Company personnel, and the Town Planning and Neighborhood Services Department supervisory staff and support personnel.

8.2 Employees: Character of Workers

- a. All Company's, superintendents, foremen, and workers employed by the Company shall be competent and careful workers, skilled in their respective trades. The Company shall not employ any person who repeatedly engages in misconduct or is incompetent or negligent in the due and proper performance of his or her duties under this Agreement. The Company shall furnish such supervision, labor, and equipment as is considered necessary for the fulfillment of the services in an acceptable manner at a satisfactory rate of progress.
- b. The Company shall prohibit the use of intoxicating and/or illegal substances by its drivers and crewmembers while on duty or in the course of performing their duties under this Agreement.
- c. The Company's employees shall be required to wear a clean uniform bearing the Company's name. Employees, who normally and regularly come into direct contact with the public, including drivers, shall bear some means of individual identification such as a nametag or identification card.
- d. Employees driving the Company's vehicles shall at all times possess and carry a valid Commercial Driver's License issued by the State of North Carolina for the class appropriate to the weight of the vehicle being driven. The Town reserves the right to require the Company to provide proof of compliance with federal laws regarding Commercial Driver's Licenses, specifically information regarding drug testing.
- e. The Company's employees, officers, and agents shall, at no time, be allowed to identify themselves or in any way represent themselves as being employees of the Town.

8.3 Property Damage/Accidents

- a. **Property Damage** - As between the Town and the Company, the Company shall retain full responsibility for all claims of damage to private property caused by the negligence or willful misconduct of the Company. In the event of any property damage caused by the Company, the Company shall:
 1. Immediately notify the Town by telephone.
 2. Leave a notice at the time of the damage at the Residential Unit or Designated Non-Residential Location where the damage occurred, informing the Customer of the damage and the telephone number of the Company to call for follow-up.
 3. Provide a written explanation to the Town of the circumstances, results of any investigation, and disposition of the claim.
 4. Notify the Customer within ten (10) working days in writing of the disposition of the claim and provide a copy to the Town. If the Company assumes responsibility for the damages, the notification shall include a date by which remedial action will be completed. The notification requirements of this paragraph do not apply to vehicular accidents occurring on public roadways. The Company shall refer all calls regarding reporting of property damage to the Town and the Town will forward such claims to the Company in the form of a Request for Service.
- b. **Claim Resolution** – The Company shall use its best efforts to promptly and expeditiously resolve claims. In the event that the Company denies responsibility for damages and the Customer pursues a remedy, the Town may investigate. If the Town believes that the Company is

responsible and the Company continues to deny responsibility, the Town may pursue and the Company shall be obligated to the dispute settlement procedures as described in Section 18.16.

c. **Accidents** – The Company shall notify the Town of all accidents in a timely manner.

8.4 Care and Diligence/Littering

a. The Company shall exercise all reasonable care and diligence in collecting Residential Garbage, Recyclables, Yard-Waste and Bulk Waste. Collection service shall be accomplished in a manner, which contributes to a litter-free environment. Every effort must be made to prevent spilling, scattering, dropping, or littering of Residential Garbage, Recyclables and Bulk Waste during the collection process and during transit to and from the Designated Disposal Facility. However, in the event that Residential Garbage, Recyclables or Bulk Waste are spilled, scattered, dropped, or littered, the Company's equipment operator shall immediately clean up the material, place it in the Roll-Out or Recyclables Cart, and collect the Cart contents. If any litter escapes from Company's collection vehicles on any roadways, the Company's equipment operator must immediately collect such litter. In the event that Company does not immediately collect such litter, the Company shall be subject to Damages as stated in Section 3.5 for each such occurrence. The Company shall endeavor to prevent such occurrences by whatever means possible.

b. The Company acknowledges that streets and alleys frequently include multiple utility features. Therefore, particular attention shall be given to the location of water meters, transformers, wires, utility poles, irrigation sprinkler heads and other private property features. Authorization to use the street or alley does not abrogate the Company's responsibility to exercise caution in relationship to the property of other authorized users.

8.5 Operator Awareness Training

a. The Company shall be responsible for maintaining levels of operator participation regarding correct collection of Residential Garbage, Recyclables, Yard Waste and Bulk & E-Waste; and any additional collection.

b. The Company shall be responsible for ongoing training of existing and new employees.

8.6 Communication and Emergency Plan

The Company and the Town shall establish a Communication and Emergency Plan to be approved by the Town Manager. Within 90-days of approval of this Contract and by August 1 of each year the Contract remains in effect, the Company shall submit a written Communication Plan to the Town for review and approval. The Communication Plan shall identify key operations and administrative personnel and include the contacts name, title, primary area of responsibility, immediate supervisor including his/her office and cell telephone number, pager number and email addresses for work day and after hour contact. The Communication Plan and/or contact names shall be updated as changes are made, but in no event less than semi-annually.

SECTION 9 - REPORTING REQUIREMENTS

9.1 Monthly Communication/Reports

a. In addition to communications requirements described throughout this Contract, the Company shall be responsible for providing, at a minimum, the following information and reports to the Town on a monthly basis, or upon the Town request:

1. Listing of missed collections, or other problems remaining unresolved from the previous day and how they will effect today's operations.
2. Responses to Requests for Service.
3. Roll-Out and Recyclables Cart repair needs identified by the Company.
4. Street or alley repair needs identified by the Company.
5. Other information as requested by the Town.

b. The information listed above shall be submitted in a format approved by the Town.

c. The Town and the Company shall meet on a monthly basis, or as often as deemed necessary by the Town, to review and discuss any operational issues, Company's performance, and any other issues pertaining to services provided under this Agreement.

9.2 Quarterly Reports

a. The Company shall submit quarterly reports in an electronic format acceptable to the Town during the Contract Term commencing three (3) months after Company commences provision of services. These reports shall be due by the 20th day of the month following the month for which the services were performed. The Town may withhold up to twenty-five percent (25%) of the latest monthly invoice until all items required in the report are submitted to the Town. The Town will pay the balance of the invoice after the required items are provided. At a minimum, the monthly report shall include:

1. The number of loads and weights of Residential Garbage, Yard Waste and Bulk & E-Waste collected and delivered to the Designated Disposal Facility per day, by route.
2. The number of loads and weights of Residential Recyclables collected and delivered to the Designated Recycling Facility.
3. Fiscal Year-to-date summary information of the data requested in 1 and 2 above.
4. Summary description of any property damage, including status and/or final disposition.
5. A narrative description of any significant operational issues during the month.
6. Other information as requested by the Town.

b. In order to ensure that information/communications are consistent throughout the Town, the Company shall use the same forms that are currently used by Town staff, or other forms as designated by the Town.

9.3 Record Keeping, Accounting, and Auditing

a. The Company shall keep and maintain complete and detailed records including, but not limited to, (i) records that provide the basis for the reports required under Section 12 including all

matters affecting amounts payable by or to the Town or the Company, (ii) policies for required insurance, policy amendments, and all other related insurance documents, and (iii) accounting records and vouchers evidencing all costs, receipts, payments, and any other matter of accounting associated with the Company's performance in accordance with generally accepted accounting principles.

b. The Company's books, records, and accounts shall accurately, fairly, and in reasonable detail reflect all Company's dealings and transactions, and shall contain sufficient data to enable those dealings and transactions to be audited in accordance with generally accepted governmental accounting and auditing standards.

c. The Town, or its audit representative, shall have the right at any reasonable time to inspect, copy, and audit records relating to the services accounting records, vouchers, and their source documents which serve as the basis for costs, receipts, and payments. The said records shall be available for the Town's inspection and audit for a period of three (3) years following the termination of this Agreement, and any extension of this Agreement and for such further periods as may be necessary to resolve any matters which may be pending at that time or any longer period required by applicable law. The Company shall make available at Company's Indian Trail offices any such records to the Town upon request.

d. The Company shall immediately notify the Town should it become apparent that the Company is unable to pay its debts as they become due and payable or if there is an adverse change in the Company's financial condition.

e. The Company shall provide to the Town the Company's most recent audited financial statements or un-audited statements if the audited statements are not then available. This should be completed within 30 days of finalized statements.

9.4 Reliability of Reports

The Company represents that all information the Company has provided or will provide to the Town is true and correct and can be relied upon by the Town. Any material false or misleading information or omission is just cause for the Town to terminate this Agreement and/or pursue any other appropriate remedy.

9.5 Observation and Inspection

a. The Town, its representatives, and invitees shall have the right to observe and inspect operations at all times, provided it is conducted in such a manner so as to minimize interference with the Company's performance and operations. The inspection may review operating records for the current and previous contract years, and may consist of an inspection of the physical areas of operations and equipment with emphasis on safety and hazard mitigation.

b. The Town, at its own expense, may at any commercially reasonable time inspect any and all records relating to the services performed to verify that the services are being performed in accordance with this Agreement.

c. The Town's inspections shall not relieve the Company of any of its obligations herein or impose any liability upon the Town.

SECTION 10 – COMPENSATION

10.1 Basis and Method of Payment

The Company shall offer the services described herein at the following rates beginning at the commencement of the Contract Term:

Basic Services	Cost per unit, per month
Residential Garbage, per unit	\$4.43
Automated Residential Recycling, (EOW), per unit	\$2.20
Yard Waste (EOW) per unit	\$1.25
Scheduled Bulky Waste 3X a Year at curbside per unit	\$ 2,225 per event
E-Waste (Curbside Collection)	Provided at no cost

The unit prices and official counts applicable to the services rendered shall be the basis for payment. The verified count generated by Town and will be provided prior to August 1, 2012.

10.2 CPI Adjustment. The rate charged by the Company to the Town for the second and subsequent years of the term hereof may be adjusted upward or downward to reflect the changes in the Consumer Price Index (the “C.P.I”) during the preceding twelve months. For the purposes of this Contract, C.P.I. shall mean the Consumer Price Index for the U.S. City Average, All Urban Consumers. The initial rate adjustment shall take effect on the first anniversary date of the Contract and any successive rate increases on the succeeding year throughout the term. The Company shall give notice of possible increase before April 1st. Monthly rate payments shall be adjusted to compensate for annual rate increases after the annual Town budget has been approved.

10.3 Number of Collection Points

Adjustments in the Residential Unit count shall be made quarterly of each year during the Contract Term. The Town shall provide the counts using the most recent counts available for occupied dwellings in the GIS database.

10.4 Fuel Adjustment

The Town shall adjust payments to the Company (1) time per year for increases for the fuel cost to the Company for providing the Services to the Town as per this Contract. The fuel surcharge request shall not exceed one-half percent (0.5%) of each monthly invoice amount for every twenty cent (\$0.20) increase in diesel fuel cost as determined by the Department of Energy’s Weekly Retail on Highway Diesel Prices for the “Lower Atlantic” (“DOE Price”) over the base rate of \$3.80 per gallon, which surcharge will be adjusted quarterly based on the three month average price of diesel fuel on the first Monday prior to the end of each month of the quarter (or first business day thereafter if such Monday is a federal holiday) and billed under separate line item on the Company’s invoice each month based on that quarter’s average price. This fuel adjustment component will not be considered within and is separate from the CPI adjustment above. Documentation of any surcharges shall be submitted to the Town at its request.

10.5 Withholding of Payment

All monthly reports listed in Section 11.2 must be submitted by the 20th of the following month or up to 25 percent of the current pay request will be withheld until these reports are received.

10.6 Payment of Damages

Damage charges will be monitored monthly and reviewed with the Company at each monthly review meeting. No damages will be deducted until they have been discussed at a quarterly performance review meeting. If the Company fails to achieve the performance goals, all assessed damages charges will be deducted from the next scheduled monthly bill for quarterly assessments. Each successive quarter will be deducted from the October, January, April and July monthly bills. If the contract is not extended or renewed in accordance with the contract conditions, the Town will deduct any remaining damages owed the Town from the last payment.

SECTION 11 - INSURANCE AND PERFORMANCE SURETY

11.1 Coverages

The Company shall at all times during the Agreement maintain in full force and effect General Liability and Workers' Compensation Insurance. All insurance shall be insurers reasonably acceptable to the Town and before commencement of work hereunder.

11.2 Insurance Limits

For the purpose of the Agreement, the Company shall carry the following types of insurance in at least the limits specified below:

Insurance Limits	
Coverages	Limits of Liability
Workers' Compensation Statutory Employer's Liability	As required by State Law Companies and lessees shall be responsible for workers' compensation insurance for subcontractors or sub lessees who directly or indirectly provide services or lease premise under the Town of Indian Trail's contract.
Commercial General Liability	\$1,000,000 per accident
Bodily Injury Liability Except Automobile	\$1,000,000 aggregate
Property Damage	\$1,000,000 per accident \$1,000,000 aggregate
Comprehensive Auto	\$1,000,000.00

Liability Bodily Injury	
Comprehensive Auto	\$1,000,000.00
Liability- Property Damage	
Environmental Liability	\$1,000,000.00
Excess Umbrella Liability	\$5,000,000.00 each occurrence

11.3 Certificate of Insurance. The Company shall provide the Town the Certificate of Insurance for the Company for all coverage upon execution of the Contract by the parties and the Town shall be named as an additional insured on this policy. A thirty (30) day notification is herein required in writing to the Town in the event of cancellation or modification of the stipulated Insurance Coverage. It shall be the responsibility of the Company to insure that all subcontractors, if such are used by the Company, comply with the same insurance requirements required by the Town.

11.4 Pollution Liability. Companies shall provide pollution liability coverage to cover bodily injury; property damage, (including natural resource damage), cleanup costs, removal, storage, disposal, and or use of the pollutant; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims. Coverage shall apply to the sudden and gradual pollution conditions resulting from the escape of smoke vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, natural gases, waste materials, or other irritants, contaminants or pollutants (including asbestos). The Company needs to warrant any retroactive date applicable to coverage under the policy precedes the effective date of the contract

Current, valid insurance polices meeting the requirements herein identified shall be maintained during the Contract Term. Renewal certificates shall be sent to the Town 30 days prior to an expiration date. There shall also be a 30-day notification to the Town in the event of cancellation, modification of coverage, or reduction of aggregate limits below those required in Section 13.2. Certificates of insurance meeting the required insurance provisions shall be forwarded to the Town. Wording on the certificate that states that no liability shall be imposed upon the company for failure to provide such notice is not acceptable.

It is agreed that the Company will be responsible for notifying the Town of any material changes in a policy.

It shall be the Company's responsibility to ensure that all subcontractors comply with the same insurance requirements that the Company is required to meet.

All Certificates of Insurances shall be furnished on an ACORD form or equivalent as required by this contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

11.5 Performance Surety. At the time of the execution of this Contract, the Company shall provide the Town with a performance bond from a company rated A+ or better by Best's Rating Service in an amount Five Hundred Thousand dollars (\$500,000.00) or equal to three months service, whichever is greater, as surety for the faithful performance of the contract.

A payment bond in an amount of Two Hundred Fifty Thousand dollars (\$250,000.00) as surety for the payment of just claims for materials, labor, and subcontractors employed by the contractor, as a guarantee of labor and materials used or incorporated in the work, and for the fulfillment of other requirements as may be required by law. Bonds will be for a minimum of one (1) year term, and renewed sixty (60) days prior to the anniversary date for each following year. The form and amount of this surety bond shall be reviewed annually and updated as may be required by the Town upon 30 days written notice to the Company. Any notice of cancellation of such bonds must be served upon the Town by delivering a written notice of cancellation (30) days prior to the effective date of said cancellation. This contract shall not be terminated because of this provision if, within ten (10) days after bond cancellation as provided above, provider files with the Town similar bonds approved by the Town to be effective for the balance of the contract period commencing on the date of such termination.

SECTION 12 - REPRESENTATIONS AND WARRANTIES

The Company represents and warranties satisfactory performance in accordance with this Contract.

SECTION 13 - INDEMNITY

The Company shall indemnify and save harmless the Town, its officers, its employees, from and against any and all claims, demands, actions, suits and proceedings by others, and against all liability to others, resulting from the negligence or willful misconduct of the Company in the performance of this Agreement, including attorneys' fees reasonably incurred, except that the Company shall not indemnify the Town for any of the foregoing which arise out of or result from the negligence or willful misconduct of the Town or its employees or agents.

SECTION 14 - DEFAULT AND TERMINATION

In the event there should occur any material breach or material default in the performance of any covenant or obligation of the Town or Company which has not been remedied within thirty (30) days after receipt of written notice from the non-breaching party specifying such breach or default (or such longer period of time as is reasonably necessary to cure any such breach or default which is not capable of being cured within thirty (30) days provided the breaching party has undertaken to cure within such thirty (30) days and proceeds diligently thereafter to cure in an expeditious manner), the non-breaching party may, if such breach or default is continuing, terminate this Agreement upon written notice to the other party. In the event of a breach, event of default, or termination of this Agreement, each party shall have available all remedies in equity or at law, unless otherwise provided elsewhere in this Agreement.

SECTION 15 - AFFIRMATIVE ACTION

The Company shall not discriminate against any person because of race, sex, age, creed, color, disability, religion, or national origin.

SECTION 16- FORCE MAJEURE

The Company will not be responsible for delays in, or failure of, performance where performance is prevented or delayed by acts of God, fire, explosion, earthquake, epidemic, war, riot, rebellion, restraints or injunctions, or other legal processes from which a party affected cannot reasonably relieve itself by security or otherwise.

SECTION 17 - GENERAL PROVISIONS

17.1 Taxes

The Company shall promptly pay all taxes and license fees required by the Town and by the State of North Carolina.

17.2 Permits

The Company shall obtain all licenses and permits (other than the license and permit granted by the Agreement) required by the Town, by the State of North Carolina, or by the federal government.

17.3 Non-Assignment

The obligations of the Company are not to be assigned or transferred to any person or organization without the prior written approval of the Town Council.

17.4 Laws and Regulations

The Company shall conduct operations under this Agreement in compliance with all applicable laws, provided that the Town shall take no action to enact any laws that have the effect of adversely affecting the Company's rights and obligations hereunder.

17.5 Governing Law; Forum; Venue

The terms, conditions and provisions in the RFP Municipal Solid Waste 2012 may supplement the Contract between the Town and the Company. The order of precedence will be the Contract, the RFP, the winning proposer's response and general law. This Agreement shall be governed under the laws of the State of North Carolina. The appropriate forum for judicial interpretation of this Agreement and the sole venue for legal actions concerning this Contract shall be the Courts of Union County, North Carolina.

17.6 No Other Parties to Benefit

This Agreement is for the benefit of the parties hereto and does not enlarge any party's liability to any third party. The provisions of this Agreement shall not be construed to create a higher standard of safety or care in any evidentiary sense with respect to third party claims.

17.7 Appropriation of Funds

This Agreement shall be subject to the annual appropriation and budget process of the Town as required by state statute.

17.8 Headings

The headings of the paragraphs and subparagraphs shall not be interpreted as a limitation upon the language contained therein.

17.9 Severability

If any provision herein shall be found to be unenforceable or of no effect, the remaining provisions shall continue to be in full force and effect.

17.10 Cost

Any new cost not specifically noted in this contract must be submitted to the Town in writing for approval in advance.

17.11 Indulgences Not Waivers

A waiver of any breach of any provision of the Agreement shall not constitute or operate as a waiver of any breach of such provision or any other provision, nor shall any failure to enforce any provision hereof operate as a waiver of such provision.

17.12 Modifications and Waiver

The parties must mutually agree upon any changes in the Agreement and must be incorporated by written amendments to the Agreement. The Town Manager shall have the authority to amend the Agreement on behalf of the Town.

This Agreement constitutes the entire agreement of the parties regarding the subject matter hereof and may be amended or modified only by a written agreement signed by both parties. The Town and the Company may amend this Agreement at any time during the term to add additional Residential Units or Designated Non-Residential Locations within the Town, or additional services.

17.13 Independent Company

The Company and the Town agree that the Company is an independent Company and not an employee nor agent of the Town. The Company shall have exclusive control of and the exclusive right to control the details of the services and work performed, and such action does not create a partnership, agency, joint venture or other similar relationship between the Town and the Company.

The Company agrees that it will not represent to anyone that its relationship with the Town is other than that of an independent Company, and the Town and the Company may so inform any parties with whom they deal and may take any other responsible steps to carry out the intent of this section. The Company shall be fully and solely responsible for its own acts and omissions and those of its employees, officers, agents, and subcontractors.

17.14 Notices

Any legal notice between the parties should be provided to the other at the below address. The parties may change the notice address/designee in writing to the other party.

As to the Town of Indian Trail:

Designee: Joseph Fivas, Town Manager
Address: PO Box 2430
130 Blythe Dr
Indian Trail, NC 28079

Phone: (704) 821-5401
Fax: (704) 821-9045
Email: townmanager@admin.indiantrail.org

As to Waste Pro of North Carolina, Inc.

Designee: Robert TenHaaf
Address: 150 Manor Ave SW
Concord, NC 28025
Phone: (704) 792-0800
Fax: (704) 792-0810
Email: btenhaaf@wasteprousa.com

17.15 Entire Contract/Modification. This Contract constitutes the entire agreement and understanding between the parties with respect to the subject matter and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties hereto.

17.16 Binding Effect: This Contract shall inure to the benefit of and be binding upon the lawful successors and permitted assigns of the parties hereto.

17.17 Dispute Settlement

Any claim, dispute, or other matter concerning the performance of the Company shall initially be referred to the Planning and Neighborhood Services Director in writing, for a decision. Such decision shall be rendered within thirty (30) days in writing, following the final presentation by the Company of evidence or argument relative to such claim, dispute, or matter. The decision of the Director may be appealed to the Town Manager or his designee, in writing, within fifteen (15) days from the date of the Director's decision. The Town Manager must render a written decision to the Company within thirty (30) days from the date of the appeal. The decision of the Manager shall be subject to formal mediation between the parties. If mediation is not successful, either party may bring an action in a court in Union County, NC. The prevailing party shall be entitled to reimbursement of reasonable attorney's fees not to exceed a maximum of the amount of attorney's fees actually expended in litigation.

17.18 Town Authorized Agents

Town Manager and his Designee(s)

17.19 Town Not Liable for Delays

It is further expressly agreed that in no event shall the Town be liable for or responsible to the Company for or because of any stoppages or delay in the work herein provided for by injunction or other legal or equitable proceedings or due to any delay for any cause over which the Town has insufficient control to cause a different result.

17.20 Attachments

The following attachments are made a part of this contract and incorporated herein by reference: Appendices A, B, and C. In the event any terms in any Appendix hereto conflicts with any terms in this Agreement, the terms of this Agreement as written shall control and take precedence over the contradictory language in the Appendix, except in such case where the Town has expressly waived said conflicting terms by stating the specific term in this Agreement which is to be waived and the alternative term which is to be effective. The waiver must be in writing and signed by the Town Manager or a duly authorized representative of the Town Manager.

Any legal notice between the parties should be provided to the other at the below address. The parties may change the notice address/designee in writing to the other party.

As to the Town of Indian Trail:

Designee: Joseph A. Fivas, Town Manager
Address: PO Box 2430
130 Blythe Dr
Indian Trail, NC 28079
Phone: (704) 821-5401
Fax: (704) 821-9045
Email: townmanager@admin.indiantrail.org

As to Waste Pro of North Carolina, Inc.

Designee: Robert TenHaaf
Address: 150 Manor Ave SW
Concord, North Carolina 28025
Phone: (704) 792-0800
Fax: (704) 792-0810
Email: btenhaaf@wasteprousa.com

[Signatures on following page]

[Signature page to the Town of Indian Trail Contract]

IN WITNESS WHEREOF, this Contract has been executed in duplicate original on the day and in the year first above mentioned. The execution by the Town shall be made pursuant to the authority granted to the Mayor by the Town's elected Board. The Town's Municipal corporate seal shall be affixed by the Mayor and attested by the Town Clerk; and Waste Pro of North Carolina, Inc., as Company, has set their hand herein below.

TOWN OF INDIAN TRAIL

By: _____

_____, Mayor

ATTEST:

_____, Clerk

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

Town Finance Director

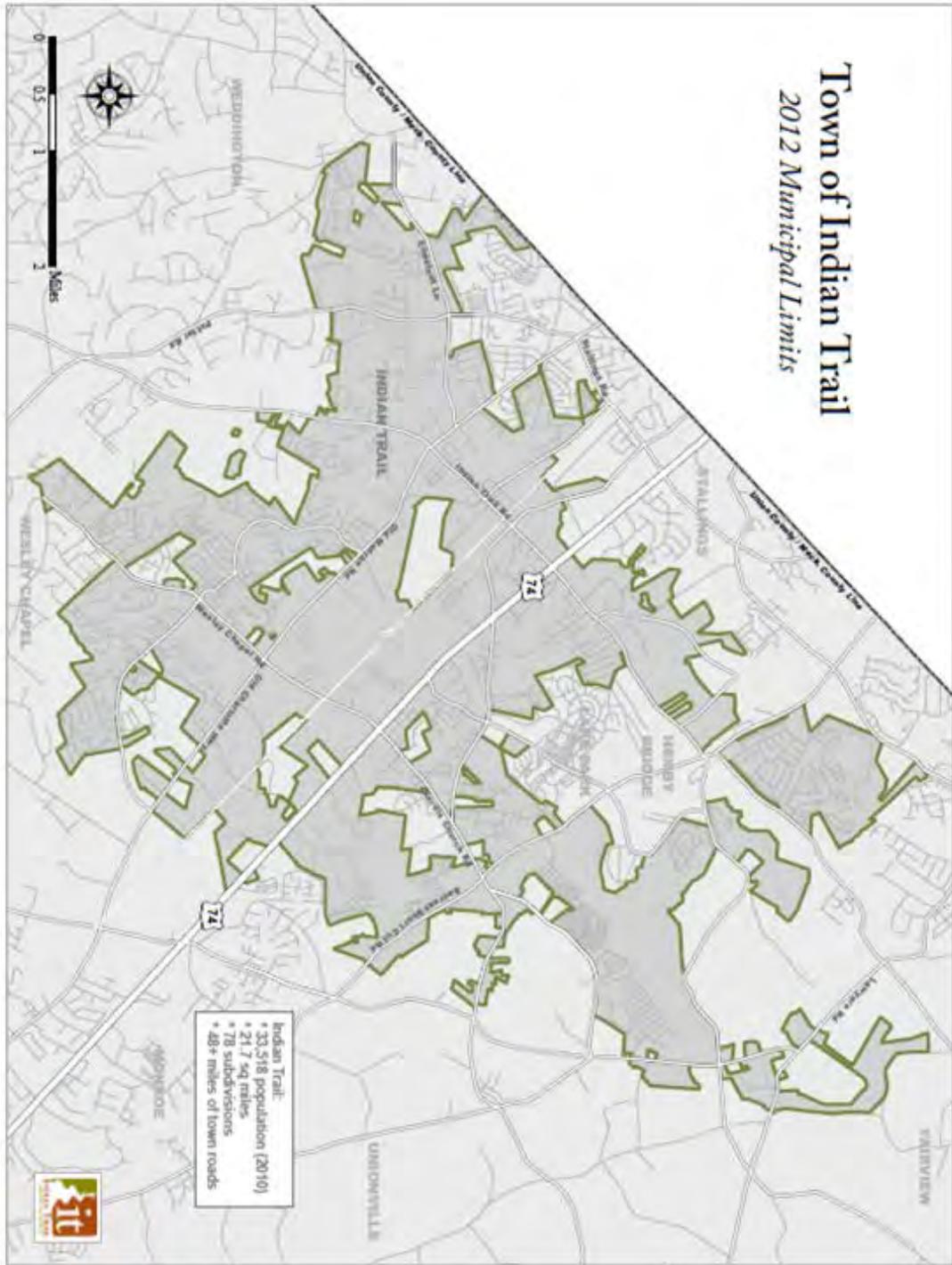
Date

WASTE PRO OF NORTH CAROLINA, INC.

By: _____

(Authorized Company Official)

Federal ID # _____



APPENDIX A- SERVICE AREA

APPENDIX B- 2012 SOLID WASTE RFP



**Notice of
Request for Proposals
For Candidates to Provide
Municipal Solid Waste, Yard Debris, Recyclables and Bulk Item Collection**

Proposal's Due Date: May 1, 2012 by 3:00pm

1. Introduction

The Town of Indian Trail is soliciting proposals to provide for the collection and disposal of residential and Town owned facility’s solid waste, yard debris, recyclables and bulk item collection. Proposals must be received not later than 3:00 pm May 1, 2012. All submissions must include five (5) hard copies and one copy on a CD. Proposals received after that date and time will not be considered. It is the sole responsibility of the proposer to verify receipt of proposal by the due date. If you would like to confirm receipt of your RFP prior to the deadline, please email Susan Didier at SDidier@admin.indiantrail.org. **The Town reserves its exclusive right to determine the best interests of the Town and act accordingly which may include, but not be limited to, rejecting any or all Proposals and to award a contract based upon those interest. This is a request for Proposal, not a competitive bid process. Proposals shall be sealed, clearly marked - Solid Waste RFP, and delivered to:**

Town of Indian Trail
130 Blythe Drive.
Indian Trail, NC 28079

Or

Town of Indian Trail
P. O. Box 2430
Indian Trail, NC 28079

All proposals must be returned in its entirety with each page initialed by the contractor. All blank spaces within this request for proposal must be completed in full.

Proposals shall not include any elaborate or promotional material, unless specifically requested and excessively lengthy narrative is discouraged.

All instruction within the RFP must be followed or there is the potential for the contractor’s proposal to be disqualified from consideration.

1.1 Projected Timeline

- | | | |
|----|---|--------------------------------|
| 1. | RFP Issued..... | February 8, 2012
by 5:00pm |
| 2. | Mandatory Pre-proposal conference.....
(Town Civic Building) | February 22, 2012
at 9:00am |
| 3. | Last Date for Inquiries / Questions..... | March 30, 2012 |
| 4. | Opening Conference-Sealed proposal due before Conference
(Town Civic Building) | May 1, 2012 at
3:00pm |
| 5. | Projected Award Date..... | May 22, 2012 |
| 6. | Projected Contract Start Date..... | August 1, 2012 |

1.2 Project Contact

All questions regarding this RFP should be directed to: Shelley DeHart, Planning and Neighborhood Services Director. Please email questions to srd@planning.indiantrail.org. All answers to question will be forward to all persons participating in the RFP process.

2. General Information

2.1 Demographics

Indian Trail is at an exciting crossroads of development. According to the 2010 Census reports the population has grown from less than 1,800 in 1990 to approximately 35,000 residents today. The Town is located in Union County and is just 15 miles southeast of downtown Charlotte and encompasses approximately 20 square miles.

In January of 2009, The Gadberry Group, a location services firm based in Little Rock, Arkansas, released a report noting the eight most high growth areas in the nation. Indian Trail placed fifth out of the eight cities due to a 95% increase in population from the year 2000 to 2008. Additionally this same report found that the household income increased 38% from \$63,578 to \$87,707. The growth in income levels and net worth data earned Indian Trail a ranking of second place for a high economic stability index.

2.2 Town Goals and Objectives

The Town intends to continue to provide solid waste and curbside recycling collection for all single-family residences within the Town and all Town owned facilities. The Town intends to have a long-term relationship with a service provider who can provide a smooth and seamless transition process to our residents. The Town believes in maintaining a high level of commitment to quality customer service. In procuring the services described in this RFP, the Town seeks to develop a community wide “Green Initiative” with a strong education component that encourages our residents to decrease the amount of solid waste sent to landfills and increase waste reduction and recycling practices.

2.3 Indian Trail Current Estimated Waste Management Data

Current Estimated Household Count December 2011	
Curbside Collection	11,513
Back / Side Door Collection	25
Curbside Recycling	9,983
Curbside Yard Debris	292

Tonnage for Fiscal Year 2011	
Solid Waste	10,592
Recycling	1,279
Yard Debris	178

2.4 Agreement Not to Sue

In consideration of the Town's agreement to open the selection of a firm to provide exclusive Solid Waste, Yard Debris, Recyclables and Bulk Item Collection Services to all interested Proposers, rather than selecting a firm by negotiation or any other manner allowed by law, and in consideration of the agreement of the Town to not compete with the accepted Proposer in providing the aforementioned collection services, each Proposer by submitting a proposal agrees that no claims, suits, or any legal action of any character shall be brought against the Town or any of its elected officials, employees, or agents for or on account of any determination made by the Town in connection with this Request for Proposals.

Such determinations shall include, but not be limited to, the award of the Contract to the accepted proposer.

2.5 Town's Exclusive Rights

This request for proposal is a solicitation and not an offer to contract. The Town reserves the right to reject any and all proposals. The Town further reserves the right to issue clarifications and other directives concerning this request for proposals; to require clarification or further information with respect to any proposal, waive irregularities, deficiencies, and technicalities concerning any proposal, and to determine the final terms of any contract. Interviews will be required by the Town with selected contractors to clarify contractor proposals and to allow for contract negotiations. Acceptance of any proposal will be based upon factors including, but not limited to: costs for service; provider's service equipment, completeness of proposal; thoroughness of information provided; customer service standards; value added service; prior successful contractor performance with waste collection systems similar in nature to those herein and long term financial stability.

2.6 Transition Plan

Since, no interruption of solid waste service is permissible, each Proposer must provide a detailed outline of their transition plan which will explain their activity leading up to the start date of August 1, 2012. Outline your company's transition plan from the date of award on May 22, 2012 to the start of the contract on August 1, 2012. This is a vital part of the proposal. Please include a timetable of all actions right up to the commencement of the new contract.

3. Basis of Proposal

Proposals submitted will be for the contractor to provide non-exclusive collection services for solid waste, yard debris and recyclables within the Town limits. Prices provided shall be (1) all inclusive indicating any and all costs associated with collection, tipping fees, delivery and assembly fees of carts and any other costs which may be incurred or (2) a price without the tipping fee if the Town selects to pay the actual tipping fees separately. Proposals must include complete information addressing the following:

3.1 Cost Proposal Base Service Options

Service	Price Per Month Including Tipping Fee	Price Per Month Without Tipping Fee
Collection & Disposal Residential Garbage once per week for (1) 96 gallon cart.		
Monthly rate for once per week residential recycling service in (1) 96 gallon cart.		
Monthly rate for bi-weekly residential recycling service in (1) 96 gallon cart.		
Monthly rate for weekly residential curbside yard waste service as determined by the provider.		
Monthly rate for bi-weekly residential curbside yard waste service as determined by the provider.		
Fall leaf pickup services for all residents biweekly for 2 monthly to be determined during contract negotiations		

3.2 Additional / Optional Services

(Please attach a fee schedule if cost is based on item being picked up or disposed of)

Service	Price
Bulk Item Pickup Monthly on a Specified Date (1)	
Bulk Item Pickup Quarterly on a Specified Date (1)	
Bulk Item Pickup On-Call Basis(2) - Resident	
Bulk Item Pickup On-Call Basis(2) - Town	
Special Events(3)	See Note (3) below

- (1) Define bulk items which may be picked up for monthly or quarterly collection and pickup dates as specified by the contractor.
- (2) Pickup based on On-Call Service may be provided as follows:
 - a. Resident calls and sets up pickup time. Town pays for disposal.
 - b. Town negotiates bulk item pickup rates on behalf of residents - Resident calls contractor directly for service and payment.
- (3) Special events will include all costs for one comprehensive Community Clean-up & Recycling Day, solid waste and recycling services for July 4th parade, solid waste and recycling services for the Christmas parade, solid waste and recycling services for nine (9) small events in and around Crossing Paths Park per year. Please list services that would be provided for such events along with prices. If you provide Porta Jon service, please provide a cost for Porta Jon service for these events. The Town would consider and is interested in event sponsorship in lieu of payment for these services.

3.3 Collection Bins

Contractor shall furnish solid waste and recycling collection equipment to every residential premise for every occupied location in the incorporated area of the Town. Equipment shall be the property of the contractor or Town as determined during this proposal process. It shall be the responsibility of the owner of the residential premises to properly use and safeguard the equipment. Contractor will maintain equipment in reasonably good condition. Contractor shall have the right to charge the resident for the cost of repair or replacement due to abuse or negligence only with prior approval from the Town. In connection with the Town's branding initiative, the solid waste and recycling containers will have a specific color for each collection bin which will also have a Town logo reflected. Annually, the contractor will provide each household with a magnetic calendar indicating solid waste, recycle and yard waste pickup dates. These costs are the responsibility of the contractor.

Cost for Collection Bins

Contractor shall supply the make, model and size of new collection bins being quoted. If the cost of the container is included in base prices provided above, please enter \$0 into amount below, however still indicate the make, model and size of containers being provided.

Purpose	Make / Model / Size	Price
Solid Waste		
Recycling		

Currently the Town owns all solid waste carts used by residents. The carts are 96 gallon Toter EVR II Universal carts. The ownership of these carts will be determined during this proposal process. Contractor shall provide the Town with pricing for alternate options noted below.

Option	Description	Price
Option 1:	Contractor purchases all containers from Town upon commencement of contract. Amount should reflect price per cart.	
Option 2:	Contractor and Town will determine bulk price for carts and issue monthly credit for initial five (5) year term of contract. Amount should reflect monthly credit on invoice.	
Option 3:	Contractor will charge a discounted per household rate for residents with existing carts until such time that the cart is replaced by contractor or after initial five (5) year contract term. Amount should reflect the discount per household.	
Option 4:	Contractor and Town will determine bulk price for carts and contractor will make monthly lease payment to the Town for initial five (5) year term of contract. Lease payments should be shown as monthly credit on invoice. The Town will retain ownership of the solid waste and recycling carts.	
Option 5:	Contractor will purchase and replace all carts as necessary. The Town will retain ownership of the solid waste and recycling carts	

3.4 Yard Debris:

Yard debris is currently only offered to residents who pay for the service and containers are purchased and owned by the resident. It is the Town’s desire to incorporate yard debris service into our municipal solid waste and recycling program so it is available to all residents. In addition to the yard debris service provided to all Town residents, the contractor will continue to pickup yard debris from residents who have previously purchased yard debris containers. The Town will work with the successful proposer to address these yard debris containers.

3.5 Leaf Pickup:

The Town would like a separate leaf pickup service for 2 months during the fall of each year on a biweekly basis for all residents. The specific two months of services will be determined during the actual contract process. After approval by the Town Manager, the contractor will announce in a newspaper having widespread local circulation the schedule for leaf pickup each year. It is the responsibility of the provider to give direct notice to all residents at least 45 days in advance of the beginning of leaf pickup service each year.

3.6 Elderly and Disabled

Contractor shall provide back or side door pick up to elderly or disabled residents as designated by the Town who are physically unable to place container at curbside on pick up day. Contractor shall provide back or side door collection service at no additional charge for those residents not physically able to take carts to curbside provided there is no other

occupant of the residence that is physically able to do so. A list of these residents will be provided to the successful contractor.

3.7 Recyclable Material

The Contractor will provide to each Residential Unit (1) 96 gallon container for Recyclable Materials. The Contractor shall be responsible for transporting the recyclable materials to a processing site and must have established buyers or markets for the recyclables. The contractor shall be required to identify the buyers of recyclables upon request by the Town. Recyclable materials collected for the purpose of recycling may not be deposited in any landfill. The Contractor shall be totally responsible for the processing and marketing of all recyclable materials collected pursuant to the contract.

In addition to the Records and Reporting required in Section 5.1 and along with the Town's monthly reporting on services provided, the Contractor shall provide the Town with a report indicating all monies received for recyclable materials collected under the contract: by type of material sold, its unit price and weight. This report should reflect the amount shown as a recycle credit on the Town's monthly invoice.

3.8 Newly Developed and Annexed areas

The contractor will, within five (5) days of notification of the Town, provide collection services of the same frequency and quality otherwise required of the contractor to newly developed and or newly annexed areas. As new residential units are constructed and occupied within the Town, the Contractor shall, after proper notification by the Town, provide all services as required by the Agreement on the next scheduled day of collection following notification.

3.9 Alley Collection

The Town has some alleys, and the contractor should acquaint itself with the special needs and accommodations that will be required for alley collection. The proposal shall include a statement of willingness by the contractor to continue alley service, and a description of special accommodations that will be made to accomplish this.

The Town currently has a subdivision with 292 households receiving alley service on 24 alleyways which requires a special pickup procedure as the alleyways are not wide enough for full size solid waste trucks to travel without causing damage. The contractor will need to describe how service could be provided to these residents and what additional cost may be incurred by the Town.

3.10 Hours and Days of Operation

All collections shall, except as expressly permitted by the Town be limited to the hours between 7:00 a.m. and 7:00 p.m. Sunday collections are not permitted unless expressly authorized by the Town. Collection routes shall be established by the contractor and approved by the Town. The proposal should include a proposed schedule that meets this framework and that accommodates changes due to inclement weather and holidays.

Any change in days of collection must be approved by the town and announced by the contractor in a newspaper having widespread local circulation. It is the responsibility of the provider to give direct notice to households affected by the change at least 45 days in advance of the change.

3.11 Suspension of Curbside Collection

Curbside collection service may be suspended due to extreme weather or declared emergencies. The Contractor will stop all work when so directed by the Town during severe weather. The Contractor will complete the work as soon as permission has been granted to proceed. If collection is suspended, Contractor will perform collection on the next regular collection day or other day as agreed upon by the Town and contractor.

Pickup days will not be reduced by holidays but may be combined. Pickups normally scheduled on holidays will be rescheduled on the next regular collection day or other day agreed upon by the Town and contractor. Contractor will advertise a minimum of three (3) times, and provide Town sufficient notice to update Town's website prior to any schedule changes for holidays. The following is a list of holidays:

- New Year's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Christmas Day

Contractor may decide to observe any or all of the above mentioned holidays by suspension of collection service on the holiday, but the contractor must meet his obligation as required.

3.12 Non-Routine Collection

The contractor shall be required to provide annual Christmas tree collection for recycling purposes at no additional charge. In addition the Town periodically schedules community cleanup and recycling events, as well as other Town run events additional services may be required.

3.13 Trucks and Equipment

The contractor shall provide a detailed list, to include but not be limited to, anticipated number, age and condition of vehicles, the size and types of vehicles and automation that it proposes to use, as well as other equipment necessary for the job such as communication devices, GPS systems and others. The Town reserves the right to visit the facilities of all interested contractors and observe the equipment used and the operational methods. These site visits will be coordinated with the appropriate representative(s) from each of the interested contractors. Any contract entered into by the Town will contain provisions regarding equipment weight, leak proofing, and similar performance standards.

3.14 Use of Subcontractors

This contract does not allow for the use of subcontractors without the prior written approval of the Town Manager.

3.15 Assignment

The obligations of the Contractor are not to be assigned or transferred to any person or organization without the prior written approval of the Town Council.

3.16 Promotion and Education

The contractor, as part of this Proposal, shall completely and thoroughly describe the educational and promotional programs for recycling which will be provided at the contractor's expense. Contractor shall also include samples of promotional materials, educational curricula for local schools; schedule of events to be held at least on a quarterly basis and programs to encourage community involvement in recycling. The contractor shall evidence other locations where these programs have been successful or, if the program is new, describe how that program will benefit the Town's recycling efforts.

Also, the contractor will work with the Town to provide service-oriented information to residents. This is to include the specifics of the solid waste and recyclables collection program, a collection schedule, a listing of what materials can go into the recyclable materials bin, instructions on the proper handling of the collection bins, instructions on what residents are to do with trash that does not fit into the collection bins, etc. The costs of these educational programs are the responsibility of the contractor. The contents of information provided will be approved by the Town in advance of distribution to Town residents.

3.17 Public Informational Meetings

Upon selection but prior to implementation of the solid waste collections service, the selected Contractor will be required to participate with Town staff and Council in two or more public meetings which will describe the new service to Town residents/customers.

3.18 Customer Service

The contractor shall be responsible for providing all customer service functions including informing residents of current services, handling resident requests, and resolving resident complaints. The proposal shall include information addressing the contractor's proposals for methods and a time frame for communicating with the residents and responding to their questions and complaints. The contractor shall also include, with the proposal, a copy of their customer service standards and training provided.

The contractor shall maintain a software program for tracking all issues related to solid waste. Town staff will have access to and receive training on the use of this program. Trained Town staff will periodically monitor the software and review the program for documented issues and their prompt resolution. The Town's expectation is that all resident complaints be resolved in no more than 24 hours of the resident's notification of issue.

The contractor shall maintain an office or other such facilities equipped with sufficient local telephone service through which they can be contacted. Any and all associated costs for

this service are the sole responsibility of the contractor. Responsible staff shall be available from 8:00am to 5:00pm daily on regular collection days.

3.19 Proposed Term of Contract

The contract resulting from this proposal shall commence upon the date of contract execution by both parties and extend for an initial period of five (5) years. The Town shall have the option of renewing this contract for additional three (3) year terms, renewable one term at a time. The decision to renew will be solely the Town's. Notice of intent to renew will be made at least 60 days prior to normal contract expiration. The Town and selected provider shall reconfirm or renegotiate the unit rates prior to the contract renewal. If renewal results in changes in the terms or conditions, such changes must be in writing as an amendment to the original contract and such amendment will not become effective until fully executed by both parties.

In the event the Town does not opt to renew the contract or the Town and Provider are unable to reconfirm or renegotiate unit rates for another term, the Town shall have the option of extending this contract at the current rates for a period of six months total for the purpose of completion of services started prior to current contract expiration or until a new contract can be established.

3.20 Value Added Services

Please indicate any value added services the proposer may offer which have not been requested or mentioned in this request for proposal.

4. Qualifications of Proposer

The Town requires the submission of the following certified supporting data regarding the qualifications of the contractor in order to determine whether contractor is qualified and responsible.

1. Satisfactory evidence that the contractor possesses not less than five years of experience providing trash and recycling collection services.
2. Evidence that the contractor is in good standing in the State of North Carolina.
3. Copies of the last three years financial statements of the contractor (or, if the contractor is a subsidiary or division, then a financial statement of the parent corporation).
4. The names and resumes of the principal officers, partners, and/or officials. The name(s) and resume(s) of the individual(s) who will be responsible for the Town contract.
5. Evidence, in form and substance satisfactory to the Town, that the contractor possesses as a going concern the managerial and financial capacities to perform all phases of the work called for in the contract documents.
6. Minimum of five (5) references identifying each client, a contact person and contract information for similar projects done by the personnel to be involved in

these projects. Please provide a list of all Municipal agencies with which the provider is under contract.

7. Such additional information as will satisfy the Town that the contractor is adequately prepared to fulfill all of the terms of the contract.
8. As referred to in Section 2.5, please submit a transition plan as requested.

5. General Terms

The contract with the Town shall include, but not be limited to, general terms that are substantially as follows.

5.1 Maintenance of Records and Reporting

The contractor shall maintain in its local office full and complete operation and customer service records that shall at all reasonable times be open for inspection and copying for any reasonable purpose by the Town. Reports shall be submitted by the tenth day of each month to the Town documenting the following information:

1. The residents to whom service was provided;
2. The contractor is to maintain a log of all complaints and the actual or planned resolution;
3. A log of missed collections and responses;
4. A description of any vehicle accidents or infractions; and
5. A listing of all accounts having a change of service during the month; and
6. Weights in tons of garbage and recyclable materials collected by commodity and where these items were transported to.

5.2 Working Relationship

The provider's point of contact with the Town shall be Shelley DeHart, Director of Planning and Neighborhood Services or other authorized representatives in all matters pertaining to the performance of this contract.

Throughout the term of this contract, the provider must have prior approval from the Town for any changes to the number of containers, size of container or collection schedule established upon the execution of the contract by both parties. Any change will be confirmed by the Town in writing.

Provider's employees, officers, agents and subcontractors shall at no time be allowed to identify themselves, or in any way represent themselves, as being employees or agents of the Town of Indian Trail.

5.3 Cooperation in Disasters

The contractor shall acknowledge the presence of other contractors involved in disaster response and recovery activities of the federal, state, and local government, and of any private utility, and shall not interfere with their work during times of declared disaster or a local emergency.

5.4 Compensation Payment Schedule

The contractor shall invoice the Town monthly for services provided. Within 30 days of the start of the Contract, the contractor shall submit copies of standard billing forms and coordinate with the Town’s Finance Department to establish mutually acceptable billing documents. The Town will retain full auditing rights of contractor’s accounting records as they pertain to the Town’s contract.

The Town recognizes that one of the primary costs of the contractor to fulfill this contract is the price of vehicle fuel which is outside the control of the contractor. The Town is willing to negotiate a fuel surcharge clause, with a cap, based upon using the following prices for the lower Atlantic Region of the US Energy Information Administration (USEIA) Index: <http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp>. Please include a proposed fuel surcharge table as part of this RFP.

5.5 Force Majeure

The contract will provide that neither party shall be liable to the other for any delay in, or failure of, performance where performance is prevented or delayed by acts of God, fire, explosion, accident, flood, earthquake, epidemic, war, riot, rebellion, restraints or injunctions, or other legal processes from which a party affected cannot reasonably relieve itself by security or otherwise.

5.6 Failure to Perform, Remedies, Termination

The Town expects high levels of customer service and collection service provisions. Performance failures will be discouraged, to the extent possible, through penalties for certain infractions and through contract default for more serious lapses in service provisions. Section 5.7 details default provisions and procedures.

5.7 Penalties

Penalties may be levied if documented in an incident report presented by the Town to the contractor. Penalties will be deducted from the monthly payment made by the Town to the contractor. Disagreements will be subject to the review and resolution procedures provided in the contract.

Action or Omission	Penalties
Commencement of residential collection prior to 7:00 a.m. or continuance after 7:00 p.m. except as expressly permitted.	\$100.00 per incident (each truck on each route is a separate incident).
Failure to collect spilled materials.	Twice the cost of cleanup to the Town plus \$1,000 each incident
Leakage from contractor vehicles or vehicle contents.	\$500 each vehicle, each inspection.

Failure to collect any and all garbage, recyclable materials, and yard debris within one business day after notification.	\$250.00 each incident
Collection from residential premises on other than the day specified excluding inclement weather or holiday schedule.	\$50.00 per structure.
Collection and disposal of recyclables as if solid waste or trash.	\$1,000.00 per incident.
Misrepresentation by contractor in records or reporting.	\$1,500 per incident.
Failure to make required reports on time.	\$500.00 per incident.
Failure to maintain clean and sanitary vehicles.	\$250.00 per vehicle per occurrence.

The above table is not an exclusive list of the acts or omissions for which a penalty may be assessed. Also, the contract shall include provisions detailing those acts and omissions of the contractor which shall be considered violations or breaches of the contract. The contract will reserve to the Town the right to exercise any and all remedies it may have with respect to these and other violations and breaches. Any schedule of penalties shall not affect the Town's ability to terminate the contract for breach.

5.8 Performance and Payment Bonds

All proposers will provide a letter from a Surety Company stating the Contractor's ability to secure performance and payment bonds as indicated below or the actual bonds with the proposal submission on or before May 1, 2012 at 3:00pm. If a letter is provided, in lieu of bonds at time of submission, when the contract is awarded, the successful contractor will furnish surety bonds payable to the Town of Indian Trail, from a surety company authorized to do business in the State of North Carolina and represented by an agent doing business in the State of North Carolina, as follows:

- a. A performance bond in an amount of Five Hundred Thousand dollars (\$500,000.00) or equal to three months service, whichever is greater, as surety for the faithful performance of the contract.
- b. A payment bond in an amount of Two Hundred Fifty Thousand dollars (\$250,000.00) as surety for the payment of just claims for materials, labor, and sub-contractors employed by the contractor, as a guarantee of labor and materials used or incorporated in the work, and for the fulfillment of other requirements as may be required by law.
- c. Bonds will be for a minimum of one (1) year term, and renewed sixty (60) days prior to the anniversary date for each following year.

This contract shall not become effective until such bonds have been delivered to the Town. This contract shall be subject to termination by the Town at any time if said bonds shall be cancelled or the bonds thereon relieved from liability for any reason. The term of such performance and payment bonds shall be stated therein.

Any notice of cancellation of such bonds must be served upon the Town by delivering a written notice of cancellation (30) days prior to the effective date of said cancellation.

This contract shall not be terminated because of this provision if, within ten (10) days after bond cancellation as provided above, provider files with the Town similar bonds approved by the Town to be effective for the balance of the contract period commencing on the date of such termination.

5.9 Indemnification and Insurance

The contractor shall be required to indemnify and hold harmless the Town, its officers and its employees, from and against all liability, claims, and demands, on account of any injury, loss, or damage, which arise out of or are connected with the contractor’s performance of the contract, if such injury, loss, or damage, or any portion thereof, is caused by, or claimed to be caused by, the act, omission, or other fault of the contractor or any subcontractor of the contractor, or any officer, employee, or agent of the contractor or subcontractor, or any other person for whom the contractor is responsible. The contract shall include provisions for the contractor to defend against such claims.

The Town may at any time request proof of current insurance on any one or all of the coverage’s required below. Failure to maintain current insurance as required below may result in the termination of the contract.

Minimum Limits of Insurance:

Type Coverage	Per Occurrence minimum	Aggregate minimum
Workers Compensation	As required by law and shall cover all employees including drivers.	As required by law.
Comprehensive & General Public Liability	\$1,000,000	\$1,000,000
Property Damage	\$1,000,000	\$1,000,000
Comprehensive Auto Liability Bodily Injury	\$1,000,000	
Comprehensive Auto Liability- Property Damage	\$1,000,000	

5.10 Compliance with Laws and Miscellaneous

The contractor shall be responsible at its own expense for obtaining and complying with all necessary permits, ordinances, and laws. The contractor shall maintain a current privilege license to conduct business in the Town of Indian Trail for the entire length of the contract. The contract shall also include provisions concerning independent contractor status, equal employment opportunity, non-assignment, disclosure of information and records, applicable law, and such other terms and conditions as the Town may require.

6.0 Lobbying

To ensure fair consideration for all prospective proposers throughout the duration of the formal solicitation process, the Town prohibits communication whether direct or indirect, regarding the subject matter of the proposal or specifications by any means whatsoever whether oral or in writing with any elected official from the issuance of specifications until the Mayor and Council makes the award. Communications initiated by the proposer may be grounds for disqualifying the offending proposer from consideration of award or any further proposal.

7. Self-Reliance

The Town makes no guarantee on any of the estimates contained in the RFP and provides this data for informational purposes only. Contractors are expected to conduct their own investigations and research of relevant information used to develop their proposals, including but not limited to the estimated number and type of housing units, anticipated participation, diversion, container weights and all conditions related to the services provided.

The contractor shall make no claims against the Town as a result of estimates or projections used herein, statements, or interpretation of data by Town staff or its agents.

7.1 Public Records

Under North Carolina state law, the documents (including but not limited to written, printed, graphic, electronic, photographic or voice mail materials and/or transcriptions, recordings or reproductions thereof) submitted in response to this request for proposals (the “documents”) become a public record upon submission to the Town, subject to mandatory disclosure upon request by any person, unless the documents are exempted from public disclosure by a specific provision of law. If the Town receives a request for inspection or copying of any such documents provided by a vendor in response to this RFP, it will promptly notify the vendor at the address given in response to this RFP that it has received such a request. Such notice will inform the vendor of the date the Town intends to disclose the documents requested and affording the vendor a reasonable opportunity to obtain a court order prohibiting or conditioning the release of the documents. The Town assumes no contractual obligation to enforce any exemption.

7.2 Equal Opportunity Compliance

The Town is an equal opportunity employer and requires all Proposers to comply with policies and regulations concerning equal opportunity.

The Proposer, in the performance of this Contract, agrees not to discriminate in its employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, sexual preference, age, or physical handicap.

CERTIFIED STATEMENT

I, _____, authorized representative for _____ hereby certify that all of the following supporting data and statements provided by the Contractor, as required in the Town of Indian Trail’s Request for Proposal on Solid Waste, are true and complete and should be used in determining whether our company is a qualified, responsible vendor.

Print Name and Title

Signature

Company Name Address

Telephone:

(State of North Carolina)
(County of _____)

Before me, _____, the undersigned authority, on this date personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for purposes and consideration therein expressed.

Given under my hand and seal this _____ day of _____, 2012.

Notary Public, State of North Carolina

**SOLID WASTE COLLECTION
REQUEST FOR PROPOSAL
Qualification Checklist**

Name of Company: _____

- _____ 1 Initialed all pages of original RFP
- _____ 2 Enclosed five (5) hard copies and one copy on a CD
- _____ 3 Letter from Surety Co. stating ability to secure performance and payment bonds or actual bonds.
- _____ 4 Certificate of Insurance showing limits as specified in section 5.9.
- _____ 5 Fee Schedule for bulk items
- _____ 6 Proposed schedule for collection pickup.
- _____ 7 Itemized List of Equipment available for use under this Contract.
- _____ 8 Transition Plan including timetable and all information requested.
- _____ 9 Last three (3) years Financial Statements
- _____ 10 Evidence that Contractor is in good standing with State Law
- _____ 11 Evidence that Company has been in business for five (5) years with actual operating experience in refuse collection and disposal, yard debris collection and recyclables collection and processing.
- _____ 12 Five (5) references and a list of all Municipal agencies with which the contractor is under contract.
- _____ 13 Fuel Surcharge Table
- _____ 14 Signed and Notarized Certified Statement
- _____ 15 Signed and Notarized Non-Collusion Certificate
- _____ 16 Schedule of Promotion and Education events and copies of brochures with information regarding locations where previously used and impact on recycling.
- _____ 17 All other specific information required by Proposal documents

Attachment A: Non-Collusion Certificate

NON-COLLUSION CERTIFICATE

STATE OF)

ss.

COUNTY OF)

The undersigned, being duly sworn, deposes and says that the person, firm, association, co-partnership or corporation herein named, has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in the preparation and submission of a proposal to the Town of Indian Trail for consideration in the award of a contract on the improvement described as follows:

Municipal Solid Waste, Yard Debris Recyclables and Bulk Item Collection

(Name of Firm)

By:

(Authorized Signature)

Title

Sworn to before me this day of , .

Notary Public

CORPORATE SEAL:

APPENDIX C

Signed Memorandum of Understanding



MEMORANDUM OF UNDERSTANDING

The Town of Indian Trail has in good faith released a Request for Proposal for Solid Waste & Recycling Services (RFP). If Waste Pro (provider) is selected as the solid waste provider for the Town of Indian Trail (Town), the following are some of the terms and conditions that will be included in the contract following the possible Council selection as a provider. This MOU is non-binding to both parties, but is meant to create a clearer understanding of the issues before we may begin contract negotiations.

Performance Commencement:

The term of this Agreement shall commence on August 1, 2012 and terminate on July 31, 2017 (the "Initial Term") unless this Agreement is terminated earlier by Town Council as herein provided. The Town will discuss renewal options during the contract negotiations.

Town of Indian Trail Facility: The provider shall establish a new facility within the Town's jurisdictional boundary within a 12 month period from the commencement of the contract as stated in the letter dated June 8, 2012 attached within.

Services: The provider shall meet all minimum service levels and terms as identified and negotiated within the issued RFP, Provider's submitted proposal opened May 1, 2012, and supplemental negotiated fee schedule documents contained herein as Attachment 1. The Town is recommending Option I without Tipping Fees as the standard level of service. These services include but are not limited to the following:

Solid Waste Service: The provider shall have weekly solid waste service with one 90+-gallon container on a time and schedule agreed to by both parties. The provider will charge \$4.43 per household per month for this service. The Town will maintain ownership of the solid waste materials, but will partner with provider to get the most competitive tipping fee rate. This service includes back and side door services as identified by the Town.

Recycling: The provider will have bi-weekly recycling service with providing one or more 90+-gallon recycling containers on a time and schedule agreed to by both parties. The provider will charge \$2.20 per household for this service. The Town will maintain ownership of the recycling materials, but will partner with provider to get the most competitive recycling rate. A monthly recycling credit shall be issued to the Town in the minimum amount of \$10/ton.

Yard Waste & Leaf Debris Pick-Up: The provider will have bi-weekly yard waste and leaf service curbside pick-up for each household. The provider will charge \$1.25 per household per month. The material will need to be bundled and tied or put into plastic or paper bags. Each household may select to have a cart for their yard waste debris. Expanded leaf pick-up (up to 40 bags) will be provided during peak periods to be determined at a future date.

Bulk Waste & E-Waste: The provider shall have three designated dates a year for Town-wide bulk & e-waste pick-up. These items will include large items of solid waste such as furniture, mattresses, white goods, scrap tires and other items too large for the Roll-Out Cart, including any oversized wastes whose large size precludes or complicates their handling by normal solid waste collection. The provider will charge \$2,225.00 per event. These dates will be actively advertized, and one date will correspond with our Town Community Trash & Recycling pick up week. Bulk pick-up ordered by resident outside of planned event shall be at a cost \$35.00 paid by Town resident.

Town Facilities Service: The provider will service all Town facilities with solid waste, recycling, bulk and e-waste services at no charge.

School Recycling Service and Education: The provider will provide free recycling pick-up services and recycling education to public schools that serve the children of the Town of Indian Trail. The Town will collaborate with the provider on an implementation phasing plan however schools located within our jurisdictional boundaries shall have established service within the first 12 months of the signed contract.

Bonterra Alleyways: The provider shall provide alleyway collection service with a 16 yard (or smaller) rear loader.

Christmas Tree Pick-up and Extra Holiday Collection: The provider shall provide Christmas Tree pick-up for Town residents free of charge as well as increased holiday waste during the Christmas and New Year Holidays. Extra waste shall be bagged and placed adjacent to roll-out carts shall be collected.

Carts: The provider shall provide two new 90+ gallon carts hot stamped with Town logo, in-mold instruction labeling for recycling and solid waste service. The Town will select the cart brand, color, and Town logo for the carts. The provider shall collaborate with the Town on the appropriate instruction labeling. The provider is also required to purchase existing Town carts at the cost of \$20 per cart payable to the Town in one lump sum within 90-days of the commencement of the contract.

Tracking Software and Customer Service Process: The provider shall establish and maintain a tracking software program that provides tracking and reporting capabilities for the Town. Said program shall also provide the customers the ability to submit service request and/or compliments to the service provider 24 hrs/day, 7-days a week. The Service Provider shall collaborate with the Town on a customer service process to be approved by the Town.

Town Event Service: the provider shall supply the Town with solid waste and recycling disposal containers and service as stated in the RFP (attached herein). Service includes supplying portable toilets per Town request for events.

Community Education Program: the provider will coordinate with the Town a community education program to include various types of media announcements, informational newsletters, signage, and webpage development. The provider shall reimburse the Town for the following connected to the program: Waste Pro shall reimburse the Town for all expenses associated with developing, printing and distribution of the following public information items within thirty days of receipt of billing.

- a. Two (2) notices concerning collection changes and/or service changes in the newspapers in general circulation within the Town. Town will complete design and place these ads.
- b. One (1) newsletter insert to mail out Town customers. Town to design, produce and mail this newsletter.
- c. One (1) direct mail piece advertising changes in collection service. Town to develop, produce and mail the letter to all customers receiving the service.

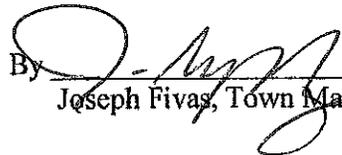
Communication/Reports: The provider is required to submit daily and monthly reporting regarding services provided for contract implementation. The details of these reports will be outlined within the executed contract.

Record Keeping, Accounting, and Auditing: The provider shall maintain all records as outlined in the executed contract related to accounting and auditing to the satisfaction of the Town. Details of record keeping will be provided within contract.

As stated, this MOU is non-binding to both parties a clearer understanding of the issues before we may begin contract negotiations.

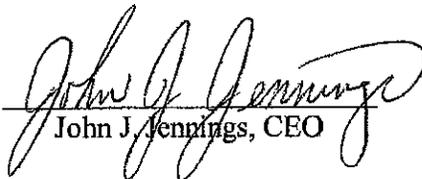
TOWN OF INDIAN TRAIL

Date 6-11-12

By 
Joseph Fivas, Town Manager

Waste Pro of North Carolina

Date 6-11-12

By 
John J. Jennings, CEO



PLANNING AND DEVELOPMENT DEPARTMENT

Planning Board Transmittal for the July 10, 2012 Town Council Meeting

Case: ZM 2012-002			
Reference Name	Brandon Oaks II		
Meeting Date	June 19, 2012		
Members Present	Chair Whitehurst <input checked="" type="checkbox"/>	Gary Vaughn <input checked="" type="checkbox"/>	Larry Miller <input checked="" type="checkbox"/>
	Vice-Chair Cowan <input checked="" type="checkbox"/>	Kathy Broom <input checked="" type="checkbox"/>	Robert Rollins <input checked="" type="checkbox"/>
	Sidney Sandy <input checked="" type="checkbox"/>	Cathi Higgins <input checked="" type="checkbox"/> Alternate	Jan Brown <input checked="" type="checkbox"/> Alternate
	Vacant Seat <input type="checkbox"/> Alternate		
Case Found Complete	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
Motion	Recommend Approval		
Member making the motion	Kathy Broom		
Second the motion	Patty Cowan		
Vote	Unanimous		

Summary

To rezone two (2)-parcels (approx. 0.366 acres) from Union County Residential-20 (R-20) to Single-Family Residential-4 (SF-4) with a Pre-Existing Development Overlay (PED Overlay 1). The two properties comprising the subject property are generally located near the intersection of Garden Oak Dr. and Canopy Dr. and the intersection of Corrona Ln. and Sipes Pl. within Brandon Oaks Phase 9 (see Figure 1 in PB staff report). The Planning Board heard this request on June 19, 2012 and transmits a unanimous recommendation to approve. Please refer to Attachment 1: Planning Board Report for additional information on this request.

Town Council Action: *Receive transmittal report and public testimony and:*

1. *Concur with the findings and transmittal of the Planning Board to approve; or*
2. *Concur with the findings and approve as modified by Council; or*
3. *Do not make the findings and disapprove.*

Planning Board

The Board heard this item at its June 19, 2012 public meeting. The limited discussion largely focused on annexation and the Union County *Smart Growth* Development standards. There were no comments from the general public. After Planning Board discussion, the Board made the required findings as follows:

1. *Goal 1.3.1 Quality of Life:* The proposed rezoning to SF-4 with a PED Overlay 1 will help to promote a better quality of life for our residents by ensuring the continuation of the unique identity and residential character of the Brandon Oaks community.
2. *Goal 1.3.1 Quality of Life* The proposed rezoning to SF-4 with a PED Overlay 1 will help provide a diverse range of housing opportunities in Indian Trail by providing additional medium density housing within an overall planned development community with varying housing sizes and densities.
3. *Reasonableness and Public Interest:* The request for this zoning district and overlay is a reasonable request and is in the public interest because it promotes the goal of the adopted Comprehensive Plan in the area of *Quality of Life* and is consistent with other adopted plans within the Town.

Making the required findings the Board voted 7-0 to transmit a recommendation to approve.

Council Action

Section 320.050 of the Unified Development Ordinance outlines the ultimate issue considerations before Council on map amendments. They are:

1. The range of uses that may occur under the proposed amendment versus the range of uses that may occur under the existing zoning classification.
2. The impact of the proposed change on the public at large versus any advantages or disadvantages to the individual requesting the change.
3. The existing land uses within the general vicinity of the property and the zoning classifications of property within the general vicinity of the subject property.
4. The suitability of the subject property for the uses permitted under the existing zoning classification.
5. The extent that the amendment may adversely affect the operation of public facilities or services including roadways, storm water management facilities, sewer and water services, and police and fire protection.
6. Consistency with the Indian Trail Comprehensive plan and small area plan if applicable.

TC Attachment 1 – Planning Board Staff Report



Town of
INDIAN TRAIL
north carolina

P.O. Box 2430
Indian Trail, North Carolina 28079
Telephone (704) 821-5401
Fax (704) 821-9045
PLANNING AND DEVELOPMENT DEPARTMENT

Zoning Map Amendment Staff Report

Case: ZM 2012-002 Brandon Oaks		
Reference Name	Brandon Oaks II Rezoning	
Request	Proposed Zoning	SF-4 with PED Overlay 1
	Proposed Use	Single-Family Residential
Existing Site Characteristics	Existing Zoning	R-20 (Union County)
	Existing Use	Single-Family Residential
	Site Acreage	0.366 acres (approx.)
Applicant	Town of Indian Trail	
Submittal Date	6/1/12	
Location	Brandon Oaks Phase 9 consisting of two properties recently annexed in Annexation #131.	
Tax Map Numbers	2-Parcels. 07091004 and 07091029	
Plan Consistency	Town of Indian Trail Comp. Plan	Designation- Sun Valley Suburban Mix Village
		Consistent with Request
Recommendations & Comments	Planning Staff	Recommends Approval for SF-4 with PED Overlay 1

Project Summary

Request: To rezone two (2)-parcels (approx. 0.366 acres) from Union County Residential-20 (R-20) to Single-Family Residential-4 (SF-4) with a Pre-Existing Development Overlay (PED Overlay 1). The two properties comprising the subject property are generally located near the intersection of Garden Oak Dr. and Canopy Dr. and the intersection of Corrona Ln. and Sipes Pl. within Brandon Oaks Phase 9 (see Figure 1).

Staff Recommendation- Staff recommends the Planning Board receive the report and recommend approval to the Town Council as presented.

General Information

The subject property is currently zoned for single-family residential uses (Union County R-20) and the intent of the proposed rezoning is to assign it the closest compatible Town zoning

district. The subject property was annexed into the Town of Indian Trail on June 1, 2012 (Annexation #131). State law requires annexed property to undergo a Zoning Map Amendment process to establish Town zoning on the subject property. Figure 1 depicts the two (2) parcels within the rezoning area, of which, both parcels are developed with single-family detached houses. Four (4) nearby unincorporated parcels within this section of Brandon Oaks were unable to be annexed in Annexation #131 and therefore are not part of this proposed Zoning Map Amendment. Staff will continue to assist unincorporated Brandon Oaks property owners with any potential future annexations.



Figure 1: Subject Property

Zoning Information

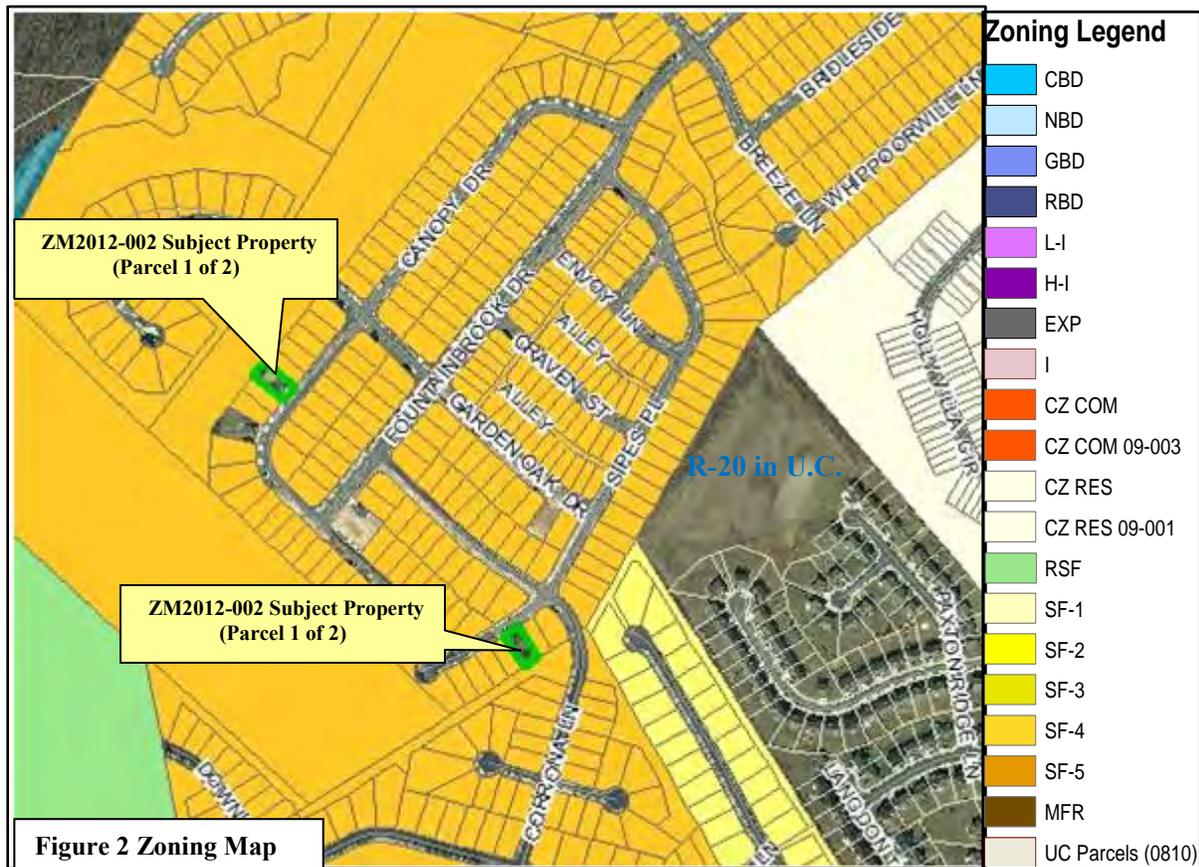
The subject property is currently zoned Residential-20 (R-20) under Union County zoning. The proposal requests to rezone the subject property to Single-Family Residential-4 (SF-4). The SF-4 district is intended to accommodate a variety of moderate intensity single-family residential development under conventional or planned development controls. Because the subject property was previously platted using Union County Smart Growth development standards, the rezoning proposal also contemplates a Pre-Existing Development Overlay (PED Overlay 1) to account for the previously approved dimensional requirements (setbacks, etc.) that do not correspond to the

SF-4 district. Table 1 below provides a snapshot of the differences between these standards. A copy of the applicable Brandon Oaks Phase 9 Final Plat Map reflecting the Union County standards are attached (Attachment 2).

TABLE1: DIMENSIONAL REQUIREMENT COMPARISON

	Town SF-4 District	Union County R-20 District
Lot Width	60-ft	60-ft.
Front Setback	30-ft	20-ft.
Rear Setback	40-ft.	15-ft.
Side Yard	10-ft.	5-ft/10-ft Streetside Min. 10-ft building separation

Adjacent uses and zoning classifications in the subject area are single-family residential (Town SF-2, SF-4, and R-20 in Union County). Existing Town properties within Brandon Oaks are also subject to a PED Overlay 1. Figure 2 below is the official zoning map for the area.



Site Characteristics

The subject property is approximately 0.366 acres in size and both parcels are in a developed condition. As previously noted, both parcels within the subject property are constructed with single-family detached homes.

Plan Consistency

Comprehensive Plan

The property is located within the Sun Valley Suburban Mix Village land use area of the Indian Trail Comprehensive Plan (see Figure 3). A Suburban Mix Village consists of land uses that promote a neighborhood setting with single-family detached houses as its primary development type. The single-family residential component characterizes this village, with retail development (predominately within village centers) providing convenient access to daily goods and services.

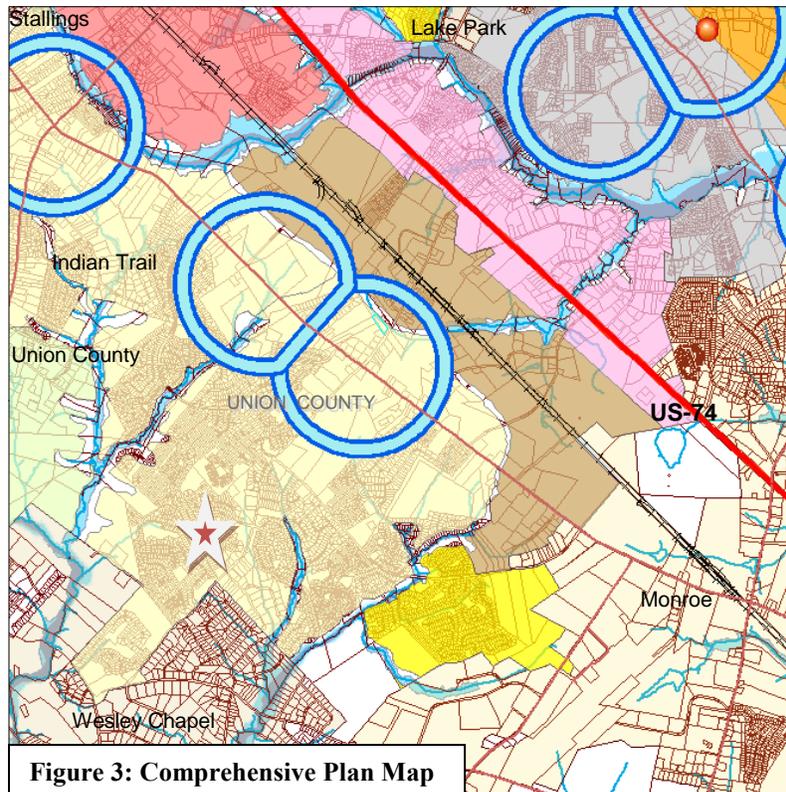


Figure 3: Comprehensive Plan Map

All Villages within the Comprehensive Plan identify a future land use make-up. The table below provides the current make-up and future build out.

Mix Village - Existing Land Sun Valley/Suburban Use Calculations

Land Use	Current Base	Percent Base	Flexibility Factor
Low Density Residential	2.25%	7%	+2
Medium Density Residential	51.35%	60%	-5
High Density Residential	2.91%	8%	+/-2
Multi-Family Residential	0.42%	3%	+/-1
Parks/Open Space/ Agriculture/ Forest	3.94%	6%	-
Institutional	6.38%	7%	+2
Retail	4.40%	2%	-

Office	1.00%	2%	-
Boulevards/Thoroughfares	5.09%	5%	-
Industrial	2.43%	-	-

The proposed petition, if approved, will not modify the above land use mix in light of the subject property being previously subdivided and the proposed Town zoning district being the closest compatible district to the existing R-20 zone. The rezone request is consistent with the Comprehensive Plan in the areas of medium density residential.

Action Required

The Planning Board must make findings prior to motioning for recommendation. The findings must be made that the proposed amendment is both reasonable and consistent with the Comprehensive Plan. Staff is of the opinion the goals of the Comprehensive Plan are satisfied as follows:

Goal 1.3.1 Quality of Life: A more sustainable quality of life to the residents of Indian Trail by establishing a greater sense of community and promoting a unique identity within the Town of Indian Trail for all residents.

The proposed rezoning to SF-4 with a PED Overlay 1 will help to promote a better quality of life for our residents by ensuring the continuation of the unique identity and residential character of the Brandon Oaks community.

Goal 1.3.1 Quality of Life: A diverse range of housing options, including varying densities of single family, multifamily, traditional neighborhood development (TND), and mixed-use communities in order to provide affordable living opportunities for a wide range of residents.

The proposed rezoning to SF-4 with a PED Overlay 1 will help provide a diverse range of housing opportunities in Indian Trail by providing additional medium density housing within an overall planned development community with varying housing sizes and densities.

The request for this zoning reclassification is a reasonable request and is in the public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of *Quality of Life* and is consistent with the adopted plans within the Town of Indian Trail.

Recommendation

The Planning Staff believes that the findings can be made to support the petition requesting a rezone to Single-Family Residential-4 with a PED 1 Overlay for the subject property.

Staff Contact

Rox Hunter Burhans, AICP
 Senior Planner
 (704) 821-5401 ext. 226
rburhans@planning.indiantrail.org

Attachment 1 – Application/Letter of Intent
 Attachment 2 – Final Plat Map
 Attachment 3- Draft Ordinance

PB ATTACHMENT ONE: APPLICATION

R000371

ZONING MAP AMENDMENT APPLICATION



Town of
**INDIAN
TRAIL**
north carolina

PLANNING AND DEVELOPMENT DEPARTMENT
PO Box 2430
Indian Trail, NC 28079
Telephone (704) 821-5401
Fax (704) 821-9045

DEADLINE: THE FIRST DAY OF THE EACH MONTH

ONLY COMPLETE APPLICATIONS ACCEPTED

Processing Fee \$500.00

Notification Fee \$2.50 per adjoining property owner

ZONING MAP AMENDMENT APPLICATION



Submittal Requirements

- Completed Application
- Notarized signatures of applicant and property owner
- Letter of Intent
- Fees associated with review

General Information

Project Address: Two (2) parcels recently annexed into the Town of Indian Trail by Annexation #131. Project addresses are 6005 Sipes Pl and 2010 Canopy Dr. Parcels are part of Brandon Oaks Phase 9.

City Indian Trail, North Carolina 28079

Tax Parcel ID: Parcels #s 07091004 and 07091029. Zoning Designation: Existing: R-20 in Unincorporated U.C. Proposed: SF-4 with PED Overlay 1.

Total Acres Approximately 0.366 acres Impervious Area N/A

Project Description: Proposed subject property consisting of two (2)-parcels was annexed into the Town of Indian Trail on June 1, 2012 (Annexation # 131). Proposed Zoning Map Amendment is to establish a compatible Town zoning district on the subject property. The proposed Town zoning district is Single-Family Residential-4 (SF-4) within a Pre-Existing Development Overlay District (PED Overlay 1). The PED Overlay 1 is to account for the subject property having been previously subdivided in unincorporated Union County with Smart Growth development standards (i.e. building setbacks, lot area, etc.) that do not correspond to the SF-4 district.

Contact Information – Applicant

Name Town of Indian Trail: Rox Burhans, Senior Planner

Address P.O. Box 2430

City Indian Trail, State NC Zip 28079

Phone 704-821-5401 Fax 704-821-9045

Email rburhans@planning.indiantrail.org

Contact Information – Property Owner

Name Initiated by Town of Indian Trail. Property owners are Justin and Sabrina Shipley (Siples Pl.) and Kimberly Sadler (Canopy Dr.)

Address _____

ZONING MAP AMENDMENT APPLICATION



City _____ State _____ Zip _____

Phone _____ Fax _____

Email _____

Applicant's Certification

Signature Rox Burhans Date 6/1/12

Printed Name/Title: Rox Burhans, Senior Planner

Signature of Notary Public Helen S. Baich Date 6/1/12



Property Owner's Certification

Signature Refer to applicant certification above Date _____

Printed Name/Title _____

Signature of Notary Public _____ Date _____

Notary Seal _____

TOWN OF INDIAN TRAIL OFFICE USE ONLY

Case Number: ZM2012-002

Date Received: 6/4/12 Amount of Fee: N/A

Received By: Rox Receipt #: N/A



ZONING MAP AMENDMENT APPLICATION

SCHEDULE

1. Submit Application
 - The deadline for this application is the first of the month each month.
 - Once an application is submitted it will be placed on the Planning Board Agenda for the following month.
2. Planning Board
 - Reviews application to ensure it is consistent with the Comprehensive Plan and UDO as well as all other adopted town plans.
 - Meets the 3rd Tuesday of every month.
3. Town Council
 - Legislative action to approve, approve with modifications, deny approval, or submit to the Planning Board for further study.
 - Meets 2nd and 4th Tuesday of every month.



Town of
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north carolina

P.O. Box 2430
Indian Trail, North Carolina 28079
Telephone (704) 821-5401
Fax (704) 821-9045

PLANNING AND NEIGHBORHOOD SERVICES DEPARTMENT

To: ZM2012-002 Project File
From: Rox Burhans, Senior Planner
Date: June 4, 2012
Re: **ZM2012-002 Brandon Oaks II Rezoning Letter of Intent**

The intent of the proposed Zoning Map Amendment is to establish a compatible Town of Indian Trail zoning classification for two (2) parcels recently annexed into the Town of Indian Trail.

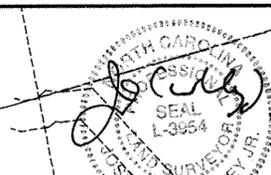
The subject property consisting of two (2)-parcels (Parcel #s 07091004 or 2010 Canopy Dr. and 07091029 or 6005 Sipes Pl.) was annexed into the Town of Indian Trail on June 1, 2012 (Annexation # 131). The proposed Town zoning district is Single-Family Residential-4 (SF-4) within a Pre-Existing Development Overlay District (PED Overlay 1). The PED Overlay 1 is to account for the subject property having been previously subdivided in unincorporated Union County with Smart Growth development standards (i.e. building setbacks, etc.) that do not correspond to the Town SF-4 district.

ZM2012-002 LOCATION MAP



PB ATTACHMENT TWO: FINAL PLAT MAP

"I, JOSEPH E. WHALEY, JR., STATE THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION IN DEED 1125-349, AND THAT THE RATIO OF PRECISION AS CALCULATED IS IN EXCESS OF 1:10000 WITH A MAXIMUM FIELD ERROR OF ANGULAR CLOSURE OF 7 1/2 SEC. PER ANGLE; THAT THIS PLAT IS OF A SURVEY THAT CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 27 DAY OF JULY, A.D., 2007.



DIVISION OF HIGHWAYS DISTRICT ENGINEER CERTIFICATE
 I HEREBY CERTIFY THAT THE STREETS ON THIS PLAT DESIGNATED AS PUBLIC ARE OR WILL BE IN ACCORDANCE WITH THE MINIMUM RIGHT-OF-WAY AND CONSTRUCTION STANDARDS ESTABLISHED BY THE BOARD OF TRANSPORTATION FOR ACCEPTANCE ON THE STATE HIGHWAY SYSTEM.
 DATE: 7/30/07
 DISTRICT ENGINEER: [Signature]

THE GARDENS AT BRANDON OAKS
 PHASE 9 MAP 5
 PLAT CAB. J FILE 689

21 20 19 18 17 16 15 14
 13 12 11 10 9 8 7 6
 5 4 3 2 1
 CANOPY DRIVE
 ECN
 LANDMARK TIE N38°58'47"E 600.00'

Seu Mena, REVIEW OFFICER OF UNION COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.
 Date: 8-15-07
 REVIEW OFFICER: [Signature]

Certificate of Approval
 I hereby certify that all streets shown on this plat are within Union County, of streets and other improvements shown on this plat have been installed or completed or that their installation or completion (within 24 months after the date below) has been assured by the posting of a performance bond or other sufficient surety, and that the subdivision shown on this plat is in all respects in compliance with the Union County Land Use Ordinance, and therefore this plat has been approved by the Union County Board of Commissioners, subject to its being recorded in the Union County Registry within ninety days of the date below.
 Date: 8-14-07
 Planning Director: [Signature]

Certificate of Ownership and Dedication.
 I hereby certify that I am the owner of the property described herein, which property is located within the subdivision regulation jurisdiction of Union County, that I hereby freely adopt this plan of subdivision and dedicate to public use or areas shown on this plat as streets, alleys, walks, parks, open space, and easements, except those specifically indicated as private, and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Board of Commissioners of the public interest.
 Date: 7/23/07
 Owner: PRESIDENT - PACE/DOWD PROPERTIES, LTD.
 VICE: [Signature]



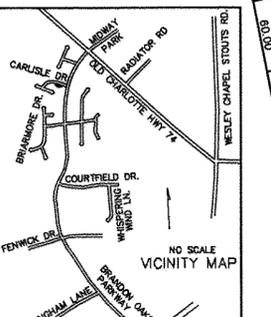
CHARLENE S. FLACK, a notary public of MECKLENBURG County, North Carolina, do hereby certify that [Signature] is the President of PACE/DOWD PROPERTIES, LTD. Personally appeared before me this day and acknowledged the due execution of the foregoing certificate.
 Witness my hand and official seal this 23 day of July, 2007.
 My commission expires: [Signature]
 NOTARY PUBLIC

NOW OR FORMERLY INTRALINA REALTY INVESTMENT
 DEED: 472-610
 TAX ID # 07-120-003

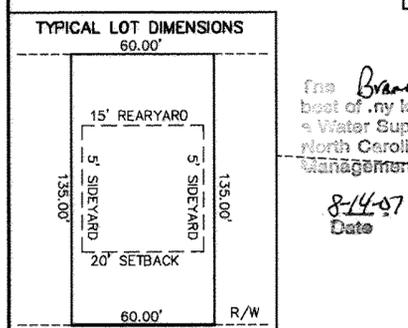
LEGEND
 AC - ACRE
 COS - COMMON OPEN SPACE
 ECM - EXISTING CONTROL MONUMENT
 L&M - 5'x5'0" LANDSCAPE AND MAINTENANCE EASEMENT
 PLAT CAB. - PLAT CABINET
 R/W - RIGHT-OF-WAY
 SAN. SEW. R/W - SANITARY SEWER RIGHT-OF-WAY
 PDE - PUBLIC DRAINAGE EASEMENT
 SF - SQUARE FEET
 ST - 10'x70' SIGHT TRIANGLE

NOTES
 A UNION COUNTY PUBLIC WORKS UTILITY & SANITARY SEWER RIGHT-OF-WAY SHALL EXIST ON ALL SANITARY SEWER LATERALS AND FIRE HYDRANTS. THE UTILITY & SANITARY SEWER RIGHT-OF-WAY IS LOCATED 5 FEET ALL SIDES FROM THE CLEAN-OUT OR FIRE HYDRANT TO THE PUBLIC ROAD RIGHT-OF-WAY.

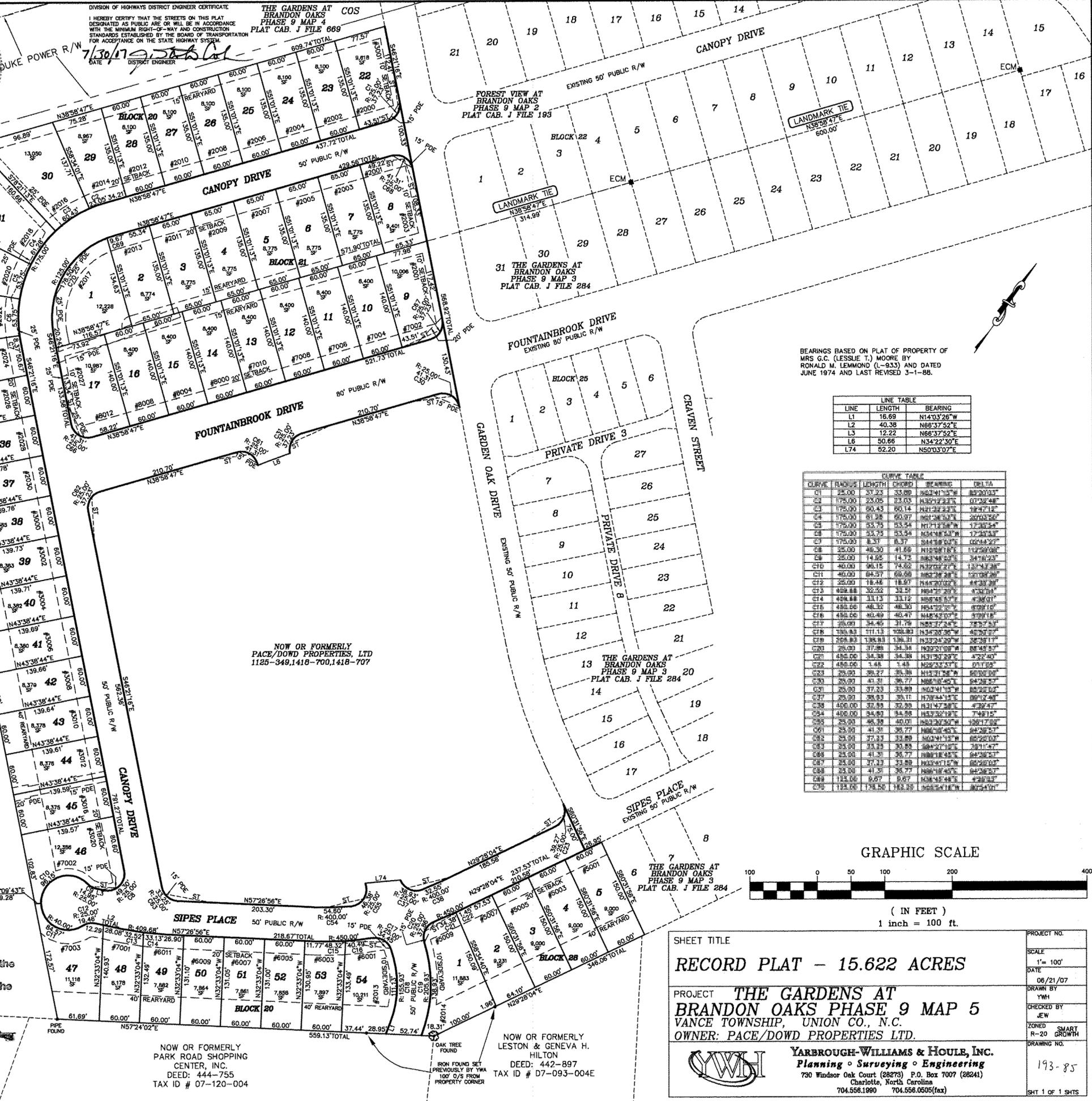
BERM AND LANDSCAPE EASEMENT
 ANY PORTION OF A LOT WHICH SHARES A BERM, LANDSCAPE PLANTING, IRRIGATION SYSTEM OR THE PROJECT MONUMENTATION WITH THE COMMON AREA OR ANY OTHER AREA FOR WHICH THE ASSOCIATION IS RESPONSIBLE FOR THE MAINTENANCE THEREOF SHALL BE SUBJECT TO AN EASEMENT IN FAVOR OF THE ASSOCIATION FOR LANDSCAPING, MOWING AND MAINTENANCE OF THE BERM, LANDSCAPE PLANTING, IRRIGATION SYSTEM OR THE PROJECT MONUMENTATION.
 NO NOCS TRAVERSE STATION WAS FOUND TO BE WITHIN 2000' BUILDER TO VERIFY SEWER DEPTH PRIOR TO CONSTRUCTION. AREA CALCULATED BY COORDINATE METHOD.
 IRON PINS ON ALL CORNERS UNLESS OTHERWISE NOTED.
 THIS PROPERTY SUBJECT TO ALL OTHER RIGHTS-OF-WAY AND EASEMENTS OF RECORD.
 DIVIDED MEDIAN TO BE MAINTAINED BY THE DEVELOPER OR HIS ASSIGNS.
 ALL PRIVATE DRIVES ARE TO BE MAINTAINED BY THE BRANDON OAKS HOMEOWNERS ASSOCIATION (ONE WAY TRAFFIC).



SECTION 190 SMART GROWTH
 60' LOTS
 FRONT SETBACK 20'
 REAR YARD 15'
 SIDEYARD ADJACENT TO STREET 10'
 MIN. SIDE YARD 5'
 *5' SIDEYARD OR 10' MINIMUM BUILDING SEPARATION



The Brandon Oaks Subdivision, to the best of my knowledge, does not lie within a Water Supply Watershed designated by the North Carolina Division of Environmental Management.
 Date: 8-14-07
 Planning Director: [Signature]



NOW OR FORMERLY PACE/DOWD PROPERTIES, LTD
 1125-349, 1416-700, 1418-707

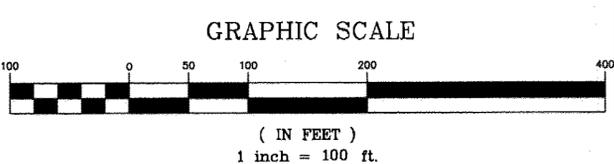
NOW OR FORMERLY PARK ROAD SHOPPING CENTER, INC.
 DEED: 444-755
 TAX ID # 07-120-004

NOW OR FORMERLY LESTON & GENEVA H. HILTON
 DEED: 442-897
 TAX ID # D7-093-004E

BEARINGS BASED ON PLAT OF PROPERTY OF MRS G.C. (LESLIE T.) MOORE BY RONALD M. LEMMOND (L-933) AND DATED JUNE 1974 AND LAST REVISED 3-1-88.

LINE	LENGTH	BEARING
L1	16.69	N14°03'26"W
L2	40.38	N66°37'52"E
L3	12.22	N66°37'52"E
L6	50.66	N34°22'30"E
L74	62.20	N60°03'07"E

CURVE	BEARING	LENGTH	CHORD	BEARING	AREA
C1	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C2	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C3	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C4	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C5	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C6	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C7	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C8	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C9	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C10	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C11	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C12	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C13	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C14	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C15	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C16	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C17	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C18	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C19	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C20	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C21	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C22	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C23	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C24	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C25	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C26	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C27	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C28	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C29	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C30	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C31	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C32	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C33	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C34	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C35	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C36	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C37	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C38	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C39	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C40	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C41	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C42	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C43	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C44	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C45	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C46	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C47	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C48	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C49	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C50	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C51	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C52	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C53	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C54	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C55	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C56	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C57	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C58	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C59	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00
C60	N38°58'47"E	600.00	600.00	N38°58'47"E	0.00



SHEET TITLE
RECORD PLAT - 15.622 ACRES

PROJECT
THE GARDENS AT BRANDON OAKS PHASE 9 MAP 5 VANCE TOWNSHIP, UNION CO., N.C.
 OWNER: PACE/DOWD PROPERTIES LTD.

YARBROUGH-WILLIAMS & HOULE, INC.
 Planning • Surveying • Engineering
 730 Windsor Oak Court (28273) P.O. Box 7007 (28241)
 Charlotte, North Carolina
 704.556.1990 704.556.0505(fax)

PROJECT NO.
 SCALE
 1" = 100'
 DATE
 06/21/07
 DRAWN BY
 YWH
 CHECKED BY
 JEW
 ZONED
 R-20 SMART GROWTH
 DRAWING NO.
 193-85
 SHEET 1 OF 1 SHEETS

Cab K 161

TC Attachment 2 – Ordinance

STATE OF NORTH CAROLINA)
)
TOWN OF INDIAN TRAIL)

ORDINANCE #

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE TOWN OF INDIAN TRAIL REZONING TWO (2) PARCELS TOTALING APPROXIMATELY 0.366 ACRES FROM RESIDENTIAL-20 (R-20) TO SINGLE-FAMILY RESIDENTIAL-4 (SF-4) WITH A PRE-EXISTING DEVELOPMENT OVERLAY (PED OVERLAY 1) IN THE TOWN OF INDIAN TRAIL, UNION COUNTY, NORTH CAROLINA

WHEREAS The Town of Indian Trail petitioned to rezone two (2) parcels that were recently annexed into the Town as part of Annexation #131 (parcels 07091004 and 07091029), from Residential-20 (R-20) to Single-Family Residential-4 (SF-4) with a Pre-Existing Development Overlay (PED Overlay 1) zoning classification; and

WHEREAS, this Zoning Map Amendment (ZM2012-002) was duly noticed in compliance with North Carolina General Statutes; and

WHEREAS, a meeting was held by the Planning Board on June 19, 2012 to consider this zoning request; and

WHEREAS, the Planning Board found the proposed amendment is consistent with the following goals of the Comprehensive Plan:

Goal 1.3.1 Quality of Life: A more sustainable quality of life to the residents of Indian Trail by establishing a greater sense of community and promoting a unique identity within the Town of Indian Trail for all residents.

The proposed rezoning to SF-4 with a PED Overlay 1 will help to promote a better quality of life for our residents by ensuring the continuation of the unique identity and residential character of the Brandon Oaks community.

Goal 1.3.1 Quality of Life: A diverse range of housing options, including varying densities of single family, multifamily, traditional neighborhood development (TND), and mixed-use communities in order to provide affordable living opportunities for a wide range of residents.

The proposed rezoning to SF-4 with a PED Overlay 1 will help provide a diverse range of housing opportunities in Indian Trail by providing additional medium density housing within an overall planned development community with varying housing sizes and densities.

WHEREAS, the Planning Board further finds zoning reclassification is a reasonable request and is in the public interest because it promotes the goals of the adopted Indian

Trail Comprehensive Plan in the areas of Quality of Life and is consistent with the adopted plans within the Town of Indian Trail.

WHEREAS, the Town Council held a public hearing on July 10, 2012 to consider said request, received public testimony, and recommendation of approval from the Planning Board; and

WHEREAS, the Town Council concurred with the Planning Board's consistency findings and hereby endorses said findings; and

NOW, THEREFORE, IT SHALL BE ORDAINED by the Town of Indian Trail Town Council that:

Section 1 ZM 2012-002 rezone petition be granted and the Zoning Map shall be amended to reflect the Single-Family Residential-4 (SF-4) with a Pre-Existing Development Overlay (PED Overlay 1) zoning designation for parcels recently annexed into the Town as part of Annexation #131 (parcels 07091004 and 07091029).

AND IT IS SO ORDAINED this 10th day of July, 2012.

TOWN OF INDIAN TRAIL COUNCIL

Honorable Michael Alvarez, Mayor

Attest:

Peggy Piontek, Town Clerk



Town of Indian Trail

Memo

TO: Mayor and Town Council

FROM: Scott J. Kaufhold, P.E., Town Engineer 

DATE: 7/3/12

COUNCIL DATE: 7/10/12

SUBJECT: Poplin Road Sidewalk Contract

General Information:

Staff held an informal bid opening for the construction of Poplin Road Sidewalk on Tuesday, July 3, 2012. This project includes the construction of concrete curb, gutter, storm drainage, and a five (5) foot wide concrete sidewalk along Poplin Road from Bonterra Boulevard to the existing sidewalk at the Annandale Subdivision.

The four bids ranged from \$123,915.00 to \$197,648.00. Staff recommends W. M. Warr & Son, Inc. with a bid of \$123,915.00 as the lowest responsive, responsible bidder.

Required Action:

Council Award of Contract

Attachments:

1. Poplin Road Sidewalk Contract
2. Bid Results



PROJECT MANUAL FOR

Poplin Road Sidewalk Contract

PROJECT NUMBER:

505-2012-003

TOWN OF INDIAN TRAIL, NORTH CAROLINA



Scott J. Kaufhold, P.E.
Director of Engineering and Public Works
Registered, North Carolina 024973

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I. **ADVERTISEMENT FOR BIDS**

Poplin Road Sidewalk Contract

Sealed bids will be received until 10:00 am Tuesday July 3, 2012 in the Engineering Department at 130 Blythe Drive, for Poplin Road Sidewalk Contract, 505-2012-003.

This project includes the construction of concrete curb, gutter, storm drainage, and a five (5) foot wide concrete sidewalk along Poplin Road from Bonterra Boulevard to the existing sidewalk at the Annandale Subdivision.

Project Length = 900'

Contract Documents can be obtained from:

Town of Indian Trail
Engineering Department
130 Blythe Drive
Indian Trail, NC, 28079

Phone: 704-821-1314

The Town of Indian Trail reserves the right to reject any and all proposals.

For more project information, contact Adam McLamb at 704-821-1314 or ajm@engineering.indiantrail.org

II. INSTRUCTIONS TO BIDDERS

The Town of Indian Trail (hereafter, the "Town") will receive sealed bids for the following Project:

PROJECT NAME:

Poplin Road Sidewalk Contract

PROJECT NUMBER:

505-2012-003

SCOPE OF WORK:

This contract consists of constructing concrete curb, gutter, storm drainage and a five (5) foot wide concrete sidewalk along Poplin Road from Bonterra Boulevard to the existing sidewalk at the Annandale Subdivision.

CONTRACT DOCUMENTS:

The Contract Documents are this Project Manual (which contains the Advertisement, Instructions to Bidders, Bid Documents, Agreement, Supplementary General Conditions, Special Conditions and Specifications), the Plans & Drawings, and any addenda. The Plans & Drawings will be available on Monday June 25, 2012. Contract documents can be mailed upon request for a nominal fee. A current e-mail address must be provided when contract is received.

BID DEADLINE:

Bids must be received by the Town at 130 Blythe Drive, Indian Trail, NC 28079, 10:00 am Tuesday July 3, 2012.

CONTENT OF BID:

Each Bid must contain the following fully-completed forms provided by the Town. The Project Manual, in its entirety (the Project Manual shall not be taken apart or altered), shall be submitted for bid consideration:

- a) Acknowledgement of Addenda (page 11 of this Project Manual)
- b) Itemized Bid Form (page 12 of this Project Manual)
- c) Representative Projects Form (page 13 of this Project Manual)
- d) Execution of Bid Form (page 14 of this Project Manual)
- e) Bid Bond (page 15 of this Project Manual)

All Bids shall be placed in a sealed envelope with the following information printed on the outside of the envelope:

BID FOR:	_____
	<i>Project Name & Number</i>
BIDDER'S NAME:	_____
	<i>Contractor's Name</i>
DO NOT OPEN UNTIL:	_____
	<i>Bid Opening Date & Time</i>

BID BOND:

Each Bid shall be accompanied by a bid bond or a certified check in the amount not less than 5% of the total amount of the Bid. When the bid security is in the form of a bid bond, that bid bond shall be executed by a corporate surety licensed in North Carolina to execute such bonds.

BIDS ARE FIRM OFFERS:

All Bids shall be firm offers to contract for 180 days from the Bid Deadline. Unless forfeited, Bid Bonds shall be returned to Bidders upon the earlier of Contract Award or 180 days from the Bid Deadline. All interest on cash bonds shall be retained by the Town.

BID PHASE CONTACT:

For questions regarding the Project or Instructions to Bidders, contact **Adam McLamb**. The Town will attempt to answer all questions in writing by email. THE TOWN WILL NOT MAKE AND BIDDERS MAY NOT RELY ON ORAL REPRESENTATIONS.

ADDENDA:

Addenda will be filed in the Town's Engineering Department and sent by email to all persons who have requested Contract Documents. The Bidder shall be responsible for inquiring if Addenda have been issued.

SELECTION CRITERIA:

The Town shall select as the contractor ("Selected Bidder") the lowest responsive and responsible Bidder, as required by North Carolina General Statutes. Consideration will be given only to Bids from contractors who are properly licensed, bonded, experienced in the class of work proposed, and who can refer to projects of similar magnitude and character that have been completed by them. The Town also reserves the right to reject any and all Bids and to waive informalities and technicalities as it may deem to be in its best interest.

ONLY ONE BID PER ENTITY:

No entity or person may submit or participate in the submission of more than one Bid.

CONTRACT AWARD:

The Town will inform the Selected Bidder of its selection and request that the Selected Bidder submit the executed Agreement plus insurance certificates and payment and performance bonds. The Selected Bidder shall submit the requested documents so that they are received by the Town within 10 calendar days (or such other time as designated by Town) from the date of notice of selection. The Selected Bidder's failure to do so will result in forfeiture of its bid bond and this contract. The contract shall not be deemed awarded and this Agreement shall not be binding on the Town unless and until both the Selected Bidder and Town have both executed the Agreement.

III. BID DOCUMENTS

ACKNOWLEDGEMENT OF ADDENDA

PROJECT NAME: Poplin Road Sidewalk Contract

PROJECT NUMBER: 505-2012-003

ACKNOWLEDGMENT OF ADDENDA

The Bidder hereby acknowledges receipt of any addenda

NUMBER: _____ DATE: _____ INITIAL: _____

Contractor Name: _____



**TOWN OF INDIAN TRAIL
POPLIN ROAD SIDEWALK CONTRACT**

Sect. No.	Item Description	Quantity	Unit	Unit Price	Amount
SP1	Mobilization	1	LS		
SP2	Grading	1	LS		
610	Asphalt Concrete Surface Course, S 9.5 C, Up To 3" Thick	40	TN		
610	Asphalt Concrete Intermediate Course, I 19.0 C, Up To 4" Thick	55	TN		
610	Asphalt Concrete Base Course, B 25.0 C, Up To 3" Thick	60	TN		
SP3	4" Concrete Sidewalk (Five feet wide)	490	SY		
SP3	6" Concrete Wheelchair Ramps	1	EA		
SP3	2' - 6" Concrete Curb and Gutter	770	LF		
SP4	Sidewalk Drainage Flume (See Detail Sheet 2d)	1	EA		
240	Drainage Ditch Excavation	70	CY		
310	15" RCP, Class III	16	LF		
340	Pipe Removal	6	LF		
340	Pipe Tie-In	1	EA		
545	Incidental Stone Base	20	TN		
840	Masonry Drainage Structures	1	EA		
840	Convert STD. 840.32 to DI Slab Top (See Detail Sheet 2d)	1	EA		
840	Frame and Cover (NCDOT STD. 840.03)	1	EA		
840	Frame and Cover (NCDOT STD. 840.16)	1	EA		
840	Masonry Drainage Structure Repair	1	EA		
876	Stone Inlet Protection with Fabric (City of Charlotte Detail 30.15)	1	EA		
1042	Rip Rap (Sta. 17+50)	20	TN		
1056	Filter Fabric for Drainage	25	SY		
1060	Erosion Control Matting (100% Biodegradable Coconut Matting)	200	SY		
SP5	Segmented Block Retaining Wall, Non-reinforced	220	SF		
SP6	Concrete Pedestrian Refuge Island (minimum 6" Thick)	15	CY		
SP7	Truncated Dome Mats (Existing Curb Ramps)	2	EA		
SP8	Borrow Material	150	CY		
SP9	Traffic Control	1	LS		
SP10	Materials Testing Services	1	LS		
SP11	School Zone Flasher	2	EA		
		Subtotal			
		Contingency 10%			
		Total			

REPRESENTATIVE PROJECTS FORM

1. Project: _____
Owner: _____
Contract Price: _____
Date Completed: _____
Owner Contact: _____

2. Project: _____
Owner: _____
Contract Price: _____
Date Completed: _____
Owner Contact: _____

3. Project: _____
Owner: _____
Contract Price: _____
Date Completed: _____
Owner Contact: _____

Contractor Name: _____

EXECUTION OF BID FORM

PROJECT NAME: Poplin Road Sidewalk Contract

PROJECT NUMBER: 505-2012-003

The person executing the Bid, on behalf of the Bidder, being first duly sworn, deposes and says that:

- (1) It is the intent of the Bidder to enter into this Contract to furnish materials, labor, and equipment required to perform all work specified in accordance with the instructions, terms, conditions, provisions, specifications, plans and all other Contract Documents incorporated into this Invitation to Bid;
- (2) He/she is fully informed regarding the preparation and contents of the attached Bid and of all pertinent circumstances regarding such Bid;
- (3) Neither he/she, nor any official, agent or employee of the Bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is a restraint of free competitive bidding in connection with is Bid;
- (4) He/she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability, or veteran's status; and

Type of Bidder: Sole Proprietor Partnership Limited Liability Company Corporation Joint Venture
(Check appropriate box)

BIDDER #1

Name _____

Address _____

Phone _____

Email _____

Printed Name _____

SIGNATURE _____

Title _____

NC General Contractor's License Number _____

Classification _____

Limits _____

Subscribed and sworn before me
this ____ day of _____, 201__

Signature
My commission expires _____

BID BOND

(Attach Bond and Power of Attorney to this sheet)

IV. AGREEMENT

AGREEMENT FOR CONSTRUCTION

THIS AGREEMENT ("Agreement"), made and entered into on or about _____, 201__, by and between the Town of Indian Trail, North Carolina, hereinafter called "Owner" and _____, hereinafter called "Contractor" (collectively, "Parties"),

WITNESSETH

In consideration of the mutual promises set forth herein, the parties hereto mutually promise and agree as follows:

1. **PROJECT:** Poplin Road Sidewalk
2. **COMPLETION OF WORK:** For the Contract Price, Contractor shall furnish all materials, labor, tools, equipment, and supervision for the construction of the Project and all expense, direct or indirect, connected with the proper execution of the same and of maintaining the same, until it is accepted by the Owner (the "Work"). All Work shall be performed and completed in an efficient and workmanlike manner, in accordance with the Contract Documents and in compliance with all applicable federal, local and state regulatory agencies.
3. **CONTRACT DOCUMENTS**
 - a. Advertisement
 - b. Instructions to Bidders
 - c. Bid Documents (Acknowledgment of Addenda, Itemized Bid Form, Representative Projects, Execution of Bid Form and Bid Bond)
 - d. This Agreement
 - e. Supplementary General Conditions
 - f. Specifications
 - g. Project Special Provisions
 - h. Plans & Drawings
 - i. Addenda

The Contract Documents listed above are all essential parts of the contractual requirements. The terms "Contract Documents" and "Contract" shall have the same meaning. A requirement occurring in one Contract Document is as binding as though occurring in all. They are intended to be complementary. In case of discrepancy, detailed provisions shall have precedence over general conditions. Should any addenda, change orders or supplemental agreements be issued at a later date, they will become part of the Contract Documents, and their terms shall take precedence over conflicting terms in earlier Contract Documents.

The Contractor shall not take advantage of any apparent error or omission in the Contract Documents. In the event the Contractor discovers an error or discrepancy, it shall immediately inform the Owner.

4. **CONTRACT PRICE:** This is a unit price contract. The Contract Price shall be the unit price for each pay item multiplied by the actual units of each pay item certified by Contractor on a pay request as described below and approved by the Owner as satisfactorily completed in accordance with the Contract. The pay items and their unit prices are set forth in the Itemized Bid Form. Change orders must be approved in writing prior to commencing work by both the Owner and the Contractor. The final Contract Price shall not be determined until the completion and acceptance by the Owner of the Work and shall be the sum of the approved amounts of all pay items.
5. **CONTRACT TIME:** The Contractor shall achieve Substantial Completion of the Work no later than **30 calendar days** from the date of commencement stated in the written Notice to Proceed. "Substantial Completion" shall mean all Work has been completed, inspection has occurred and a final punch list has been agreed upon.

No work will take place on Town designated holidays.

6. **LIQUIDATED DAMAGES:** Contractor has obligated itself to complete the Work within the Contract Time. Contractor acknowledges that the he or she will be accessed damages should the Work not be completed within the Contract Time. In lieu of proceedings to ascertain the amount of such damages, Contractor and Owner agree that such damages shall be equal to and Contractor shall be obligated to Owner in the amount of **\$500.00 (five hundred dollars) for each calendar day** the Work is not completed after the Contract Time.
7. **PAYMENTS:** Partial payments will be made upon receipt of Contractor invoice at least once each month as the Work progresses. Said payments will be based upon estimates, prepared by the Contractor and approved by Owner, of the value of the Work performed and materials complete in place in accordance with the Contract Documents. Each invoice shall include the Contractor's Affidavit Release and Waiver of Claim and the Sales and Use Tax Certification Statement.

No partial payment will be made when the amount due the Contractor since the last estimate amounts to less than ten thousand dollars (\$10,000.00).

No partial payment shall bind the Owner to the acceptance of any materials or work in place as to quality or quantity. All partial payments are subject to correction at the time of final payment as provided in the subsection titled ACCEPTANCE AND FINAL PAYMENT of this section.

8. **INDIAN TRAIL PRIVILEGE LICENSE:** An Indian Trail privilege license must be maintained throughout the life of the contract.
9. **GUARANTEE:** The Contractor shall guarantee all materials and workmanship for a period of twelve (12) months from the date of acceptance by the Town and shall replace any portions that fail because of faulty materials or workmanship at no additional cost to the Town. This guarantee shall include any grass that needs to be mowed that was seeded and mulched during construction. A six (6) month and eleven (11) month inspection will be held during the warranty period. The Contractor shall immediately repair all defective items upon notification. Items repaired under the provisions shall have an extended warranty period of twelve (12) months from the date of repair of the item.

The performance bond will be held as the guarantee for the twelve (12) month period.

10. **BONDS AND INSURANCE:** Owner's obligations under this Agreement are subject to the condition precedent that the Contractor provides a Performance Bond, Maintenance Bond, and Certificate of Insurance as required by the Contract Documents.

The successful bidder shall provide the Town with a contract payment bond in an amount equal to 100 percent of the estimated Contract Price (as determined by the Town) and a contract performance bond in an amount equal to 100 percent of the estimated Contract Price (as determined by the Town) within 10 calendar days (or such other time as designated by Town) from the date of notice of selection. All bonds shall be in conformance with G.S. 44A-33. The corporate surety furnishing the bonds shall be authorized to do business in the State.

The successful bidder's failure to submit acceptable bonds shall be just cause for the forfeiture of the bid bond or bid deposit and rescinding the award of the contract. Award may then be made to the next lowest responsible bidder or the work may be re-advertised and constructed under contract or otherwise, as the Town may decide.

SIGNATURE SHEET

CONTRACTOR FIRM NAME: _____

By: _____

Printed Name: _____

Title: _____

Date: _____

Address: _____

FEDERAL TAX ID NUMBER: _____

TOWN OF INDIAN TRAIL

By: _____
Town Manager

Date

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

By: _____
Finance Officer

Date

SURETY COMPANY CONTACTS

PAYMENT BOND NO.:

Surety Name:

Address:

Contact Person:

Title:

Phone No.:

PERFORMANCE BOND NO.:

Surety Name:

Address:

Contact Person:

Title:

Phone No.:

SURETY AGENCY/AGENT:

Agency Name:

Address:

Contact Person:

Title:

Phone No.:

Attach Performance Bond to this sheet.

Attach Payment Bond to this sheet.

Attach Certificate of Insurance to this sheet.

V. SUPPLEMENTARY GENERAL CONDITIONS

1. SCOPE OF WORK

1.1 ALTERATION OF WORK AND QUANTITIES

The Owner reserves and shall have the right to make such alterations in the Work as may be necessary or desirable to complete the Work in the manner acceptable to Owner. Unless otherwise specified herein, the Owner may make such alterations in the Work as may increase or decrease the originally awarded Contract quantities, and the Contractor agrees to value the increase or decrease in quantities using the unit prices set forth in the Itemized Bid Form, or if there are none, as agreed to by the parties. These alterations shall be covered by written Change Orders signed by Owner and Contractor. Change Orders for altered Work may include extensions of Contract Time if, in the Owner's opinion, such extensions are warranted by the amount and difficulty of added work.

1.2 MAINTENANCE OF TRAFFIC

When the Contract requires the maintenance of vehicular traffic on an existing road, street, or highway during the Contractor's performance of Work that is otherwise provided for in the Contract Documents, the Contractor shall keep such road, street, or highway open to all traffic and shall provide such maintenance as may be required to accommodate traffic. The Contractor shall furnish, erect, and maintain barricades, warning signs, flagmen, and other traffic control devices in reasonable conformity with the Manual of Uniform Traffic Control Devices for Streets and Highways (published by the United States Government Printing Office), unless otherwise specified herein.

The Contractor shall also construct and maintain in a safe condition any temporary connections necessary for ingress to and egress from abutting property or intersecting roads, streets or highways. Unless otherwise specified herein, the Contractor will not be required to furnish snow removal for such existing road, street, or highway.

The Contractor must contact NCDOT before any work is performed along state maintained streets.

1.3 FINAL CLEANING UP

Upon completion of the Work and before acceptance and final payment will be made, the Contractor shall remove from the site all machinery, equipment, surplus and discarded materials, rubbish, temporary structures, and stumps or portions of trees on all ground occupied during the project. The contractor shall leave the site in a neat and presentable condition. Material cleared from the site and deposited on adjacent property will not be considered as having been disposed of satisfactorily, unless the Contractor has obtained the written permission of such property owner.

1.4 ACCESS TO THE WORK

The Contractor shall identify access routes with suitable signs, barricades and similar equipment. The entire access route and construction site shall be kept free and clean of all debris at all times and maintained in good repair by the Contractor. All damage to the access route caused by the actions of the Contractor or his agents shall be immediately repaired to the satisfaction of the Owner. The Contractor shall be responsible for notifying property owners five (5) days in advance of work affecting driveway access.

1.5 MAINTENANCE DURING CONSTRUCTION

The Contractor shall maintain the Work during construction and until the Work is accepted. This maintenance shall constitute continuous and effective work prosecuted day by day, with adequate equipment and forces so that the Work is maintained in satisfactory condition at all times. In the case of a contract for the placing of a course upon a course or subgrade previously constructed, the Contractor shall maintain the previous course or subgrade during all construction operations. All costs of maintenance work during construction and before the project is accepted shall be included in the unit prices bid on the various contract items, and the Contractor will not be paid an additional amount for such work.

END OF SCOPE OF WORK

2. CONTROL OF WORK

2.1 CONFORMITY WITH PLANS AND SPECIFICATIONS

The current edition including revisions of the North Carolina Department of Transportation, Standard Specifications for Roads and Structures, hereinafter referred to as the "Standard Specifications" shall apply on all portions of the project unless otherwise specified herein.

All Work and all materials furnished shall be within the specified tolerances of the lines, grades, grading sections, cross sections, dimensions, material requirements, and testing requirements that are specified in the contract, plans and specifications.

If the Owner finds the materials furnished, Work performed, or the finished product not within the specified tolerances of the plans and specifications but that the portion of the Work affected will, in its opinion, result in a finished product having a level of safety, economy, durability, and workmanship acceptable to the Owner, that the affected Work be accepted and remain in place. In this event, the Owner determines an adjustment in the Contract Price for the affected portion of the Work.

If the Owner finds the materials furnished, Work performed, or the finished product are not within the specified tolerances of the plans and specifications and have resulted in an unacceptable finished product, the affected Work or materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor in accordance with the Owner's written orders.

For the purpose of this subsection, the term "reasonably close conformity" shall not be construed as waiving the Contractor's responsibility to complete the Work in accordance with the Contract Documents. The term shall not be construed as waiving the Owner's right to insist on strict compliance with the requirements of the Contract Documents.

2.2 COOPERATION OF CONTRACTOR

The Contractor will be supplied with two (2) copies each of the plans and specifications. He shall have available on the Site at all times, one copy each of the plans and specifications. Additional copies of plans and specifications may be obtained by the Contractor for the cost of reproduction.

The Contractor shall give constant attention to the Work to facilitate the progress thereof, and he shall cooperate with the Owner and his/her inspectors, the Engineer and with other contractors in every way possible. The Contractor shall have a competent superintendent on the Work at all times who is fully authorized as his/her agent on the Work. The superintendent shall be capable of reading and thoroughly understanding the plans and specifications and shall receive and fulfill instructions from the Owner or his/her authorized representative.

2.3 COOPERATION BETWEEN CONTRACTORS

The Owner reserves the right to contract for and perform other or additional work on or near the Work covered by this contract.

When separate contracts are let within the limits of any one project, each contractor shall conduct his/her Work so as not to interfere with or hinder the progress of completion of the Work being performed by other contractors. Contractors working on the same project shall cooperate with each other as directed.

Each contractor involved shall assume all liability, financial or otherwise, in connection with his/her contract and shall protect and save harmless the Owner from any and all damages or claims that may arise because of inconvenience, delays, or loss experienced by him because of the presence and operations of other contractors working within the limits of the same project.

The Contractor shall arrange his/her work and shall place and dispose of the materials being used so as not to interfere with the operations of the other contractors within the limits of the same project. He shall join his/her work with that of the others in an acceptable manner and shall perform it in proper sequence to that of the others.

2.4 AUTHORITY AND DUTIES OF INSPECTORS

Inspectors employed by the Owner shall be authorized to inspect all work done and all material furnished. Such inspection may extend to all or any part of the Work and to the preparation, fabrication, or manufacture of the materials to be used. Inspectors are not authorized to revoke, alter, or waive any provision of the contract. Inspectors are not authorized to issue instructions contrary to the plans and specifications or to act as foreman for the Contractor.

2.5 INSPECTION OF THE WORK

All materials and each part or detail of the Work shall be subject to inspection by the Owner or Owner's inspectors. The Owner and Owner's inspectors shall be allowed access to all parts of the Work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.

If the Owner or Owner's inspector requests it, the Contractor, at any time before acceptance of the Work, shall remove or uncover such portions of the finished Work as may be directed. After examination, the Contractor shall restore said portions of the Work to the standard required by the specifications. Should the Work thus exposed or examined prove acceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be paid for as Extra Work; but should the Work so exposed or examined prove unacceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be at the Contractor's expense.

Any Work done or materials used without supervision or inspection by the Owner may be ordered removed and replaced at the Contractor's expense unless the Owner failed to inspect after having been given reasonable notice in writing that the Work was to be performed.

2.6 REMOVAL OF UNACCEPTABLE AND UNAUTHORIZED WORK

All Work which does not conform to the requirements of the Contract Documents will be considered unacceptable, unless otherwise determined acceptable as provided in the subsection titled CONFORMITY WITH PLANS AND SPECIFICATIONS.

Unacceptable Work, whether the result of poor workmanship, use of defective materials, damage through carelessness, or any other cause found to exist prior to the final acceptance of the Work, shall be removed immediately and replaced in an acceptable manner at the Contractor's expense.

Upon failure on the part of the Contractor to comply forthwith with any order of the Owner made under the provisions of this subsection, the Owner will have authority to cause unacceptable work to be remedied or removed and replaced and unauthorized work to be removed and to deduct the costs (incurred by the Owner) from any monies due or to become due the Contractor.

2.7 LOAD RESTRICTIONS

The Contractor shall comply with all legal load restrictions in the hauling of materials on public roads beyond the limits of the Work. A special permit will not relieve the Contractor of liability for damage which may result from the moving of material or equipment.

The operation of equipment of such weight or so loaded as to cause damage to structures or to any other type of construction will not be permitted. Hauling of materials over the base course or surface course under construction shall be limited as directed. No loads will be permitted on a concrete pavement, base, or structure before the expiration of the curing period.

The Contractor shall be responsible for all damage done by his/her hauling equipment and shall correct such damage at its own expense.

2.8 RETEST OF WORK

When as provided for in the Contract Documents, the Owner performs sampling and tests of the Work and if the tests show a failure to meet the requirements of the Contract Documents, the expense of retesting, after reworking or substitution by the Contractor will be at the expense of the Contractor and such costs will be deducted from the payments otherwise due to the Contractor.

2.9 CHARACTER OF WORKERS, METHODS AND EQUIPMENT

The Contractor shall, at all times, employ sufficient labor and equipment for prosecuting the Work to full completion in the manner and time required by the contract, plans, and specifications.

All workers shall have sufficient skill and experience to perform properly the work assigned to them. Workers engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform the work satisfactorily.

All equipment which is proposed to be used on the Work shall be of sufficient size and in such mechanical condition as to meet requirements of the Work and to produce a satisfactory quality of work. Equipment used on any portion of the Work shall be such that no injury to previously completed work, or adjacent property.

When the methods and equipment to be used by the Contractor in accomplishing the Work are not prescribed in the contract, the Contractor is free to use any methods or equipment that will accomplish the Work in conformity with the requirements of the contract, plans, and specifications.

Any person employed by the Contractor or by a subcontractor who, in the opinion of the Owner does not perform its work in a proper and skillful manner or is intemperate or disorderly shall, at the written request of the Owner, be removed forthwith by the Contractor or subcontractor employing such person, and shall not be employed again in any portion of the Work without the approval of the Engineer.

Should the Contractor fail to remove such person or persons or fail to furnish suitable and sufficient personnel for the proper prosecution of the Work, the Owner may suspend the Work by written notice until compliance with such orders.

The failure to provide adequate labor and equipment may be considered cause for terminating the Contract.

2.10 FIRE PREVENTION

Contractor shall conform to all Federal, State, and local laws and regulations pertaining to burning, fire prevention and control within or adjacent to the project. Necessary precautions to avoid and eliminate fire hazards shall be the responsibility of the Contractor. This includes keeping the Contract Work area clear of all trash at all times.

All tarpaulins used for any purpose during construction of any work shall be made of material resistant to fire, water and weather and shall bear UL labels. Lighting of any fires on premises is strictly forbidden.

Contractor shall provide portable fire extinguishers compatible with the hazard of each work area and shall instruct its personnel in their location and use. Wherever welding and burning are conducted, no inflammable materials shall be allowed, and welding activities shall be shielded. The Contractor shall post a Hot Work Permit whenever an open flame shall be utilized for work.

2.11 PUMPING AND DRAINAGE

Surface or sub-surface water or other fluid shall not be permitted to accumulate in excavations or under any structure. Should such conditions develop or be encountered, the water or other fluid shall be controlled and suitably disposed of by means of temporary pumps, piping, drainage lines and ditches, dams or other methods approved by the Owner and other public agencies having jurisdiction.

2.12 DUST CONTROL

The Contractor, for the duration of the Contract, shall maintain all excavations, embankments, haul roads, access roads, plant sites, waste disposal areas, borrow areas, and all other work areas free from dust. Industry-accepted methods of dust control suitable for the area involved and approved by Owner will be permitted.

2.13 WATER POLLUTION

Contractor shall, at its expense, provide suitable facilities to prevent the introduction of any substances or materials into any stream, river, lake or other body of water, which may pollute the water or constitute substances or materials deleterious to fish and wild life.

2.14 ILLUMINATION

When any work is performed at night or where daylight is shut off or obscured, Contractor shall, at its expense, provide artificial light sufficient to permit work to be carried on efficiently, satisfactorily and safely, and to permit thorough inspection. During such time periods the access to the place of work shall also be clearly illuminated. All wiring for electric light and power shall be installed and maintained in compliance with local code, securely fastened in place at all points, and shall be kept as far as possible from telephone wires, signal wires, and wires used for firing blasts.

2.15 HAZARDOUS MATERIAL

The Contractor shall immediately notify Owner of any hazardous materials subsequently found on the site and shall not remove same without the permission of Owner.

If the contractor caused the hazardous material and subsequent contamination, Contractor shall remove said hazardous material and contaminated soils or materials from the site and shall dispose of same in accordance with all Federal, State or Local laws or regulations. Removal of such materials and contamination shall be monitored by a licensed hazardous materials laboratory, and said laboratory shall prepare a written report attesting to the complete removal of the contaminating material and resulting contamination, all to the satisfaction of, and at no cost to, the Owner.

2.16 EROSION CONTROL

Contractor shall also follow all erosion control measures on construction drawings and or plans and specifications. Contractor shall conform to all Federal, State, and local laws and regulations pertaining to erosion control within or adjacent to the project.

2.17 ADDITIONAL WORK

Additional work is that which results from a change or alteration in the contract and for which there are existing contract unit prices.

END OF CONTROL OF WORK

3. PROSECUTION AND PROGRESS

3.1 PRE-CONSTRUCTION MEETING

A pre-construction conference will be scheduled as soon as practical after the award of the Contract. The Contractor shall attend the conference along with the prospective job superintendent, any anticipated major subcontractors and major material suppliers. A proposed progress schedule in a form satisfactory to the Engineer and a statement of the anticipated monthly progress payments showing the percent of progress each month shall be submitted.

The Contractor shall also provide at least two (2) local telephone numbers that may be used to contact the Contractor or his authorized representative in the event of an emergency after normal business hours. The Contractor will provide a Request for Taxpayer Identification Number and Certification (W-9). Upon receipt of the required documentation, a Notice to Proceed will be issued by the Engineer.

The Town will provide two (2), copies of the contract to the contractor and the pre-construction conference. Additional copies may be obtained subject to the cost of printing.

3.2 NOTICE TO PROCEED

A Notice to Proceed will be issued to the Contractor upon receipt of a fully executed contract, bonds, insurance certificates, receipt of approval by other governmental agencies (if required) and any other documentation required by the Engineer.

3.3 PROSECUTION AND PROGRESS

Unless otherwise specified, the Contractor shall submit his/her progress schedule for the Owner's approval at the pre-construction meeting. The Contractor's progress schedule, when approved by the Owner, may be used to establish major construction operations and to check on the progress of the Work.

If the Contractor falls significantly behind the submitted schedule, the Contractor shall, upon the Owner's request, submit a revised schedule for completion of the Work within the Contract Time and modify his/her operations to provide such additional materials, equipment, and labor necessary to meet the revised schedule. Should the prosecution of the Work be discontinued for any reason, the Contractor shall notify the Owner in writing at least 24 hours in advance of resuming operations.

The Contractor shall not commence any actual construction prior to the date set forth in the Notice to Proceed.

3.4 TEMPORARY SUSPENSION OF THE WORK

The Owner shall have the authority by written notice to the Contractor, to suspend the Work wholly, or in part, for such period or periods as the Owner may deem necessary, or for such time as is necessary due to the failure on the part of the Contractor to carry out orders given or to perform any or all of the Contractor's other duties under this Contract.

- A. If the Contractor is ordered by the Owner to suspend the Work under this Section due to an unforeseen cause not otherwise provided for in the other provisions of this Contract and over which the Contractor has no control, the Contractor may be reimbursed for actual money expended on the Work during the period of shutdown. No allowance will be made for anticipated profits. The period of shutdown shall be computed from the effective date of the Owner's order to suspend the Work to the effective date of the Owner's order to resume the Work. Claims for such compensation shall be filed with the Owner within the time period stated in the Owner's order to resume work. The Contractor shall submit with its claim information substantiating the amount shown on the claim.

- B. If the Work is suspended under this Section for an indefinite period, the Contractor shall perform the following duties:
1. Suitably store all materials.
 2. Implement measures to protect existing work from damage or deterioration.
 3. Erect such temporary structures and barricades as necessary to provide for traffic on, to or from the Project.
 4. Periodically inspect and maintain the Work and temporary measures during the suspension period, and repair any damage to the Work during the suspension period.
 5. Maintain all insurance and bond coverage.
 6. Perform such other work as required by the Contract Documents with respect to the Project.
 7. Remobilize when ordered to resume the Work by the Engineer.

The Contractor shall notify the Owner in writing fourteen (14) calendar days prior to demobilizing. At the time that the written notice is given to the Owner, the Contractor shall submit a written estimate of any costs of remobilization except in those cases in which the Contractor will bear the costs of remobilization under Paragraph C hereof. Compliance by the Contractor with such notice requirement, and with the requirement for submitting such written estimate, shall be a prerequisite to the Contractor's right to recover any costs incurred by the Contractor to comply with this Paragraph B, to the extent the Contractor would otherwise have a claim for such costs hereunder.

- C. If the Contractor requests a suspension of the Work in whole or in part, or if the Contractor is ordered by the Owner to suspend the Work under this Section due to inclement weather, due to the Contractor's failure to carry out orders given or due to the Contractor's failure to perform any of the Contractor's other duties under this Contract, then:
1. The Contractor shall not be entitled to any additional compensation for fulfilling the duties that the Contractor is required to perform by reason of such suspension, regardless of whether any additional compensation would otherwise be allowed hereunder, including, without limitation, any additional compensation for fulfilling any of the duties that are imposed upon the Contractor under Paragraph B hereof or for fulfilling the Contractor's duty to remobilize at the end of such suspension; and
 2. The Contractor shall pay the Owner all of the costs that are incurred by the Owner by reason of such suspension, including, but not limited to, the Engineer's fees and the costs of any necessary inspections or testing during the period of such suspension.

3.5 ADJUSTMENT OF CONTRACT TIME

The Contract Time may be adjusted only by change order, when requested by the Contractor in writing and approved by the Owner, for reasons outside of the Contractor's control, as follows:

- A. Natural disasters affecting the site; or
- B. Excessive rainfall during the entire calendar month, defined as total monthly rainfall in excess of the normal rainfall for that calendar month and total number of days with more than 0.10 inches of rainfall in excess of the normal number of such days for that calendar month. Normal values shall be taken as published in "Climatology of the United States No. 20 for North Carolina"; or

- C. Suspension of the Work as order by the Owner; or
- D. Delays in critical work by others that is not part of this Contract; or
- E. Significant additions to the scope of the Work.

The Contractor shall bear the burden of proof that a delay has been caused by factors outside his control, shall clearly demonstrate how the delay impacts the critical path of the Work as shown on his work schedule as last revised, and shall demonstrate that he has made reasonable and prudent efforts to overcome the impact of the delay on the critical path. With respect to item (b) above, a condition precedent to meeting its burden of proof will be the monthly submission to the owner of a statement of the number of days, if any, the Contractor was prevented from prosecuting the Work during the immediately preceding month due to excessive rainfall.

3.6 FAILURE TO COMPLETE PUNCH LIST ON TIME

The Contractor shall complete all punch list items determined by the Owner within thirty (30) calendar days. Should the Contractor fail or refuse to complete all punch list items to the satisfaction of the Owner within the said 30-day period, the Owner shall have the right to complete all said punch list items. In such event, Owner shall be entitled to recover from Contractor the Owner's actual costs incurred in completing such punch list items, plus any and all consequential damages and costs incurred by Owner as a result of Contractor's failure to complete such punch list items. Failure to complete all punch list items within thirty (30) calendar days, shall be considered Default of Contract and shall result in loss of any remaining retainage otherwise due to the Contractor.

3.7 DEFAULT AND TERMINATION OF CONTRACT

The Contractor shall be considered in default and such default will be considered as cause for the Owner to terminate the Contract for any of the following reasons if the Contractor:

- A. Fails to begin the Work under the Contract within ten (10) calendar days of the date of commencement specified in the "Notice to Proceed"; or
- B. Fails to perform the Work or fails to provide sufficient workers, equipment or materials to assure completion of the Work in accordance with the terms of the Contract; or
- C. Performs the Work unsuitably or neglects or refuses to remove materials or to perform anew such Work as may be rejected as unacceptable and unsuitable; or
- D. Discontinues the prosecution of the Work; or
- E. Fails to resume Work which has been suspended within a reasonable time after notice to do so; or
- F. Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency; or
- G. Allows any final judgment related to the Project to stand against him unsatisfied for a period of 10 days; or
- H. Makes an assignment for the benefit of creditors; or
- I. Fails to perform any covenant of this Contract, or
- J. For any other cause whatsoever, fails to carry on the Work in an acceptable manner.

Should the Owner consider the Contractor in default of the Contract for any reason hereinbefore, the Owner shall immediately give written notice to the Contractor and the Contractor's surety as to the reasons for considering the Contractor in default and the Owner's intentions to terminate the contract.

If Contractor or Surety shall fail to cure such default within 10 calendar days after such written notice from the Owner of the existence of such default or, if such default cannot with reasonable diligence be cured within a period of 10 calendar days, then upon the failure of the Contractor to commence to cure such default within said 10-day period and to proceed with due diligence to complete the remedying of said default; then the Owner will, have full power and authority, without violating the Contract, to terminate the Contract and/or to take control of the Work.

All costs and charges incurred by the Owner, together with the cost of completing the Work, will be deducted from any monies due or which may become due the Contractor. If such expense exceeds the sum which would have been payable under the contract, then the Contractor and the surety shall be liable and shall pay to the Owner the amount of such excess.

3.8 TERMINATION FOR CONVENIENCE

At any time after the acceptance of this Contract, the Owner shall have the absolute right to terminate the entire Contract or any part thereof for any reason whatsoever.

3.9 ACTIONS UPON TERMINATION OR TERMINATION FOR CONVENIENCE

Upon receipt of such notice of termination, the Contractor shall:

- A. Stop the performance of the Work.
- B. Take any other action toward termination of the Work which the Owner directs, including but not limited to:
 1. Stabilization of the unfinished site to meet the conditions of the erosion and sediment control permit and at the direction of the Department of Environment and Natural Resources.
 2. Maintain the necessary traffic control devices until all potential hazards due to unfinished construction activities have been removed and/or to the satisfaction of the Owner. Traffic control devices that are determined by the Owner to remain shall become the property of the Owner.
 3. Complete any pay item as directed by the Owner that if left uncompleted may result in a safety hazard.
 4. Deliver all paid stored materials stored off site and material stored on site to a location directed by the Owner.
 5. Remove all temporary facilities.
 6. Provide any necessary items of Work to secure the Site from public access as directed by the Engineer.

3.10 PAYMENT UPON TERMINATION

When the Contract, or any portion thereof, is terminated before completion of all pay items, payment will be made for the actual number of units or items of Work completed at the Contract price or as mutually agreed for items of Work partially completed.

If the Contract is terminated under Paragraph 3.8 (Termination for Convenience), reimbursement for organization of the Work, and other overhead expenses, (when not otherwise included in the contract) and moving equipment and materials to and from the job will be considered, the intent being that an equitable settlement will be made with the Contractor.

Acceptable materials, obtained or ordered by the Contractor for the Work and that are not incorporated in the Work shall, at the option of the Owner, be purchased from the Contractor at actual cost as shown by receipted bills and actual cost records at such points of delivery as may be designated by the Owner.

If the sum of all previous payments and credits made by the Owner exceeds the sum payable due to the Contractor, such excess shall be refunded by the Contractor to the Owner immediately upon the determination of such excess by the owner.

If the Contract is terminated under Paragraph 3.8 (Termination for Convenience), the Contractor shall be paid a sum as profit determined taking the amount of profit the Contractor would have received upon completing this Contract, multiplied by a fraction, the numerator of which is the value of the Work completed as of the date of receipt of the notice of termination and the denominator of which is the Contract Price.

Termination of the Contract or a portion thereof shall neither relieve the Contractor of his/her responsibilities for the completed Work nor shall it relieve his/her surety of its obligation for and concerning any just claim arising out of the Work performed.

The Owner shall be given full access to all books, cost records, correspondence and papers of the Contractor relating to the Contract in order to determine amounts to be paid the Contractor due to any termination of the Contract.

3.11 PARTIAL ACCEPTANCE

If at any time during the prosecution of the Work the Contractor substantially completes a usable unit or portion of the Work, the occupancy of which will benefit the Owner, he may request the Owner to make final inspection of that unit. If the Owner finds upon inspection that the unit has been satisfactorily completed in compliance with the Contract, he may accept it as being completed, and the Contractor may be relieved of further responsibility for that unit. Such partial acceptance and beneficial occupancy by the Owner shall not void or alter any provision of the Contract.

3.12 FINAL ACCEPTANCE

Upon due notice from the Contractor of presumptive completion of the entire Work, the Owner will make an inspection. If all construction provided for and contemplated by the Contract is found to be completed in accordance with the Contract Documents, such inspection shall constitute the final inspection. The Owner shall notify the Contractor in writing of final acceptance as of the date of the final inspection.

If, however, the inspection discloses any Work, in whole or in part, as being unsatisfactory, the Owner will give the Contractor the necessary instructions for correction of same and the Contractor shall immediately comply with and execute such instructions. Upon correction of the Work, another inspection will be made which shall constitute the final inspection, provided the Work has been satisfactorily completed. In such event, the Owner will make the final acceptance and notify the Contractor in writing of this acceptance as of the date of final inspection.

END OF PROSECUTION AND PROGRESS

4. MEASUREMENT AND PAYMENT

4.1 MEASUREMENT OF QUANTITIES

All Work completed under the Contract will be measured by the Owner, or his/her authorized representatives, using United States Customary Units of Measurement.

The method of measurement and computations to be used in determination of quantities of material furnished and of Work performed under the Contract will be those methods generally recognized as conforming to good engineering practice.

Unless otherwise specified, longitudinal measurements for area computations will be made horizontally, and no deductions will be made for individual fixtures (or leave-outs) having an area of 9 square feet or less. Unless otherwise specified, transverse measurements for area computations will be the neat dimensions shown on the plans or ordered in writing by the Engineer.

Structures will be measured according to neat lines shown on the plans or as altered to fit field conditions.

Unless otherwise specified, all pay items which are measured by the linear foot such as electrical ducts, conduits, pipe culverts, underdrains, and similar items shall be measured parallel to the base or foundation upon which such items are placed.

In computing volumes of excavation the average end area method or other acceptable methods will be used.

The thickness of plates and galvanized sheet used in the manufacture of corrugated metal pipe, metal plate pipe culverts and arches, and metal cribbing will be specified and measured in decimal fraction of inches.

The term "ton" will mean the short ton consisting of 2,000 pounds avoirdupois. All materials which are measured or proportioned by weights shall be weighed on accurate, approved scales by competent, qualified personnel at locations designated by the Engineer. If material is shipped by rail, the car weight may be accepted provided that only the actual weight of material be paid for. However, car weights will not be acceptable for material to be passed through mixing plants. Trucks used to haul material being paid for by weight shall be weighed empty daily at such times as the Engineer directs, and each truck shall bear a plainly legible identification mark.

Materials to be measured by volume in the hauling vehicle shall be hauled in approved vehicles and measured therein at the point of delivery. Vehicles for this purpose may be of any size or type acceptable to the Engineer, provided that the body is of such shape that the actual contents may be readily and accurately determined. All vehicles shall be loaded to at least their water level capacity, and all loads shall be leveled when the vehicles arrive at the point of delivery.

When requested by the Contractor and approved by the Engineer in writing, material specified to be measured by the cubic yard may be weighed, and such weights will be converted to cubic yards for payment purposes. Factors for conversion from weight measurement to volume measurement will be determined by the Engineer and shall be agreed to by the Contractor before such method of measurement of pay quantities is used.

Bituminous materials will be measured by the gallon or ton. When measured by volume, such volumes will be measured at 60°F or will be corrected to the volume at 60°F using ASTM D 4311 for asphalts or ASTM D 633 for tars.

Net certified scale weights or weights based on certified volumes in the case of rail shipments will be used as a basis of measurement, subject to correction when bituminous material has been lost from the car or the distributor, wasted, or otherwise not incorporated in the work.

When bituminous materials are shipped by truck or transport, net certified weights by volume, subject to correction for loss or foaming, may be used for computing quantities.

Cement will be measured by the ton or hundredweight.

Unless otherwise specified, timber will be measured by the thousand feet board measure (M.F.B.M.) actually incorporated in the structure. Measurement will be based on nominal widths and thicknesses and the extreme length of each piece.

The term "lump sum" when used as an item of payment will mean complete payment for the Work described in the contract.

When a complete structure or structural unit (in effect, "lump sum" work) is specified as the unit of measurement, the unit will be construed to include all necessary fittings and accessories.

Rental of equipment will be measured by time in hours of actual working time and necessary traveling time of the equipment within the limits of the work. Special equipment ordered by the Engineer in connection with force account work will be measured as agreed in the change order or supplemental agreement authorizing such force account Work as provided in the subsection titled PAYMENT FOR EXTRA AND FORCE ACCOUNT WORK of this section.

When standard manufactured items are specified such as fence, wire, plates, rolled shapes, pipe conduit, etc., and these items are identified by gage, unit weight, section dimensions, etc., such identification will be considered to be nominal weights or dimensions. Unless more stringently controlled by tolerances in cited specifications, manufacturing tolerances established by the industries involved will be accepted.

Scales for weighing materials which are required to be proportioned or measured and paid for by weight shall be furnished, erected, and maintained by the Contractor, or be certified permanently installed commercial scales.

Scales shall be accurate within one-half percent of the correct weight throughout the range of use. The Contractor shall have the scales checked under the observation of the inspector before beginning work and at such other times as requested. The intervals shall be uniform in spacing throughout the graduated or marked length of the beam or dial and shall not exceed one-tenth of 1 percent of the nominal rated capacity of the scale, but not less than 1 pound. The use of spring balances will not be permitted.

Beams, dials, platforms, and other scale equipment shall be so arranged that the operator and the inspector can safely and conveniently view them.

Scale installations shall have available ten standard 50-pound weights for testing the weighing equipment or suitable weights and devices for other approved equipment.

Scales must be tested for accuracy and serviced before use at a new site. Platform scales shall be installed and maintained with the platform level and rigid bulkheads at each end.

Scales "over weighing" (indicating more than correct weight) will not be permitted to operate, and all materials received subsequent to the last previous correct weighing-accuracy test will be reduced by the percentage of error in excess of one-half of 1 percent.

In the event inspection reveals the scales have been "under weighing" (indicating less than correct weight), they shall be adjusted, and no additional payment to the Contractor will be allowed for materials previously weighed and recorded.

All costs in connection with furnishing, installing, certifying, testing, and maintaining scales; for furnishing check weights and scale house; and for all other items specified in this subsection, for the weighing of materials for proportioning or payment, shall be included in the unit Contract prices for the various items of the project.

When the estimated quantities for a specific portion of the Work are designated as the pay quantities in the contract, they shall be the final quantities for which payment for such specific portion of the Work will be made, unless the dimensions of said portions of the Work shown on the plans are revised by the Engineer. If revised dimensions result in an increase or decrease in the quantities of such work, the final quantities for payment will be revised in the amount represented by the authorized changes in the dimensions.

4.2 COMPENSATION FOR ACTUAL QUANTITIES

When the actual quantities of work vary from the estimated quantities, the Contractor shall accept as payment in full, so far as pay items are concerned, payment at the unit price for the quantities of work actually completed and accepted. No allowance will be made for any increased expense, loss of expected reimbursement, or loss of anticipated profits suffered or claimed by the Contractor which results directly or indirectly from its unbalanced allocation of overhead and profit among the pay items, or from any other cause.

4.3 PARTIAL PAYMENT/RETAINAGE

Partial payments will be made at least once each month as the Work progresses. Said payments will be based upon estimates, prepared by the Contractor and approved by Owner, of the value of the Work performed and materials complete in place in accordance with the Contract Documents.

No partial payment will be made when the amount due the Contractor since the last estimate amounts to less than ten thousand dollars (\$10,000.00).

No partial payment shall bind the Owner to the acceptance of any materials or work in place as to quality or quantity. All partial payments are subject to correction at the time of final payment as provided in the subsection titled ACCEPTANCE AND FINAL PAYMENT of this section.

Retainage will not be held for this Contract.

4.4 ACCEPTANCE AND FINAL PAYMENT

When the Work has been accepted in accordance with the requirements of the subsection titled FINAL ACCEPTANCE, the Owner shall determine the actual quantities of the items of work actually performed. The Contractor shall approve the Owner's statement of actual quantities or advise the Owner of his/her objections which are based on disputes in measurements or computations of the final quantities. The Contractor and the Owner shall resolve all disputes (if any) in the measurement and computation of final quantities to be paid within 30 calendar days of the Contractor's receipt of the Owner's final statement of actual quantities. If, after such 30-day period, a dispute still exists, the Contractor may approve the Owner's statement of actual quantities under protest of the quantities in dispute, and such disputed quantities shall be considered by the Owner as a claim in accordance with the subsection titled CLAIMS FOR ADJUSTMENT AND DISPUTES.

After the Contractor has approved, or approved under protest, the Owner's statement of actual quantities, final payment will be processed based on the entire sum, or the undisputed sum in case of approval under protest, determined to be due the Contractor less all previous payments and all amounts to be deducted under the provisions of the contract. All prior partial estimates and payments shall be subject to correction in the final estimate and payment.

4.5 LIENS

The final payment shall become due when the Contractor delivers to the Owner: (a) an affidavit stating, if that be in fact, that all subcontractors and suppliers have been paid in full, or if the fact be otherwise, showing the name of each subcontractor and supplier who has not been paid in full and the amount due or to become due each for labor, service or material furnished; (b) Consent of Surety, if any, to final payment; and (c) if required by Owner, other data establishing payment for satisfaction of all obligations, such as receipt, releases, and waivers of lien arising out of the Contract to the extent and in such form as designated by the Owner.

4.6 CLAIMS FOR ADJUSTMENT AND DISPUTES

If for any reason the Contractor deems that additional compensation is due him for work or materials not clearly provided for in the Contract Documents or previously authorized as Extra Work, he shall notify the Owner in writing of his/her intention to claim such additional compensation before he begins the work on which he bases the claim. If such notification is not given or the Owner is not afforded proper opportunity by the Contractor for keeping strict account of actual cost as required, then the Contractor hereby agrees to waive any claim for such additional compensation. Such notice by the Contractor and the fact that the Owner has kept account of the cost of the work shall not in any way be construed as proving or substantiating the validity of the claim. When the work on which the claim for additional compensation is based has been completed, the Contractor shall, within 10 calendar days, submit his/her written claim to the Owner and the Engineer. Failure to do so within the time specified will constitute a waiver by Contractor of the claim.

Nothing in this subsection shall be construed as a waiver of the Contractor's right to dispute final payment based on differences in measurements or computations.

The following documentation and information must be presented in order to properly evaluate such claim:

- A. Definition of the basis of the claim, including a detailed identification of which materials and what work is considered to represent a change to the original contract, an explanation of why the work or material is different than what was called for by the original Contract, and an identification of the contract provisions and anything else which the Contract relied upon;
- B. An explanation of how and why the work which is considered a change will result in any additional cost or performance time for the Contractor;
- C. An identification of the categories of additional costs which may be incurred, an estimate of the dollar magnitude of each, and a statement of the impact this work will have on the construction schedule, including the contract completion dates;
- D. An indication of how the additional costs which is believed that may be incurred can be, and are to be, quantified;
- E. Documentation of any actual additional costs and any actual impact to the construction schedule due to this work;
- F. Documentation of the cost of performing all similar "unchanged" work, to provide the Engineer a basis for comparison;
- G. All backup and other documentation which are believed to support or relate to the claim;
- H. Documentation quantifying the amount of work which is believed to constitute this "changed" Work, and the time period and the areas where such work was or is to be performed.

4.7 CORRECTION OF WORK AFTER FINAL PAYMENT

Neither the final certificate nor payment, nor any provision in the Contract Documents shall relieve the Contractor of responsibility for faulty materials or workmanship and, unless otherwise specified, he shall remedy any defect due thereto and pay for any damage to other Work resulting therefrom, which shall appear within a period of one year from date of final acceptance. Wherever the word "acceptance" occurs, it shall be understood to mean final acceptance.

The Owner shall give notice of observed defects with reasonable promptness. If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after the receipt of notice, the Owner shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense. With respect to all warranties, expressed or implied, from subcontractors, manufacturer, or suppliers for Work performed and materials furnished under this Contract, the Contractor shall:

- A. Obtain all warranties that would be given in normal commercial practice.
- B. Require all warranties to be executed, in writing, for the benefit of the Owner.

4.8 SUBSURFACE INVESTIGATION

The Contractor shall make his own subsurface investigations. Any information obtained by the Town as a result of its own subsurface investigations will be made available upon request. This information (when available) is provided for informational purposes only and shall not relieve the Contractor from making his own investigations. The Contractor shall obtain all necessary permits prior to making any pavement cuts on existing streets.

4.9 EXISTING UNDERGROUND UTILITIES/FACILITIES

The location of all existing underground utilities will be illustrated on the approved construction drawings for information purposes only. The Town will not be held liable for the accuracy of the utility locations, sizes, depths, or for completeness of utility information. Utility owners have been notified of the project. Each utility owner will be requested to attend the preconstruction conference to discuss potential conflicts and their schedule for relocation where required. All adjustments or relocations will be made by the utility owner unless otherwise indicated in the Contract Documents.

The owners of utilities in this project could include but not be limited to:

- AT&T
- Duke Energy
- North Carolina Department of Transportation
- PSNC Energy
- Piedmont Natural Gas Company
- Time Warner Cable
- Union County Public Works
- Union Power Cooperative
- Utilities, Inc. /Carolina Water Service
- Windstream

The Contractor shall adhere to the provisions of 1985 Underground Damage Prevention Act North Carolina General Statutes 887 Chapter 785 Senate Bill 168 Article 3. To assist the contractor and utility owners in meeting the requirements of this law, there is a "one call system" called "NC ONECALL".

Most major utilities with underground facilities in the State subscribe to this service. For calls originating within North Carolina, The NC ONECALL telephone number is **811**.

Contact Union County Public Works (704-296-4210) for water and sewer line and service locates.

For locates of utilities not members of NC One-Call contact the designated project manager.

Prior to construction, the Contractor shall notify all utility owners whose facilities will be affected to determine utility locations

The Contractor shall include the cost of any coordination and cooperation of utilities in his bid.

No additional compensation shall be allowed for delays or inconveniences sustained by the Contractor due to utility relocation or adjustments. No additional payment will be made for re-mobilization required by the utility's failure to relocate utility at the request of the Contractor. The Contractor should refer to Section 108-10 (B) paragraph 3 of the Standard Specifications.

Where changes to utility facilities are to be made solely for the convenience of the Contractor, it shall be the Contractor's responsibility to arrange for such changes, and the Contractor shall bear all costs of such changes.

The Town will not assume nor accept any responsibility for charges assessed by private or public utility companies or from the NC Department of Transportation for damages sustained to their property by virtue of action on the part of the Contractor, nor for such charges as may be imposed by the utility or Department of Transportation for personnel to furnish field location of the facility. All such costs are to be borne by the Contractor within the unit prices and/or lump sum prices stated in the Bid.

4.10 MATERIALS TICKETS

All quantity tickets for items not measurable in place shall be submitted to the Project Inspector within forty-eight (48) hours after receipt of the material on the job. Each ticket shall indicate the date, contractor, job location and name, type of material, quantity of material, truck number and signature of the contractor or his authorized representative.

No tickets will be accepted after forty-eight (48) hours have elapsed between the time of delivery and submittal of tickets to the Project Inspector.

END OF MEASUREMENT AND PAYMENT

5. MISCELLANEOUS

5.1 VENUE

This Contract has been executed by, delivered to and accepted by the Owner in North Carolina, and the provisions hereof shall be governed by the laws of North Carolina. Any disputes arising out of or related to this Contract shall be resolved in accordance with said laws.

The parties agree that any action or legal proceeding arising out of or related to this Contract shall be brought in the state courts of Union County, NC or in the U.S. District Court for the Western District of North Carolina; and the parties hereby consent to and waive any objection to jurisdiction or venue in said courts.

5.2 INDEPENDENT CONTRACTOR

Contractor represents that it is fully experienced and properly qualified to perform the class of work provided for herein, and that it is properly licensed, equipped, organized and financed to perform such work. Contractor shall act as an independent contractor and not as the agent of Owner in performing the Contract, maintaining complete control over its employees and all of its suppliers and subcontractors. Nothing contained in this Contract or any subcontract awarded by Contractor shall create any contractual relationship between any such supplier or subcontractor and Owner.

5.3 LAWS AND REGULATIONS

Contractor and its employees and representatives shall at all times comply with all applicable laws, ordinances, statutes, rules or regulations in effect at the time Work is performed under this Contract.

5.4 INDEMNITY

Contractor agrees to defend, indemnify and hold harmless the Owner, its officers, employees and agents from any and all claims, suits, actions, damages, expenses, costs (including attorneys' fees if applicable) or fines, arising from Contractor's performance of this Contract; provided that Contractor shall not be liable for any injury, damage or loss occasioned by the sole negligence of Owner, its officers, employees or agents. Contractor shall purchase insurance, as described in this Section, which insurance shall provide coverage for this contractual liability. In any case in which Contractor provides a defense to the Owner, its officers, employees or agents, pursuant to his indemnity, the defense will be provided by attorneys reasonably acceptable to the Owner. The provisions of this Section shall survive the expiration or early termination of this Agreement.

5.5 INSURANCE

- A. Commercial General Liability Insurance. Contractor shall maintain in force during the term of this Contract commercial general liability insurance, in an amount acceptable to Owner but no less than One Million Dollars (\$1,000,000) per occurrence. This insurance shall include coverage for products/completed operations, bodily injury, personal injury, property damage and the contractual liability assumed under the indemnity provision of the Contract. The policy shall be occurrence-based and name the Owner as an additional insured.
- B. Vehicle Liability Insurance. Contractor shall maintain in force during the term of this Contract liability insurance covering the operations of Contractors' owned, non-owned and hired automobiles and other ground vehicles, for limits satisfactory to Owner but not less than One Million Dollars (\$1,000,000) bodily injury and property damage each occurrence. The policy shall be occurrence-based and name the Owner as an additional insured.

- C. Worker's Compensation and Employer's Liability Insurance. Contractor shall maintain worker's compensation and employer's liability insurance in the amounts and form required by the laws of the State of North Carolina.
- D. A certificate evidencing all insurance coverage required of Contractor shall be filed with the Owner at the execution of this Contract, and such certificate shall provide that such insurance coverage will not be canceled or reduced without at least thirty (30) day's prior written notice to the Owner. At least ten (10) days prior to the expiration of any such policy, a certificate showing that such coverage has been renewed shall be filed with the Owner. If such insurance coverage is canceled or reduced, the Contractor shall within fifteen (15) days after receipt of written notice from the Owner of such cancellation or reduction in coverage, file with the Owner a certificate showing the required insurance has been reinstated or provided through another insurance company or companies. The company or companies furnishing insurance shall be qualified to issue insurance effective in the State of North Carolina.
- E. Payment and Performance Bonds. Contemporaneously with Contractor's execution of the Contract Documents, Contractor shall supply the Owner with a Performance Bond and a Payment Bond, each in an amount equal to the estimated Contract Price.

5.6 CONTRACT MEETINGS

The Contractor shall, as requested by Owner, attend any and all meetings called by Owner to discuss the Work. Such meetings shall be conducted and recorded by the Contractor with minutes of each meeting distributed to Owner and Contractor.

5.7 SUCCESSORS, ASSIGNEES AND ASSIGNMENT

Contractor shall not assign, transfer, convey or otherwise dispose of the Contract or its right, title or interest in or to the same or any part thereof, without previous written consent of the Owner and concurred to by the sureties.

5.8 AUDIT RIGHTS

The Owner shall have the right to inspect, examine and make copies of any and all books, accounts, records, and other writings of contractors relating to the performance of the Work under the Contract, including change orders. Such audit rights shall be extended to any duly authorized representatives designated by the Owner. Audits shall take place at times and locations mutually agreed upon by both parties, but not later than one week following the date of a request for an audit.

5.9 OSHA REQUIREMENTS

The Contractor shall comply with OSHA and all other applicable regulations.

5.10 TAX STATEMENT SUBMITTAL

- A. All tax statement bodies and all signatures must be original. Photocopies of blank forms may be used, provided the document containing the information is original.
- B. All tax statements must be signed by the Contractor/Subcontractor's company officer submitting the statement and certified by a Notary Public. All tax statements must list in detail taxes paid by individual invoice. No lump sum, running total, or copies of previously reported statements will be accepted. Tax statements shall show North Carolina tax and County tax paid.
- C. A tax statement showing detailed amounts with "amounts previously reported" noted on the face will be accepted if they are original. This is the equivalent of a statement indicating "no taxes paid this period." All subcontractors for whom tax statements are included must be certified as such on the face of the Contractor's tax statement.

- D. Tax statements (the State/County Sales/Use Tax Statement form) must always accompany a payment request for the related project. All final construction payment requests must have a final tax statement regardless of whether any taxes have been paid during the period in question. If no taxes have been paid, the detail page should simply state "0", "None", or "No taxes paid this period."

5.11 PROJECT CLOSEOUT SUBMITTALS

The Contractor shall submit two (2) copies (except as noted) of the following documents. Each document shall be an original, signed, and notarized where requested. Final payment will not be made until all documents are submitted:

- A. Final Application and Certificate for Payment with Sales and Use Tax Certification Statement.
- B. Contractor's Affidavit Release and Waiver of Claim
- C. Consent of Surety to Final Payment (contracts equal to or exceeding \$100,000) (AIA Document G707).
- D. Guarantees, Warranties, and Test Results required by the Contract Documents.
- E. Operation and Maintenance Manuals and spare parts or materials (as required).

END OF MISCELLANEOUS

CONTRACTOR'S AFFIDAVIT RELEASE AND WAIVER OF CLAIM

STATE OF _____ COUNTY OF _____

_____, of
(Name) (Title)

_____, being first duly sworn, deposes and says that:
(Contractor)

The undersigned is authorized to execute this Affidavit, Release and Waiver of Claim on behalf of the Contractor and that he has personal knowledge of all facts set forth herein;

This Affidavit, Release and Waiver of Claim is made concerning the construction of the following:

Project: _____ Project No.: _____

All payrolls, material bills, sales tax, social security tax, state and federal unemployment insurance, and all other liabilities and taxes owed by the Contractor and arising in any manner from the above-described project have been paid in full;

No claim or lien exists in favor of any supplier of materials or labor or in favor of any subcontractor furnishing materials or labor on the above-described project;

Notwithstanding the foregoing, if the Town of Indian Trail, or property of the Town of Indian Trail, is subject to any claim or lien that arises in any manner from the failure of the Contractor to pay any liability described above, the Contractor will indemnify and hold the Town of Indian Trail harmless for any amount that the Town of Indian Trail is required to pay to discharge such lien or settle such claim and, further, will pay the Town of Indian Trail's expenses, costs, and attorney fees incurred in connection therewith;

All claims, suits, and proceedings of every name, description, or nature arising out of the above project against the Town of Indian Trail, its officers, employees, and agents have been settled;

The Contractor releases and waives any and all claims of every type and description that the Contractor may have against the Town of Indian Trail arising in any manner from the construction of the above-described project.

By: _____ Date: _____

Title: _____

Sworn to and subscribed before me this _____ day of

_____, 201__

Notary Public

My commission expires _____

VI. SPECIFICATIONS

6.1 ASPHALT

All asphalt used in the construction of this project shall consist of all elements covered by Section 610 of the Standard Specifications.

All cost associated in raising utilities (sewer manholes, water valve boxes, etc.) or removal/hauling away existing asphalt during paving operations shall be included in the unit price bid for Asphalt.

All work associated in the adjustment of utilities shall be in accordance with Section 858 of the Standard Specifications.

6.2 CONCRETE

A. Compressive Strength

All concrete used in the construction of this project shall be 3600 PSI strength at twenty-eight (28) days, unless otherwise specified. No adjustment will be allowed for the required use of high-early strength concrete. When the Contractor is requested to use high-early strength concrete in certain areas, he must furnish a copy of the delivery ticket to the project inspector prior to allowing traffic to proceed across the item in question before the required seven-day curing period.

Concrete cylinders shall be prepared by the Town's designated materials testing firm. It shall be the responsibility of the Contractor to protect the cylinders until such time as they are taken to the designated materials testing laboratory. Not less than five (5) cylinders (six (6) for structures) shall be made for each day's pour.

B. Slump

The maximum slump of the concrete used on the project shall be as defined in Section 1000 of the Standard Specifications. The Town's designated testing firm shall provide all equipment necessary to test the slump of the concrete and at a frequency established by the Engineer and in accordance with ASTM C 143. The sample taken for determination of slump will be obtained immediately prior to the concrete being discharged onto the project. Concrete failing to meet requirements for slump will be subject to rejection.

C. Air Content

The air content of the concrete used on this project shall be as defined in Section 1000 of the Standard Specifications. The Town's designated testing firm shall provide all equipment necessary to test the air content of the concrete and shall test the air content at a frequency established by the Engineer. The sample taken for the determination of air content will be obtained immediately prior to the concrete being discharged onto the project. Concrete failing to meet specification requirements for air content will be subject to rejection.

D. Acceptance and Testing Standards

Concrete batching, sampling, testing and evaluation shall be done in accordance with the standards listed below:

ASTM C94	Standard Specifications for Ready Mixed Concrete
ASTM C172	Standard Method of Concrete Sampling
ASTM C470	Tentative Specification for Molds for Forming Concrete Test Cylinders Vertically
ASTM C31	Standard Method of Making and Curing Concrete
ASTM C143	Standard Method of Test for Slump of Portland Cement Concrete
ASTM C42	Obtaining and Testing Drilled Cores and Sawed Beams of Concrete
AASHTO T199-72	Air Content of Freshly Mixed Concrete by the Chace Indicator

E. Concrete Finishes

The type of finish required will be that required by the section of specifications directly applicable to the work being constructed. All exposed surfaces of retaining walls, structures, and etc. shall be given a Class 2 finish as described by Section 420-18 (f) of the Standard Specifications unless indicated otherwise in the plans.

F. Compressive Strength Quality Assurance for Incidental Concrete

The following Quality Assurance Specifications shall apply only to incidental concrete used in the construction of this project. Incidental concrete shall be defined as any concrete not used in the construction of rigid pavement or any concrete that is not an integral part of a structure. The acceptability of any questionable structural concrete used in the construction of this project will be evaluated on a case by case basis.

It is the intent of these specifications to provide an equitable means of accepting materials that may vary slightly from the specification range stated in the Standards Specifications in lieu of total rejection, removal, repair or non-payment. The Engineer will determine acceptability of materials in accordance with the applicable sections of these specifications. When materials are not within specification limits, an adjusted payment may be allowed as delineated in these specifications, except where the level and variability of test results indicate a degree of noncompliance with requirements so great as to make the material unacceptable. Unacceptable material shall be either re-worked or replaced at no additional cost to the Town. The Engineer reserves the right to reject questionable material at any time in lieu of making reduced payment.

Concrete will be tested and accepted with respect to compressive strength on the basis of the average test results of concrete test cylinders. It shall be the responsibility of the Town's designated testing firm to prepare test cylinders in accordance with ASTM C31. It shall be the Contractor's responsibility to adequately protect the cylinders until such time as they are taken by the Town's designated testing firm to an approved Materials Laboratory for curing and testing. If the average strength of concrete cylinder test results fail to attain the specified minimum compressive strength at twenty-eight (28) days but meets or exceeds 70% of the minimum compressive strength, the Engineer will have the option of instructing the Contractor to replace all concrete represented by those cylinders with concrete meeting specifications or of allowing the concrete to remain in place at a reduced contract price. The contract unit price for such concrete left in place shall be reduced by the following formula:

$$\text{Reduced Unit Price} = \text{Contract Unit Price} \times \frac{\text{Avg. Strength of Test Cylinders at 28 Days}}{\text{Specified min. Compressive Strength}}$$

In the event that concrete cylinder tests fail to meet minimum compressive strengths at twenty-eight (28) days, the Contractor will have the option of taking cores from the concrete in question at the Contractor's expense. Cores must be taken and tested in accordance with ASTM C42. The average compressive strength of cores which are correctly tested shall then be used as the basis for acceptance of concrete in lieu of concrete test cylinder results discussed above. The above criteria for acceptance of concrete with respect to compressive strength shall then be applied to core test results. Cores must be taken thirty-one (31) days after placement of concrete. Cores will be tested by the Town's designated testing firm. A minimum of three (3) cores shall be taken from questionable concrete, unless otherwise specified by the Engineer. Cores shall be taken from locations selected by the Engineer.

If the average strength of the concrete test results (cylinders and cores) fail to attain seventy percent (70%) of the specified minimum compressive strength at twenty-eight (28) days, all applicable concrete shall be rejected. The Contractor, at no additional cost to the Town, shall remove the rejected concrete and replace it with concrete meeting specifications.

6.3 EROSION AND SEDIMENTATION CONTROL MEASURES

The Contractor shall install and maintain all erosion and sedimentation control measures and devices necessary to comply with the Erosion and Sedimentation Control Plan and applicable local and state ordinances and laws. All erosion and sedimentation control measures and devices shall be installed prior to beginning clearing or grading operations. Such devices shall be maintained in proper working condition from installation throughout the duration of the Project.

The Contractor shall indemnify and hold harmless the Town for any penalties imposed against the Town by any local or state agency for the Contractor's failure to install and properly maintain erosion and sedimentation control devices. The Contractor shall immediately correct any deficiencies in erosion and sedimentation measures identified by the Town or local or state agency. If the Contractor fails to correct the deficiencies within 24 hours after notification, the Town will have such corrections performed and assess the cost of these corrections plus a 100% surcharge against the Contractor.

The Contractor will install silt bags in all catch basins that are located in the construction area where proposed asphalt paving, widening, asphalt surface treatments or rehabilitation of the existing subgrade is being performed. These devices will be monitored on a per week basis.

If any borrow or waste areas are to be utilized, it shall be the responsibility of the Contractor to notify the property owner that the property owner is responsible for any damage occurring from the site, either as part of the agreement with the Contractor, or on his own. All work, sediment control structures, and seeding will be at the cost of the property owner or Contractor. The Town will not participate in the cost of this work on the waste or borrow areas. Prior to final payment being made, the Contractor shall obtain a release from the property owner of the borrow or waste site utilized for the Project.

The Contractor shall include the cost of installing and maintaining erosion and sedimentation control devices in the price bid for Grading unless otherwise specified

6.4 FULL DEPTH STREET REPAIRS

Unless otherwise shown in the plans or stated by the Engineer in the field, all full depth street repairs will consist of digging out a five-inch depth specified area and replacing it with intermediate base course (I 19.0 B) or an approved equal. If the repaired area is not sealed off with an appropriate layer of asphalt surface mix in a suitable time frame, the area in question will be inspected again and if found to be unsuitable the Contractor will replace the area at no cost to the Town.

6.5 SAWING EXISTING PAVEMENT

Where asphalt or concrete (curb, sidewalk, roadway, driveways, parking lots, etc.) is to be removed, the Contractor shall provide a neat edge along the pavement being retained by sawing the pavement a minimum of 2" deep and 1' wide before breaking and removing adjacent pavement.

When the Contractor proposes to saw pavement more than one foot from the proposed pavement (curb, sidewalk, structure, etc.), the Contractor shall obtain approval from the Engineer prior to saw cutting and removing pavement.

The cost of sawing asphalt or concrete shall be considered incidental to the removal operation and shall be included in the proper unit price bid line items.

6.6 SEEDING AND MULCHING

The work covered by this special provision includes preparing seedbeds; furnishing, placing, and covering limestone, fertilizer, and seed; compacting seedbeds; furnishing, placing, and securing mulch; mowing; and other operations necessary for the permanent establishment of grasses from seed on shoulders, slopes, ditches, and on all earth areas disturbed by construction and on portions of areas seeded under previous contracts where, in the opinion of the Engineer, there is unsatisfactory vegetative cover.

All work covered in this special provision shall be in accordance with, and all materials shall conform to, the requirements of the Charlotte Mecklenburg's "Landscape Construction Standards".

There will be no separate measurement or payment for seeding and mulching. The costs associated with seeding and mulching the Project shall be included in the unit price for **Grading**.

END OF SPECIFICATIONS

VII. PROJECT SPECIAL PROVISIONS

7.1 SP1 – MOBILIZATION

Description: Work covered by this special provision consists of preparatory work and operations which must be preformed or for costs incurred prior to beginning work on the Contract.

Payment: Payment for the entire lump sum price for the item of “Mobilization” will be made with the first pay request paid on the Contract. The bid price shall not exceed 3% of the total amount bid for the various items in this Contract.

Payment will be made under:

MOBILIZATION.....LS

7.2 SP2 – GRADING

Description: Work covered by this special provision consists of but not limited to removal and proper disposal of any asphalt, concrete, concrete traffic islands, planting bed materials (plants, soil, etc.), existing drain pipes and structures, all grading work, all surveying, relocation of any signage including mailboxes, relocation of any existing utilities, seeding/mulching, and general clean up of the project site.

This item also includes any erosion control needed during the duration of the project. Possible items needed may be silt bags in catch basins, rock check dams, wattles, temporary erosion control matting, or temporary silt fence. The Contractor shall be responsible for proving, installing, maintaining, and removing any required erosion control as directed by the Engineer.

All disturbed areas shall be reestablished with fertilizer, limestone, and seed sown with straw or coconut matting used to cover the entire repaired area. Any existing plantings in the immediate area of the work shall be mulched with a minimum of four (4) loosely placed inches of new, clean, pine straw.

Contractor will repair any insufficiencies that are present in all (new or existing) catch basins along the existing roadway (no steps, open joints, etc.). All catch basins shall be free of any debris that may have collected due to construction.

Payment will be made under:

GRADING.....LS

7.3 SP3 – CONCRETE SIDEWALK, CONCRETE CURB RAMPS, CONCRETE DRIVEWAYS, AND CONCRETE CURB AND GUTTER

Description: The work covered by this special provision consists of all elements of work covered by Section 846 “Concrete Curb and Gutter” and Section 848 “Concrete Sidewalk, Driveways, and Curb Ramps” of the Standard Specifications. **This item includes sawcutting, excavation, backfill, removal and disposal of existing concrete, furnishing and installing truncated dome mats at locations per the plans, and the installation of new 4” Concrete Sidewalk, Concrete Curb Ramps, 6” Concrete Driveways, and Concrete Curb and Gutter.** Indian Trail Land Development Standards 1.12A, 1.12B, 1.17, and NCDOT Std. 848.05 shall be followed in the installation, construction and materials used for concrete work.

Work areas shall be clearly marked with construction barrels or caution tape at all times. All debris shall be removed from the work area daily. Installation of the new concrete must occur within 24 hours of the excavation and removal of the existing concrete; otherwise the Contractor must secure the work area with temporary methods at the Contractor’s expense. Temporary methods of securing the work area must meet the approval of the Engineer. Backfilling along with seeding and mulching shall occur no later than 3 days following the pouring of the concrete.

Methods and Materials: The concrete mix design shall conform to the requirements of the Concrete section under the Specifications section of this Contract.

The Contractor shall incorporate existing castings encountered within the limits of the project to match the adjacent finished work. No direct payment will be made for this work. Any costs anticipated should be included in other contract quantities bid price.

Measurement: The quantity of 4” Concrete Sidewalk to be paid for will be the actual number of square yards of 4” Concrete Sidewalk measured along the surface of work which has been completed and accepted. The quantity of 6” Concrete Driveway to be paid for will be the actual number of square yards of 6” Concrete Driveway measured along the surface of work which has been completed and accepted. The quantity of Concrete Curb Ramps to be paid for will be the actual number of Concrete Curb Ramps installed and has been completed and accepted. The quantity of specified Concrete Curb and Gutter to be paid for will be the actual number of lineal feet of Concrete Curb and Gutter measured along the surface of work which has been completed and accepted.

Payment: Payment for 4” Concrete Sidewalk will be the number of square yards (SY) of 4” sidewalk measured in place. Payment for 6” Concrete Driveway will be the number of square yards (SY) of 6” driveway measured in place. Payment for Concrete Curb Ramps will be each (EA) for the number installed and accepted. Payment for Concrete Curb and Gutter will be the amount of actual lineal footage (LF) installed and accepted.

There will be no separate payment for furnishing and installing truncated dome mats at proposed curb ramp locations. The cost for furnishing and installing the truncated domes shall be included in the cost of installing the concrete curb ramp.

Payment will be made under:

4” CONCRETE SIDEWALK	SY
6” CONCRETE DRIVEWAY.....	SY
CONCRETE CURB RAMPS.....	EA
CONCRETE CURB AND GUTTER.....	LF

7.4 SP4 – SIDEWALK FLUME

Description: Work covered by this special provision consists of furnishing all elements needed to construct a sidewalk flume as per the detail located on the approved plans.

Payment: Payment of the Sidewalk Flume will be per each (EA) for the number installed and accepted.

Payment will be made under:

SIDEWALK FLUME.....	EA
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7.5 SP5 – SEGMENTAL GRAVITY RETAINING WALLS (NCDOT GEOTECHNICAL UNIT)

SEGMENTAL GRAVITY RETAINING WALLS

Description: Construct segmental gravity retaining walls consisting of segmental retaining wall (SRW) units supported by aggregate footings. If the plans do not include Standard Drawing No. 453.02 or 453.03, design and construct segmental gravity retaining walls based on actual elevations, wall dimensions and batter in accordance with the contract and accepted submittals. Otherwise, construct segmental gravity retaining walls based on actual elevations, wall dimensions and batter in accordance with the contract, accepted submittals and Standard Drawing No. 453.02 or 453.03.

Define “block wall” as a segmental gravity retaining wall and “standard block wall” as a block wall that meets a standard segmental gravity retaining wall drawing (Standard Drawing No. 453.02 or 453.03). Define “blocks” as SRW units, “cap blocks” as SRW cap units and “Block Vendor” as the vendor licensing the block producer.

Materials:

Refer to the *Standard Specifications*.

Item	Section
Anchor Pins	1056-2
Geotextiles, Type 2	1056
Segmental Retaining Wall Units	1040-4
Select Material, Class VI	1016
Silicone Sealant	1028-3
Subsurface Drainage Materials	815-2
Wire Staples	1060-8(D)

Provide Type 2 geotextile for separation geotextiles. Use Class VI select material for No. 57 stone. Provide PVC pipes, fittings, outlet pipes and concrete pads for subsurface drainage materials. For PVC pipes behind block walls, use pipes with perforations that meet AASHTO M 278.

Provide blocks produced by a manufacturer approved or licensed by the Block Vendor. Unless required otherwise in the plans, use blocks with a depth (front to back) of at least 12" and cap blocks with a depth of at least 8".

Use approved SRW units for standard block walls. Blocks for standard block walls are approved for either 2 ft or 4 ft maximum design heights with the design height as shown in Standard Drawing No. 453.02 or 453.03. The list of approved SRW units with maximum design heights is available from:

www.ncdot.org/doh/preconstruct/highway/geotech/seggravwalls

Do not mix blocks from different Block Vendors on the same block wall. Damaged blocks with excessive discoloration, chips or cracks as determined by the Engineer will be rejected.

Provide adhesives recommended by the Block Vendor. Store adhesives in accordance with the manufacturer's instructions. Load, transport, unload and store block wall materials so materials are kept clean and free of damage.

Preconstruction Requirements:

A. Block Wall Surveys

The plans typically show a plan view, typical sections, details, notes and an elevation or profile view (wall envelope) for each block wall. Before beginning block wall design or construction, survey existing ground elevations along wall face locations and other elevations in the vicinity of block wall locations as needed. Based on these elevations, finished grades and actual block wall dimensions, details and batter, submit wall envelopes for acceptance. Use accepted wall envelopes for design, if required, and construction.

B. Block Wall Designs

If the plans do not include Standard Drawing No. 453.02 or 453.03, submit 11 copies of working drawings and 3 copies of design calculations and a PDF copy of each for block wall designs at least 30 days before starting block wall construction. Do not begin block wall construction until a design submittal is accepted.

Design block walls in accordance with the plans and Article 11.11 of the *AASHTO LRFD Bridge Design Specifications* unless otherwise required. Design block walls for the wall batter required by the Block Vendor and clearances shown in the plans. Do not locate blocks or footings outside right-of-way or easement limits.

Use No. 57 stone for aggregate footings beneath blocks. Use 10" thick footings that are continuous at steps and extend at least 6" in front of and at least 9" behind bottom row of blocks. Unless required otherwise in the plans, embed bottom of

footings at least 18" below bottom of walls shown in the plans. When noted in the plans, locate a 4" diameter continuous perforated PVC drain pipe in the No. 57 stone in back of footings.

Fill block core spaces with No. 57 stone and between and behind blocks with No. 57 stone for a horizontal distance of at least 12" so stone is continuous in all directions. Assume a unit weight of 100 lb/cf for No. 57 stone. Separation geotextiles are required between No. 57 stone and backfill or natural ground and between stone and overlying fill or pavement section except when concrete pavement, full depth asphalt or cement treated base is placed directly on stone.

Use cap blocks at top of walls. Step top of walls as shown in the plans and double stack cap blocks at steps so cap blocks are continuous at steps. Extend top of walls 4" to 12" above where finished grade intersects back of blocks or cap blocks. When single faced precast concrete barrier is required in front of and against block walls, fill voids between barrier and wall faces with No. 57 stone.

Submit working drawings and design calculations for acceptance in accordance with Article 105-2 of the *Standard Specifications*. Submit working drawings showing plan views, wall profiles with required resistances, typical sections, No. 57 stone and geotextile locations and details of footings, blocks, cap blocks, etc. If necessary, include details on working drawings for obstructions extending through walls or interfering with footings. Submit design calculations for each wall section with different geometry or material parameters. When designing block walls with computer software, a hand calculation is required for the tallest wall section. Provide block wall designs sealed by an engineer licensed in the state of North Carolina.

Construction Methods:

Control drainage during construction in the vicinity of block walls. Direct run off away from block walls, No. 57 stone and backfill. Contain and maintain stone and backfill and protect material from erosion.

Excavate as necessary for block walls in accordance with the plans and accepted submittals. Notify the Engineer when foundation excavation is complete. Do not place No. 57 stone for footings until excavation dimensions and foundation material are approved.

Construct aggregate footings at elevations and with dimensions shown in the plans and accepted submittals. If a drain is required, install wall drainage systems consisting of drains and outlet components as shown in the plans and accepted submittals and in accordance with Section 815 of the *Standard Specifications*. Compact No. 57 stone for footings with a vibratory compactor to the satisfaction of the Engineer.

Stack blocks with no negative wall batter (wall face leaning forward) so the final wall position is as shown in the plans and accepted submittals. Place blocks with a maximum vertical joint width of 3/8". Stagger blocks to create a running bond by centering blocks over joints in the row below as shown in the plans and accepted submittals. Construct block walls with the following tolerances:

- A. Blocks are level from front to back and between blocks when checked with a 3 ft long level,
- B. Final wall face is within 2" of horizontal and vertical alignment shown in the plans and accepted submittals, and
- C. Wall batter is within 2° of batter required by the Block Vendor.

Overlap adjacent separation geotextiles at least 18" at seams and hold geotextiles in place with wire staples or anchor pins as needed. Place No. 57 stone between and behind blocks in 8" to 10" thick lifts. Compact stone with hand operated compaction equipment to the satisfaction of the Engineer. Backfill for block walls behind No. 57 stone in accordance with Article 410-8 of the *Standard Specifications*.

Set cap blocks with a 1/2" to 1-1/2" overhang as shown in the plans and accepted submittals. Place cap blocks using adhesive in accordance with the manufacturer's instructions. Do not place cap blocks if surfaces caps will be attached to are wet or frozen or the air temperature measured at the wall location in the shade away from artificial heat is below 40°F. Before

applying adhesive, clean surfaces cap blocks will adhere to and ensure surfaces are dry and free of oil, grease, dust and debris. Seal joints above and behind block walls between blocks and ditches with silicone sealant.

Measurement and Payment:

Segmental Gravity Retaining Walls will be measured and paid in square feet. Block walls will be measured as the square feet of exposed wall face area with the height equal to the difference between top and bottom of wall elevations. Define "top of wall" as top of cap blocks. Define "bottom of wall" as shown in the plans and no measurement will be made for portions of block walls embedded below bottom of wall elevations

The contract unit price for *Segmental Gravity Retaining Walls* will be full compensation for providing designs, if required, submittals, labor, tools, equipment and block wall materials, excavating, backfilling, hauling and removing excavated materials and supplying footings, blocks, No. 57 stone, wall drainage systems, geotextiles, cap blocks and any incidentals necessary to construct block walls.

The contract unit price for *Segmental Gravity Retaining Walls* does not include the cost for ditches, fences, handrails, barrier or guardrail associated with block walls as these items will be paid for elsewhere in the contract.

Where it is necessary to provide backfill material behind No. 57 stone from sources other than excavated areas or borrow sources used in connection with other work in the contract, payment for furnishing and hauling such backfill material will be paid as extra work in accordance with Article 104-7 of the *Standard Specifications*. Placing and compacting such backfill material is not considered extra work but is incidental to the work being performed.

Payment will be made under:

SEGMENTAL GRAVITY RETAINING WALLS SF

7.6 SP6 – CONCRETE PEDESTRIAN REFUGE ISLAND

Description: Work covered by this special provision consists of furnishing all elements needed to construct a concrete pedestrian refuge island per the detail located on the approved plans. Concrete depth shall be a minimum of 6-inches.

The cost of removing sections of the two existing islands will be included in the SP2 - GRADING.

Methods and Materials: The concrete mix design shall conform to the requirements of the Concrete section under the Specifications section of this Contract.

The Contractor shall incorporate existing castings encountered within the limits of the project to match the adjacent finished work. No direct payment will be made for this work. Any costs anticipated should be included in other contract quantities bid price.

The Engineer or his/her representative shall be notified before concrete is placed in order to verify that the depth of concrete meets the requirements of this special provision.

Installation of the (5) five truncated dome mats on the approved plans will be included in the cost of this line item.

Payment: The quantity of Concrete Pedestrian Refuge Island to be paid for will be the actual number of square yards measured in placed that has been completed and accepted.

Payment will be made under:

CONCRETE PEDESTRIAN REFUGE ISLANDSY

7.7 SP7 – TRUNCATED DOME MATS (EXISTING CURB RAMPS)

Description: The work covered by this special provision consists of the attaching of black truncated dome mats to existing concrete curb ramps in accordance with ADA compliance.

Methods and Materials: All truncated domes must be installed in accordance with ADA methods and materials.

Measurement: The quantity of truncated dome mats will be counted as each. Each truncated dome mat will be indicated by paint marks in the field, or as directed by the Engineer.

Payment: Payment for truncated dome mat will be each. Truncated dome mats will be counted in the field and paid by the number of truncated dome mats installed.

Payment will be made under:

TRUNCATED DOME MATS (EXISTING CURB RAMPS)EA

7.8 SP8 – BORROW MATERIAL

Description: The work covered by this special provision shall conform to the requirements set forth in Section 230 “Borrow Excavation” of the Standard Specifications.

The placement of the material shall conform to the contour elevations established on the approved plans. Any deviations shall have prior approval from the Engineer.

Payment: The quantity of approved borrow material to be paid for will be the actual number of cubic yards measured in trucks that have been excavated from the borrow source and incorporated into the completed and accepted work. Each truck will be measured and shall have a legible identification mark indicating its capacity. Load each truck to at least its measured capacity at the time it arrives at the point of delivery. The recorded capacity will be adjusted by making a 25 percent deduction to allow for shrinkage, and the adjusted capacity will be the quantity to be paid.

Payment will be made under:

BORROW MATERIAL CY

7.9 SP9 – TRAFFIC CONTROL

Beginning Work and Street Closings: The Contractor is responsible for notifying the appropriate agency of any work where the number of travel lanes is reduced from normal conditions. The Contractor shall install advance warning signs and/or message boards for the Project. These signs shall be in place for one week before construction activity begins. The Contractor shall begin construction activity on a street on the scheduled date for the closing of the travel lane.

During daily construction work hours, the Contractor will maintain at least one lane of traffic. The Contractor shall not narrow or close any travel way during the peak hours of 7:00 am to 9:00 am and 4:00 pm to 6:00 pm Monday through Friday. During periods of construction inactivity, all lanes of traffic will be open unless otherwise shown on the plans or noted in the specifications.

Traffic Control Plan: Traffic control will be performed by the Contractor based upon the current NC Traffic Control In Work Zones Standards Provisions.

The current edition of the Manual on Uniform Traffic Control Devices, the current edition of the North Carolina Department of Transportation (NCDOT) Supplement to the Manual on Uniform Traffic Control Devices for Streets and Highways, the NCDOT Roadway Standard Drawings and the current edition of the NCDOT Standard Specifications for Roads and Structures.

The Contractor shall maintain the traffic control as described herein unless the Contractor submits an alternate traffic control plan to the Engineer and it is approved by the Engineer. The Engineer may direct the Contractor to modify the traffic control if, in the Engineer’s opinion, traffic is not moving safely or efficiently.

Maintenance of Traffic: The Contractor shall maintain all travel lanes in accordance with the noted procedures and standards.

The Contractor shall use flagger control in accordance with the appropriate standard.

In areas of drop-offs and low shoulders, the Contractor shall backfill up to the edge and elevation of the existing pavement as directed by the engineer

The Contractor will be required to maintain ingress and egress to all businesses and dwellings, and easy access to fire hydrants.

The Contractor shall not work on both sides of the road simultaneously within the same area.

The Contractor shall provide adequate drainage under driveways and within the Project area for the duration of the Project.

The Contractor shall mark all hazards within the Project limits with well-maintained signs, barricades, warning and/or channelizing devices.

Traffic Control Devices: The Contractor shall furnish, install, operate, relocate, maintain and remove all temporary traffic control devices necessary for controlling traffic. All construction signs and barricades shall remain in place until the appropriate permanent signs and pavement markings are installed.

Pedestrian Considerations: The Contractor shall accommodate the needs of all pedestrians.

Equipment and Material Storage: During periods of construction inactivity, all construction materials and equipment shall be stored by the Contractor as directed by the Engineer.

Excavation and Trenches: Excavations and trenches that cannot be properly backfilled and patched prior to the end of the workday shall be secured as directed by the Engineer.

Measurement: There will be no separate measurement made for Traffic Control.

Payment: Traffic Control will be paid at the lump sum price for “Traffic Control”. This payment will be full compensation for all elements of work required to complete the Project as specified.

Payment will be made under:

TRAFFIC CONTROL.....LS

7.10 SP10 – MATERIALS TESTING SERVICES

Description: The work covered by this special provision covers materials testing services. An ASTM certified testing laboratory will be selected by the Town to perform the required work which consists of but not limited to the following:

- A. Determine soil optimum moisture content and maximum dry unit weight;
- B. Determine soil shear strength;
- C. Perform field density testing of backfill material compaction;
- D. Provide proof-rolling observations and corrective recommendations/measures;
- E. Determine concrete compressive strength, slump, and air content (see Subarticle 6.2 CONCRETE).

All work shall be performed in accordance with appropriate and applicable standards.

The Contractor shall notify the Town 24 hours prior to any materials sampling and or testing.

Payment: An allotted amount of funds will be shown on the Itemized Bid Form of this Contract. The Town will use this fund source to pay the materials testing services. The Contractor shall submit any invoices received by the testing firm with the monthly partial payment request. It will be the responsibility of the Contractor to pay all invoices submitted by the testing firm before acceptance and final payment can be issued as stated under Subarticle 4.4 "Acceptance and Final Payment", Section 4 "Measurement and Payment" of this Contract.

The Town will not bear any cost associated with testing results that indicate the work was not performed properly and/or did not meet the requirements of this Contract. All cost associated with the initial testing and any additional testing required to correct the work in question, will be paid for by the Contractor. The Town shall have the right to hold "Final Payment" if any outstanding unpaid cost to the testing firm hasn't been paid by the Contractor due to required retesting of failed Work. Until testing firm can attest to the Town that all payments due to them from the Contractor have been paid, the Town only recourse is to hold "Final Payment" until all dues are final.

Payment will be made under:

MATERIALS TESTING SERVICES LS

7.11 SP11 – SCHOOL ZONE FLASHER

Description: The work covered by this special provision consists of all elements of work needed to install School Zone Flashers where shown on the approved plans. Contractor should follow NCDOT Std. 1743.03 for the installation, construction, and materials used for the erection of the poll assembly.

Contractor shall install SPOT DEVICES (Internet Ready) SC315 School Zone Flasher or approved equal.

Methods and Materials: Contractor shall follow all NCDOT and manufacture's methods and materials for installation of School Zone Flasher assembly.

Measurement: The quantity of School Zone Flashers to be paid for will be the actual number of complete assemblies installed and accepted. A completed assembly consist of MUTCD School Crossing signs: S1-1 and W16-7P; SPOT DEVICES (Internet Ready) SC315 School Zone Flasher; concrete base, anchor bolts, pole base, and pole.

Payment: Payment for School Zone Flashers will be each (EA) for the number installed and accepted.

Payment will be made under:

SCHOOL ZONE FLASHER.....EA

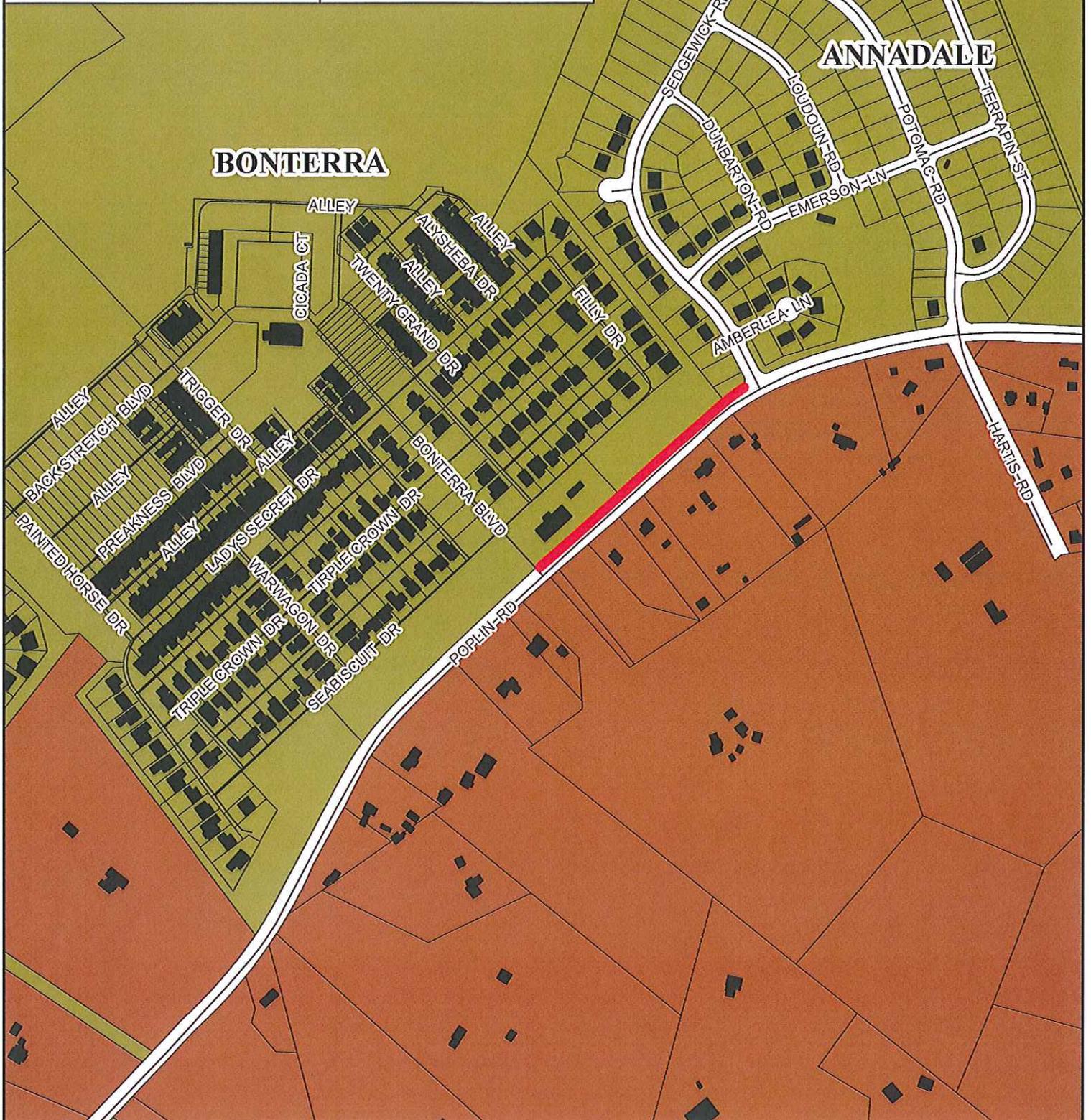
VIII. APPENDIX

Poplin Road Sidewalk Location Map



Legend

- UC Road Centerlines
- UC_Structures_0708
- IT_Parcels_020110
- County_Parcels_020110
- Proposed Sidewalk



APPENDIX B: CONSTRUCTION PLANS
(Separate sheets)



Town of Indian Trail Engineering Department

AM

Project Title: Poplin Road Sidewalk Contract

Opening Results: July 3, 2012, 10 am

Project No.: 505-2012-003

Bidder of Record	Total Amount Bid	Bid Bond
1 Boggs Paving, Inc.	197,648.00	✓
2 Bullseye Construction, Inc	132,632.50	✓
3 Showalter Construction, Inc.	149,275.50	✓
4 W. M. Warr & Son, Inc.	123,915.00	✓

Bid Opened by: Adam McClamb

Adam McClamb

Recorded by: Vicky Watts

Vicky Watts