

**Mayor Tracey Furman**

**Council Member Darin Bartram  
Council Member Bridget Hill-Zayat**



**Council Member Conor Crimmins  
Council Member Duane Rollins**

**Monday, June 10, 2019  
Mayor and Town Council Meeting – 7:00 PM**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**MOMENT OF SILENCE**

**APPROVAL OF MINUTES**

Regular Town Meeting of May 13, 2019

**FROM THE MAYOR AND TOWN COUNCIL**

**1. Traffic Committee Update:**

- a. Update from the May 14, 2019 Traffic Committee Meeting. (Bartram and Rollins)
2. **Community Art** – Discussion by the Council about future community art projects.
3. **St. Paul Park Video Recording System** – Discussion by the Council to take ownership and reimburse Spring Bilingual Montessori School for the Video Recording Equipment installed at St. Paul Park.

**FROM THE TOWN MANAGER AND STAFF**

1. **Code Enforcement Officer Position** – Update from the Town staff on the hiring of a full-time Code Enforcement Officer.
2. **Town Dog Park MOU Update** – Update from the Town staff on the MOU agreement for the proposed Dog Park at 10450 Metropolitan Avenue; and a review of quotes for perimeter fencing at the property.

**PUBLIC APPEARANCES**

*(The public is invited to speak on any subject that is not a topic on tonight's agenda)*

**ORDINANCES, RESOLUTIONS, AND REGULATIONS**

*(Ordinances, resolutions, and regulations to be introduced or adopted following appropriate procedures required by the Town Code; or resolutions that may require discussion by the Mayor and Council prior to approval)*

1. **Resolution No. R-10-2019** - A Resolution of the Mayor and Town Council authorizing the Town Manager to install "Two Hour, 7:30 am – 5:30 pm, M-F", signs along the northeast

**Town of Kensington 3710 Mitchell Street Kensington, MD 20895  
Phone 301.949.2424 Fax 301.949.4925  
www.tok.md.gov**

side of the 10300 block of Kensington Parkway, adjacent to the Kensington Post Office, replacing the current "One Hour, 9:00 am – 5:00 pm" restriction.

2. **Resolution No. R-11-2019** – A Resolution of the Mayor and Town Council authorizing the Town Manager to extend an existing contract with NZI Construction Corporation for resurfacing certain Town streets.

### **ADJOURN**

*(The Mayor and Council may move to close the meeting and may move to reopen the meeting)*

THE NEXT SCHEDULED MEETING(S) OF THE MAYOR AND TOWN COUNCIL WILL BE HELD:

***Monday, July 8, 2019***

## RESOLUTION No. R-10-2019

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF KENSINGTON, MARYLAND, AUTHORIZING THE TOWN MANAGER TO INSTALL “TWO HOUR, 7:30 AM – 5:30 PM, M-F”, SIGNS ALONG THE NORTHEAST SIDE OF THE 10300 BLOCK OF KENSINGTON PARKWAY, ADJACENT TO THE POSTOFFICE, IN LIEU OF THE EXISTING 1 HOUR PARKING SIGNS**

**Whereas**, Chapter IV, “Traffic and Vehicles”, Section 4-103, “Traffic and Parking Control Devices” of the Town Code states:

*The Council may, by resolution, have erected “stop,” “no parking,” “speed limit,” “one way,” “yield,” “no U-turn,” “no-thru traffic,” “no right turn,” and “do not enter” signs and other traffic control and parking restriction devices to control, regulate, warn, or guide traffic or limit parking on streets, other public ways, or other areas in the Town of Kensington; and*

**Whereas, the Town’s Traffic Committee has recommended certain traffic control changes to the Mayor and Town Council, to include:**

*Install “Two Hour, 7:30 AM-5:30 PM, M-F, signs along the NORTHEAST side of the 10300 block of Kensington Parkway, adjacent to the Post Office, in lieu of existing 1 hour parking signs.*

**Now, Therefore, Be It Resolved** that the Town Manager is hereby authorized to implement the aforementioned traffic controls.

**Adopted** by the Town Council on the **10<sup>th</sup>** day of **June, 2019.**

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Tracey C. Furman, Mayor

**This is to Certify** that the foregoing Resolution was adopted by the Town Council in public meeting assembled on **14<sup>th</sup>** day of **May, 2018.**

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Susan C. Engels, Clerk-Treasurer

**RESOLUTION No. R-11-2019**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF KENSINGTON, MARYLAND, AUTHORIZING THE TOWN MANAGER TO EXTEND AN EXISTING CONTRACT WITH NZI CONSTRUCTION CORPORATION FOR RESURFACING ADDITIONAL TOWN STREETS**

**Whereas**, the Town has an existing contract dated July 10, 2014 for performing various street reconstruction services for the Town with NZI, Construction Corporation ("Contractor"); and

**Whereas**, the unit pricing for the extended contract will be based on the contract dated July 10, 2014, which is attached as Exhibit A to this Resolution; and

**Whereas**, the contract price for the work to be performed under the extended contract will not exceed an additional \$525,000; and

**Whereas**, the Town Manager has determined that extending the existing contract or an amount not to exceed an additional amount of \$525,000, is in the best interest of town; and

**Whereas**, the Contractor has otherwise agreed to extend the existing contract on the same terms and conditions of the current contract, provided a price adjustment will be made for asphalt binder pursuant to the Maryland Department Transportation, State Highway Administration, Standard Specifications for Construction and Materials, dated July 2018 – Price Adjustment for Asphalt Binder.

**Now Therefore Be it Resolved** that the Town Manager is hereby authorized to extend the existing street resurfacing contract with NZI Construction, Corporation, under the same terms and conditions, at the unit prices included in the contract, dated July 10, 2014, provided a price adjustment will be made for asphalt binder pursuant to the Maryland Department Transportation, State Highway Administration, Standard Specifications for Construction and Materials, dated July 2018 – Price Adjustment for Asphalt Binder, both documents are attached hereto as Exhibit A.

**Adopted** by the Mayor and Town Council, at a regular public meeting, this **10th** day of **June, 2019**.

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Tracey C. Furman, Mayor

**This is to Certify** that the foregoing Resolution was adopted by the Mayor & Town Council in public meeting assembled on the **10th** day of June, 2019.

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Susan C. Engels, Clerk-Treasurer

# EXHIBIT A

## Resolution No. R-11-2014

### **A Resolution of the Mayor and Town Council Awarding A Contract for Street Improvements and Repairs**

**Whereas**, various improvements and repairs are required for Town streets, sidewalks, curb and gutter and driveway aprons; and

**Whereas**, the value of the improvements and repairs is expected to exceed \$30,000.00; and

**Whereas**, the Town has received a bid from NZI Construction Corp. including unit prices for the proposed improvements and repairs; and

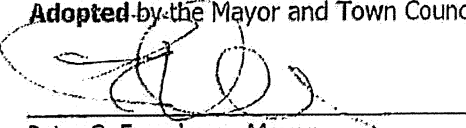
**Whereas**, pursuant to section 2-403 of the Town Code, whenever a federal, state, county or local government, or any agency or unit thereof, whose purchasing policies are comparable to those of the Town of Kensington, has conducted a bid and awarded a contract, the Town manager may purchase the bid item at the bid price from the successful bidder, subject, where required, to the approval of the Mayor and Council; and

**Whereas**, Prince George's County, which has purchasing policies that are comparable to those of the Town of Kensington, in 2013 conducted a bid and awarded a contract to NZI Construction Corp. for the types of improvements and repairs required by the Town, and NZI Construction Corp. has offered the same unit prices to the Town; and

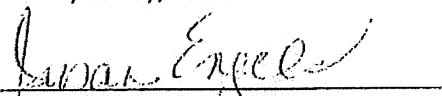
**Whereas**, the Mayor and Town Council have determined that it is in the public interest to approve the award of the contract in substantially the form attached, for a total not to exceed price of \$500,000, for the improvements and repairs referenced in the contract and exhibits.

**Now Therefore Be It Resolved** by the Mayor and Town Council that a contract in substantially the for attached for improvement and repair of Town streets, sidewalks, curb and gutter and driveway aprons be and it is hereby awarded to NZI Construction Corp., for a total not to exceed price of \$500,000, and that the Town Manager is hereby authorized to execute the contract.

**Adopted** by the Mayor and Town Council and effective this 7<sup>th</sup> day of July, 2014.

  
\_\_\_\_\_  
Peter C. Fosselman, Mayor

**THIS TO CERTIFY** that the foregoing Resolution was adopted by the Town Council in public meeting assembled on the 7th day of July, 2014.

  
\_\_\_\_\_  
Susan Engels, Clerk-Treasurer

## **CONTRACT FOR SERVICES**

THIS Contract, as of the 10<sup>th</sup> day of July, 2014 by and between TOWN OF KENSINGTON, a municipal corporation organized and existing under the Laws of Maryland, hereinafter referred to as the "Town", and NZI Construction Corp., hereinafter referred to as the "CONTRACTOR".

### **WITNESSETH:**

WHEREAS, the Town desires to obtain services as more specifically described in the specifications identified as the Town of Kensington Street Repair & Resurfacing Program - 2014 and attached documents hereto; and

WHEREAS, the Town desires to hire a Contractor to perform services in connection with the aforementioned project;

NOW, THEREFORE, in consideration of the covenants and promises hereinafter set forth, the parties hereto agree as follows:

1. **SCOPE OF WORK AND CONTRACT PRICE:** The Contractor agrees to perform the work described in, and shall be bound by, the terms and conditions set forth in the specifications attached hereto and incorporated herein by reference as Exhibit A. The unit pricing for the contract work is set out in Exhibit B.
2. **DURATION:** This Contract shall be in effect until the work described herein is inspected and accepted by the Town. In any event, work shall be completed on or before August 15, 2015. Time is of the essence as to the Contractor's performance hereunder.
3. **INDEPENDENT CONTRACTOR:** The Contractor shall perform this agreement as an independent contractor and shall not be considered an agent of the Town, nor shall any of the Contractor's employees or agents be subagents of the Town.
4. **EQUAL EMPLOYMENT OPPORTUNITY:** During the performance of this Contract, the Contractor agrees to comply with all applicable federal, state and local laws relating to discrimination in employment.
5. **TERMINATION FOR CONVENIENCE:** The Town may terminate this Contract for convenience by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. If the Contract is terminated by the Town as provided in this section, the Contractor will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Contractor covered by this Contract, less payments of compensation previously made.
6. **TERMINATION FOR CAUSE:** If, through any cause, the Contractor fails to fulfill in a timely and proper manner its obligations under this Contract, or if the Contractor violates any of the covenants, agreements, or stipulations of this Contract, the Town shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination.

Notwithstanding the above, the Contractor shall not be relieved of liability to the Town for damages sustained by the Town by virtue of any breach of this Contract by the Contractor, and the Town may withhold any payments for the purpose of setoff until such time as the exact amount of damages due the Town from the Contractor is determined.

7. **ENFORCEMENT:** If, at any time, the Contractor is in default of any of its obligations under this Contract, the Town shall be entitled to all costs, including reasonable attorneys fees, incurred in securing the performance of any obligations under this Contract and/or in prosecuting a claim for damages arising from the Contractor's default.
8. **COMPLIANCE WITH LAWS:** The Contractor shall observe and comply with all federal, state, county and local laws, ordinances and regulations that affect the work to be done herein, and shall indemnify and hold harmless the Town, and all of its officers, agents and servants against any claim or liability from or based on the violation of any such law, ordinance or regulation, whether by the Contractor, the Contractor's agents or subcontractors.
9. **INDEMNIFICATION OF THE TOWN:** The Contractor shall indemnify and save harmless the Town from all suits, actions and damages or costs (including, but not limited to, attorneys fees), of every name and description to which the Town, its officers or agents may be subjected or put by reason of injury to persons or property as a result of the work, whether caused by negligence or carelessness on part of the contractor, his servants, or agent, or to other causes and so much of the monies due to be become due the Contractor under the contract as may be considered necessary by the Town shall be retained until such suits or claims for damages have been settled or otherwise disposed of and satisfactory evidence to that effect furnished to the Town.

**10. DAMAGE TO PRIVATE PROPERTY:** The Contractor shall be responsible for any damage to private property caused by the Contractor, its agents or subcontractors in the course of the performance of this Contract and shall replace or restore to its original condition any such damaged property at no cost to the occupant, owner or the Town.

**11. SUBCONTRACTING:** None of the services covered by this Contract shall be subcontracted without the prior written consent of the Town. Any request for consent to subcontract any portion of the work shall include: 1) a description of the items to be subcontracted; 2) all subcontractor names, addresses and telephone numbers; and 3) the qualifications of the subcontractor. The Contractor shall be fully responsible to the Town for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by the Contractor. There shall be no contractual relationship between the Town and any subcontractor.

**12. ASSIGNMENT:** The Contractor shall not assign or transfer any interest in this Contract without the prior written approval of the Town.

**13. CONFLICTS OF INTEREST:** The Contractor covenants that it has presently no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required to be performed under this Contract. The Contractor further covenants that in the performance of this Contract, no person having any such interest thereof, shall be employed during the terms of this contract.

**14. COMPENSATION:** The Contractor shall be paid in accordance with the Specifications attached hereto and the Contractor's completed Schedule of Rates. Payment shall be made within thirty (30) days of receipt of an invoice, unless a longer period is provided in the specifications.

**15. INVOICES:** Requisitions for payment shall include a complete description of the services rendered by the Contractor, providing the dates services were rendered, and a description of services rendered.

**16. INSURANCE & PERFORMANCE & PAYMENT BOND:**

The Contractor, within five (5) days following the execution of this Contract and prior to commencement of any work, shall furnish to the Town proof of insurance of at least the kinds and minimum amounts set forth below. The following policies must be maintained at the expense of the Contractor during the entire performance period of this Contract or any renewal or extension thereof.

**WORKERS' COMPENSATION** covering all operations in the State of Maryland for the proper hazard classifications (which shall be specifically listed on the certificate of insurance) for the anticipated work with limits as established by statute.

**COMPREHENSIVE GENERAL LIABILITY INSURANCE:**

The Contractor shall provide:

- A. Comprehensive General Liability Insurance (bodily injury - \$1,000,000.00 for each occurrence/aggregate; property damage - \$500,000.00 for each occurrence/aggregate), to include coverage for asbestos abatement, removal and disposal activities; and
- B. Automobile Fleet Insurance (\$1,000,000.00 for each occurrence/ aggregate; property damage - \$500,000.00 for each occurrence/aggregate.)

The Contractor shall indemnify and save harmless the Town, its officers, employees and agents, from all suits, actions and damages or costs of every kind and description, arising directly or indirectly out of the performance of the contract, whether caused by negligence on the part of the Contractor, its officers, agents and employees, or to other causes. The Contractor shall name the Town as an additional insured on said policies of insurance, and shall provide Certificates of Insurance, with the exception of the Workers Compensation Insurance, before starting work on the Project.

C. All accidents resulting in injury to or death of persons or damage to property of others arising out of the performance or suits instigated against the Contractor and/or the Town arising out of such accidents shall be reported promptly to the Town Manager or other official designated by the Mayor and Town Council.

**PERFORMANCE AND PAYMENT BONDS:**

The contractor shall furnish a Performance Bond and a Labor and Materials Payment Bond, each in the full amount of the contract award, as security for the satisfactory completion of the Contract in accordance with the specifications, and the payment of all labor and materials in connection with the performance of the contract.

**17. CAPACITY TO PERFORM:** The Contractor, by executing this Contract, represents that all equipment necessary for providing the described services is in working order, that materials needed are now in stock or will be available so as not to delay timely performance, and that all personnel needed are available or will be available by the date work is to commence.

18. **LICENSES AND PERMITS:** The Contractor will be responsible for obtaining and maintaining any and all licenses and permits pertaining to performance of work under this Contract.

19. **SALES TAX:** No sales tax is to be charged by the Contractor to the Town government for supplies or materials furnished in the performance of work under this Contract. State of Maryland Sales Tax Exemption Certificate No. 30044888 will apply to all such transactions.

20. **PERSONNEL, EQUIPMENT AND MATERIALS:** The Contractor shall furnish the necessary supervision, crew(s), equipment and all materials and/or supplies, as may be required for efficient and safe execution of the required work.

21. **ENGLISH LANGUAGE:** The Contractor shall appoint one or more crew members or supervisors to act as liaison with the Town and emergency service personnel. All liaisons shall be fluently bi-lingual in English and the Contractor's and/or subcontractor's employees' language(s) and at least one liaison shall be present at each work site at all times when any of the Contractor's employees or agents are at the site.

22. **TELEPHONE NUMBERS:** The Contractor shall furnish the Town with the name and telephone number of the Contractor or of a representative who can be reached at such number during the business day, and an emergency number where a representative can be reached at night or on weekends and holidays.

23. **MATERIALS:** All materials shall be new and free from defects. They shall be standard products of current manufacture. Unless otherwise noted in the specifications, the Contractor shall abide by specific manufacturer instructions and recommendations on installation and operation.

24. **TIME IS OF THE ESSENCE:** Time is of the essence as to the Contractor's performance of this contract.

25. **STANDARDS OF WORK:** All work shall be performed in a neat and workmanlike manner by trained and experienced personnel.

26. **ACCEPTANCE AND PAYMENT:** The Town may inspect (including testing) all items for compliance with specifications and in satisfactory condition. Should inspection delays occur, the Contractor shall have thereby no claim for damages or extra compensation. Except as provided elsewhere herein or in any addendum hereto, after the work is accepted by the Town, the Contractor shall submit a request for payment. Except as provided herein, payment shall be made within thirty (30) days following receipt of such invoices. Discounts, if any, shall be applicable from the date of the request for payment.

Acceptance by the contractor of final payment shall operate as a release to the Town and every officer and agent thereof, from all claims and liabilities to the contractor for anything done or furnished or relating to the work under the contract.

27. **ACCURATE INFORMATION, ACCOUNTING AND AUDIT:** The Contractor certifies that all information provided in response to the request for proposals or invitation to bid or that will be provided to the Town is true and correct and can be relied upon by the Town in awarding, modifying, accepting services, making payments, or taking any other action with respect to this Contract. Any false or misleading information is a ground for the Town to reject a bid or to terminate this Contract and to pursue any other appropriate remedy.

The Contractor certifies that its accounting system conforms with generally accepted accounting principles, is sufficient to comply with the Contract's budgetary and financial obligations, and is sufficient to produce reliable financial information.

28. **TERMS AND CONDITIONS:** The terms and conditions of this document govern in event of a conflict with any terms of the Contractor's proposal, and are not subject to change by reasons of written or oral statements by the Contractor unless the same are accepted in writing. Words and abbreviations, which have well known technical or trade meanings, are used in accordance with such meanings.

29. **DELAYS/EXTENSION OF TIME:** If the Contractor is delayed in the delivery of the supplies, equipment or services by any act or neglect of the Town, or any employee of the Town or by a separate contractor employed by the Town, or by any changes, strikes, lockouts, fires, unusual delays in transportation or delay authorized by the Town, the Town shall decide the extent of any delay and completion time shall be extended for such reasonable time as the Town may decide, in its sole discretion.

All claims for extensions must be in a written notice sent to the Town within one (1) calendar day after the date when such alleged cause for extension of time occurred. All such claims shall state specifically the amount of the delay the Contractor believes itself to have suffered. If statement is not received within the prescribed time the claim shall be forfeited and invalidated.

30. **SUSPENSION OR STOPPAGE OF WORK:** The Town shall have the authority to suspend work of the Contractor, wholly or in part, for each period or periods as it may deem necessary due to unsuitable weather or such other conditions considered unfavorable for proper prosecution of the work, or for such time as is necessary to avoid interference with other activities or events in the Town.

The Contractor shall not suspend or stop work, which has been ordered by the Town without first obtaining proper authority to do so.



**31. CHANGES IN SCOPE OF WORK:** The Town, without invalidating the Contract, may order written changes in the work consisting of additions, deletions or modification with the contract sum and time being adjusted accordingly. All such changes shall be authorized in writing by an authorized official of the Town.

Costs shall be limited to the following: cost of materials, cost of labor and additional costs of supervision and field office personnel directly attributable to the change.

The cost or credit to the Town from a change in the work shall be determined by mutual agreement. The Contractor shall do all work that may be required to complete the work contemplated at the unit prices or lump sum to be agreed upon. Such work must be authorized, in writing, by an authorized official of the Town prior to starting extra work.

The Town Manager or other official designated by the Town shall have authority to order minor changes in the work not involving an adjustment to the contract sum or extension of time and not inconsistent with the intent of the contract documents. Such changes shall be effected by a written change order.

**32. INTERPRETATION:** Any questions concerning conditions and specifications shall be directed in writing to the Town Manager or other official designated by the Mayor and Town Council. No interpretation shall be considered binding unless provided in writing by the Town Manager or other authorized official of the Town. The execution of this Contract shall be prima facie evidence that the Contractor thoroughly understands the terms of this Contract.

**33. DEFECTIVE SUPPLIES/SERVICE:** Defective or unsuitable materials or workmanship shall be rejected and shall be made good by the Contractor.

If the work shall be found to be defective before final acceptance, the Contractor shall make good such defect in a manner satisfactory to the Town, without extra compensation even though said defect may have not been due to any act or neglect of the Contractor.

**34. ERRORS:** The Contractor shall take no advantage of any error or omission in the specifications. This Contract shall not be construed against either party by virtue of the fact that such party or its agent authored all or any part hereof.

**35. NO LIMITATION OF LIABILITY:** The mention of any specific duty or liability of the Contractor herein shall not be construed as a limitation or restriction upon any general liability or duty imposed upon the Contractor by any other law.

**36. MISCELLANEOUS PROVISIONS:** The Town and the Contractor each bind themselves, their partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in this Contract. Neither party to the contract shall assign the contract nor sublet it as a whole without written consent of the other, nor shall the contractor assign any monies due or to become due him hereunder without the previous consent of the Town.

Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or to any officer of the corporation for whom it was intended if delivered or sent by registered or certified mail to the last addresses known.

Duties and obligations imposed by the contract documents and the rights and remedies available herein shall be in addition to and not a limitation of the duties, obligations, rights and remedies otherwise imposed or available by law, unless so indicated.

The contractor shall not be permitted to do any work, which will require the services of any Town employee on Town holidays, Saturdays or Sundays unless otherwise authorized by the Town Manager or his designee. In case of emergency, which may require work requiring the services of Town forces be done on Saturdays, Sundays, holidays or longer than eight (8) hours per day, the contractor may request permission of the Town Manager to do so.

**37. NOTICES:** Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or to any officer of the corporation for whom it was intended if delivered or sent by registered or certified mail to the last address known.

Notices shall be addressed as follows:  
If to the Town:

Town Manager -Town of Kensington, 3710 Mitchell Street, Kensington, MD 20895

If to the Contractor:

NZI Construction Corp., 11601 Spruce Avenue, Beltsville, MD 20705

**38. GOVERNING LAW:** This Contract is executed in the State of Maryland and shall be governed by Maryland law. The Contractor, by execution of this Contract, consents to the jurisdiction of the Maryland state courts with respect to any dispute arising out of this Contract and further consents to venue in Montgomery County, Maryland.

39. **AUTHORITY OF THE TOWN MANAGER IN DISPUTES:** Any dispute concerning a question of fact arising under this Contract shall be decided by the Town Manager who shall notify the Contractor in writing of his determination. The Contractor shall be afforded the opportunity to be heard and offer evidence in support of its claim. Pending final decision of the dispute herein, the Contractor shall proceed diligently with performance under this Contract. The decision of the Town Manager shall be final.

42. **MODIFICATION:** This Contract may be modified only by written instrument signed by both parties hereto.

41. **ENTIRE CONTRACT:** This Contract, including the exhibits attached hereto, constitutes the entire Contract between the Town and the Contractor, and the parties shall not be bound by any prior negotiations, representations or promises, not contained herein.

**IN WITNESS WHEREOF,** the said NZI Construction Corp. and the TOWN have caused these presents to be signed and sealed.

**NZI Construction Corp.**

Name: NZI Construction (Seal)

By: Joaquin Nazario  
Either President or Vice-President

Witness: Matilde Nazario  
Either Secretary or Asst. Secretary  
Matilde Nazario, Sec. Treas.

Corporate seal must be impressed through name of person signing for corporation.

**TOWN OF KENSINGTON**

By: Sanford W. Daily  
Sanford W. Daily, Town Manager

## AFFIDAVIT OF NON-CONVICTION

I hereby affirm that:

- (1) I am the President (Title) and duly authorized representative of NZI Construction (Name of Business Entity) whose address is 11601 Spruce Ave, Beltsville MD and that I possess the legal authority to make this affidavit on behalf of myself and the firm for which I am acting.
- (2) Except as described in Paragraph 6 below, neither I nor the above firm nor, to the best of my knowledge, any of its officers, directors, or partners or any of its employees directly involved in obtaining contracts with the State, or any county, bi-county or multi-county agency or subdivision of the State have been convicted, or in an official investigation or other proceeding admitted in writing or under oath, acts or omissions which constitute bribery, attempted bribery or conspiracy to bribe under the provisions of Criminal Law Article of the Annotated Code of Maryland or under the laws of any state or the federal government (conduct prior to July 1, 1977 is not required to be reported); and
- (3) Except as described in Paragraph 6 below, neither I nor the above firm nor, to the best of my knowledge, any of its officers, directors, or partners or any of its employees directly involved in obtaining contracts with the State, or any county, bi-county or multi-county agency or subdivision of the State have been convicted under a State or federal law or statute of any offense enumerated in §16-203 of the State Finance and Procurement Article; and
- (4) Except as described in Paragraph 6 below, neither I nor the above firm nor, to the best of my knowledge, any of its officers, directors, or partners or any of its employees directly involved in obtaining contracts with the State, or any county, bi-county or multi-county agency or subdivision of the State have been found civilly liable under a State or federal antitrust statute as provided in §16-203 of the State Finance and Procurement Article.
- (5) Except as described in Paragraph 6 below, neither I nor the above firm nor, to the best of my knowledge, any of its officers, directors, or partners or any of its employees who will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction have debarred or suspended under this subtitle
- (6) State "none" or, as appropriate, list any conviction, plea or admission described in Paragraph 2 through 5 above, with the date, court, official or administrative body, the individuals involved and their position with the firm, and the sentence or disposition, if any.

I acknowledge that this affidavit is to be furnished, where appropriate, to the City of College Park, Maryland, under Section 16-311 of the State of Maryland Finance and Procurement Article of the Annotated Code of Maryland. I acknowledge that, if the representations set forth in this affidavit are not true and correct, the City of College Park may terminate any contract awarded and take any other appropriate actions. I further acknowledge that I am executing this affidavit in compliance with Section 16-309 of the State Finance and Procurement Article of the Annotated Code of Maryland, which ordains that any person convicted of bribery (upon acts committed after July 1, 1977) in furtherance of obtaining a contract from the State or any subdivision of the State of Maryland shall be disqualified from entering into a contract with the City.

I do solemnly declare and affirm under the penalties of perjury that the contents of the affidavit are true and correct.

Signature



SEAL

Printed Name

Joaquim Nazario

Date

8/4/14

## FALSE PRETENSES AFFIDAVIT

I, Joaquim Nazario, the undersigned President of  
(Office Held)

NZI Construction Corp, being first duly sworn on oath, affirms and  
(Name of Business Entity)

Says this 4<sup>th</sup> day of August, 2014 that I hold the aforementioned

Office in NZI Construction Corp.  
(Name of Business Entity)

I FURTHER DECLARE AND AFFIRM, under the penalties of perjury, that neither I nor, to the best of my knowledge, information and belief, the above Business Entity nor any officer, director, partner, member or associate thereof; nor any of its employees directly involved in obtaining contracts with the Town, has been convicted of false pretenses, attempted false pretenses or conspiracy to commit false pretenses under the laws of any state or federal government, based upon acts committed after July 1, 1981.

Joaquim Nazario SEAL  
Signature Joaquim Nazario President

Date: 8/4/14

To be signed by Contractor, if the Contractor is an Individual; or by a Partner, if the Contractor is a Partnership; or by a duly authorized Officer, if the Contractor is a Corporation.

Contract No. 883-H (D)/A

EXHIBIT "A"  
PROPOSAL

Prince George's County, Maryland  
Department of Public Works and Transportation  
Office of Project Management  
9400 Peppercom Place, Suite 310  
Largo, Maryland 20774

BID DUE DATE: May 10, 2013  
BID DUE TIME: 10:00 AM  
BID NUMBER: Contract No. 883-H (D)/A

(The) NZI Construction Corp.  
(Bidding Company Name)

hereby submits the following proposal for the Pedestrian Safety Initiative in Councilmanic Districts - 3 Contracts, Contract Number 883-H (D)/A

Having carefully examined the "Information/Instructions To Bidders," the General Terms and Conditions of Contract, the entire proposal documents, drawings, specifications, and Addenda Numbered \_\_\_\_\_, Clarification Numbered \_\_\_\_\_;  
And having received clarification on all items of conflict or upon which any doubt arose, the undersigned proposes to furnish all labor, equipment, materials, supervision, etc., required by the documents for the entire work, all in strict accordance with the Contract Documents, for the stipulated sum of:

**BASE CONTRACT PRICE: GROUP A**

one million six hundred forty-eight thousand \$ 1,648,750.00  
(Written) seven hundred fifty and 00/100 (Figures)

**UNIT PRICE SCHEDULE: (GROUP A)**

For changing quantities of work items from those indicated by the contract drawings upon written instruction from the Engineer, the following unit prices shall prevail:

ITEM NO.	APPROXIMATE QUANTITIES		ITEMS AND UNIT PRICES BID	UNIT PRICES		AMOUNT	
	Quantity	Unit		Dollar	Cents	Dollar	Cents
1001	8,000	LF	Four Inch (4") Temporary Pavement Marking Tape at <u>zero and 25/100</u> per Linear Foot	0	25	2,000	00
3001	1,000	LF	Six Inch (6") Diameter Polyvinyl Chloride (PVC) Perforated Under drain Pipe or Outlet (Schedule 40) at <u>twenty-five and 00/100</u> per Linear Foot	25	00	25,000	00

Contract No. 883-H (D)/A

5001	5,000	TON	Hot Mix Asphalt SUPERPAVE 12.5 MM, PG 70-22, Low ESALS at <u>eighty and 50/xx</u> per Ton	80	50	402,500	00
5002	5,000	TON	Hot Mix Asphalt SUPERPAVE 9.5 MM, PG 64-22, Low ESALS at <u>eighty-two and 00/xx</u> per Ton	82	00	410,000	00
5004	4,000	SY	Full Depth Patching at <u>forty-five and 00/xx</u> per Square Yard	45	00	180,000	00
5005	60,000	SY	Milling Hot Mix Asphalt Pavement, One Inch (1") at <u>two and 25/xx</u> per Square Yard	2	25	135,000	00
5007	1,500	SY	Remove and Replace Residential Driveway Entrance at <u>forty-five and 00/xx</u> per Square Yard	45	00	67,500	00
5008	250	SY	Remove and Replace Commercial Driveway Entrance at <u>fifty-five and 00/xx</u> per Square Yard	55	00	13,750	00
5009	8,000	LF	Five Inch (5") Yellow Thermo- plastic Pavement Marking at <u>one and 00/xx</u> per Linear Foot	1	00	8,000	00
5010	8,000	LF	Five Inch (5") White Thermo- plastic Pavement Marking at <u>one and 00/xx</u> per Linear Foot	1	00	8,000	00
6001	9,000	LF	Remove and Replace Concrete Curb and Gutter at <u>twenty-one and 00/xx</u> per Linear Foot	21	00	189,000	00
6002	45,000	SF	Remove and Replace Concrete Sidewalk at <u>four and 00/xx</u> per Square Foot	4	00	180,000	00
6003	3,500	SF	Remove and Replace Concrete Handicap Access Ramp at <u>eight and 00/xx</u> per Square Foot	8	00	28,000	00
TOTAL FOR PROPOSAL - GROUP A						1,648,750.00	

## CONTINGENT ITEMS (NOT INCLUDED IN THE TOTAL FOR PROPOSAL):

ITEM NO.	APPROXIMATE QUANTITIES		ITEMS AND UNIT PRICES BID	UNIT PRICES		AMOUNT	
	Quantity	Unit		Dollar	Cents	Dollar	Cents
2001	100 (contingent)	CY	Class 1-A Excavation at <u>thirty-five and 00/xx</u> per Cubic Yard	35	00	3,500	00
2002	100 (contingent)	CY	Borrow Excavation at <u>thirty-five and 00/xx</u> per Cubic Yard	35	00	3,500	00
2003	10 (contingent)	CY	Test Pit Excavation at <u>one hundred and 00/xx</u> per Cubic Yard	100	00	1,000	00
3002	50 (contingent)	LF	Remove and Replace Storm Drain Inlet Throat at <u>thirty-five</u> <u>and 00/xx</u> per Linear Foot	35	00	1,750	00
3003	200 (contingent)	SF	Remove and Replace Reinforced Concrete Inlet Top Slabs at <u>thirty and 00/xx</u> per Square Foot	30	00	6,000	00
5003	100 (contingent)	TON	Hot Mix Asphalt SUPERPAVE 19.0 MM, PG 64-22, Low ESALS at <u>one hundred and 00/xx</u> per Ton	100	00	10,000	00
5006	100 (contingent)	SY	Remove and Replace Concrete Intersection Swale at <u>seventy-five and 00/xx</u> per Square Yard	75	00	7,500	00
5011	100 (contingent)	LF	Twenty Four Inch (24") Wide Thermoplastic Stop Bars at <u>twenty and 00/xx</u> per Linear Foot	20	00	2,000	00
5012	15 (contingent)	EA	Thermoplastic Pavement Marking Arrows or Letters at <u>two hundred fifty and 00/xx</u> per Each	250	00	3,750	00
6004	500 (contingent)	SY	Shoulder Restoration Using Graded Aggregate, CR-6 at <u>three and 00/xx</u> per Square Yard	3	00	1,500	00

Contract No. 883-H (D)/A

7001	500 (contingent)	SY	Shoulder Restoration Using Furnished Topsoil, Seed and Mulch at <u>three and 00/100</u> _____ per Square Yard	3 00	1,500 00	
TOTAL FOR CONTINGENT ITEMS - GROUP A					42,000 00	

The above unit prices shall include all labor, supervision, materials, shoring, removal, overhead, profit, insurance, etc. to cover the finished work of the several kinds called for. Changes shall be processed in accordance with the General Conditions.

### Special Terms and Conditions

- A. Failure to properly and completely fill in all blanks may be cause for rejection of this proposal.
- B. It is understood that the proposal price will be firm for a time period of one hundred twenty (120) calendar days from the proposal due date, and it is anticipated that within this period, the successful Offeror/Contractor will be notified of acceptance of the proposal, and the Offeror/Contractor and the County shall execute a contract for the above stated compensation. It is further understood that the successful Offeror/Contractor shall complete work within three hundred sixty-five (365) calendar days after the "Notice To Proceed;" and agrees that, if the work is not completed in the time noted above the Offeror/Contractor will be liable for "Liquidated Damages" of Five Hundred Dollars (\$500.00) per calendar day late as specified in Article 7.12 of the General Terms and Conditions of Contract (Part II).
- C. Accompanying the Proposal is a fully executed bid bond security in the amount of five percent (5%) of the total bid (when the total bid exceeds \$50,000.00). Bid bonds and checks of all Bidders will be returned within one hundred twenty (120) calendar days after determination of the order of bids, unless the Purchasing Agent determines that the circumstances warrant holding them for a longer period.
- D. The Offeror/Contractor shall quote all prices, in both word and figures. In case of a discrepancy between the written words and the figures, the written words shall govern.

16732854  
(Construction Firm License No.)

4-11-2013  
(Date Issued)

Circuit Court - PG County  
(Place of Issuance)



## NON-COLLUSION AFFIDAVIT

I, Joaquim Nazario, being duly sworn on oath, depose and say:

That he/she is the President  
(Owner, Partner, or Title if on behalf of a Corporation)

of NZI Construction Corp  
(Name of Business, Corporation or Partnership)

the party submitting the foregoing Bid; that (he has not) (no officer of the said Corporation has) (no partner of the said Partnership has) nor has any person, firm or corporation acting on (his/her) (its) (their) behalf; agreed, conspired, connived or colluded to produce a deceptive show of competition in the compilation of the Bid being submitted herewith; and that (he/she) (the said Corporation) (the said Partnership) has not in any manner, directly or indirectly, entered into any agreement, participated in any collusion to fix the Bid Price of the Bidder herein or any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the within Bid is submitted; that in making this Affidavit, the affiant represents that he/she has personal knowledge of the matters and facts herein stated. The Affiant hereby declares and affirms under the penalties of perjury that the foregoing is true to the best of his/her knowledge and information.

Joaquim Nazario SEAL  
Signature Joaquim Nazario, Pres.  
Date 8/14/14

To be signed by Bidder, if the Bidder is an Individual; or by a Partner, if the Bidder is a Partnership; or by a duly authorized Officer, if the Bidder is a Corporation.

## CERTIFICATE OF NON-SUSPENSION

I Joaquim Nazario, do hereby certify under the penalties of perjury  
Name

that NZI Construction Corp has not been suspended or barred or barred  
Contractor

from participation in contract activities with any government.

Joaquim Nazario SEAL  
Signature Joaquim Nazario  
President  
Title  
8/4/14  
Date



STATE HIGHWAY  
ADMINISTRATION

*Maryland Department of Transportation*  
*State Highway Administration*

**STANDARD SPECIFICATIONS**  
**for**  
**CONSTRUCTION**  
**and**  
**MATERIALS**

**July, 2018**

**504.03.18 Pavement Profile.** Refer to Section 535 in the Contract Documents.

**504.04 MEASUREMENT AND PAYMENT.**

Asphalt pavement will be measured and paid for at the Contract unit price per ton. The payment will be full compensation for furnishing, hauling, placing all materials including anti-stripping additive, tack coat, control strip, pot hole and spall repairs, setting of lines and grades where specified, and for all material, labor, equipment, tools, and incidentals necessary to complete the work.

**Temporary Tie-Ins.** Placement and removal of the temporary tie-in where asphalt is being applied to the traveled way carrying traffic will not be measured but the cost will be incidental to the pertinent asphalt item.

Removal of the existing pavement or structure for the final tie-in will be measured and paid for at the Contract unit price for the pertinent items used. The asphalt for the final tie-in will be measured and paid for at the Contract unit price for the pertinent Asphalt item.

**Adjustments.** Adjustment of existing visible manholes, valve boxes, inlets, or other structures will not be measured but the cost will be incidental to the asphalt item. Adjustment of existing manholes, valve boxes, inlets, or other structures that are encountered below the existing grade will be considered for payment in conformance with GP-4.07.

**Removal of Existing Raised/Recessed Pavement Markers.** Removal of existing raised/recessed pavement markers will not be measured but the cost will be incidental to the asphalt item. Removal of existing raised/recessed pavement markers that are encountered below the existing pavement will be considered for payment in conformance with GP-4.07.

**504.04.01 Price Adjustment for Asphalt Binder.** A Price Adjustment (PA) will be made to provide additional compensation to the Contractor or a credit to the Administration for the fluctuation in the cost of asphalt binder.

For adjustment purposes, the prevailing base index price will be the price specified for PG 64-22 (PG64S-22) at time of bid opening. Cost differentials between PG 64-22 (PG64S-22) and a binder specified shall be included in the price bid per ton for Asphalt. A historical database will be maintained by the Administration.

The PA will be made when the index price for the month of placement increases or decreases more than 5 percent of the prevailing base index price. Computations will be as follows:

$$\text{Percent Change} = ((P_p - P_b) / P_b) \times 100$$

$$PA = T \times Q \times ((P_p - (D \times P_b)))$$

Where:

PA= Price Adjustment for the current month

T = Design target asphalt content expressed as a decimal

Q = Quantity of asphalt placed for the current month

P<sub>p</sub> = Index price for PG 64-22(PG64S-22) asphalt binder per ton for the month of placement

D = 1.05 for increases over 5 percent; 0.95 for decreases over 5 percent

P<sub>b</sub> = Prevailing base index price for PG 64-22 (PG64S-22) asphalt binder per ton

PA resulting in increased payment to the contractor will be paid under the item Price Adjustment for Asphalt Binder. The item amount will be established by the Administration and shall not be revised by the Contractor. PA resulting in a decreased payment will be deducted from monies owed the Contractor.

**504.04.02 Payment Adjustments for Asphalt Mix and Pavement Density.** Payment adjustments for pavement density will be based on individual subplot core test data for a given lot and the lot average density as specified in this section and Table 504A. Payment reductions for density and for mix will be made by adjusting the payment for Asphalt. Incentive payments will be made using the Contract items for Asphalt Mix and Pavement Density. The item amounts established by the Administration shall not be revised. Payment reductions for density will be waived for portions of the pavement where a poor foundation is determined as the cause for inadequate density.

TABLE 504A		
Dense Graded Asphalt Mixes — Percent of Maximum Density		
<i>Lot Average % Minimum</i>	<i>No Individual Sublot Below %*</i>	<i>Pay Factor (DF)</i>
94.0	94.0	1.050
93.8	93.7	1.045
93.6	93.4	1.040
93.4	93.1	1.035
93.2	92.8	1.030
93.0	92.5	1.025
92.8	92.2	1.020
92.6	91.9	1.015
92.4	91.6	1.010
92.2	91.3	1.005
92.0	91.0	1.000
91.8	90.8	0.990
91.6	90.6	0.980
91.4	90.4	0.970
91.2	90.2	0.960
91.0	90.0	0.950
90.8	89.8	0.940
90.6	89.6	0.930
90.4	89.4	0.920

90.2	89.2	0.910
90.0	89.0	0.900
89.8	88.8	0.890
89.6	88.6	0.880
89.4	88.4	0.870
89.2	88.2	0.860
89.0	88.0	0.850
88.8	87.8	0.840
88.6	87.6	0.830
88.4	87.4	0.820
88.2	87.2	0.810
88.0	87.0	0.800
Less than 88.0	87.0	0.750 or rejected by Engineer

**Note 1:** Lots with test data above 97.0 may be rejected. Lots that are accepted will receive a pay adjustment in accordance with the following:

- (a) When the density lot average is above 97.5, the pay factor = 75 percent
- (b) When 3 subplot densities are above 97.0, the pay factor = 95 percent
- (c) When 4 or more subplot densities are above 97.5, the pay factor = 75 percent

**Note 2:** Pay incentive or pay disincentive will not be paid for placements identified as wedge/level courses or thin lift courses.

**Note 3:** When the Contractor's core specific gravity data does not compare with the Administration's core specific gravity data, only the Administration's single subplot values and lot average value will be used in acceptance decision.

**Note 4:** The average subplot values and the lot average will be used in acceptance decision.

Lots in conformance will be accepted per Sections 904, 915, and MSMT 735. A composite pay factor (CPF) for Asphalt content and gradation will be based on the total estimated percent of the lot that is within specification limits using the quality level analysis.

Payment adjustments will be computed as follows:

Density Lot Payment Adjustment =  $(DF - 1) \times (AP) \times (TL)$

Mix Design Lot Payment Adjustment =  $(MF - 1) \times (AP) \times (TL)$

Where:

MF = Mixture pay factor  $[0.55 + (0.5 \times \text{CMPWSL})]$

Refer to MSMT 735 for CMPWSL.

DF = Density pay factor from Table 504A.

AP = Adjusted/applicable unit price per 504.04.01.

TL = Applicable tonnage per lot.

(a) A lot containing material with a pay factor of less than 1000 may be accepted at the reduced pay factor if the pay factor is at least 0.800 and there are no isolated defects.

(b) A lot containing material with a pay factor of less than 1000 may be accepted at the reduced pay factor provided the composite pay factor for asphalt content and grading is at least 0.750, and there are no isolated defects.

(c) A in-place density lot containing nonconforming material that fails to obtain at least a 0.800 pay factor and a mixture lot containing nonconforming material that fails to obtain at least a 0.750 pay factor for asphalt content and gradation will be evaluated to determine acceptance. Lots that are rejected shall be replaced.

(d) Lots with less than five Quality Control or Quality Assurance samples per in-place density lot will not be evaluated for incentive payment.

(e) When less than three mix samples have been obtained at the time of the acceptance sampling or at the time a lot is terminated, the Engineer will determine if the material in a shortened lot will be considered a part of the previous lot or whether it will be accepted based on the individual test data.

**504.04.03 Dispute Resolution.** Refer to 915.02.03.