

RESOLUTION NO. 49-13

A RESOLUTION OF THE CITY COUNCIL, OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THAT THE JOB CLASSIFICATION LIST BE AMENDED BY RECLASSIFYING THE CLASSIFIED POSITION OF BILLING AND COLLECTIONS CLERK TO THE CLASSIFIED POSITION OF SENIOR CUSTOMER SERVICE REPRESENTATIVE UNDER THE GENERAL EMPLOYEES SALARY SCHEDULE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the classified position of Billing and Collections Clerk is not so widely used in today's work place; and

WHEREAS, currently, the Billing and Collections Clerk's responsibility is responsible for customer service inquiries, research and resolution; and preparation of bank deposits, returned checks, lockbox and credit card reconciliations, liens, turn-off and turn-on service and other related activities to utilities billing.

WHEREAS, the Senior Customer Service Representative will perform the same or similar duties as the Billing and Collections Clerk; and

WHEREAS, only technical changes have been made to the job description, and

WHEREAS, the classified position of Senior Customer Service Representative is recommended as the new title to replace the position of Billing and Collections Clerk; and

WHEREAS, the position of Senior Customer Service Representative shall be added to the Job Classification List under the General Employees salary schedule.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA:

SECTION 1. That the below classified position be reclassified on Job Classification List in the following matter.

FROM

SALARY SCHEDULE	POSITION	RANGE-	SALARY RANGE
General Employees	Billing and Collections Clerk	6	\$27,279.86 \$42,283.57

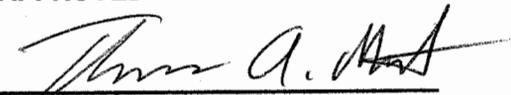
TO

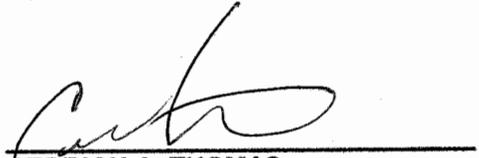
<u>SALARY SCHEDULE</u>	<u>POSITION</u>	<u>RANGE-</u>	<u>SALARY RANGE</u>
General Employees	Senior Customer Service Representative	6	\$27,279.86 \$42,283.57

SECTION 2. That this Resolution shall take effect upon its passage and approval by the City Council.

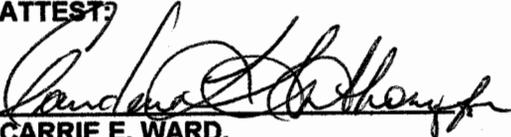
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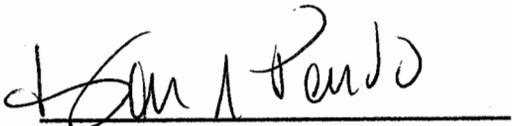
APPROVED:


THOMAS A. MASTERS
MAYOR

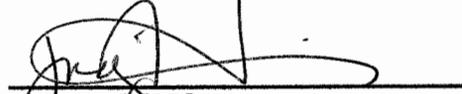

CEDRICK A. THOMAS
CHAIRPERSON

ATTEST:


CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK


DAWN S. PARDO
CHAIR PRO TEM

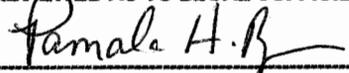

BRUCE A. GUYTON
COUNCILPERSON


JUDY L. DAVIS
COUNCILPERSON


TERENCE D. DAVIS
COUNCILPERSON

- MOTIONED BY: AYE
- SECONDED BY: AYE
- B. GUYTON AYE
- J. DAVIS AYE
- C. THOMAS AYE
- D. PARDO AYE
- T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY


PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/1/13

RESOLUTION NO. 50-13

A RESOLUTION OF THE CITY COUNCIL, OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THAT THE JOB CLASSIFICATION LIST BE AMENDED BY RECLASSIFYING THE CLASSIFIED POSITION OF CUSTOMER SERVICE CLERK TO THE CLASSIFIED POSITION OF CUSTOMER SERVICE REPRESENTATIVE UNDER THE GENERAL EMPLOYEES SALARY SCHEDULE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the classified position of Customer Service Clerk is not so widely used in today's work place; and

WHEREAS, currently, the Customer Service Clerk is responsible for issuing receipts for funds collected, maintaining simple bookkeeping records of transactions, issuing work orders, possessing basic knowledge about the utility service and answering general customer service inquiries.

WHEREAS, the Customer Service Representative will perform the same or similar duties as the Customer Service Clerk, and

WHEREAS, only technical changes have been made to the job description, and

WHEREAS, the classified position of Customer Service Representative is recommended as the new title to replace the position of Customer Service Clerk; and

WHEREAS, the position of Customer Service Representative shall be added to the Job Classification List under the General Employees salary schedule.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA:

SECTION 1. That the below classified position be reclassified on Job Classification List in the following matter.

FROM

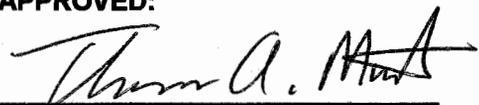
SALARY SCHEDULE	POSITION	RANGE-	SALARY RANGE
General Employees	Customer Service Clerk	5	\$25,568.35 \$39,631.13

TO

SALARY SCHEDULE	POSITION	RANGE-	SALARY RANGE
General Employees	Customer Service Representative	5	\$25,568.35 \$39,631.13

SECTION 2. That this Resolution shall take effect upon its passage and approval by the City Council.

APPROVED:



 THOMAS A. MASTERS
 MAYOR

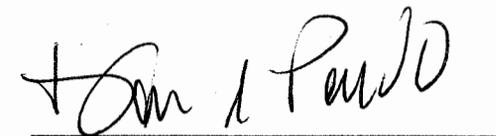


 CEDRICK A. THOMAS
 CHAIRPERSON

ATTEST:



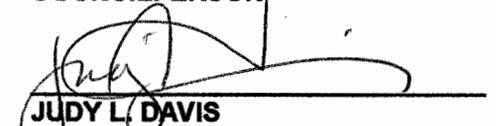
 CARRIE E. WARD,
 MASTER MUNICIPAL CLERK
 CITY CLERK



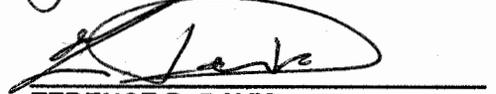
 DAWN S. PARDO
 CHAIR PRO TEM



 BRUCE A. GUYTON
 COUNCILPERSON



 JUDY L. DAVIS
 COUNCILPERSON



 TERENCE D. DAVIS
 COUNCILPERSON

MOTIONED BY: D. PARDO

SECONDED BY: J. DAVIS

B. GUYTON AYE

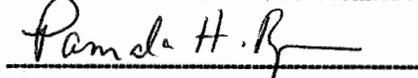
J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY



 PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 4/30/13

RESOLUTION NO. 51-13

A RESOLUTION OF THE CITY COUNCIL, OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THAT THE JOB CLASSIFICATION LIST BE AMENDED BY RECLASSIFYING THE CLASSIFIED POSITION OF ACCOUNTING TECHNICIAN TO THE CLASSIFIED POSITION OF CUSTOMER SERVICE TECHNICIAN UNDER THE GENERAL EMPLOYEES SALARY SCHEDULE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the classified position of Accounting Technician is not so widely used in today's work place; and

WHEREAS, currently, the Accounting Technician is responsible for reviewing and processing of the utility bills; problem research and resolution; also involving the interaction with internal and external customers, performing other related duties as assigned.

WHEREAS, the Customer Service Technician will perform the same or similar duties as the Accounting Technician; and

WHEREAS, only technical changes have been made to the job description, and

WHEREAS, the classified position of Customer Service Technician is recommended as the new title to replace the position of Accounting Technician; and

WHEREAS, the position of Customer Service Technician shall be added to the Job Classification List under the General Employees salary schedule.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA:

SECTION 1. That the below classified position be reclassified on Job Classification List in the following matter.

SALARY SCHEDULE	POSITION	FROM RANGE-	SALARY RANGE
General Employees	Accounting Technician	8	\$30,702.82 \$47,589.67

TO

<u>SALARY SCHEDULE</u>	<u>POSITION</u>	<u>RANGE-</u>	<u>SALARY RANGE</u>
General Employees	Customer Service Technician	8	\$30,702.82 \$47,589.67

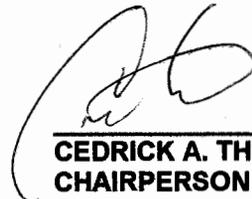
SECTION 2. That this Resolution shall take effect upon its passage and approval by the City Council.

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APPROVED:



THOMAS A. MASTERS
MAYOR

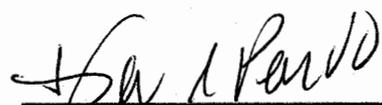


CEDRICK A. THOMAS
CHAIRPERSON

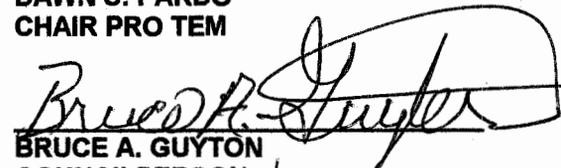
ATTEST:



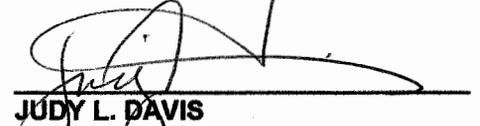
CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK



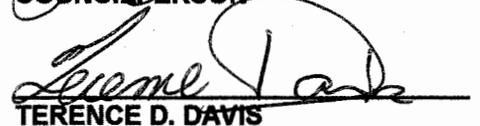
DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: D. PARDO

SECONDED BY: J. DAVIS

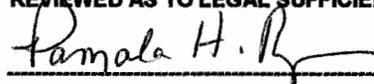
B. GUYTON AYE

J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY


PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/1/13

RESOLUTION NO. 52-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING PAYMENT OF THE ANNUAL MAINTENANCE SERVICE FOR FISCAL YEAR 2013, WITH SHOTSPOTTER, INC., FOR \$43,350; AUTHORIZING THE DIRECTOR OF FINANCE AND ADMINISTRATIVE SERVICES TO MAKE PAYMENT FROM 001-0817-521-0-4601; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has contracted with ShotSpotter, Inc. to maintain the ShotSpotter Gunshot Location System currently out of warranty; and

WHEREAS, ShotSpotter has submitted an invoice to provide continued service and maintenance of the ShotSpotter equipment for the sum of \$43,350.

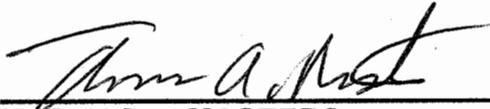
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1: The Director of Finance and Administrative Services is authorized to make payment in the amount of \$43,350 from account number 001-0817-521-0-4601 to ShotSpotter, Inc. for maintenance of the ShotSpotter Gunshot Location System.

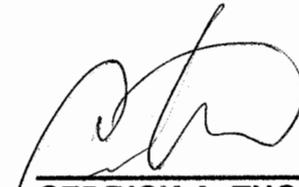
SECTION 2: This Resolution shall take effect immediately upon its passage and approval by City Council.

PASSED AND APPROVED this 1ST day of MAY, 2013.

APPROVED:



**THOMAS A. MASTERS
MAYOR**

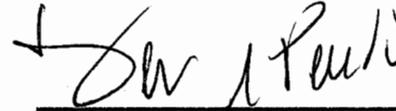


**CEDRICK A. THOMAS
CHAIRPERSON**

ATTEST:



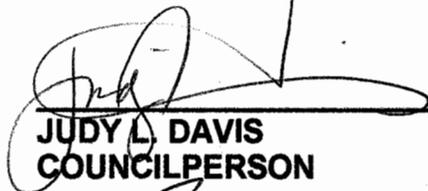
**CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK**



**DAWN S. PARDO
CHAIR PRO TEM**



**BRUCE A. GUYTON
COUNCILPERSON**



**JUDY L. DAVIS
COUNCILPERSON**



**TERENCE D. DAVIS
COUNCILPERSON**

MOTIONED BY: D. PARDO

SECONDED BY: J. DAVIS

B. GUYTON AYE

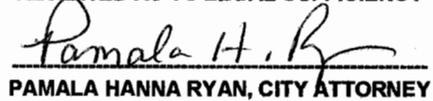
J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY


PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/1/13

RESOLUTION NO. 53-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A FOURTH AMENDED INTERLOCAL AGREEMENT BETWEEN THE CITY OF RIVIERA BEACH AND THE BOARD OF COUNTY COMMISSIONERS, PALM BEACH COUNTY, FOR CONTINUATION OF THE YOUTH EMPOWERMENT TEEN PROGRAM IN THE AMOUNT OF \$24,920; AUTHORIZING THE FINANCE DIRECTOR TO SET UP A BUDGET FOR THE SAME AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Criminal Justice Commission of Palm Beach County continues their development of a Youth Violence Prevention Project which addresses the increase in violent firearms crimes; and

WHEREAS, the Youth Empowerment Teen Program meets the requirements for administering youth prevention/intervention services; and

WHEREAS, on December 5th, 2006 the Board of County Commissioners (BCC) approved funding to initiate partnerships with Riviera Beach, West Palm Beach and Lake Worth to implement the Youth Violence Prevention Project, and

WHEREAS, the Criminal Justice Commission has recommended the use of Department of Justice Grant funds to support the partnership by providing funds for the CITY to participate; and

WHEREAS, the COUNTY agreed to reimburse the CITY for expenses, up to the amount of \$24,920 from January 1st, 2013 through June 30th, 2013 for the Youth Violence Prevention Project; and

WHEREAS, the parties mutually desire to extend the Interlocal Agreement until June 30th, 2013, or until all funds remaining from the original \$24,920 have been expended, whichever first occurs for the Youth Empowerment Center program expenses as approved by the Department of Justice.

NOW THEREFORE, in consideration of the mutual representations, terms, and covenants hereinafter set forth, the parties hereby agree as follows:

RESOLUTION NO. 53-13

-2-

1. The Term of the Interlocal Agreement is amended to provide that the Interlocal Agreement shall continue until June 30th, 2013; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. That the Mayor and City Clerk are authorized to execute the Interlocal Agreement between the City of Riviera Beach and the Board of County Commissioners, Palm Beach County for the Justice Service Center.

SECTION 2. The Finance Director is authorized to set up a budget for the same.

SECTION 3. This resolution should take affect immediately upon its passage and approval by the City Council.

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RESOLUTION NO. 53-13

-3-

PASSED AND APPROVED this 1ST day of MAY 2013.

APPROVED:



THOMAS A. MASTERS
MAYOR

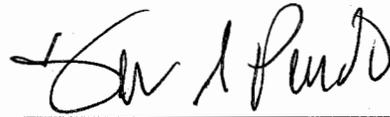


CEDRICK A. THOMAS
CHAIRPERSON

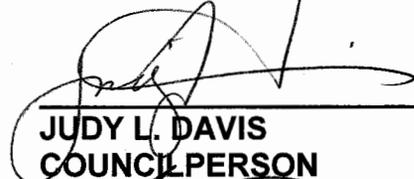
ATTEST:



CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK



DAWN S. PARDO
CHAIR PRO TEM



JUDY L. DAVIS
COUNCILPERSON



TERENCE DAVIS
COUNCILPERSON



BRUCE A. GUYTON
COUNCILPERSON

MOTIONED BY: D. PARDO

SECONDED BY: J. DAVIS

C. THOMAS AYE

D. PARDO AYE

J. DAVIS AYE

T. DAVIS AYE

B. GUYTON AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMELA HANNA RYAN, CITY ATTORNEY

DATE: 4/24/2013

R2013-0776

JUN-18 2013

①

**FOURTH AMENDED INTERLOCAL AGREEMENT
BETWEEN THE BOARD OF COUNTY
COMMISSIONERS,
PALM BEACH COUNTY, FLORIDA AND
THE CITY OF RIVIERA BEACH, FLORIDA**

This Fourth Amended Interlocal Agreement ("Agreement") dated MAY 14 2013 amends the Interlocal Agreement dated May 17, 2011 (R2011-0768) (hereinafter "Original Agreement"), as amended previously by (R2012-1133), (R2013-0300), and the third not yet recorded but signed on March 27, 2013, between Palm Beach County, a political subdivision of the State of Florida (herein referred to as the COUNTY), and the City of Riviera Beach, a municipality located in Palm Beach County, Florida (herein referred to as the CITY), each one constituting a public agency as defined in Part I of Chapter 163, Florida Statutes.

WITNESSETH:

WHEREAS, the Criminal Justice Commission, upon direction from the Board of County Commissioners, continues the development of a Youth Violence Prevention Project which addresses the increase in violent firearms crimes; and

WHEREAS, CJC received a grant award of \$324,901 from the Department of Justice (OJJDP) on October 1, 2011 for an eighteen month period to enhance the county's existing community-based, comprehensive anti-gang strategy; and

WHEREAS the grant was previously extended for six (6) month periods such that the current expiration date is June 30, 2013; and

WHEREAS, the COUNTY has agreed to reimburse the CITY for expenses from a Department of Justice (OJJDP) grant up to the amount of \$34,590 as referenced in the Original Agreement (R2011-0768), as amended, for the Youth Violence Prevention Project; and

WHEREAS, the parties mutually desire to amend the terms of the Original Agreement, as amended, by providing additional OJJDP funding in the amount of up to \$24,920.

NOW THEREFORE, in consideration of the mutual representations, terms, and covenants hereinafter set forth, the COUNTY and CITY hereby agree as follows:

- The Original Agreement (R2011-0768), as amended, is further amended to provide additional OJJDP funds in the amount of up to \$24,920 for personnel and/or youth interest-based programming and related expenses.
- No provision of this AGREEMENT is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this AGREEMENT, including but not limited to any citizen or employees of the COUNTY and/or CITY.

- The Term of this Fourth Amended Agreement shall be from January 1, 2013 until June 30, 2013, or until all remaining funds are have been expended, whichever first occurs.

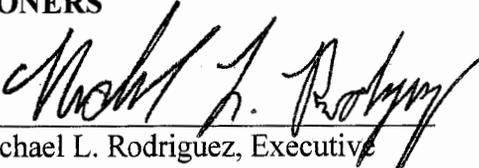
All other provisions of said Original Agreement (R2011-0768) as amended, are hereby confirmed, and except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Fourth Amended Interlocal Agreement on behalf of the COUNTY and CITY has hereunto set its hand the day and year above written.

R2013,0776

JUN 18 2013

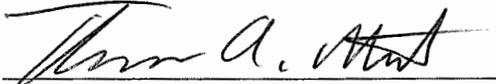
**PALM BEACH COUNTY
BOARD OF COUNTY
COMMISSIONERS**

By: 
Michael L. Rodriguez, Executive

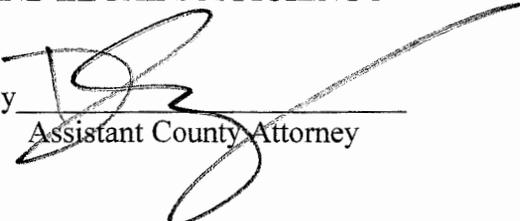
Director

Criminal Justice Commission

CITY: Riviera Beach, FL

By: 
Thomas A. Masters, Mayor

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

By: 
Assistant County Attorney

**APPROVED AS TO TERMS
AND CONDITIONS**

By Brenda Oakes

Brenda Oakes,
Youth Violence Prevention Planning
Coordinator

RESOLUTON NO. 54-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROPRIATING FUNDS FROM BUSINESS CONTRIBUTIONS FOR THE MEMORIAL DAY TRIBUTE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Memorial Day Tribute flag planting will take place Saturday, May 18, 2013 and Memorial Day Tribute Ceremony will take place Thursday, May 23, 2013 at Riviera Beach City Hall; and

WHEREAS, funds were received and deposited from various businesses for the Memorial Day Tribute; and

WHEREAS, funds were received from the following businesses:

Community Officers Association of Singer Island	\$220
Allsite Construction, Inc.	\$200
Sysco	\$554.66
Coca Cola	\$150
Publix Supermarket	\$75 Gift Card

WHEREAS, those funds are available in the Memorial Day Activity Contribution Fund and need to be appropriated.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, THAT:

SECTION 1. That the City Council accepts donations totaling \$1,201.66 for the Memorial Day Tribute.

SECTION 2. The Director of Finance and Administrative Services is authorized to appropriate funds in the Memorial Day Activity Contribution Fund in the amount of \$1,201.66 which represents funds received from various local businesses for this fund.

SECTION 3. The Mayor and Director of Finance and Administrative Services are authorized to expend funds for the same.

SECTION 4. This Resolution shall take effect upon its passage and approval by the City Council.

PASSED AND APPROVED THIS 1ST DAY OF MAY, 2013

APPROVED:



THOMAS A. MASTERS
MAYOR



CEDRICK A. THOMAS
CHAIRPERSON

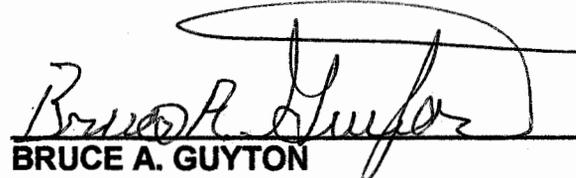
ATTEST:



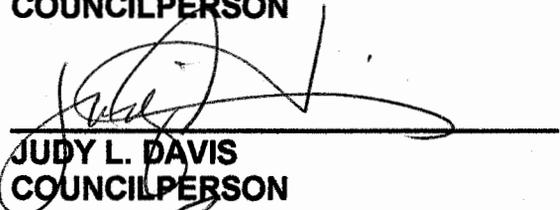
CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK



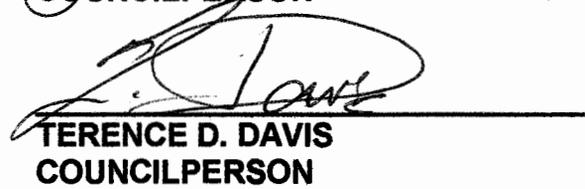
DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: D. PARDO

SECONDED BY: J. DAVIS

B. GUYTON AYE

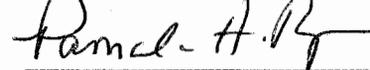
J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/11/13

RESOLUTION NO. 55-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, SUPPORTING PROTECT OUR BEACHES, INC., A COALITION TO FINDING A SUSTAINABLE SOLUTION TO PROTECTING OUR BEACHES AND DUNES FROM EROSION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City desires to establish a sustainable solution to stabilize and maintain the sand and dunes of our beaches from erosion; and

WHEREAS, beaches are Florida's number one tourist attraction, generating more than \$16 billion annual to the state's economy; and

WHEREAS, sandy beaches are the first line of protection against hurricanes and can reduce damage annually to the state's economy with nearly 80% of Florida's residents living in coastal counties; and

WHEREAS, the Department of Environmental Protection estimates that at least 276 miles of sandy beaches in Florida are experiencing critical erosion, a situation which is hurting both tourism and storm protection along both coasts; and

WHEREAS, the mission is to protect coastal ecosystems and wildlife, protect homes and property values, enhance beach-inspired tourism, and provide community support and advocacy; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

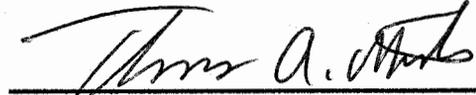
SECTION 1. The foregoing recitals are hereby affirmed and ratified.

SECTION 2. That The City Council supports the goals of Protect Our Beaches, Inc., a coalition of concerned and caring property owners, citizens, businesses owners, civic groups and community leaders of Palm Beach County who share a commitment to finding a permanent, ecologically-sound solution to protecting our beaches and dunes from erosion.

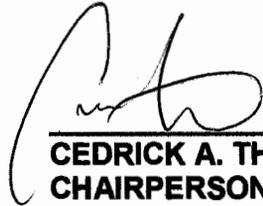
SECTION 3. This Resolution shall become effective immediately upon its passage.

PASSED and APPROVED this 1ST day of MAY, 2013.

APPROVED:



THOMAS A. MASTERS
MAYOR



CEDRICK A. THOMAS
CHAIRPERSON

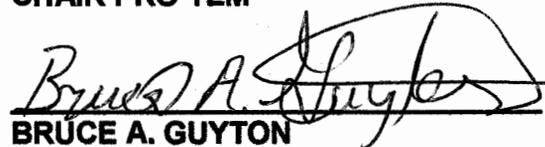
ATTEST:



CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK



DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: D. PARDO

SECONDED BY: J. DAVIS

B. GUYTON AYE

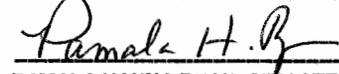
J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/1/13

RESOLUTION NO. 56-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE POLICE DEPARTMENT TO LEASE/PURCHASE TWENTY (20) POLICE VEHICLES FROM FIFTH THIRD BANK; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT; AND THE DIRECTOR OF FINANCE AND ADMINISTRATIVE SERVICES TO SET UP A BUDGET FOR THE SAME; AND AUTHORIZING THREE (3) ANNUAL PAYMENTS IN THE AMOUNT \$200,823.60; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Riviera Beach Police Department has twenty (20) vehicles, identified in the City's Vehicle Replacement Plan, in need of replacement due to age and/or condition; and

WHEREAS, Staff has identified a competitive "piggyback" Municipal Lease/Purchase Agreement with Fifth Third Bank; and

WHEREAS, The vehicles to be purchased are twelve (12) fully equipped Chevrolet Tahoe Police Pursuit Vehicles (PPV) and eight (8) Chevrolet Impala unmarked vehicles; and

WHEREAS, Staff recommends the execution of the Municipal Lease/Purchase Agreement upon the review and approval of the City Attorney and the Director of Finance and Administrative Services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA, THAT:

SECTION 1: The City Council approves the Municipal Lease/Purchase Agreement with Fifth Third Bank.

RESOLUTION NO. 56-13
PAGE 2

SECTION 2: The Mayor and City Clerk are authorized to sign the Municipal Lease/Purchase Agreement.

SECTION 3: The Director of Finance and Administrative Services is authorized to set up a budget and make three (3) annual payments in the amount of \$200,823.60 to Fifth Third Bank, for a total of \$602,470.80.

SECTION 4: This resolution shall take effect immediately upon its passage and approval by the City Council.

PASSED AND ADOPTED this 1ST day of MAY, 2013.

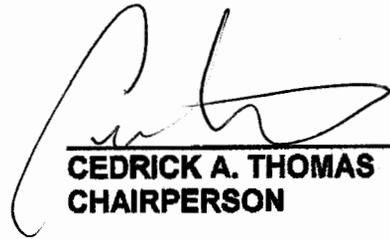
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RESOLUTION NO. 56-13
PAGE 3

APPROVED:



THOMAS A. MASTERS
MAYOR



CEDRICK A. THOMAS
CHAIRPERSON

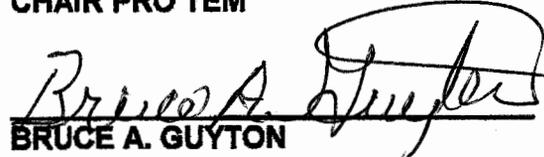
ATTEST:



CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK



DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: T. DAVIS

SECONDED BY: B. GUYTON

B. GUYTON AYE

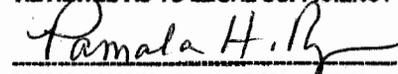
J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/11/13



FIFTH THIRD BANK
MUNICIPAL CERTIFICATE

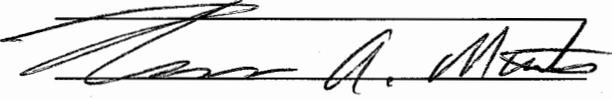
TO: **FIFTH THIRD BANK**, an Ohio banking corporation ("Lessor")

RE: Master Lease-Purchase Agreement between Lessor and the **CITY OF RIVIERA BEACH** ("Lessee") dated as of May 1, 2013 (the "Master Lease") and Individual Payment Schedule No. 001 thereto dated May 1, 2013 (the "Individual Payment Schedule")

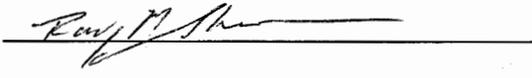
I, the undersigned, the duly appointed, qualified and acting City Clerk of the above-captioned Lessee do hereby certify as follows:

1. **CITY OF RIVIERA BEACH**, as Lessee, did, at a regular meeting of the governing body of the Lessee held on May 1, 2013 by motion duly made, seconded and carried in accordance with all requirements of law approve and authorize the execution and delivery of the above-referenced Master Lease-Purchase Agreement, Individual Payment Schedule No.001 (collectively, the "Agreement") and the Escrow Agreement between Lessor, Lessee and Fifth Third Bank dated as of May 1, 2013, on behalf of Lessee by its following named representatives, to wit:

Printed Name: Thomas A. Masters
Title: Mayor

Signature: 

Printed Name: Randy Sherman
Title: Director of Finance and Administrative Services

Signature: 

Printed Name: _____
Title: _____
Signature: _____

- 2. The above named representative(s) are required to execute each such document.
- 3. Each of the above named representatives of the Lessee held at the time of such authorization, and holds at the present time, the office set forth above.
- 4. The meeting of the governing body of the Lessee at which the Agreement and the Escrow Agreement were approved and authorized to be executed was duly called, regularly convened and attended throughout by the requisite majority of the members thereof and the action approving the Agreement and the Escrow Agreement and authorizing the execution thereof has not been altered or rescinded.

5. There is no litigation of any nature, either pending or threatened, restraining or enjoining the execution of the Lease nor directly or indirectly affecting the proceedings and authority by which the Agreement and the Escrow Agreement have been authorized and executed, nor any dispute, controversy or litigation affecting the validity of or security for the Agreement.

6. No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default (as such term is defined in the Agreement) exists at the date hereof.

7. All insurance required in accordance with the Agreement is currently maintained by the Lessee.

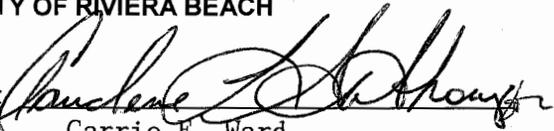
8. Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the rental payments scheduled to come due during the Initial Period and to meet its other obligations for the Initial Period (as such terms are defined in the Agreement) and such funds have not been expended for other purposes.

9. Lessee is not in default for the payment of principal of or interest on any of its notes or bonds or other obligations now outstanding.

IN WITNESS WHEREOF, the undersigned has executed this Municipal Certificate this 1st day of May, 2013.

LESSEE:

CITY OF RIVIERA BEACH

By: 

Name: Carrie E. Ward

Title: City Clerk



**INDIVIDUAL PAYMENT SCHEDULE – No. 001
DATED MAY 1, 2013**

**TO MASTER LEASE-PURCHASE AGREEMENT
DATED AS OF MAY 1, 2013**

**Lessor: FIFTH THIRD BANK
an Ohio banking corporation**

**Lessee: CITY OF RIVIERA BEACH
a city in the State of Florida**

This Individual Payment Schedule is entered into this 1st day of May, 2013, by and between Lessor and Lessee pursuant to and subject to the terms and conditions of the Master Lease-Purchase Agreement dated as of May 1, 2013 (as amended, supplemented or modified from time to time, the "Master Lease-Purchase Agreement"). Lessor may include any parent, subsidiary or affiliate of Fifth Third Bank who endorses an Equipment Schedule. By endorsing herein such party hereby agrees to, and shall be bound by, the terms and conditions of the Master Lease regardless of whether it executed such Master Lease as the original Lessor. All of the terms of the Master Lease-Purchase Agreement are incorporated by reference herein. Capitalized terms used, and not otherwise defined, herein shall have the meanings attached thereto in the Master Lease-Purchase Agreement.

1. Equipment covered by this Individual Payment Schedule.

Subject to the terms and conditions hereof, Lessor agrees to acquire and lease to Lessee the equipment listed below ("Equipment").

Manuf. and/or Vendor Name & Invoice No.	Description of Equipment	Equipment Location	Serial Number	Invoice Total
TBD	Twelve (12) Chevy Tahoes and Eight (8) Chevy Impalas	600 West Blue Heron Blvd. Riviera Beach, Florida 33404	TBD	Up to \$581,112.00
Total:				Up to \$581,112.00

The total cost of the Equipment covered by this Individual Payment Schedule is Five Hundred Eighty One Thousand One Hundred Twelve Dollars (\$581,112.00).

2. Escrow Agreement

In connection with this Individual Payment Schedule and prior to making any payments in respect of such Equipment, Lessor, Lessee and Escrow Agent shall execute and deliver an Escrow Agreement in form and substance satisfactory to Lessor, Lessee and Escrow Agent and establish an Acquisition Fund in accordance with the terms and conditions thereof.

3. Billing Address.

4. Term.

The Scheduled Term is 36 months. The Final Period shall be the period commencing on the first day of the Fiscal Year in which the final payment is scheduled to occur and ending on April 1, 2017.

5. Rent and Purchase Option.

- (a) Base Rent: See Schedule 1
- (b) Commencement Date: May 10, 2013
- (c) First Payment Date: May 1, 2014
- (d) Payment Frequency: annually
- (e) Number of Payments: Three (3)
- (f) Purchase Price Dates and Purchase Price: See dates and amounts designated on Schedule 2

6. Base Rent.

The total cost for the Equipment is the amount specified in Section 1 hereof. Of that amount, Lessee shall pay No Dollars and No Cents (\$0.00) and, subject to the terms and conditions hereof, Lessor shall advance Five Hundred Eighty One Thousand One Hundred Twelve Dollars (\$581,112.00 (the "Lessor Amount")). The Base Rent of the Lease-Purchase Payments is determined by applying an annual rate of interest equal to one and 85/100ths percent (1.85%) (the "Implicit Interest Rate") of the outstanding balance equal to the Lessor Amount.

IN WITNESS WHEREOF, the parties have executed this Individual Payment Schedule by their authorized officers as of the date set forth above.

LESSOR:

FIFTH THIRD BANK

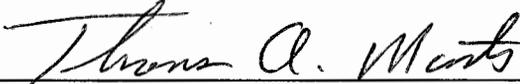
By: 

Name: Gerald Whittfield, VP

Title: _____

LESSEE:

CITY OF RIVIERA BEACH

By: 

Name: Thomas A. Masters

Title: Mayor

SCHEDULE 1
TO
INDIVIDUAL PAYMENT SCHEDULE 001

SCHEDULE OF PAYMENTS

Payment Number	Rent Payment Date	Interest Component of Base Rent	Principal Component of Base Rent	Total Base Rent Payment Due
1	5/1/2014	\$ 10,481.81	\$ 190,341.80	\$ 200,823.60
2	5/1/2015	\$ 7,229.25	\$ 193,594.35	\$ 200,823.60
3	5/1/2016	\$ 3,647.75	\$ 197,175.85	\$ 200,823.60

SCHEDULE 2
TO
INDIVIDUAL PAYMENT SCHEDULE 001

PURCHASE PRICE DATES AND PURCHASE PRICES

Purchase Price Date	Purchase Price
5/1/2014	\$ 390,770.20
5/1/2015	\$ 197,175.85
5/1/2016	\$ 0.00



ARBITRAGE AND TAX CERTIFICATE

TO: **FIFTH THIRD BANK**, an Ohio banking corporation ("Lessor")

RE: Master Lease-Purchase Agreement between Lessor and **CITY OF RIVIERA BEACH** ("Lessee") dated as of May 1, 2013 (the "Master Lease") and Individual Payment Schedule No. 001 thereto dated May 1, 2013 (the "Individual Payment Schedule")

I, the undersigned, hereby certify that I am the duly qualified and acting Mayor of Lessee, and that in my official capacity as such officer, I am responsible for executing and delivering on behalf of Lessee the Master Lease and Individual Payment Schedule referenced above (the "Individual Payment Schedule" and Master Lease collectively referred to as the "Agreement"), by and between Lessee and Lessor. This Certificate is being issued pursuant to Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and Treasury Regulations, Sections 1.103-13, 1.103-14 and 1.103-15 (the "Regulations") The following facts, estimates and circumstances are in existence on the date of this Certificate or are reasonably expected to occur hereafter.

1. The Agreement provides for the lease of certain Equipment described in the Individual Payment Schedule (the "Equipment") by Lessor to Lessee and the lease of the Equipment by Lessee from Lessor. Pursuant to the Agreement, Lessee is required to make payments of Base Rent with respect to the Equipment comprising principal and interest, on the dates and in the amounts set forth in the Individual Payment Schedule plus Additional Rent, if any.

2. Pursuant to the Agreement and for the purpose of meeting its obligations under the Agreement and assuring Lessee of the availability of moneys needed to pay the cost of the Equipment when due, Lessee, Lessor and Fifth Third Bank as escrow agent ("Escrow Agent") have executed the Escrow Agreement dated as of May 1, 2013 (the "Escrow Agreement").

3. The Escrow Agreement provides that Lessor shall deposit \$581,112.00 into escrow, to be credited to the Acquisition Fund created by the Escrow Agreement and held, invested and disbursed with respect to the Equipment as provided therein. Interest earnings on amounts held in escrow shall be paid to the Lessee or applied to amounts owed by Lessee to Lessor in accordance with the terms hereof.

4. A contract dated as of May 1, 2013 providing for the acquisition and delivery of the Equipment has been executed between Lessee and City of Riviera Beach.

5. The Equipment will be acquired and installed with due diligence and, based upon the provisions of the contract described in paragraph 4 hereof, the Equipment will be acquired and installed on or before December 31, 2013.

6. All of the spendable proceeds of the Agreement will be expended on the Equipment and related expenses within three years from the date of execution of the Agreement and Escrow Agreement.

7. The original proceeds of the Agreement, and the interest to be earned thereon, do not exceed the amount necessary for the purpose for which the Agreement is issued.

8. The interest of Lessee in the Equipment has not been and is not expected during the term of the Agreement to be sold or disposed of by Lessee.

9. No sinking fund is expected to be created by Lessee with respect to the Agreement and the payments of Base Rent.

10. (a) Lessee hereby covenants to comply with all requirements of the Code and Regulations relating to the rebate of arbitrage profit to the United States of America. It is expected that all gross proceeds of the Agreement will be expended on the Equipment no later than the day which is six months after the date of issuance of the Agreement.

(b) The Lessee hereby certifies that it has not issued or effected the issuance of, and reasonably anticipates that it shall not issue or effect the issuance of, more than Ten Million Dollars (\$10,000,000) of tax-exempt obligations (other than private activity bonds) (such terms being within the meaning of Section 148(f)(4)(C) of the Internal Revenue Code of 1986, as amended), during the current calendar year.

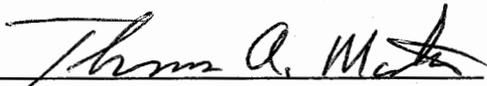
11. To the best of the knowledge and belief of the undersigned, the expectations of Lessee, as set forth above, are reasonable; and there are no present facts, estimates and circumstances which would change the foregoing expectations.

12. Lessee has not been notified of the listing or proposed listing of it by the Internal Revenue Service as an issuer whose arbitrage certificates may not be relied upon.

IN WITNESS WHEREOF, the undersigned has executed this Arbitrage and Tax Certificate this 1st day of May, 2013.

LESSEE:

CITY OF RIVIERA BEACH

By: 

Name: Thomas A. Masters

Title: Mayor



FIFTH THIRD BANK
BANK ELIGIBILITY CERTIFICATE

TO: **FIFTH THIRD BANK**, an Ohio banking corporation ("Lessor")

RE: Master Lease-Purchase Agreement between Lessor and **CITY OF RIVIERA BEACH** ("Lessee") dated as of May 1, 2013 (the "Master Lease") and Individual Payment Schedule No. 001 thereto dated May 1, 2013 (the "Individual Payment Schedule")

Lessee hereby certifies that Lessee has not issued or effected the issuance of, and reasonably anticipates that it shall not issue or effect the issuance of more than Ten Million Dollars (\$10,000,000.00) of tax-exempt obligations during the current calendar year, and hereby designates the lease of Equipment to which this certificate pertains as a "qualified tax-exempt obligation," as defined by Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

IN WITNESS WHEREOF, the undersigned has executed this Bank Eligibility Certificate this 1st day of May, 2013.

LESSEE:

CITY OF RIVIERA BEACH

By: 
Name: Thomas A. Masters
Title: Mayor



FIFTH THIRD BANK

CERTIFICATE OF FISCAL OFFICER

TO: FIFTH THIRD BANK, an Ohio banking corporation ("Lessor")

RE: Master Lease-Purchase Agreement between Lessor and CITY OF RIVIERA BEACH ("Lessee") dated as of May 1, 2013 (the "Master Lease") and Individual Payment Schedule No. 001 thereto dated May 1, 2013 (the "Individual Payment Schedule")

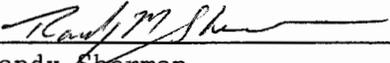
Director of Finance &

The undersigned, Administrative Services of Lessee, pursuant to the Master Lease and Individual Payment Schedule referenced above, hereby certifies that the moneys required to meet the obligations of the Lessee during the current fiscal period for the payments due or coming due pursuant to the Individual Payment Schedule have been lawfully appropriated by Lessee for such purposes and are in the treasury of Lessee or in the process of collection to the credit of an appropriate fund, free from any encumbrances.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Fiscal Officer this 1st day of May, 2013.

LESSEE:

CITY OF RIVIERA BEACH

By: 

Name: Randy Sherman

Title: Director of Finance & Administrative Services



FIFTH THIRD BANK

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (the "Agreement"), made and entered into as of May 1, 2013, by and between **FIFTH THIRD BANK**, an Ohio banking corporation ("Lessor"), **FIFTH THIRD BANK** ("Escrow Agent") and **CITY OF RIVIERA BEACH**, a city (incorporated) and political subdivision of the State of Florida ("Lessee"):

WITNESSETH THAT, in the joint and mutual exercise of their powers, and in consideration of the mutual covenants herein contained, the parties hereto recite and agree as follows:

Section 1. Recitals.

1.01 Lessor and Lessee have entered into a Master Lease-Purchase Agreement, dated May 1, 2013 and Individual Payment Schedule No. 001, dated May 1, 2013 (collectively, the "Lease"), whereby Lessor has agreed to lease and sell certain personal property described therein (the "Equipment") to Lessee, and Lessee has agreed to lease and purchase the Equipment from Lessor, in the manner and on the terms set forth in the Lease.

1.02 This Agreement is not intended to alter or change in any way the rights and obligations of Lessor and Lessee under the Lease but is entirely supplemental thereto.

1.03 The terms capitalized in this Agreement but not defined herein shall have the meanings given to them in the Lease.

1.04 An amount equal to the purchase price of all of the Equipment which equals Five Hundred Eighty One Thousand One Hundred Twelve and 00/100 Dollars (\$581,112.00) (the "Equipment Cost") shall be deposited in escrow, to be credited to the Lessee's Acquisition Fund established in Section 2 hereof and used to pay the cost of the Equipment, all as hereinafter provided.

1.05 Under the Lease, Lessee will cause the Equipment to be ordered by the contractor therefor (the "Contractor"). The Equipment Cost shall be paid solely from the amount deposited with the Escrow Agent as described in Section 1.04 hereof, in accordance with this Agreement.

1.06 Lessor and Lessee agree that Lessor, as Escrow Agent, shall receive, hold, invest and disburse the moneys to be deposited in escrow as described in Section 1.04, all as hereinafter provided; however, the Escrow Agent shall not be obligated to assume or perform any obligation of Lessee or any Contractor with respect thereto or under the Lease by reason of anything contained in this Agreement.

1.07 Each of the parties has authority to enter into this Agreement, and has taken all actions necessary to authorize the execution of this Agreement by the officers whose signatures are affixed hereto.

Section 2. Acquisition Fund and Bond Fund.

2.01 The Escrow Agent shall (i) establish two special escrow funds, designated as follows: (a) the "**City of Riviera Beach Acquisition Fund**" (the "Acquisition Fund") and (b) the "**City of Riviera Beach Bond Fund**" (the "Bond Fund"); (ii) keep each such Fund separate and apart from all other funds and moneys held by it and (iii) administer each such Fund as provided in this Section and Section 3 hereof.

2.02 All moneys deposited into escrow by Lessor pursuant to Section 1.04 of this Agreement shall be credited to the Acquisition Fund. The Escrow Agent shall use the moneys in the Acquisition Fund to pay the Equipment Cost of the Equipment subject to the Lease, upon receipt with respect thereto of a Payment Request Form, attached hereto as Exhibit A, executed by Lessee, fully completed and with all supporting documents described therein attached thereto. Upon receipt of a Payment Request Form with respect to any item of Equipment, an amount equal to the Equipment Cost for such item of Equipment as shown therein shall be paid directly to the person or entity entitled to payment as specified therein.

2.03 Lessee shall furnish to the Escrow Agent as soon as available, a copy of the order for all Equipment ordered pursuant to the Lease, showing the Equipment Cost and the estimated delivery date. On a date eighteen months from the date of this Agreement, the Escrow Agent shall transfer to the Bond Fund an amount equal to the deposit made by Lessor pursuant to Section 1.04, less the amount thereof previously disbursed to pay the Equipment Cost of any item of Equipment, and less an amount thereof equal to the Equipment Cost of all items of Equipment for which the Escrow Agent has received a copy of the order and Payment Request Form relating thereto and which has not been paid.

2.04 The Escrow Agent shall be required to apply any amounts in the Bond Fund:

FIRST, to pay the interest component of the Lease-Purchase Payment due on the next Payment Date;

THEN, to pay the principal component of the Lease-Purchase Payment due on the next Payment Date; and

LASTLY, to prepay any remaining principal component of Lease-Purchase Payments.

2.05 The Escrow Agent shall only be responsible for the safekeeping and investment of the moneys held in the Acquisition Fund and the Bond Fund, and the disbursement thereof in accordance with this Section, and shall not be responsible for the authenticity or accuracy of such certifications or documents, the application of amounts paid pursuant to such certifications by the persons or entities to which they are paid, or the sufficiency of the moneys credited to the Acquisition Fund to make the payments herein required.

Section 3. Moneys in Acquisition Fund and the Bond Fund; Investment.

3.01 The moneys and investments held by the Escrow Agent under this Agreement are irrevocably held in trust for the benefit of Lessee and Lessor and such moneys, together with any income or interest earned thereon, shall be expended only as provided in this Agreement, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of either Lessee or Lessor.

3.02 Moneys held by the Escrow Agent hereunder shall be invested and reinvested by the Escrow Agent upon order of Lessee only in investments, which from time to time authorized by law for the investment of moneys of Lessee. Such investments shall be registered in the name of the Escrow Agent, in its capacity as agent for the Lessee, and held by the Escrow Agent. With the approval of Lessee, the Escrow Agent may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section. Such investments and reinvestments shall be made giving full consideration for the time at which funds are required to be available.

3.03 The Escrow Agent shall, without further direction from Lessee, sell such investments as and when required to make any payments from the Acquisition Fund or the Bond Fund. Any income received on such investments shall be credited to the respective Fund.

3.04 The Escrow Agent shall furnish a monthly accounting of all investments. The Escrow Agent shall not be responsible or liable for any loss suffered in connection with any investment of moneys made by it in accordance with this Section.

Section 4. Escrow Agent's Authority; Indemnification.

4.01 The Escrow Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine, may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instructions in connection with the provisions hereof has been duly authorized to do so. The Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner and execution, or validity of any instrument deposited with it, nor as to the identity, authority or right of any person executing the same; and its duties hereunder shall be limited to those specifically provided herein.

4.02 Unless the Escrow Agent is guilty of willful misconduct with regard to its duties hereunder, Lessee hereby agrees to indemnify the Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this Agreement; and in connection therewith, to indemnify the Escrow Agent against any and all expenses, including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim. In the performance of its duties in good faith hereunder, the Escrow Agent shall be vested with a lien on all property deposited hereunder, for indemnification, for reasonable attorneys' fees, court costs, for any suit, interpleader or otherwise, or any other expense, fees or charges of any character or nature, which may be incurred by the Escrow Agent by reason of disputes arising as to the correct interpretation of the Lease or this Agreement and instructions given to the Escrow Agent hereunder, or otherwise, with the right of the Escrow Agent, regardless of the instructions aforesaid, to hold the said property until and unless said additional expenses, fees and charges shall be fully paid.

4.03 If Lessee and Lessor shall be in disagreement about the interpretation of the Lease or this Agreement, or about the rights and obligations, or the propriety of any action contemplated by the Escrow Agent hereunder, the Escrow Agent may, but shall not be required to, file an appropriate civil action to resolve the disagreement. In the performance of its duties in good faith hereunder, the Escrow Agent shall be indemnified for all costs, including reasonable attorneys' fees, in connection with such civil action, and shall be fully protected in suspending all or part of its activities under this Agreement until a final judgment in such action is received.

4.04 The Escrow Agent may consult with counsel of its own choice and shall have full and complete authorization and protection with the opinion of such counsel. The Escrow Agent shall otherwise not be liable for any mistakes of facts or errors of judgment, or for any acts or omissions of any kind unless caused by its willful misconduct.

Section 5. Escrow Agent's Compensation.

Lessee hereby agrees to pay the Escrow Agent an annual fee of \$0.00 as compensation for the services to be rendered hereunder, and will pay and/or reimburse the Escrow Agent upon request for all expenses, disbursements and advances, including reasonable attorneys' fees, incurred or made by it in connection with carrying out its duties hereunder. The Escrow Agent's fee for the first year shall be payable upon execution of this Agreement.

Section 6. Change of Escrow Agent.

6.01 A national banking association or a state bank qualified as a depository of public funds, may be substituted to act as Escrow Agent under this Agreement, upon agreement of the parties hereto. Such substitution shall not be deemed to affect the rights or obligations of the parties. Upon any such substitution, the Escrow Agent agrees to assign to such substitute Escrow Agent its rights under this Agreement.

6.02 The Escrow Agent or any successor may at any time resign by giving mailed notice to Lessee and Lessor of its intention to resign and of the proposed date of resignation, which shall be a date

not less than thirty (30) days after such notice is deposited in the United States mail with postage fully prepaid, unless an earlier resignation date and the appointment of a successor Escrow Agent shall have been or are approved by Lessee and Lessor.

6.03 The Escrow Agent may appoint an agent to exercise any of the powers, rights or remedies granted to the Escrow Agent under this Agreement, and to hold title to property or to take any other action which may be desirable or necessary.

Section 7. Administrative Provisions.

7.01 The Escrow Agent shall keep complete and accurate records of all moneys received and disbursed under this Agreement, which shall be available for inspection by Lessee or Lessor, or the agent of either of them, at any time during regular business hours.

7.02 All written notices to be given under this Agreement shall be given by mail to the party entitled thereto at its address set forth in the attached Exhibit B, or at such address as the party may provide to the other parties hereto in writing from time to time. Any such notice shall be deemed to have been received forty-eight (48) hours after deposit in the United States mail in registered form, with postage fully prepaid.

7.03 This Agreement shall be construed and governed in accordance with the laws of the State of Illinois.

7.04 Any provision of this Agreement found to be prohibited by law shall be ineffective only to the extent of such prohibition, and shall not invalidate the remainder of this Agreement.

7.05 This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Specifically, as used herein the term "Lessor" as used herein means any person or entity to whom Lessor has assigned its right to receive Rental Payments under the Lease and any payments due to Lessor hereunder from and after the date when a duplicate original of such assignment is filed with the Escrow Agent.

7.06 This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same Agreement.

7.07 This Agreement shall terminate upon disbursement by the Escrow Agent of all moneys held by it hereunder.

(Remainder of page intentionally blank. Signature page follows.)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

ESCROW AGENT:

FIFTH THIRD BANK

By: Gerald Whitfield
Name: _____
Title: Gerald Whitfield, VP

LESSOR:

FIFTH THIRD BANK

By: Gerald Whitfield
Name: _____
Title: Gerald Whitfield, VP

LESSEE:

CITY OF RIVIERA BEACH

By: Thomas A. Masters
Name: Thomas A. Masters
Title: Mayor



EXHIBIT A TO ESCROW AGREEMENT

Acceptance and Payment Request Form

Fifth Third Bank, Escrow Agent, under an Escrow Agreement dated as of May 1, 2013, by and between the Escrow Agent and **City of Riviera Beach** ("Lessee") is hereby requested to pay, from the Acquisition Fund held under said Escrow Agreement, the amounts set forth below to the persons, firms or corporations designated below as payee according to the manufacturer's or dealer's invoice that is attached to this request.

Subject to the terms and conditions hereof, Lessor agrees to acquire and lease to Lessee the equipment listed below ("Equipment").

Manuf. and/or Vendor Name & Invoice No.	Description of Equipment	Equipment Location	Serial Number	Invoice Total
Various	Twelve (12) 2013 Chevy Tahoes and Eight (8) Chevy Impalas	600 West Blue Heron Blvd Riviera Beach, Florida 33404	TBD	TBD
Total:				Up to \$581,112.00

The Equipment, as described above, has been delivered, installed and accepted on the date indicated below. Said Equipment is part or all of the Equipment that is the subject to the Escrow Agreement referenced above.

Lessee has conducted such inspection and/or testing of the Equipment described above as it deems necessary and appropriate and hereby acknowledges that it accepts the Equipment for all purposes.

No Event of Default, as such term is defined in the Lease, and no event which with notice or lapse of time, or both, would become an Event of Default, has occurred and is continuing at the date hereof.

Therefore, as Escrow Agent, you are hereby requested to pay to the person or corporation designated below as Payee, the sum set forth above in payment of a portion or all of the cost of the acquisition of the equipment described above. The amount shown is due and payable under the invoice of the Payee with respect to the cost of the acquisition of the Equipment and has not formed the basis of any prior request for payment. The equipment described above is part or all of the Equipment that is subject to the Escrow Agreement.

Payee: _____

Dated: _____

LESSEE:

CITY OF RIVIERA BEACH

By: _____

Name: _____

Title: _____

PLEASE RETAIN THIS FORM. WHEN THE EQUIPMENT HAS BEEN DELIVERED AND ACCEPTED, SIGN AND SEND TO THE ESCROW AGENT. THIS FORM AUTHORIZES RELEASE OF PAYMENT FROM THE ESCROW ACQUISITION FUND.

Please prepare one form for each vendor that is to be paid.



FIFTH THIRD BANK

EXHIBIT B TO ESCROW AGREEMENT

Written notices to:

Lessor:

Fifth Third Bank
Mail Drop 10904A
38 Fountain Square Plaza
Cincinnati, Ohio 45263

Escrow Agent:

Fifth Third Bank
38 Fountain Square Plaza
MD10904A
Cincinnati, Ohio 45263

Lessee:

City of Riviera Beach
600 West Blue Heron Blvd.
Riviera Beach, Florida 33404



ESSENTIAL USE/SOURCE OF FUNDS CERTIFICATE

TO: **FIFTH THIRD BANK**, an Ohio banking corporation ("Lessor")

RE: Master Lease-Purchase Agreement between Lessor and **CITY OF RIVIERA BEACH** ("Lessee") dated as of May 1, 2013 (the "Master Lease") and Individual Payment Schedule No. 001 thereto dated May 1, 2013 (the "Individual Payment Schedule")

The undersigned, Director of Finance & Administrative Services of Lessee, pursuant to the Master Lease and Individual Payment Schedule referenced above, hereby certifies as follows:

1. That the equipment identified in the Individual Payment Schedule (the "Equipment") is essential to the governmental functions of Lessee and constitutes public property to be used for public purposes.

2. Lessee has an immediate need for, and expects to make immediate use of, substantially all the Equipment, which need is not temporary or expected to diminish in the foreseeable future. The Equipment will be used by Lessee for the purpose of performing one or more of Lessee's governmental functions consistent with the permissible scope of Lessee's authority.

3. The estimated useful life of the Equipment, based upon manufacturer's representations and Lessee's projected needs, is greater than three (3) years.

4. Lessee's source of funds for making rental payments under the Lease is the General Revenue Fund. Lessee expects and anticipates adequate funds to be available to make all future rental payments.

IN WITNESS WHEREOF, the undersigned has executed this Essential Use/Source of Funds Certificate this 1st day of May, 2013.

LESSEE:

CITY OF RIVIERA BEACH

By: 
Name: Randy Sherman
Title: Director of Finance & Administrative Services



CITY OF RIVIERA BEACH

600 WEST BLUE HERON BOULEVARD •
P.O. DRAWER 10682
TEL (561) 845-4069

RIVIERA BEACH, FLORIDA 33404
RIVIERA BEACH, FLORIDA 33419
FAX (561) 845-4017

OFFICE OF
CITY ATTORNEY

May 2, 2013

FIFTH THIRD BANK
38 Fountain Square Plaza
MD10904A
Cincinnati, OH 45263

RE: Master Lease-Purchase Agreement between **FIFTH THIRD BANK** ("Lessor") and **CITY OF RIVIERA BEACH** ("Lessee") dated as of May 1, 2013 (the "Master Lease") and Individual Payment Schedule No. 001 thereto dated May 1, 2013 (the "Individual Payment Schedule")

Ladies and Gentlemen:

I have acted as counsel to Lessee with respect to the Master Lease-Purchase Agreement and Individual Payment Schedule described above (collectively, the "Lease"), and the Escrow Agreement between Lessor and Fifth Third Bank dated May 1, 2013 (the "Escrow Agreement"), and various related matters, and in this capacity have reviewed an executed duplicate original or certified copy of the Lease by and between Lessee and Lessor, including all schedules and exhibits forming a part thereof, and the Escrow Agreement, and other instruments and documents related to the Lease. All capitalized terms used herein shall have the meanings given them in the Lease, except as defined herein.

Based upon my examination of the foregoing and of such provisions of law, judicial decisions, opinions and other matters as deemed necessary and relevant in order to render the opinions set forth below, it is my opinion that:

1. Lessee is a city (incorporated) and political subdivision of the State of Florida (the "State"), duly organized, existing and operating under the Constitution and laws of the State.
2. Lessee is authorized and has power under applicable law to enter into the Lease and Escrow Agreement (if applicable) by and between Lessee and Lessor, and to carry out its obligations thereunder and the transactions contemplated thereby.
3. The Lease, the Escrow Agreement, and the other documents described above have been duly authorized, approved, executed and delivered by and on behalf of Lessee, and constitute valid and binding obligations of Lessee enforceable in accordance with the terms thereof, except as enforceability may be limited by applicable bankruptcy, reorganization or other similar laws of general application relating to or affecting the rights of creditors or pertaining to municipal corporations.
4. The authorization, approval and execution of the Lease, the Escrow Agreement, and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all applicable open meeting laws, public bidding laws and other applicable laws of the State and the United States.
5. Lessee has sufficient moneys available to make all Lease Payments required to be paid under the Lease during the current fiscal year of Lessee and such moneys have been properly budgeted and appropriated for this purpose in accordance with applicable law.

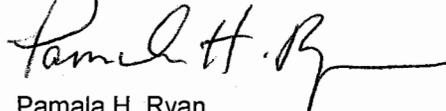
6. The execution of the Lease does not result in the violation of any constitutional, statutory, other limitation or contractual obligation relating to the manner, form or amount of indebtedness which may be incurred by Lessee.

7. There is no action, suit or proceeding pending or, to the best of my knowledge, threatened against or affecting Lessee, before any court, administrative agency, arbitrator or governmental body, that challenges the existence or organization of the Lessee; the title of any of the present officers of the Lessee to their respective officers, the authority or proceedings for the execution and delivery of the Lease and the other documents described above, the appropriation of moneys to make Lease-Purchase Payments pursuant to the Lease to the extent of such appropriations; or the authority of the Lessee otherwise to perform its obligations under the Lease.

8. The property acquired pursuant to the Lease constitutes personal property and when subjected to use by Lessee will not be or become fixtures under applicable law.

This opinion is given for the benefit of, and may be relied upon by, the addressee and its successors and assigns.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Pamela H. Ryan", with a long horizontal flourish extending to the right.

Pamala H. Ryan
City Attorney



MASTER LEASE-PURCHASE AGREEMENT

This Master Lease-Purchase Agreement is made this 1st day of May, 2013 by and between **FIFTH THIRD BANK** (hereinafter called together with its successors and assigns, if any, "**Lessor**"), an Ohio banking corporation, Mail Drop 10904A, 38 Fountain Square Plaza, Cincinnati, Ohio 45263, and **CITY OF RIVIERA BEACH** ("**Lessee**"), with its principal address at 600 West Blue Heron Blvd. Riviera Beach, Florida 33404, Palm Beach County, Florida 33404, a city (incorporated) in, and political subdivision of, the State of Florida, organized and existing under and by virtue of the laws and Constitution of the State of Florida.

RECITALS

WHEREAS, Lessee is authorized by law to acquire equipment and other items of personal property and to finance such equipment and/or personal property by entering into lease-purchase agreements;

WHEREAS, Lessee has determined that it is necessary for it to acquire under this Agreement certain items of personal property described herein as Equipment; and

WHEREAS, Lessor is willing to acquire such items of Equipment and to lease and sell them to Lessee pursuant to this Agreement;

NOW, THEREFORE, in the joint and mutual exercise of their powers, and in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

1. Certain Defined Terms and References.

(a) In addition to the terms defined elsewhere in this Agreement, the following terms have the meanings given below unless the context clearly requires otherwise:

"**Acquisition Fund**" means the Acquisition Fund established pursuant to Section 4 of this Agreement and Section 2 of the Escrow Agreement.

"**Additional Rent**" means the payments required to be made pursuant to Section 7 in addition to the Base Rent.

"**Agreement**" means this Master Lease-Purchase Agreement as the same may be amended or supplemented from time to time, and all other documents and certificates required to be executed in connection herewith.

"**Applicable Rate of Interest**" means such rate as shall be determined from each Individual Payment Schedule.

"**Authorized Officer**" means:

(i) With respect to Lessee, any officer of Lessee who is designated in writing by Lessee as an Authorized Officer for the purposes of this Agreement;

THIS INSTRUMENT IS INTENDED BY THE PARTIES TO CONSTITUTE A SECURITY AGREEMENT UNDER THE FLORIDA UNIFORM COMMERCIAL CODE.

(ii) With respect to Lessor, any officer of Lessor who is designated in writing as an Authorized Officer for purposes of this Agreement; or

(iii) With respect to any successor to Lessor as the Lessor, means the officer of the successor who is designated in writing by the successor's governing body as an Authorized Officer for purposes of this Agreement.

"Base Rent" means the payments, including the principal and interest components thereof, specified in the Individual Payment Schedules attached hereto.

"Bond Fund" means, to the extent an Escrow Agreement is applicable to a particular Lease, the Bond Fund established pursuant to Section 2 of the Escrow Agreement.

"Certificate of Acceptance" means a certificate evidencing Lessee's inspection and acceptance of the Equipment described on an Individual Payment Schedule, in form and substance satisfactory to Lessor.

"Commencement Date" means the date when the term of the Individual Payment Schedule begins and Lessee's obligation to make Lease-Purchase Payments accrues, as evidenced by payment by Lessor to the Vendor of the purchase price (or pertinent portion thereof) for the applicable Equipment or by the deposit by Lessor into the Acquisition Fund of the moneys required by the Escrow Agreement.

"Contractor" means each of the manufacturers or vendors from whom Lessee has ordered or will order or with whom Lessee has contracted or will contract for the manufacture, delivery or installation of the Equipment.

"Environmental Law" means any federal, state, local or foreign statute, law, ordinance, rule, regulation, code, order, writ, judgment, decree or judicial or agency interpretation relating to pollution or protection of the environment, health, safety or natural resources, including those relating to the use, handling, treatment, storage, disposal or release of any substance designated, classified or regulated as hazardous or toxic material, including petroleum and petroleum by-products, asbestos-containing materials, PCBs, radioactive materials and radon gas.

"Escrow Agent" means the Escrow Agent acting under and pursuant to the Escrow Agreement, if applicable.

"Escrow Agreement" means, to the extent required by an Individual Payment Schedule, an Escrow Agreement by and between the Escrow Agent and Lessee, as the same may be amended and supplemented from time to time.

"Equipment" means the personal property described in the Individual Payment Schedules, which is being leased and purchased by Lessee pursuant to this Agreement. The property so listed shall be, collectively, the **"Equipment"** and individually, a **"Unit of Equipment."**

"Equipment Location" means the location or locations within Lessee's jurisdiction where the Equipment is installed, used or maintained by Lessee.

"Event of Loss" means with respect to any Unit of Equipment if such Unit of Equipment or any material part thereof has been lost, stolen, requisitioned or condemned by any governmental authority, damaged beyond repair or damaged in such a manner that results in an insurance settlement on the basis of an actual or arranged total loss.

"Final Renewal Period" or **"Final Period"** means the last period during which a Lease will be renewed, commencing on the first day of the Fiscal Period of Lessee specified in the applicable Individual

Payment Schedule with respect to each Unit of Equipment and ending on the date specified in such Individual Payment Schedule as the last payment date.

"Fiscal Period" means the applicable fiscal year of Lessee.

"Implicit Rate of Interest" means the rate used to determine the interest portion of the Lease-Purchase Payments, as set forth in the Individual Payment Schedules.

"Independent Counsel" means any attorney or attorneys duly admitted to practice law before the highest court of any state and not an officer or full time employee of Lessor or Lessee and who is not reasonably objected to by Lessee.

"Individual Payment Schedules" means the schedules which identify specific Units of Equipment, the Commencement Date of the individual leases and terms thereof (which are treated as separate lease obligations) which may become a part of this Agreement from time to time.

"Initial Fiscal Period" or **"Initial Period"** means such period as shall be indicated by the Commencement Date set forth in each Individual Payment Schedule for the Equipment, which shall terminate the last day of Lessee's then current Fiscal Period. The term of the Leases will be renewed in the manner described in Section 6 hereof at the end of the Initial Period or any Renewal Period for one (1) additional year, upon Lessee's budgeting of sufficient funds for the making of Lease-Purchase Payments for the next occurring Renewal Period with respect to the Equipment or specific Units of Equipment, as provided in Section 10 of the Agreement.

"Lease-Purchase Payment Account" means the account established by Lessor for receipt and deposit of the Lease-Purchase Payments of Lessee under the Agreement and for deposit of any insurance proceeds not used for repair or replacement of Equipment, as provided in Section 20 of this Agreement.

"Lease-Purchase Payments" means the sum of the Base Rent and any Additional Rent due at or during a stated time.

"Lease Term" means, collectively, the Initial Period and thereafter, each Renewal Period provided for in the Agreement.

"Lease" or **"Leases"** means an individual lease or leases of the Units of Equipment, as specified in the Individual Payment Schedules and the other documents, agreements and instruments executed in connection therewith, entered into as a part of and pursuant to the Agreement.

"Lessee" means as referenced above, a political subdivision of the State.

"Lessor" means as referenced above, or its successors or assigns.

"Maximum Fiscal Periods" means the total number of Fiscal Periods of Lessee during which the Leases may be renewed from and including the first Fiscal Period to and including the final Fiscal Period.

"Payment Date" means each date of payment during the Lease Term designated as a Payment Date in the Individual Payment Schedules, commencing as of the Commencement Date.

"Purchase Price" means, as of any Purchase Price Date, the amount set forth in the Individual Payment Schedules which Lessee may pay to purchase the Equipment or specific Units of Equipment.

"Purchase Price Date" means any Payment Date referred to in the Individual Payment Schedules, on which Lessee may purchase the Equipment or specific Units of Equipment by payment of the applicable Purchase Price after payment of the Lease-Purchase Payment due on such date.

"Renewal Period" means any Fiscal Period subsequent to the Initial Period of an individual Lease during which such Lease is renewed.

"State" means the State or Commonwealth where Lessee is located.

"Taxable Rate of Interest" means a rate of interest equal to the Tax Equivalent Yield.

"Tax Equivalent Yield" means the Implicit Rate of Interest divided by the remainder resulting from subtracting the current maximum federal corporate income tax rate from one.

"Vendor" means the manufacturer of the Equipment as well as the agents or dealers of the manufacturer from whom Lessor purchased or will purchase the Equipment.

(b) References to sections, exhibits or attachments, unless otherwise indicated, are to sections of or exhibits or attachments to this Agreement.

2. **Assignment of Warranties.** Lessor hereby assigns to Lessee during the Lease Term, all warranties, if any, express or implied with respect to the Equipment. This assignment includes an authorization to Lessee to obtain the customary services furnished in connection with those warranties, at Lessee's expense.

3. **Lease of Equipment.** Lessor hereby agrees to demise, lease and let to Lessee, and Lessee hereby agrees to rent, lease and hire from Lessor, the Equipment in accordance with the provisions of this Agreement, to have and to hold for the Lease Term. Upon and during acquisition of the Equipment, all leasehold rights granted to Lessee by Lessor under this Agreement shall vest in Lessee, without any further action on the part of Lessor.

Each Lease of each Unit of Equipment shall be evidenced by an Individual Payment Schedule executed by Lessor and Lessee describing specific personal property, and setting forth provisions relating to the rent, term of the Lease, and other details relating to such Equipment. The Lease for each Unit of Equipment shall become effective on the Commencement Date, and the Individual Payment Schedule for such Equipment shall specify such date as the effective date of the Lease.

4. **Disbursements.** Subject to the terms and conditions hereof, Lessor and Lessee agree to disburse funds directly to the Vendor of Equipment or, to the extent an Escrow Agreement is applicable to any Individual Payment Schedule, establish an Acquisition Fund for the purposes hereinafter described for each Individual Payment Schedule through such Escrow Agreement. Lessor is authorized to disburse such funds directly to the applicable party or from the Acquisition Fund, in accordance with the provisions of the Escrow Agreement, as applicable, in each case for payment of, or reimbursement to Lessor or Lessee for payment of, the following:

(a) Expenses incurred in connection with the authorization, issuance and delivery of this Agreement and the preparation and delivery of all agreements, instruments and documents related thereto, including, but not limited to, all financial, legal, administrative, accounting and printing fees, expenses and charges and all recording, filing or insurance, and any other fees, expenses or charges relating to the Equipment or this Agreement;

(b) Any other costs, expenses, fees and charges properly chargeable to the cost of acquisition and installation of the Equipment; and

(c) Any other costs relating to the Equipment for which payment may be made under the terms of this Agreement.

Any such disbursements in respect of the purchase price of the Equipment or related costs from the Acquisition Fund or otherwise for the payment of costs shall be made upon acceptance of the Equipment pursuant to Section 5 hereof.

Reimbursements to Lessee for amounts paid on the Equipment (by virtue of a down payment or payment for the Equipment) from the amounts provided for by this Agreement must be in accordance with U.S. Treas. Reg. § 1.150-2.

5. Acceptance of Equipment. Upon the acquisition and installation of each Unit of Equipment, Lessee shall acknowledge and certify in writing its acceptance of such Equipment by signing a Certificate of Acceptance.

6. Lease Term. The term of each Lease will be for the Initial Period and will be renewable upon budgeting by Lessee of sufficient funds to pay Base Rent and Additional Rent on the first day of each succeeding Fiscal Period for the Maximum Fiscal Periods indicated on the Individual Payment Schedules, unless Lessee exercises its Purchase Option (as specified in Section 21 hereof) prior to the end of the Final Renewal Period. The Lease will terminate upon payment of the final Lease-Purchase Payment indicated on the applicable Individual Payment Schedule (plus any Additional Rent payable under the terms of this Agreement), or on a sooner Purchase Price Date.

7. Rent.

(a) Lessee agrees to pay to Lessor during the Lease Term of each Lease the Lease-Purchase Payments set forth in the Individual Payment Schedules on the dates and in the amounts set forth therein, including the interest components thereof, equal to the amounts provided below in this Section. The Lease-Purchase Payments during the Lease Term will be absolute and unconditional in all events and will not be subject to any set-off, defense, counterclaim or recoupment for any reason whatsoever.

(b) Lessee agrees to pay as Base Rent directly to Lessor the following amounts:

(i) Lessee agrees to pay the Lease-Purchase Payments specified in each Individual Payment Schedule. Each payment shall be applied first to payment of the interest component of the respective Lease-Purchase Payment.

(ii) To the extent permitted by law, if any Lease-Purchase Payment shall not have been received by Lessor ten (10) days after the Payment Date, Lessee agrees to pay a late payment fee equal to 1½% of the due and owing Lease-Purchase Payment.

(c) Lessee agrees to pay to Lessor the following amounts as Additional Rent:

(i) Lessee represents that no charges or taxes (local, state or federal) are currently imposed on the ownership, leasing, rental, sale, purchase, possession or use of the Equipment, exclusive of taxes on or measured by Lessor's income, and acknowledges that no provision has been made for the inclusion of any such charges or taxes in the Base Rent. If during the Lease Term, the ownership, leasing, rental, sale, purchase, possession or use of the Equipment shall result in the imposition on Lessor of any charges or taxes (local, state or federal), exclusive of taxes on or measured by Lessor's income, Lessee shall promptly pay to Lessor, upon receipt from Lessor of a statement therefor, as Additional Rent an amount equal to those charges and taxes imposed on Lessor.

(ii) Upon an Event of Default, Lessee will pay to Lessor as Additional Rent all reasonable costs and expenses incurred or to be paid by Lessor under the

Agreement, including Lessor's out-of-pocket expenses and Lessor's attorney fees, which were not part of the original cost of the Equipment.

(iii) Lessee will pay to Lessor as Additional Rent all supplemental payments required by Section 8(d) below in the amount necessary to preserve the Tax Equivalent Yield to Lessor under the terms of the Agreement, in the manner provided therein.

(d) If Lessee does not make payment of all or any part of the Additional Rent, Lessor shall have the right, but shall not be obligated, to pay or advance the amount of such Additional Rent. If Lessor pays any portion of such Additional Rent, Lessee shall pay Lessor no later than the first Payment Date in the next succeeding Fiscal Period during which the Lease Term is in effect an amount equal to the sum of such Additional Rent and the costs incurred by Lessor in making such payment or advance, including the amount Lessor would have earned from investment of the amount paid or advanced before repayment thereof as determined by the prime rate of Fifth Third Bank as announced from time to time, plus 1½%. Lessor shall notify Lessee in writing of the costs incurred in any case of its paying or advancing such Additional Rent. If Lessor pays or advances such Additional Rent, and is repaid as provided for in this paragraph, then such initial failure to pay shall be deemed to be cured and shall not be deemed to be an Event of Default under Section 23 of this Agreement.

(e) Lease-Purchase Payments shall be payable at the principal commercial leasing office of Lessor or at such other place as Lessor may from time to time designate in writing.

8. Actions Relating to Tax Exemption of Interest Components.

(a) Lessor and Lessee each covenant that it will restrict the use of moneys realized under this Agreement or otherwise in connection with the acquisition and financing of the Equipment in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time of entering into this Agreement, so that there will not exist at any time any obligation in connection with this Agreement or the Equipment that constitutes an obligation the interest on which is includible in gross income for federal income tax purposes or an "arbitrage bond" under Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations prescribed under that Section and any subsequent amendments or modifications thereto. Any officer of Lessor or Lessee having responsibility with respect to the execution and delivery of this Agreement shall, alone or in conjunction with any other officer, employee or agent of or consultant to Lessor or Lessee, give an appropriate certificate of Lessor or Lessee (in form and substance satisfactory to Lessor or Lessee, as applicable) pursuant to Sections 103 and 148 of the Code and those regulations, setting forth the reasonable expectations of Lessor or Lessee on the date of entering into each Individual Payment Schedule of this Agreement, regarding each Lease and the use of those moneys, which such certificate shall bind the Lessee with respect to the covenants and undertakings contained therein.

(b) Lessee represents and covenants that it will not use the Equipment, or permit the Equipment to be used, in such a manner as would result in the loss of the exclusion from gross income for federal income tax purposes of the component of the Lease-Purchase Payments designated as interest on the Individual Payment Schedules afforded under Section 103(a) of the Code.

(c) Lessor and Lessee each covenant to take all action required to maintain exclusion from gross income for federal income tax purposes afforded under Section 103(a) of the Code, of the Lease-Purchase Payments designated as the interest component on the Individual Payment Schedules attached hereto.

(d) (i) If at any time the yield to Lessor as to any Lease is decreased by any change in the limitation in the deductibility of the interest paid on debt incurred by Lessor to carry tax exempt obligations from that which is presently incurred by Lessor, or if there shall occur any other change in law which lowers the Tax Equivalent Yield to Lessor, then Lessee shall make a supplemental payment to Lessor annually, on written demand by Lessor, in an amount which is equal to the amount necessary on an after-tax basis to preserve the same Tax Equivalent Yield. (ii) If for any reason the interest portion of

the Lease-Purchase Payments of any Lease is determined not to be excludable from gross income for federal income tax purposes, the Implicit Rate of Interest will increase to a rate equal to a Taxable Rate of Interest. In addition, Lessee will pay an amount equal to the difference between the portion of the Lease-Purchase Payments which constituted interest with respect to such Lease which were actually paid and the interest which would have been paid if the Implicit Rate of Interest had been a Taxable Rate of Interest from the Commencement Date or, if later, the effective date from which the interest component is determined to be taxable, plus any penalties, interest, assessments and additions to tax payable by Lessor as a result of the loss of the tax exempt status of interest on the Lease.

9. Authority and Authorization. Lessee represents, covenants and warrants, and will deliver to Lessor not later than the Commencement Date an opinion of its counsel to the effect that: (i) Lessee is a political subdivision of the State, duly organized and validly existing under and by virtue of the laws of the State; (ii) the execution, delivery and performance by Lessee of this Agreement have been duly authorized by all necessary action on the part of Lessee; and (iii) this Agreement constitutes a legal, valid and binding obligation of Lessee enforceable in accordance with its terms. Lessee agrees and warrants that: (i) it will do or cause to be done all things necessary to preserve and keep this Agreement, including each Individual Payment Schedule hereunder, in full force and effect; (ii) it has complied with all requirements applicable to it, and has taken all steps for approval and adoption of this Agreement as a valid obligation on its part; and (iii) sufficient funds are appropriated to pay all amounts due under this Agreement for the Initial Period.

10. Title; Termination; Nonappropriation.

(a) Lessee will obtain title to the Equipment during the Lease Term, subject to Lessor's rights under this Agreement. Lessor and Lessee agree that this Agreement or any other appropriate documents may be filed or recorded to evidence the parties' respective interests in the Equipment and the Agreement.

(b) The Equipment shall become the property of Lessee and Lessor's interest therein shall pass to Lessee without cost upon (i) Lessee's exercise of the Purchase Option granted in Section 21 hereof, or (ii) the complete payment and performance by Lessee of all of its obligations during the Lease Term; *provided, however*, that title shall immediately and without any action by Lessee vest in Lessor, and Lessee shall immediately surrender possession of the applicable Units of Equipment to Lessor upon (A) any termination of any Lease under this Agreement without Lessee exercising its Purchase Option to purchase with respect thereto, or (B) the occurrence of an Event of Default which is not cured in accordance with the terms of this Agreement. In any of such cases, Lessee agrees to execute such instruments and do such things as Lessor reasonably requests in order to effectuate transfer of any and all of Lessee's right, title and interest in such Equipment, as is, to Lessor. Subject to Lessee's obligations under Section 15 hereof, it is hereby acknowledged by Lessor and Lessee that Lessee will purchase the Equipment on the terms set forth in the Individual Payment Schedules of this Agreement.

(c) It is Lessee's intent to pay Lease-Purchase Payments for the Initial Period and all Renewal Periods as scheduled on each Individual Payment Schedule if funds are legally available to it and in this regard, Lessee represents that the use of the Equipment is essential to its operations. If Lessee is not allotted funds for any successive Fiscal Period to continue paying the Lease-Purchase Payments as to any Individual Payment Schedule for the Units of Equipment relating thereto and it has no funds legally available for such payment from other sources, Lessee may terminate the applicable Individual Payment Schedules of this Agreement at the end of the then current Fiscal Period, and Lessee shall not be obligated to make any payments thereon beyond the end of the then current Fiscal Period. Lessee shall provide Lessor with ninety (90) days written notice of its intention to terminate this Agreement as a result of an event of nonappropriation. In such event, Lessor shall have all the rights and remedies to take possession of the Units of Equipment relating to the Individual Payment Schedules so terminated. Lessee agrees to transfer all of its right, title and interest and to peaceably surrender possession of the applicable Units of Equipment to Lessor or its assignee on the effective date of such

termination, and to have such Equipment packaged for shipment in accordance with manufacturer's specifications.

11. Security Interest. In order to secure all of its obligations hereunder, to the extent permitted by law, Lessee hereby (a) grants to Lessor a first and prior security interest in any and all right, title and interest of Lessee in (i) the Equipment and in all additions, attachments, accessions, and substitutions thereto, and on any proceeds therefrom, (ii) all general intangibles, software intangibles and other property relating thereto (excluding accounts receivable), (iii) all warehouse receipts, bills of lading and other documents of title now or hereafter covering any of the foregoing property, (iv) all securities, funds, moneys, deposits and other property at any time held in or subject to the Acquisition Fund (if any), (v) all accessions thereto, (vi) all accessories, attachments, parts, equipment and repairs now or hereafter attached or affixed or used in connection with any of the foregoing property, (vii) all substitutions for any of the foregoing property and (viii) proceeds of any of the foregoing property (including, without limitation, any property acquired by Lessee with such proceeds); (b) agrees that this Agreement may be filed as a financing statement evidencing such security interest and authorizes Lessor to file such other UCC Financing Statements relating to such collateral in such jurisdictions as Lessor shall determine are necessary or appropriate; and (c) agrees to execute and deliver all financing statements, certificates of title and other instruments necessary or appropriate to evidence such security interest and Lessee hereby irrevocably makes, constitutes and appoints Lessor as Lessee's true and lawful attorney with full power to sign the name of Lessee to any such document.

12. Disclaimer of Warranties. LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, COMPLIANCE WITH SPECIFICATIONS, QUALITY OF MATERIALS OR WORKMANSHIP, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, USE OR OPERATION, SAFETY, PATENT, TRADEMARK OR COPYRIGHT INFRINGEMENT, SUBJECT TO LESSEE'S OBLIGATIONS UNDER SECTION 15 HEREOF, OF ANY OF THE EQUIPMENT OR AS TO ITS TITLE THERETO OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE EQUIPMENT. Lessor hereby assigns to Lessee for and during the Lease Term all manufacturer's warranties or guaranties, express or implied, issued on or applicable to the Equipment and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties or guaranties at Lessee's expense. Lessee acknowledges that the Equipment shall be purchased by Lessor in accordance with Lessee's specifications and from a vendor selected by Lessee; that Lessor is not a manufacturer of or dealer of such Equipment and takes no part in or responsibility for the installation of the Equipment, and that Lessor has made no representation or warranty and assumes no obligation with respect to the merchantability, condition, quality or fitness of the Equipment or the enforcement of the manufacturer's warranties or guaranties.

All such risks, as between Lessor and Lessee, are to be borne by Lessee. Without limiting the foregoing Lessor shall have no responsibility or liability to Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by the Equipment, any inadequacy thereof, any deficiency or defect (latent or otherwise) therein, or any other circumstances in connection therewith; (ii) the use, operation or performance of the Equipment or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of the Equipment.

13. Personal Property. The Equipment is and shall at all times be and remain personal property notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner affixed or attached to or embedded in or permanently rested upon real property or any building or fixtures thereon or otherwise attached in any manner to what is permanent by means of cement, plaster, nails, bolts, screws or otherwise.

14. Use; Maintenance and Repair; Indemnification.

(a) Lessee will: (i) use the Equipment in a careful manner for the use contemplated by this Agreement and the laws of the State with respect to equipment of this type; (ii) comply with all laws, insurance policies and regulations relating to the use, maintenance and operation of the Equipment; and (iii) pay all costs, claims, damages, fees and charges arising out of its possession, use or maintenance of the Equipment.

(b) Lessee, at its expense, will: (i) keep the Equipment in good repair and furnish all parts, mechanisms and devices required therefor, and (ii) obtain and maintain any governmental licenses and permits required for ownership and operation of the Equipment.

(c) Lessee will repair and maintain, or by contract provide for the proper repair and maintenance of, the Equipment during the Lease Term.

(d) Lessor agrees that so long as no Event of Default has occurred and is continuing during the Lease Term it will not impair Lessee's abilities to operate or maintain the Equipment in sound operating condition so that the Equipment will be able to carry out its intended functions.

(e) Lessee releases Lessor from, agrees that Lessor shall not be liable for, and to the extent permitted by law, Lessee shall indemnify Lessor against causes of action, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses except as may be limited by law or judicial order or decision entered in any action brought to recover moneys under this Section) imposed upon, incurred by or asserted against either Lessor on account of (a) ownership of any interest in the Equipment or any part thereof, (b) any accident, injury or death to persons or damage to property occurring on or about the Equipment or any part thereof or the adjoining sidewalks, curbs, streets or ways, (c) any use, disuse or condition of the Equipment or any part thereof, or the adjoining sidewalks, curbs, streets or ways, (d) any failure on the part of Lessee to perform or comply with any of the terms hereof or (e) the performance of any labor or services or the furnishing of any materials or other property in respect of the Equipment or any part thereof. In case any action, suit or proceeding is brought against Lessor for any such reason, Lessee, upon the request of Lessor, will, to the extent permitted by law, at Lessee's expense, cause such action, suit or proceeding to be resisted and defended by Independent Counsel.

(f) Lessor agrees to indemnify and save harmless Lessee against and from any and all cost, liability, expenses and claims arising from any breach or default on the part of Lessor in the performance of any covenant or agreement on the part of Lessor to be performed pursuant to the terms of this Agreement, or arising from any act or gross negligence of or failure to act by Lessor, or any of its agents, contractors, servants, employees, or licensees, and from and against all cost, liability and expenses incurred in or in connection with any such claim or action or proceeding brought thereon; and in case any action or proceeding be brought against Lessee by reason of any such claim, Lessor, upon notice from Lessee, covenants to resist or defend such action (using counsel acceptable to Lessee, as the case may be) or proceedings at Lessor's expense.

15. Alterations. Following completion of the acquisition of the Equipment, Lessee will not make any alterations, additions, substitutions, subtractions or replacements to the Equipment which would have an adverse effect on either the nature of the Equipment or the function or value of the Equipment, unless such alterations, additions, substitutions, subtractions, replacements or improvements may be readily removed or re-added without damage to the Equipment. Any alterations, additions or improvements to the Equipment which may not be readily removed without damage to the Equipment, and any substitutions or replacements, shall be considered to constitute a part of the Equipment.

16. Location; Inspection. Lessee shall not remove the Equipment from the Equipment Location without the consent of Lessor, which consent shall not be unreasonably withheld. Lessor will be entitled to enter upon the Equipment Location or elsewhere during reasonable business hours to inspect or observe the use, operation and maintenance of the Equipment.

17. **Liens and Encumbrances.** Lessee and Lessor shall keep the Equipment free and clear of all liens and encumbrances except those created or permitted under this Agreement.

18. **Risk of Loss; Damage; Destruction.** Lessee assumes all risk of loss or damage to the Equipment from any cause whatsoever. No loss of or damage to, or appropriation by governmental authorities of, or defect in or unfitness or obsolescence of, the Equipment will relieve Lessee of its obligation under this Agreement or the Individual Payment Schedules hereunder. Lessee will promptly repair or replace any portions of Equipment lost, destroyed, damaged or appropriated necessary to maintain the Equipment in sound operating condition so that at all times during the Lease Term the Equipment will be able to carry out its intended functions. If an Event of Loss to any Equipment has occurred, Lessee shall immediately notify Lessor of same, and at the option of Lessor, Lessee shall: (a) repair or replace such Equipment in accordance with the immediately preceding sentence and the other terms and conditions hereof or (b) pay to Lessor on the next succeeding Payment Date the sum of (i) all Base Rent and Additional Rent due on such Payment Date and all other amounts then due and owing hereunder plus (ii) the Purchase Price as of such Payment Date with respect to the Equipment. Upon Lessor's receipt of the payment required under subsection (b) above, Lessee shall be entitled to Lessor's interest in such Equipment, in its then condition and location, "as is" and "where is", without any representations or warranties, express or implied.

19. **Insurance.** Lessee during the Lease Term of this Agreement shall maintain:

(a) property insurance, with any loss deductible commonly used by Lessee, covering the Equipment, naming Lessor as loss payee and otherwise on the terms and in the amounts specified in the Insurance Coverage Certificate executed by Lessee;

(b) liability insurance covering the use of the Equipment, which may be a combination of self-insurance and an excess liability policy, naming Lessor as an additional insured and otherwise on the terms and in the amounts specified in the Insurance Coverage Certificate executed by Lessee;

(c) the proceeds of any personal injury insurance, casualty insurance, or appropriation awards, to the extent they are not promptly used or encumbered for the purposes stated in 19 hereof, shall be paid to Lessor for deposit in the Lease-Purchase Payment Account; and

(d) in the event of total destruction of any Units of Equipment, Lessee shall apply insurance proceeds, self-insurance and any other moneys available and appropriated for the purpose, to the acquisition of replacement Equipment.

20. **Purchase Option.** Lessee, upon ninety (90) days prior written notice to Lessor and after the Commencement Date, shall have the right to purchase the Equipment or any Unit of Equipment thereof on any Purchase Price Date by paying to Lessor the Lease-Purchase Payment then due on the applicable Individual Payment Schedule, together with the Purchase Price relating to that date. Any purchase of Equipment hereunder shall be on an "as-is, where-is" basis without representation or warranty of any kind from Lessor except that Lessor shall warrant that the Equipment is free, clear and unencumbered of all liens arising by, through or under Lessor except for such liens as Lessee is required to remove pursuant to the terms hereof.

21. **Assignments.**

(a) Lessee may not, without the prior written consent of Lessor: (i) assign, transfer, pledge, hypothecate or grant any security interest in or otherwise dispose of this Agreement or any Individual Payment Schedule under this Agreement or any Unit of Equipment (without replacement or substitution) or any interest in this Agreement or any Individual Payment Schedule under this Agreement or Unit of Equipment, or (ii) sublease the Equipment or permit it to be operated by anyone other than

Lessee, Lessee's employees or persons authorized by Lessee in connection with Lessee's operation and maintenance of the Equipment.

(b) This Agreement and each Individual Payment Schedule and the obligations of Lessee to make payments under each Individual Payment Schedule, may be sold, assigned or otherwise disposed of in whole or in part to one or more successors, grantees, holders, assignees or subassignee by Lessor, whereupon such successors, grantees, holders, assignees or subassignee shall succeed to all of Lessor's rights and (except to the extent of any servicing obligations retained by Lessor) obligations. Upon any sale, disposition, assignment or reassignment, Lessee shall be provided with a notice of the same by Lessor or its grantees, holders, assignees or subassignee; *provided, however*, that failure to provide such notice to Lessee shall not invalidate, void or render ineffective such assignment. Such sale, disposition, assignment or reassignment shall be effective upon receipt of such notice by Lessee.

(c) Lessee agrees to make all payments to the assignee designated in the assignment, notwithstanding any claim, defense, setoff or counterclaim whatsoever (except arising from Lessor's breach of this Agreement) that Lessee may from time to time have against Lessor or Vendor. Lessee agrees to execute all documents, including registering of assignments, notices of assignment and chattel mortgages or financing statements, which may be reasonably requested by Lessor or assignee to protect its interest in the Equipment, in this Agreement and in each Individual Payment Schedule.

(d) Lessee hereby agrees that Lessor may sell or offer to sell this Agreement (i) through a certificate of participation program, whereby one or more interests are created in the Agreement under each Individual Payment Schedule, the Equipment or the Rental Payments under this Agreement and each Individual Payment Schedule or (ii) with other similar instruments, agreements and obligations through a pool, trust, limited partnership, or other entity.

22. Events of Default. The occurrence of any one or more of the following events constitutes an "Event of Default" under this Agreement:

(a) Lessee's failure to make during the then current Fiscal Period any Lease-Purchase Payment (or any other payment) as it becomes due in accordance with the terms of any Individual Payment Schedule of this Agreement, and the failure continues for fifteen (15) days after the due date; or

(b) Lessee's failure to perform or observe any other covenant, condition or agreement to be performed or observed by it under this Agreement, and the failure is not cured or steps satisfactory to Lessor taken to cure the failure, within ten (10) days after written notice of the failure to Lessee by Lessor; or

(c) The discovery by Lessor that any material statement, representation or warranty made by Lessee in this Agreement or in any writing delivered by Lessee pursuant to or in connection with this Agreement is false, misleading or erroneous in any material respect; or

(d) The initiation by Lessee of a proceeding under any federal or state bankruptcy or insolvency law seeking relief under such laws concerning the indebtedness of Lessee; or

(e) Lessee shall be or become insolvent, or admit in writing its inability to pay its or his debts as they mature, or make an assignment for the benefit of creditors; or Lessee shall apply for or consent to the appointment of any receiver, trustee or similar officer for it or for all or any substantial part of its property; or such receiver, trustee or similar officer shall be appointed without the application or consent of Lessee; or Lessee shall institute (by petition, application, answer, consent or otherwise) any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, liquidation or similar proceeding relating to it under the laws of any jurisdiction; or any such proceeding shall be instituted (by petition, application or otherwise) against Lessee, or any judgment, writ, warrant of

attachment or execution or similar process shall be issued or levied against a substantial part of the property of Lessee.

23. Remedies. Upon the occurrence of an Event of Default, and as long as the Event of Default is continuing, Lessor may, at its option, exercise any one or more of the following remedies as to the Equipment:

(a) By written notice to Lessee, declare an amount equal to all amounts then due under all Individual Payment Schedules and all remaining Lease-Purchase Payments due thereon during the then applicable Fiscal Period, whereupon that amount shall become immediately due and payable;

(b) Within fifteen (15) days after written demand or notice to Lessee, enter and take immediate possession of the Equipment wherever situated, without any court order or process of law and without liability for entering the premises;

(c) Sell or lease the Equipment or sublease the Equipment for the account of Lessee, holding Lessee liable for all Lease-Purchase Payments and other payments due during the then applicable Fiscal Period to the effective date of such selling, leasing or subleasing and for the difference between the purchase price, rental and other amounts paid by the purchaser, lessee or sublessee pursuant to such sale, lease or sublease and the amounts payable during such Fiscal Period by Lessee under all Individual Payment Schedules of this Agreement; and

(d) Exercise any other right, remedy or privilege which may be available to it under the applicable laws of the State or any other applicable law or proceed by appropriate court action to enforce the terms of this Agreement or to recover damages for the breach of this Agreement or to rescind this Agreement as to any or all of the Equipment.

Lessee will remain liable for all covenants and obligations under this Agreement, and for all legal fees and other costs and expenses, including court costs awarded by a court of competent jurisdiction, incurred by Lessor with respect to the enforcement of any of the remedies under this Agreement, when a court of competent jurisdiction has finally adjudicated that an Event of Default has occurred.

Upon an Event of Default or as otherwise required herein or in any Agreement, Lessee shall within ten (10) calendar days after notice from Lessor, at its own cost and expense: (a) if deinstallation, disassembly or crating is required, cause the Equipment to be deinstalled, disassembled and crated by an authorized manufacturer's representative or such other service person as is satisfactory to Lessor; and (b) deliver the Equipment to a location specified by Lessor, freight and insurance prepaid by Lessee. If Lessee refuses to deliver the Equipment in the manner designated, Lessor may enter upon Lessee's premises where the Equipment is kept and take possession of the Equipment and charge to Lessee the costs of such taking. To the extent permitted by applicable law, Lessee hereby expressly waives any damages occasioned by such taking, unless caused solely and directly by Lessor's failure to comply with the UCC. If Lessee makes modifications to a site after any Equipment has been installed therein and such modifications impede the removal of the Equipment, the cost of removing the impediments and restoring the site shall be the sole expense of Lessee. Lessee agrees that if Lessee is required to deliver any item of Equipment to Lessor or Lessor's agent, the Equipment shall be delivered free of all substances which are regulated by or form a basis for liability under any Environmental Law (other than items necessary for the use or operation of the Equipment for the purposes for which it was intended so long as such items have been hauled, conveyed, stored, treated, transported and disposed of in accordance with Environmental Laws). All of Lessee's right, title and interest in any Equipment the possession of which is taken by Lessor upon the occurrence of an Event of Default (including, without limitation, construction contracts, warranties, guaranties or completion assurances applicable to such Equipment) shall pass to Lessor, and Lessee's rights in such Equipment shall terminate immediately upon such repossession.

24. No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every

other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. All remedies herein conferred upon or reserved to Lessor shall survive the termination of this Agreement.

25. Notices. All notices to be given under this Agreement shall be made in writing and mailed by certified or registered mail, return receipt requested, to the parties at the addresses set forth herein or at such other address as the party may provide in writing from time to time.

26. Headings. All section headings contained in this Agreement are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

27. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State.

28. Delivery of Related Documents. Lessee will execute or provide, as requested by Lessor, such other documents and information as are reasonably necessary with respect to the transactions contemplated by this Agreement, including the Individual Payment Schedules which are or become a part of this Agreement.

Lessor and Lessee agree that this Agreement or any other appropriate documents may be filed or recorded to evidence the parties' respective interests in the Equipment and this Agreement or the individual Leases hereunder.

29. Special Representations and Covenants of Lessor. Lessor represents that:

(a) Lessor is an Ohio banking corporation duly organized, existing and in good standing under the laws of such state; has full and complete power to enter into this Agreement and to enter into and carry out the transactions contemplated hereby, and to carry out its obligations under this Agreement; is possessed of full power to own and hold real and personal property, and to lease the same; and has duly authorized the execution and delivery of this Agreement;

(b) neither the execution and delivery of this Agreement or any Lease, nor the fulfillment of or compliance with the terms and conditions hereof and thereof, nor the consummation of the transactions contemplated hereby and thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which Lessor is now a party or by which Lessor or its property is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge, or encumbrance whatsoever upon any of the property or assets of Lessor, or upon the Equipment, as defined in any Lease except encumbrances permitted by the Lease; and

(c) upon exercise by Lessee of its option to purchase the Equipment pursuant to any Lease, Lessor will deliver to Lessee all documents which are or may be necessary to vest all of Lessor's right, title and interest in and to the Equipment in Lessee, and will release all liens and encumbrances created under the Lease with respect to the Equipment.

30. Special Representations and Covenants of Lessee. Lessee represents and covenants that:

(a) it is a city (incorporated) in, and a political subdivision of, the State, and is responsible for public welfare and that acquiring, owning and financing of the Equipment and the leasing of the Equipment will advance such purposes. Lessee further represents that it intends, to the fullest extent possible, to support and maintain the Equipment to assure performance of its essential function;

(b) the laws of the State authorize Lessee to acquire, operate and maintain the equipment to be leased pursuant to the Lease, to enter into the Lease and the transactions contemplated thereby, and carry out its obligations under the Lease;

(c) the officers of Lessee executing the Lease have been duly authorized to execute and deliver the Lease under the terms and provisions of a resolution of Lessee's governing body or by other appropriate official action;

(d) Lessee has complied with all open meeting laws, all public bidding laws and all other laws of the State and the United States applicable to the Lease and the acquisition of the Equipment by Lessee;

(e) except as provided under the terms of the Lease, Lessee will not transfer, lease, assign, mortgage or encumber the Equipment;

(f) the Equipment constitutes public property to be used solely for public purposes and Lessee will use the Equipment during the term of the Lease only to perform essential governmental functions;

(g) Lessee will execute and file with the Internal Revenue Service the information reporting statement required by Section 149(e) of the Code, (Form 8038G or 8038GC);

(h) Lessee does not reasonably anticipate that less than ninety-five percent (95%) of the proceeds of the Lease will be used for "local government activities" of Lessee;

(i) the Lessee covenants and agrees to identify as a repayment source for amounts due and payable hereunder and to annually budget, by amendment, if necessary, from certain available revenues of the Lessee, which are lawfully available to be used to pay Base Rent on amounts due under this Lease (such revenues shall hereinafter be referred to as the "Designated Revenues"), amounts sufficient to pay principal of and interest on amounts due under this Lease not being paid from other amounts as the same shall become due. Such covenant and agreement on the part of the Lessee to identify and to budget Designated Revenues shall be cumulative to the extent not paid, and shall continue until such Designated Revenues or other legally available funds in amounts sufficient to make all such required payments shall have been budgeted, appropriated and actually paid. No pledge of such identified and budgeted Designated Revenues shall be in effect until such moneys are budgeted and appropriated. The Lessee further acknowledges and agrees that the obligations of the Lessee to include the amount of any deficiency in payments in each of its annual budgets and to pay such deficiencies from Designated Revenues may be enforced in a court of competent jurisdiction in accordance with the remedies set forth herein.

Such covenant to identify as a repayment source for amounts due and payable hereunder and to annually budget Designated Revenues does not and shall not create any lien upon or pledge of such Designated Revenues, nor does it preclude the Lessee from pledging all or a portion of its Designated Revenues in the future, nor does it require the Lessee to levy and collect any particular Designated Revenues, nor does it give the person or entity entitled to Base Rent hereunder a prior claim on the Designated Revenues as opposed to claims of general creditor of the Lessee. Such covenant to identify as a repayment source for amounts due and payable hereunder and to annually budget Designated Revenues is subject in all respects to the prior payment of obligations secured by a pledge of such Designated Revenues heretofore or hereafter entered into (including the payment of debt service on bonds and other debt instruments). Anything in this Lease to the contrary notwithstanding, it is understood and agreed that all obligations of the Lessee hereunder shall be payable from the portion of Designated Revenues budgeted and appropriated as provided for hereunder and nothing herein shall be deemed to pledge ad valorem tax revenues or to permit or constitute a mortgage or lien upon any assets owned by the Lessee and no person or entity entitled to Base Rent hereunder nor any other person, may compel the levy of ad valorem taxes on real or personal property within the jurisdictional boundaries of the Lessee;

(j) all representations, warranties, covenants and statements contained in this Lease are true and correct; and

(k) Upon the execution of each Individual Payment Schedule, Lessee will provide Lessor a completed and executed copy of the opinion of the legal counsel to Lessee, in form and substance satisfactory to Lessor. The opinion of legal counsel to Lessee will be dated the date that funding for the Individual Payment Schedule is provided by Lessor. In addition, Lessor's obligation to fund the purchase price for the Equipment referred to in any Individual Equipment Schedule executed pursuant hereto is conditioned upon prior receipt of the following documents, in each case, duly executed by Lessee and in form and substance satisfactory to Lessor: (i) Arbitrage and Tax Certificate, (ii) Certificate of Fiscal Officer, (iii) Bank Eligibility Certificate, (iv) Insurance Coverage Letter, (v) Municipal Certificate and (vi) Essential Use/Source of Funds Certificate.

31. **Escrow Agreement.** To the extent required by any Individual Payment Schedule executed pursuant hereto, at the time of the execution and delivery of such Individual Payment Schedule, Lessor and Lessee agree to execute and deliver and to cause Escrow Agent to execute and deliver the Escrow Agreement. Such Individual Payment Schedule shall take effect only upon execution and delivery of the Escrow Agreement by the parties thereto. Upon receipt of each properly completed Payment Request Form, in the form prescribed by the Escrow Agreement, Lessor shall deposit or cause to be deposited with Escrow Agent for credit to the Acquisition Fund the sum designated therein, which shall be held, invested and disbursed in accordance with the Escrow Agreement.

32. **Entire Agreement.** This Agreement, together with all Individual Payment Schedules and attachments and exhibits, and other documents or instruments executed by Lessee and Lessor in connection with this Agreement, constitute the entire agreement between the parties with respect to the lease of the Equipment.

33. **Amendments.** This Agreement may not be modified, amended, altered or changed except with the written consent of Lessee and Lessor and except as contemplated by the addition of Individual Payment Schedules.

34. **Severability.** In any provision of, or any covenant, obligation or agreement contained in this Agreement is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained in this Agreement. The invalidity or unenforceability shall not affect any valid or enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

35. **Counterparts.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same Agreement.

{Remainder of page intentionally blank. Signature page follows.}

IN WITNESS WHEREOF, the parties have executed this Master Lease-Purchase Agreement by their authorized officers as of the date set forth above.

LESSOR:

FIFTH THIRD BANK

By: Gerald Whitfield

Name: _____

Title: Gerald Whitfield, VP

LESSEE:

CITY OF RIVIERA BEACH

By: Thomas A. Masters

Name: Thomas A. Masters

Title: Mayor

Reviewed as to Legal Sufficiency

Pamala H. Ryan

Pamala Hanna Ryan, Riviera Beach City Attorney

RESOLUTION NO. 57-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH POINT AND PAY TO PROVIDE E-PAYMENT SERVICES TO THE CITY OF RIVIERA BEACH FOR A PERIOD OF THREE YEARS, COMMENCING MAY 2, 2013, WITH TWO ANNUAL RENEWALS AT THE CITY'S OPTION AND THAT THE UTILITY SPECIAL DISTRICT ABSORB THE CONVENIENCE FEES FOR SAME; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Point and Pay is business development partner of the City's proprietary Utility Billing software provider, American Data Group (ADG); and

WHEREAS, Point and Pay, through its business partnership with ADG, has license to proprietary software that can provide City Utility customers automated access to their accounts through interactive voice recognition technology and also facilitate the electronic payment solutions via the city 's website; and

WHEREAS, approval of this agreement would result in a cost savings of approximately \$4000 for the City, as ADG would not be required to develop software for another electronic processing company to interface with the City's billing system; and

WHEREAS, the City will also be able to implement customer convenience immediately and avoid additional time that would be required for another service provider to develop software interface from scratch; and

WHEREAS, the acceptance of this contract integrates debit and credit card services via counter, online, and IVR for customer convenience and electronic payment solutions; and

WHEREAS, using this technology will free up staff time and eliminate the need to hire additional staff to process customer service transactions; and

WHEREAS, the convenience cost will be absorbed by the city which is estimated for the first year to be \$36,000, and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA,

PAGE 2

RESOLUTION NO. 57-13

SECTION 1 That the Mayor and City Clerk be authorized to execute a E-Payment Services Agreement with Point and Pay to provide IVR and electronic payment solutions for the City commencing May 2, 2013 for a period of three years with two annual renewals at the City's option.

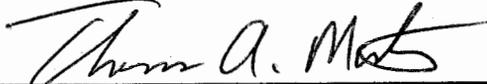
SECTION 2 That the City Manager and Finance Director are authorized to execute all documents that are necessary to carry out the provision of electronic payment solutions services with Point and Pay.

SECTION 3 That Staff is authorized to absorb all convenience fees related to payment processing estimated at \$36,000 annually and will be charged to the Utility Special District Fund for same.

SECTION 4 This Resolution shall become effective upon its passage and approval by the City Council.

PASSED AND APPROVED THIS 1ST DAY OF MAY, 2013.

APPROVED:



THOMAS A. MASTERS
MAYOR

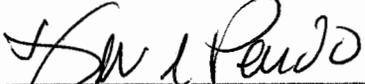


CEDRICK A. THOMAS
CHAIRPERSON

ATTEST:



CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK



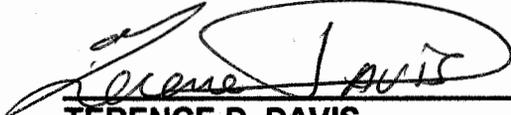
DAWN S. PARDO
CHAIR PRO-TEM



JUDY L. DAVIS
COUNCILPERSON



BRUCE A. GUYTON
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: J. DAVIS

SECONDED BY: B. GUYTON

C. THOMAS AYE

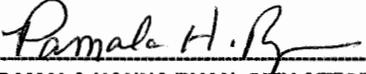
D. PARDO AYE

J. DAVIS AYE

B. GUYTON AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/1/13

**POINT AND PAY
E-PAYMENT SERVICES AGREEMENT**

APR 12 2013
FINANCE DEPARTMENT

Parties:

Point and Pay LLC ("PNP")
110 State Street, Suite D
Oldsmar, FL 34677
A subsidiary of NAB, doing business in Delaware
Effective Date: 4/2/2013

[City of Riviera Beach FL
600 West Blue Heron Blvd.
Riviera Beach, FL 33404] ("Client")

Terms

SECTION 1 E-PAYMENT SERVICES

1.1 Access to Payment Modules

1.1.1 Pursuant to this E-Payment Services Agreement (this "Agreement"), PNP grants Client a limited, non-exclusive, non-transferable and terminable license for the duration of the Term to use the electronic payment services (the "Services") and payment modules (each, a "Module") chosen in the attached client application ("Client Application") to enable Client's customers ("Customers") to make payments to Client using a Payment Device. "Payment Device" means the payment type(s) chosen by Client on the Client Application. A description of all Modules, Services, training and support offered by PNP is attached as Exhibit A (the "Services Description").

1.1.2 At the time of Client's execution of this Agreement, Client shall also return the completed Client Application to PNP. Subject to the terms and conditions of this Agreement, the Services may also be used by the affiliated offices, bureaus, agencies or departments of Client ("Affiliates"). Each Affiliate/Department shall complete a Client Application prior to commencement of the Services.

1.2 Client Representatives

PNP will provide Client's authorized representatives with a logon and password to access the Counter Module. Client shall be solely responsible for maintaining the confidentiality and security of the logons and passwords provided by PNP. Client will cause each of its representatives to change the initial password, keep the passwords confidential, refrain from sharing passwords and/or logon information with any unauthorized user, and use no other password to access the Counter Module. PNP shall be entitled to rely on any communications it receives under Client's passwords, logon information, and/or account number as having been sent by Client, without conducting any further checks as to the identity of the user of such information. PNP will not be responsible for the operability or functionality of any of Client's computer equipment, system, browser or Internet connectivity.

1.3 Payment Device Transactions

All Payment Device transactions using the Services will be processed through a secured link. The parties to each Payment

Device transaction will be the Customer cardholder, the Client and PNP.

1.4 Service Promotion

Client will use reasonable efforts to promote the Services and build awareness of the Services with its customers through various media including, but not limited to:

- Print: Bill inserts, counter displays, and announcements in Client's newsletter
- Online: Home page announcements with an easily accessible, one-click link to payments page.
- Phone/IVR: Pre-recorded message with the ability to transfer to payments IVR (e.g., "Press 2 to make a payment") or provide the IVR phone number to call.
- Joint Press Releases: The parties shall mutually agree upon press releases announcing the availability of electronic payment services and the partnering of Client and PNP.

1.5 Trademark License

PNP grants Client a limited, non-exclusive, non-transferable license to use the PNP trademarks, service marks and logos provided by PNP to Client (the "Trademarks") solely in connection with Client's promotion of the Services to Customers. Client shall not alter the Trademarks nor use the Trademarks in any way which is disparaging, dilutive or otherwise adversely affects the reputation of PNP.

1.6 Client Logo License

Client grants PNP a limited, non-exclusive, non-transferable license to use its applicable logos, copyrighted works and trademarks ("Client Marks") solely in connection with the Services provided to Client. Client shall provide the Client Marks to PNP for use with the Services. Client represents that it has all intellectual property rights required for Client's and PNP's use of Client Marks, and shall indemnify PNP against any third party claims that the Client Marks infringe the intellectual property rights of a third party.

SECTION 2 COMPENSATION

2.1 Services Transaction Fee

PNP will charge the transaction fee to use the Services set forth on the Client Application. If Services fees are charged directly to Customers by PNP, Customers will receive a notice each time they use the Services stating that the Services are provided by PNP and that a convenience fee is charged for use of the Services. PNP may change the amount of such fee by notifying Client of such new amount at least thirty (30) days prior to such change.

2.2 Activation Fee

If **applicable**, Client shall pay the one-time Activation Fee of \$500 (IVR) set forth on the Client Application. If the Activation Fee or any portion of the Activation Fee is waived by PNP and the Client does not implement the Service under this Agreement within six months after the Effective Date, other than due to a material breach by PNP, the waived portion of the Activation Fee shall become immediately due and payable.

2.3 Charge-backs and Returns

Unless otherwise specified in the Client Application, PNP will set off (a) the amount of any charge-backs, refusals to pay and returns from any amounts otherwise owing by PNP to Client and (b) a transaction handling fee for charge-backs and non-sufficient funds (NSF) **as specified** in the Client Application

2.4 ACH Debit of Fees

Client hereby authorizes PNP, and any subsidiary or successor thereof, solely with respect to amounts due pursuant to this Agreement and any subsequent agreements between Client and PNP, including but not limited to service fees, transaction fees, charge-backs and returns as set forth in Sections 2.1 and 2.3 of this Agreement, to initiate Automated Clearing House ("ACH") Authorizations to credit and debit Client's bank account as set forth on the Banking Authorization Form attached hereto as Exhibit B or otherwise provided by Client. Client acknowledges that it will be subject to a \$25 reject fee (per item) if items are returned for insufficient funds.

SECTION 3 INTELLECTUAL PROPERTY; CONFIDENTIALITY

3.1 No Transfer or License

Except for the rights expressly granted to Client in this Agreement, no PNP Intellectual Property Right is transferred or licensed to Client pursuant to this Agreement, by implication or otherwise. PNP reserves and retains all rights, title and interests in and to the PNP Intellectual Property Rights, and all copies, revisions, modifications, updates, and upgrades thereof. Client agrees not to remove, alter or destroy any copyright, patent notice, trademark or other proprietary markings or confidential legends placed on or within any portion of the PNP Intellectual Property Rights. For purposes of this Agreement, "**Intellectual Property Rights**" means all the intellectual

property, industrial and other proprietary rights, protected or protectable, under the laws of the United States, any foreign country, or any political subdivision thereof, including (a) all trade names, trade dress, trademarks, service marks, logos, brand names and other identifiers, (b) copyrights, moral rights (including rights of attribution and rights of integrity), (c) all trade secrets, inventions, discoveries, devices, processes, designs, techniques, ideas, know-how and other confidential or proprietary information, whether or not reduced to practice, (d) all domestic and foreign patents and the registrations, applications, renewals, extensions and continuations (in whole or in part) thereof, and (e) all goodwill associated with any of the foregoing and (f) all rights and causes of action for infringement, misappropriation, misuse, dilution or unfair trade practices associated with (a) through (d) above.

3.2 Ownership and Use of PNP Materials

Any software developed by or on behalf of PNP for use in connection with the Services remains the exclusive property of PNP. Client will not sell, transfer, barter, trade, license, modify or copy any such software. Web pages accessible through use of the Services are the copyrighted intellectual property of PNP and may not be copied in whole or part by anyone. Any training materials (including, but not limited to, webinars and manuals) provided to Client by PNP shall remain the exclusive property of PNP. PNP grants Client and Client's personnel a limited, non-exclusive, non-transferrable license to use and to make copies of the training materials with its personnel solely in connection with the Services. Training materials may not be modified by Client or its personnel or disclosed to any third party, including Client's end-user customers. Client shall ensure all personnel complete and review all training materials prior to using the Services.

3.3 Reverse Engineering

Client will not reverse engineer, reverse assemble, decompile or disassemble any of PNP's intellectual property, nor will Client attempt to do so or enable any third party to do so or otherwise attempt to discover any source code, modify the Service in any manner or form, or use unauthorized modified versions of the Service, including (without limitation) for the purpose of building a similar or competitive product or service or for the purpose of obtaining unauthorized access to the Service. Client is expressly prohibited from sublicensing use of the Service to any third parties. If Client becomes aware that any person has engaged or is likely to have engaged in any of the activities described in this Section 3.3, Client will promptly notify PNP.

3.4 Confidential Information

3.4.1 Any Confidential Information provided by PNP to Client pursuant to this Agreement will remain the exclusive property of PNP. Client will disclose such Confidential Information only to those of its representatives and employees who need to know such Confidential Information for purposes of performing this Agreement, who are informed of the confidential nature of the Confidential Information and who agree, for the benefit of PNP, to be bound by the terms of confidentiality in this Agreement. Client will, and will cause each of its representatives and employees, to keep confidential and not to disclose in any manner whatsoever any Confidential Information provided by PNP pursuant to this Agreement, and not to use such Confidential Information, in whole or in part, directly or indirectly, for any purpose at any time other than for the purposes contemplated by this Agreement. Notwithstanding the foregoing, if Client is a city, county, township or similar entity, or government agency or department thereof, Client may disclose Confidential Information as necessary to comply with applicable public records laws.

3.4.2 For purposes of this Agreement, "**Confidential Information**" means all nonpublic or proprietary information of PNP, including proprietary, technical, development, marketing, sales, operating, performances, cost, know-how, business and process information, computer programs and programming techniques, security features (including, without limitation, multi-level access and log-in features, audit trail setup, interfaces between the Counter Module and the Internet or IVR Modules), all record bearing media containing or disclosing such information and techniques, and anything marked confidential, that is disclosed by PNP to Client pursuant to this Agreement. Confidential Information also includes the terms and conditions of this Agreement.

3.5 Exclusions

The term Confidential Information will not apply to information that: (a) is or becomes generally available to the public other than as a result of a disclosure by Client in breach of this Agreement; (b) was within Client's possession prior to its disclosure by or on behalf of PNP, provided that the discloser of such information was not known by Client to be bound by a confidentiality agreement with, or other contractual, legal or fiduciary obligation of confidentiality to, PNP with respect to such information; (c) becomes available to Client on a non-confidential basis from a source other than PNP, provided that such source is not known by Client to be bound by a confidentiality agreement with, or other contractual, legal or fiduciary obligation of confidentiality to, PNP with respect to such information; or (d) is developed independently by Client, as demonstrated by the written records of Client, without use of such information. The confidentiality obligations of Client pursuant to this Agreement will not apply to any Confidential Information of PNP that Client is legally compelled to disclose. In the event Client becomes legally compelled to disclose any Confidential Information provided pursuant to this Agreement,

Client will provide PNP with prompt written notice so that PNP may seek a protective order or other appropriate remedy or waive compliance with the confidentiality provisions of this Agreement.

3.6 Failure to Comply

If Client fails to comply with any of its obligations pursuant to this Section 3, PNP will have the right to immediately terminate this Agreement by providing written notice of such termination to Client.

3.7 Survival

The rights and obligations of the parties provided for in this Section 3 will survive any expiration or termination of this Agreement or its term.

SECTION 4 WARRANTIES; DISCLAIMER

4.1 Warranties

4.1.1 Each party represents and warrants that it has the full legal right, authority and power to enter into this Agreement and perform its obligations hereunder.

4.1.2 PNP represents and warrants that the Services will be provided in a professional, workman-like manner consistent with industry standards.

4.2 Disclaimers

4.2.1 PNP does not represent that Client's or its Customers use of the Services will be uninterrupted or error-free, or that the system that makes the Services available will be free of viruses or other harmful components resulting from the Internet or any third party providers or products outside the control of PNP.

4.2.2 EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN THIS SECTION 4, PNP DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. THE SERVICE IS PROVIDED TO CLIENT ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND IS FOR COMMERCIAL USE ONLY.

SECTION 5 LIMITATIONS OF LIABILITY AND OBLIGATION

5.1 Damages and Liability Limit

IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY IN CONNECTION WITH THIS AGREEMENT FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING DAMAGES FOR LOST PROFITS, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY RELEASES THE OTHER PARTY AND ALL OF THE OTHER PARTY'S AFFILIATES, EMPLOYEES, AND AGENTS FROM ANY SUCH DAMAGES. IN NO EVENT WILL PNP HAVE OR INCUR ANY LIABILITY TO CLIENT OR ANY THIRD PARTY IN EXCESS OF THE AGGREGATE COMPENSATION RECEIVED BY PNP FOR THE SIX-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO A CLAIM FOR SUCH LIABILITY. THE FOREGOING EXCLUSIONS AND LIMITATIONS WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE. Nothing contained in this section shall be construed or interpreted as consent by the client to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in section 168.28, Florida Statutes.

5.2 Refusals of Payment

PNP will not be liable for charge-backs or other refusals of payment initiated by any Customer. All such charge-backs and other refusals of payment will be refunded by PNP to the Customer and Client will mark and otherwise treat the related Customer account as "unpaid."

5.3 Errors and Omissions

PNP will not be liable for any errors or omissions in data provided by Client or Customers. Client will be responsible for the accuracy of data provided to PNP for use in providing the Services.

5.4 Bank Actions

PNP will not be liable for any errors, omissions or delays attributable to the acts or omissions of any bank or other third party involved in the processing of any Payment Device payment.

SECTION 6 CARDHOLDER DATA SECURITY

To the extent applicable, each of the parties shall be required to comply at all times with the Payment Card Industry Data Security Standard Program ("PCI-DSS") in effect and as may be amended from time to time during the term of the Agreement. The current PCI-DSS specifications are available on the PCI Security Standards Council website at <https://www.pcisecuritystandards.org>.

SECTION 7 EXCLUSIVITY

Client agrees that PNP will be the non-exclusive provider of fee-based electronic payment services and that Client may procure similar such services from any other party.

SECTION 8 TERM AND TERMINATION

8.1 Term

The initial term of this Agreement will commence on the Effective Date of May 2, 2013 and will end on the third (3rd) anniversary of the Effective Date (the "Initial Term"). This Agreement will automatically renew for successive two (1)-year terms (each, a "Renewal Term," and the Initial Term and any Renewal Term may be referred to as a "Term"). The term of this Agreement will terminate at the end of the Initial Term or any subsequent Renewal Term if either party provides written notice of such termination to the other party at least thirty (30) days prior to the expiration of the applicable Term.

8.2 In the Event of Breach; Effect on Affiliates

8.2.1 Subject to the opportunity to cure set forth below, either party may terminate this Agreement upon thirty (30) days written notice to the other party in the event of a material, uncured breach of any provision of this Agreement by the other party. Such notice by the complaining party shall expressly state all of the reasons for the claimed breach in sufficient detail so as to provide the alleged breaching party a meaningful opportunity to cure such alleged breach ("Notice").

8.2.2 Following receipt of Notice, the alleged breaching party shall have sixty (60) days to cure such alleged breach. Upon termination or expiration of this Agreement, Client shall have no rights to continue use of the Service or the Modules. Expiration or termination of the Agreement by Client or PNP shall also terminate the Affiliates' rights under the Agreement unless otherwise agreed by the parties in writing. PNP may terminate the Agreement solely with respect to an individual Affiliate without affecting the rights and obligations of Client and other Affiliates under the Agreement.

8.3 Modification to or Discontinuation of the Service

PNP reserves the right at any time and from time to time to modify, temporarily or permanently, the Service (or any part thereof). In addition, PNP will have the right to discontinue accepting any Payment Device by providing not less than ten (10) days' written notice to Client. In the event that PNP modifies the Service in a manner which removes or disables a feature or functionality on which Client materially relies, PNP, at Client's request, shall use commercially reasonable efforts to substantially restore such functionality to Client. In the event that PNP is unable to substantially restore such functionality within thirty (30) days, Client shall have the right to terminate the Agreement. Client acknowledges that PNP reserves the right to discontinue offering the Service and any support at the conclusion of Client's then-current Term. Client agrees that PNP shall not be liable to Client nor to any third party for any modification of the Service as described in this Section.

SECTION 9 PAYMENT DEVICE TRANSACTION DEPOSITS

The exact amount of each approved Payment Device transaction will be electronically deposited into the Client bank account identified on the Client Application. PNP shall initiate such deposits as specified on the attached Client Application. PNP will provide Client's authorized employees with access to PNP's online transaction reports for reconciliation purposes.

SECTION 10 FORCE MAJEURE

PNP will not be responsible for its failure to perform under this Agreement due to causes beyond its reasonable control, including acts of God, wars, riots, revolutions, acts of civil or military authorities, terrorism, fires, floods, sabotage, nuclear incidents, earthquakes, storms, or epidemics. If the provision of Services under this Agreement is delayed by such an event or condition, PNP will promptly notify Client thereof. PNP will use commercially reasonable efforts to overcome any such cause for delay as soon as is reasonably practicable.

SECTION 11 GOVERNING LAW

This Agreement will be interpreted, construed and enforced in all respects in accordance with the laws of Palm Beach County, State of Florida, without reference to its conflicts of law principles.

SECTION 12 NOTICES

All notices or other communications required or permitted by this Agreement must be in writing and will be deemed to have been duly given when delivered personally to the party for whom such notice was intended, or upon actual receipt if sent by facsimile or delivered by a nationally recognized overnight delivery service, or at the expiration of the third day after the date of deposit if deposited in the United States mail, postage pre-paid, certified or registered, return receipt requested, to the respective parties at:

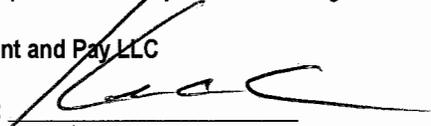
If to Client: See Merchant Application
If to PNP: Point and Pay LLC
110 State St. E, Suite D
Oldsmar, FL 34677

MISCELLANEOUS

The headings of sections and subsections of this Agreement are for convenience of reference only and will not be construed to alter the meaning of any provision of this Agreement. PNP is an independent contractor and nothing in this Agreement will be deemed to create any agency, employee-employer relationship, partnership, franchise or joint venture between the parties. Except as otherwise specifically provided in this Agreement, neither party will have, or represent that it has the right, power or authority to bind, contract or commit the other party or to create any obligation on behalf of the other party. Each of the parties will have any and all rights and remedies available to them under all applicable laws. The remedies provided for in this Agreement will be deemed to be non-exclusive and in addition to any other available remedy at law or in equity. All rights and remedies are cumulative and may be exercised singularly or concurrently. Client may not assign or transfer any of its rights or delegate any of its obligations under this Agreement to any third party, by operation of law or otherwise, without the prior written consent of PNP. Any attempted

assignment or transfer in violation of the foregoing will be void. This Agreement will be binding upon, and inure to the benefit of, the successors and permitted assigns of the parties. Client shall comply with all applicable laws, rules, treaties, and regulations in its performance of this Agreement. If any provision of this Agreement is held by a court of law to be illegal, invalid or unenforceable, the remaining provisions of this Agreement will not be affected and the illegal, invalid, or unenforceable provision will be deemed modified such that it the intention of the parties to the fullest extent possible. No amendment or modification of this Agreement will be effective unless it is in writing and executed by both of the parties. Nothing contained in this Agreement establishes, creates, or is intended to or will be construed to establish or create, any right in or obligation to any third party. This Agreement, the Exhibit(s) and the Client Application set forth the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any and all prior or contemporaneous understandings and agreements, whether written or oral, between the parties with respect to such subject matter.

The parties have duly executed this Agreement as of the date of the last signature below (the "Effective Date").

Point and Pay LLC
By: 
Name: Kevin C Connell
Title: President
Date: 4.11.13

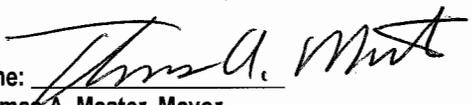
City of Riviera Beach, FL
Name: 
Thomas A. Master, Mayor
Date: 5-1-13

Exhibit A Services Description

The following is a description of all Services and Modules offered by PNP. PNP shall provide the Services to Client and its end-user customers via the specific Modules and Payment Devices chosen by Client in the Client Application. Applicable fees, if any, for Client's elections are set forth on the Client Application. The Services include support and training outlined below at no additional charge to Client.

Service Modules

- **Counter Module.** The Counter Module allows customers to make payments to Client in a face-to-face environment or over the phone using a Payment Device. PNP will issue unique confirmation numbers to customers who have completed a payment transaction using the Counter Module. The Counter Module also enables Client's staff to access reports via the web. The Counter Module is required to access the PNP Services. The Counter Module may be used in conjunction with or independently of point-of-sale (POS) terminals.
- **Web Module.** The Web Module allows customers to make payments to Clients online using a Payment Device via a secure website hosted by PNP. Customers who elect to make payments via the Internet can follow a link from the Client website to the Client-branded, PNP-hosted web pages to submit a payment. PNP will issue unique confirmation numbers to customers who have completed a payment transaction using the Web Module. PNP shall create the Client-branded, PNP-hosted web pages at no additional charge. Client may elect bill presentment and account validation functionality for the one-time set-up fee set forth on the Client Application under "Data File Integration."
- **Interactive Voice Response (IVR) Module.** The IVR Module allows Customers to make payments to Clients over the phone using a Payment Device. The Customer calls a toll-free phone number provided and managed by PNP to access the Client branded IVR. The IVR system recognizes Customer instructions through making a payment; the phone keypad is used to enter Payment Device numbers. The IVR system is configured and tested by PNP. PNP will issue unique confirmation numbers to customers who have completed a payment transaction using the IVR Module. Election of the IVR Module includes a Client-branded IVR environment and, if applicable, Client shall pay the one-time IVR set-up fee for the IVR Module set forth on the Client Application. In addition, Client may elect to have bill presentment and account validation functionality enabled through the IVR for the one-time set-up fee on the Client Application under "Data File Integration."

Customer Payment Devices

Each of the Modules can provide the Customer with the ability to pay by Credit Card, Debit Card and/or Electronic Check.

Training

PNP shall provide instruction manuals and up to four (4) hours of webinar training to Client and Client personnel in connection with the Modules chosen by Client.

Support

The following support shall be provided to Client and Client's customers at no additional charge during the term of the Services:

- **First Level Support.** PNP shall provide first-level support to Customers via PNP's call center. Customer service representatives shall be available 8 a.m. EST to 10 p.m. EST M-F, to handle customer inquiries.
- **Second Level Support.** PNP shall provide first-level support to Client via telephone. Second level support shall be available Monday through Friday during normal business hours (8am – 10pm EST).

Support availability shall be exclusive of downtime due to scheduled maintenance or events out of PNP's control. Support for the Products may be modified, suspended or terminated in PNP's sole discretion upon prior written notice.

Exhibit B
Client Bank Account Information

RESOLUTION NO. 58-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, RECOMMENDING APPROVAL OF SOLARTECH UNIVERSAL, LLC, A NEWLY CREATED CORPORATE ENTITY, AS A QUALIFIED TARGET INDUSTRY (QTI) BUSINESS PURSUANT TO s.288.108, FLORIDA STATUTES; PROVIDING FOR LOCAL FINANCIAL SUPPORT FOR THE QUALIFIED TARGET INDUSTRY TAX PROGRAM NOT TO EXCEED \$64,000; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, SOLARTECH UNIVERSAL, LLC, a newly created corporate entity, manufactures solar panels within the United States; and

WHEREAS, the SOLARTECH UNIVERSAL, LLC proposed project will involve the construction of a new manufacturing and research and development facility in Riviera Beach, Palm Beach County, with a total investment of approximately \$11.7 Million; and

WHEREAS, SOLARTECH UNIVERSAL, LLC will create 80 new permanent full-time jobs in Palm Beach County at an average annualized wage of \$47,000, excluding benefits, which is 115% greater than the average wage in Florida; and

WHEREAS, Palm Beach County's Department of Economic Sustainability estimates that the proposed project would result in an Economic Development Return on Investment of \$85 Million; and

WHEREAS, SOLARTECH UNIVERSAL, LLC, a for-profit corporation, has filed a QTI Tax Refund Program application with Enterprise Florida, Inc., to seek State tax refunds; and

WHEREAS, SOLARTECH UNIVERSAL, LLC has been identified as a Target Industry Business and qualifies within one of the high-impact sectors designated under s.288.1 08, Florida Statute; and

WHEREAS, one half of the local financial support for the Qualified Target Industry Tax Refund in the amount of \$64,000 from Palm Beach County, and one half from the City of Riviera Beach, which amount will be made available in accordance with the guidelines set forth by the Florida Department of Economic Opportunity with the stipulation that these funds are intended to represent local financial support pursuant to s.288.108, Florida Statutes; and

WHEREAS, City of Riviera Beach has budgeted funds as an Incentive to use as local participation for the QTI and is designed to motivate businesses by providing funding assistance to either relocate to or establish a facility in Riviera Beach, Palm Beach County of which will result in the creation of fulltime jobs in Riviera Beach, Palm Beach County, increase the City and County's tax base, and strengthen and diversify the City and County's local economies; and

WHEREAS, City of Riviera Beach staff has determined that it will provide a Job Growth Incentive Grant to SOLARTECH UNIVERSAL, LLC in the amount of \$64,000 as a local match for the QTI program match; and

WHEREAS, on April 2, 2013, Palm Beach County Board of County Commission approved a Job Growth Incentive Grant to SOLARTECH UNIVERSAL, LLC in the amount of \$64,000 as a local match for the QTI program; and

WHEREAS, SOLARTECH UNIVERSAL, LLC is aware that the award is contingent upon the company entering into a formal agreement with the County to make a \$11.7 Million capital investment in the new facility in Palm Beach County, creation of 80 permanent full-time jobs within three (3) years at an average annualized salary of \$47,000, and retained for five (5) years from the date of compliance with the job creation requirement.

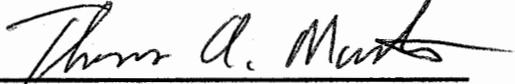
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, THAT:

SECTION 1. The City Council provide conceptual approval of SOLARTECH UNIVERSAL, LLC, as a Qualified Target Industry (QTI) business pursuant to s.288.108, Florida Statutes; providing for local financial support for the qualified target industry tax program not to exceed \$64,000.

SECTION 2. This resolution should take effect immediately upon its passage and approval by the City Council.

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APPROVED:



THOMAS A. MASTERS
MAYOR

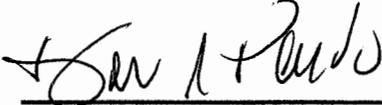


CEDRICK A. THOMAS
CHAIRPERSON

ATTEST:



CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK



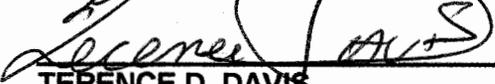
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SECONDED BY: B. GUYTON

B. GUYTON AYE

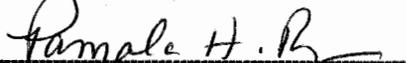
J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/1/13

RESOLUTION NO. 59-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING AMENDMENT 004 TO THE DISASTER RECOVERY INITIATIVE PROGRAM AGREEMENT BETWEEN THE CITY OF RIVIERA BEACH AND PALM BEACH COUNTY, AMENDING THE PROGRAM DEADLINE FROM JUNE 15, 2013, TO DECEMBER 14, 2013; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Palm Beach County (County) entered into a contract in 2008 with the State of Florida Department of Community Affairs in connection with the State of Florida's 2005 Disaster Recovery Initiative (DRI) Program with funds provided by the US Department of Housing and Urban Development; and

WHEREAS, in March 2008, the City was allocated \$1,236,000 under the original contract with the County to implement specified DRI Program activities; and

WHEREAS, the agreement between the City and the County dated March 24, 2008 was amended in April and October 2009, August 2010, and January 2011.

WHEREAS, a new agreement was executed in June 2012, and amended in September and November of 2012 and in February 2013; and

WHEREAS, Amendment 004 modifies the DRI Program deadline from June 15, 2013, to December 14, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. The City Council approves amendment 004 to the DRI Agreement with Palm Beach County, to modify the program deadline from June 15, 2013, to December 14, 2013.

SECTION 2. The City Council authorizes the Mayor and the City Clerk to execute the amendment.

SECTION 3. The City Council authorizes the Director of Finance and Administrative Services to disburse funds in accordance with the amended DRI Agreement.

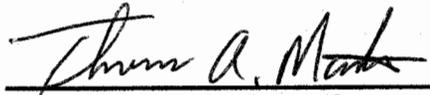
SECTION 4. This Resolution shall take effect immediately upon approval.

RESOLUTION NO. 59-13

PAGE 2

PASSED and APPROVED this 1ST day of MAY, 2013.

APPROVED:



THOMAS A. MASTERS
MAYOR

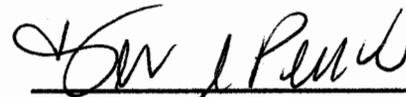


CEDRICK A. THOMAS
CHAIRPERSON

ATTEST:



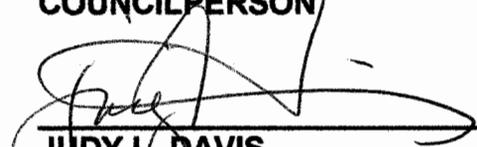
CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK



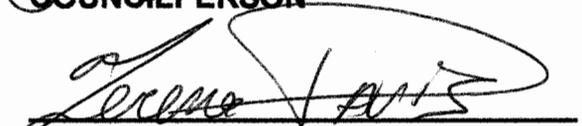
DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: D. PARDO

SECONDED BY: J. DAVIS

C. THOMAS AYE

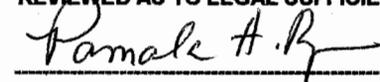
D. PARDO AYE

B. GUYTON AYE

J. DAVIS AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/1/13

RESOLUTION NO. 60-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING AN AMENDMENT TO THE REHABILITATION CONSULTANT SERVICES CONTRACT BETWEEN THE CITY OF RIVIERA BEACH AND GUARDIAN COMMUNITY RESOURCE MANAGEMENT, INC., EXTENDING THE CONTRACT DEADLINE FROM JUNE 15, 2013, TO DECEMBER 14, 2013, IN ASSOCIATION WITH THE DISASTER RECOVERY INITIATIVE PROGRAM, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Riviera Beach (City) and Palm Beach County (County) have an active agreement governing the Disaster Recovery Initiative (DRI) Program; and

WHEREAS, the City entered into a contract with Guardian Community Resource Management, Inc. (Guardian), for rehabilitation services in association with the DRI Program on February 6, 2013, via Resolution No. 18-13, which expires on June 15, 2013; and

WHEREAS, the City Council approved an amendment to the aforementioned DRI Program Agreement with the County on May 1, 2013, via Resolution No. 59-13, extending the program deadline from June 15, 2013, to December 14, 2013; and

WHEREAS, the contract between the City and Guardian, must be amended to parallel the DRI Program extension to December 14, 2013, to ensure adequate time for implementation; and

WHEREAS, Guardian desires to amend the existing contract expiration date from June 15, 2013, to December 14, 2013.

WHEREAS, the City Council desires to amend the existing contract expiration date with Guardian from June 15, 2013, to December 14, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. The City Council hereby authorizes the Mayor and City Clerk to execute the contract amendment, modifying the contract expiration date provided within "Article 2 – Schedule" from June 15, 2013, to December 14, 2013, for Rehabilitation Consulting Services with Guardian Community Resource Management, Inc.

SECTION 2. All provisions not in conflict with this contract amendment are still in effect and shall be performed at the same level as specified in the contract; specifically compensation shall remain unchanged, no more than \$5,000 per rehabilitation project, not to exceed a total of \$105,000 of the initial \$1,236,000 DRI Program allocation.

SECTION 3. The City Council authorizes the Finance Director to disburse funds in accordance with this Guardian contract amendment.

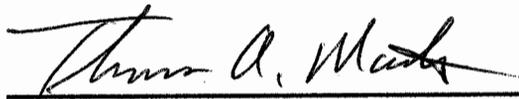
SECTION 4. A copy of this contract amendment is attached hereto as "Exhibit 1" and made part of this Resolution.

SECTION 5. This Resolution shall take effect immediately upon approval.

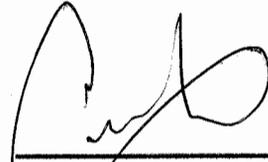
PASSED and APPROVED this 5 day of June, 2013.

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APPROVED:



THOMAS A. MASTERS
MAYOR

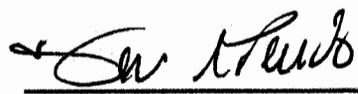


CEDRICK A. THOMAS
CHAIRPERSON

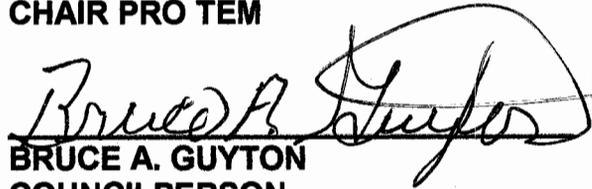
ATTEST:



CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK



DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: J. DAVIS

SECONDED BY: B. GUYTON

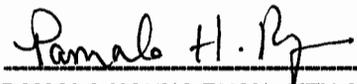
C. THOMAS AYE

D. PARDO AYE

B. GUYTON AYE

J. DAVIS AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY


PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 6/17/13

**CITY OF RIVIERA BEACH
CONTRACT FOR CONSULTING AND PROFESSIONAL SERVICES**

This Contract is made as of this 9 day of June 2013, by and between the City of Riviera Beach, Palm Beach County, Florida, a Political Subdivision of the State of Florida, by and through its City Council, hereinafter referred to as the CITY, and Guardian Community Resource Management, Inc., [] an individual, [] a partnership, [X] a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONSULTANT, whose Federal I.D. number is 13-4309252.

In consideration of the mutual promises contained herein, the CITY and the CONSULTANT agree as follows:

ARTICLE 1 - SERVICES

The CONSULTANT'S responsibility under this Contract is to provide professional/consultation services associated with the Disaster Recovery Initiative Program, hereinafter referred to as DRI, specifically functioning as a Rehabilitation Consultant, details thereof set forth, but not limited to, the Scope of Work detailed in Exhibit "A", attached hereto and made part hereof.

The CITY'S representative/liaison during the performance of this Contract shall be Mary McKinney, Director of Community Development or designee: phone, 561-845-4060 or email, mmckinney@rivierabch.com.

ARTICLE 2 - SCHEDULE

The CONSULTANT shall commence services on February 7, 2013 and complete all services by ~~June 15, 2013~~, December 14, 2013.

Rehabilitation Consultant work products shall be delivered or completed in accordance with Exhibit "A".

ARTICLE 3 - PAYMENTS TO CONSULTANT

- A. Generally - The CITY agrees to compensate the CONSULTANT in accordance with the DRI Agreement, as amended from time to time, between the City and Palm Beach County. The total and cumulative amount of this Contract shall not exceed \$105,000, with no more than \$5,000 paid per completed rehabilitation project. The CITY shall not reimburse the CONSULTANT for any travel costs incurred as a direct result of the CONSULTANT providing deliverables to the CITY in pursuance of the scope of work contained in Exhibit "A", without specific, prior approval of the City.

- B. Invoices received from the CONSULTANT pursuant to this Contract will be reviewed and approved by the CITY'S representative, indicating that services have been rendered in conformity with the Contract. Invoices will then be sent to the Finance Department for payment and will normally be paid within thirty (30) days following the CITY representative's approval.
- C. All requests for payment of expenses eligible for reimbursement under the terms of this Contract shall include copies of receipts, invoices, or other documentation acceptable to the Finance Department. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the Scope of Work described in this Contract as Exhibit "A". If eligible for reimbursement, The Finance Department requires that long distance telephone calls shall identify the person(s) called, purpose of call, time, and costs. Mileage charges shall identify the destination, number of miles, rate, and purpose of travel. Duplication charges shall describe the documents, purpose of duplicating, and rate charged. Any travel, per diem, mileage, meals or lodging expenses, which may be reimbursable under the terms of this Contract, will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.
- D. Final Invoice: In order for both parties herein to close their books and records, the CONSULTANT will clearly state "Final Invoice" on the CONSULTANT'S final/last billing to the CITY. This certifies that all services have been properly performed and all charges and costs have been invoiced to the CITY. Since this account will thereupon be closed, any and other further charges, if not properly included in this final invoice, are waived by the CONSULTANT and the CITY shall have no obligations for any other costs or expenses thereafter.

Payments to the CONSULTANT shall be sent to:

**Guardian CRM, Inc.
3020 Bruton Road
Plant City, FL 33565**

ARTICLE 4 - TRUTH-IN NEGOTIATION CERTIFICATE

Signature of this Contract by the CONSULTANT shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged to the CONSULTANT'S most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the CITY determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants. The CITY shall exercise its right under this Article 4 within three (3) years following final payment.

ARTICLE 5 - TERMINATION

This Contract may be cancelled by the CONSULTANT upon thirty (30) days prior written notice to the CITY'S representative in the event of substantial failure by the CITY to perform in accordance with the terms of this Contract through no fault of the CONSULTANT; provided the CITY fails to cure same within that thirty (30) day period. It may also be terminated, in whole or in part, by the CITY, with or without cause, immediately upon written notice to the CONSULTANT. Unless the CONSULTANT is in breach of this Contract, the CONSULTANT shall be paid for services rendered to the CITY'S satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the CITY the CONSULTANT shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in progress, completed work, and other materials related to the terminated work to the CITY.
- D. Continue and complete all parts of the work that have not been terminated.

ARTICLE 6 - PERSONNEL

The CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the CITY.

All of the services required hereunder shall be performed by the CONSULTANT or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

The CONSULTANT warrants that all services shall be performed by skilled and competent personnel in accordance with the applicable standard of care in the field for which CONSULTANT is consulting with the CITY.

The CONSULTANT agrees that it is fully responsible to the CITY for the negligent acts and omissions of subcontractors and of persons either directly or indirectly employed by the CONSULTANT. Nothing contained herein shall create any contractual relationship between any subcontractor and the CITY.

All of the CONSULTANT'S personnel and all of the CONSULTANT'S subcontractors will comply with all CITY requirements governing conduct, safety, and security while on or utilizing CITY premises/property.

ARTICLE 7 - SUBCONTRACTING

The CITY reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractor in order to make a determination as to the capability of the subcontractor to perform properly under this Contract. The CONSULTANT is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities.

If a subcontractor fails to perform or make progress, as required by this Contract, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the CONSULTANT shall promptly do so, subject to acceptance of the new subcontractor by the CITY.

If subcontractor(s) are used, the CONSULTANT shall use only licensed and insured subcontractor(s), and shall require any subcontractor, as may be applicable, to provide a payment bond. All subcontractors shall be required to promptly make payments to any person who, directly or indirectly, provides services or supplies under this Contract.

The CONSULTANT shall be responsible for the performance of all subcontractors.

ARTICLE 8 – SBE PARTICIPATION

The City's Procurement Ordinance has a Small Business Enterprises (SBE) participation component which may apply to this Contract. If it is determined by CITY staff that it applies, the CONSULTANT agrees to abide by the provisions of the SBE section of the procurement code. The CONSULTANT further agrees to maintain all relevant records and information necessary to document compliance with the Ordinance, and agrees to allow the CITY to inspect such records and provide such records to the CITY upon request.

ARTICLE 9 - FEDERAL AND STATE TAX

The CITY is exempt from payment of Florida State Sales and Use Tax. The CITY will sign an exemption certificate submitted by the CONSULTANT. The CONSULTANT shall not be exempted from paying sales tax to its suppliers for materials used to fill contractual obligations with the CITY, nor is the CONSULTANT authorized to use the CITY'S Tax Exemption Number in securing such materials.

The CONSULTANT shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Contract.

ARTICLE 10 - AVAILABILITY OF FUNDS

The CITY'S performance and obligation to pay under this Contract is contingent upon the DRI Agreement between the CITY and Palm Beach County, as amended from time to time.

ARTICLE 11 - INSURANCE

- A. Prior to execution of this Contract by the CITY, the CONSULTANT shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the CONSULTANT has obtained insurance of the type, amount, and classification as required for strict compliance with the ARTICLE and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the CITY'S representative. Compliance with the foregoing requirements shall not relieve the CONSULTANT of its liability and obligations under this Contract.
- B. The CONSULTANT shall maintain during the term of this Contract, standard Professional Liability Insurance in the minimum amount of \$1,000,000.00 per occurrence.
- C. The CONSULTANT shall maintain, during the life of this Contract, commercial general liability, including contractual liability insurance in the amount of \$500,000.00 per occurrence to protect the CONSULTANT from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the CONSULTANT or by anyone directly or indirectly employed by or contracting with the CONSULTANT.
- D. The CONSULTANT shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of \$500,000.00 combined single limit for bodily injury and property damages liability to protect the CONSULTANT from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including, but not limited to, leased and rented automobiles whether such operations be by the CONSULTANT or by anyone, directly or indirectly, employed by the CONSULTANT.
- E. The parties to this Contract shall carry Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes. In the event that a party does not carry Workers' Compensation Insurance and chooses not to obtain same, such party shall then, in accordance with Section 440.05, Florida Statutes, apply for and obtain an exemption authorized by the Department of Insurance and shall provide a copy of such exemption to the CITY.
- F. All insurance, other than Professional Liability and Workers' Compensation, to be maintained by the CONSULTANT shall specifically include the CITY as an "Additional Insured".

ARTICLE 12 - INDEMNIFICATION

To the extent allowed by section 725.08, Florida Statutes, the CONSULTANT shall indemnify and hold harmless the CITY, its agents, officers, and employees from and against any and all claims, liabilities, losses, costs, and/or causes of action which may arise from any negligent act, recklessness, or intentional

wrongful conduct of the CONSULTANT, its agents, officers, or employees in the performance of services under this Contract.

The CONSULTANT further agrees to indemnify and hold harmless the CITY, its agents, officers, and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the CONSULTANT not included in the paragraph above and for which the CITY, its agents, officers or employees are alleged to be liable.

The CONSULTANT shall pay all claims, losses, liens, fines, settlements or judgments of any nature whatsoever in connection with the foregoing indemnifications including, but not limited to, all costs, expert witness fees, reasonable attorney's fees, and court and/or arbitration costs. These indemnifications shall survive the term of this Contract or any renewal thereof.

Nothing contained in this Article shall be construed or interpreted as consent by the CITY to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

ARTICLE 13 - SUCCESSORS AND ASSIGNS

The CITY and the CONSULTANT each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the CITY nor the CONSULTANT shall assign, sublet, convey or transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the CITY which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the CITY and the CONSULTANT.

ARTICLE 14 - VENUE

This Contract and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided therein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Venue for any and all legal action necessary to enforce the Contract will be held within Palm Beach County.

ARTICLE 15 - REMEDIES

No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 16 - CONFLICT OF INTEREST

The CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Florida Statutes, Section 112.311. The CONSULTANT further represents that no person having any such conflicting interest shall be employed for said performance.

The CONSULTANT shall promptly notify the CITY'S representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONSULTANT'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the CITY as to whether the association, interest or circumstance would, in the opinion of the CITY, constitute a conflict of interest if entered into by the CONSULTANT. The CITY agrees to notify the CONSULTANT of its opinion by certified mail within thirty (30) days of receipt of notification by the CONSULTANT. If, in the opinion of the CITY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the CITY shall so state in the notification and the CONSULTANT shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the CITY by the CONSULTANT under the terms of this Contract.

Further, please be advised, in accordance with section 112.313, Florida Statutes, and pertinent Opinions of the Florida Commission on Ethics, that if you are a member of a city board, including an advisory board, you may be ineligible to enter into a contract/agreement with the City. If you are a member of a city board, including an advisory board, prior to executing this contract, please contact the Florida Commission on Ethics at (850) 488-7864 to secure an informal advisory opinion regarding your eligibility to enter into this contract.

ARTICLE 17 – DELAYS AND EXTENSION OF TIME

The CONSULTANT shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the CONSULTANT or its subcontractors and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions.

Upon the CONSULTANT'S request, the CITY shall consider the facts and extent of any failure to perform the work and, if the CONSULTANT'S failure to perform was without it or its subcontractors fault or negligence the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly; subject to the CITY'S rights to change, terminate, or stop any or all of the work at any time.

If the CONSULTANT is delayed at any time in the process of the work by any act or neglect of the CITY or its employees, or by any other consultant employed by the CITY, or by changes ordered by the

CITY or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the CONSULTANT's control, or by delay authorized by the CITY pending negotiation or by any cause which the CITY shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the CITY may decide. No extension shall be made for delay occurring more than seven (7) days before claim therefore is made in writing to the CITY. In the case of continuing cause of delay, only one (1) claim is necessary.

This Article does not exclude the recovery of damages for delay by either party under other provisions in the Contract.

ARTICLE 18 - INDEBTEDNESS

The CONSULTANT shall not pledge the CITY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONSULTANT further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 19 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The CONSULTANT shall deliver to the CITY's representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the CITY under this Contract.

All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the CITY or at its expense will be kept confidential by the CONSULTANT and will not be disclosed to any other party, directly or indirectly, without the CITY's prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports or similar and other data developed, or purchased, under this Contract for or at the CITY's expense shall be and remain the CITY's property and may be reproduced and reused at the discretion of the CITY.

The CITY and the CONSULTANT shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

ARTICLE 20 - INDEPENDENT CONTRACTOR RELATIONSHIP

The CONSULTANT is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all

places, be subject to the CONSULTANT's sole direction, supervision, and control. The CONSULTANT shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONSULTANT's relationship and the relationship of its employees to the CITY shall be that of an Independent Contractor and not as employees or agents of the CITY.

The CONSULTANT does not have the power or authority to bind the CITY in any promise, agreement or representation other than as specifically provided for in this Contract.

ARTICLE 21 - CONTINGENT FEES

The CONSULTANT warrants that it is has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

ARTICLE 22 - ACCESS AND AUDITS

The CONSULTANT shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least six (6) years after completion of this Contract. The CITY, the Palm Beach County Department of Economic Sustainability and the Florida Department of Economic Opportunity, shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the CONSULTANT's place of business.

ARTICLE 23 - NONDISCRIMINATION

The CONSULTANT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, political affiliation, marital status, handicap, or sexual orientation. Further, CONSULTANT shall not discriminate or permit discrimination against any employee or an applicant for employment on the basis of race, color, sex, religion, political affiliation, natural origin, ancestry, marital status, sexual orientation or handicap.

ARTICLE 24 - ENFORCEMENT COSTS

All parties shall be responsible for their own attorneys fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to the Contract's execution, validity, the obligations provided therein, or performance of this Contract, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Contract.

ARTICLE 25 - AUTHORITY TO PRACTICE

The CONSULTANT hereby represents and warrants that it has and will continue to maintain all licenses and approvals which are legally required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the CITY upon request.

The CONSULTANT shall be solely responsible for obtaining and complying with all necessary permits, licenses, approvals and authorizations required for any work done pursuant to this Contract from any federal, state, regional, county or city agency.

ARTICLE 26 - SEVERABILITY

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provisions, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 27 - PUBLIC ENTITY CRIMES

As provided in F.S. 287.132-133 by entering into this Contract or performing any work in furtherance hereof, the CONSULTANT certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

ARTICLE 28 - MODIFICATIONS OF WORK

The CITY reserves the right to make changes in the Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the CONSULTANT of the CITY's notification of a contemplated change, the CONSULTANT shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the CITY of any estimated change in the completion date, and (3) advise the CITY if the contemplated change shall affect the CONSULTANT'S ability to meet the completion dates or schedules of this Contract.

If the CITY so instructs in writing, the CONSULTANT shall suspend work on that portion of the Scope of Work affected by the contemplated change, pending the CITY's decision to proceed with the change.

If the CITY elects to make the change, the CITY shall initiate a Contract Amendment and the CONSULTANT shall not commence work on any such change until such written amendment is signed by the CONSULTANT and approved by the CITY COUNCIL FOR THE CITY OF RIVIERA BEACH or its designated representative.

ARTICLE 29 - NOTICE

All notices required in this Contract shall be sent by certified mail, return receipt requested, and also via email. If sent to the CITY shall be mailed to:

**City of Riviera Beach
ATTN: Ruth C. Jones, City Manager
600 W. Blue Heron Blvd.
Riviera Beach, FL 33404**

If sent to the CONSULTANT shall be mailed to:

**Guardian Community Resource Management, Inc.
ATTN: Christine Alday, President & CEO
930 Marcum Road, Suite 3
Lakeland, FL 33809**

ARTICLE 30 - ENTIRETY OF CONTRACTUAL AGREEMENT

The CITY and the CONSULTANT agree that this Contract and any attachments hereto or other documents as referenced in the Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 28-Modifications of Work.

ARTICLE 31 – PROTECTION OF WORK AND PROPERTY

The CONSULTANT shall continuously maintain adequate protection of all work from damage, and shall protect the CITY’S property from injury or loss arising in connection with the Contract. Except for any such damage, injury, or loss, except that which may be directly due to errors caused by the CITY or employees of the CITY, the CONSULTANT shall provide any necessary materials to maintain such protection.

ARTICLE 32 – TIME

Time is of the essence in all respects under this Contract. The CITY and CONSULTANT shall work in an expeditious manner to complete DRI Program objectives as set forth in the aforementioned DRI Agreement and the Scope of Work described in Exhibit “A”.

ARTICLE 33 - TERMINOLOGY AND CAPTIONS

All pronouns, singular, plural, masculine, feminine or neuter, shall mean and include the person, entity, firm or corporation to which they relate as the context may require. Wherever the context may require,

the singular shall mean and include the plural and the plural shall mean and include the singular. The term "Contract" as used herein, as well as the terms "herein", "hereof", "hereunder", "hereinafter" and the like mean this Contract in its entirety and all exhibits, amendments and addenda attached hereto and made a part hereof. The captions and paragraph headings are for reference and convenience only and do not enter into or become a part of the context of this Contract, nor shall such headings affect the meaning or interpretation of this Contract.

ARTICLE 34 - WAIVER

Failure of the CITY to enforce or exercise any right(s) under this Contract shall not be deemed a waiver of CITY'S right to enforce or exercise said right(s) at any time thereafter.

ARTICLE 35 - PREPARATION

This Contract shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

ARTICLE 36 - MATERIALITY

All provisions of the Contract shall be deemed material, in the event CONSULTANT fails to comply with any of the provisions contained in this Contract or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Contract and CITY may at its option and without notice terminate this Contract.

ARTICLE 37 - REPRESENTATIONS/BINDING AUTHORITY

CONSULTANT has full power, authority and legal right to execute and deliver this Contract and perform all of its obligations under this Contract. By signing this Contract, Christine Alday, President & CEO of Guardian Community Resource Management, Inc., hereby represents to the CITY that she has the authority and full legal power to execute this Contract and any and all documents necessary to effectuate and implement the terms of this Contract on behalf of the party for whom he is signing and to bind and obligate such party with respect to all provisions contained in this Contract.

ARTICLE 38 - EXHIBITS

Each exhibit referred to in this Contract forms an essential part of this Contract. The exhibits, if not physically attached, should be treated as part of this Contract and are incorporated herein by reference.

ARTICLE 39 - CONTRACT DOCUMENTS AND CONTROLLING PROVISIONS

This Contract consists of this Contract and all exhibits attached hereto. The CONSULTANT agrees to be bound by all the terms and conditions set forth in this Contract. To the extent that a conflict exists between this Contract and the exhibits, the terms, conditions, covenants, and/or provisions of this

Contract shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

ARTICLE 40 - LEGAL EFFECT

This Contract shall not become binding and effective until approved by the City Manager of the City of Riviera Beach.

ARTICLE 41 - NOTICE OF COMPLAINTS OR SUITS

Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Contract. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

ARTICLE 42 - SURVIVABILITY

Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination.

ARTICLE 43 - DEFAULT

Notwithstanding anything contained in this Contract to the contrary, the parties agree that the occurrence of any of the following shall be deemed a material event of default and shall be grounds for termination:

- a. The filing of a lien by any subcontractor or third tier subcontractor including, but not limited to materialmen, suppliers, or laborers, upon any property, right of way, easement, other interest in land or right to use such land within the territorial boundaries of the CITY which lien is not satisfied, discharged or contested in a court of law within thirty (30) days from the date of notice to the CONSULTANT;
- b. The filing of any judgment lien against the assets of the CONSULTANT related to the performance of this Contract which is not satisfied, discharged or contested in a court of law within thirty (30) days from the date of notice to the CONSULTANT; or
- c. The filing of a petition by or against the CONSULTANT for relief under the Bankruptcy Code, or for its reorganization or for the appointment of a receiver or trustee of the CONSULTANT or the CONSULTANT'S property; or an assignment by the CONSULTANT for the benefit of creditors; or the taking possession of the property of the CONSULTANT by any governmental officer or agency pursuant to statutory authority for the dissolution or liquidation of the CONSULTANT; or if a temporary or permanent receiver or trustee shall be appointed for the CONSULTANT or for the CONSULTANT'S property and such temporary or

permanent receiver or Trustee shall not be discharged within thirty (30) days from the date of appointment.

The CONSULTANT shall provide written notice to the CITY of the occurrence of any event of default within ten (10) days of the CONSULTANT'S receipt of notice of any such default.

ARTICLE 44 - WAIVER OF SUBROGATION

The CONSULTANT hereby waives any and all rights to Subrogation against the CITY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then the CONSULTANT shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should the CONSULTANT enter into such an agreement on a pre-loss basis.

ARTICLE 45 - RIGHT TO REVIEW

The CITY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, reject or accept any required policies of insurance, including limits, coverages, or endorsements, therein from time to time throughout the term of this Contract. The CITY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition or failure to operate legally.

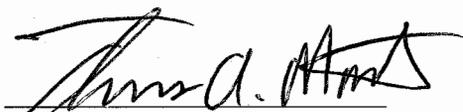
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[SIGNATURES ON FOLLOWING PAGE]

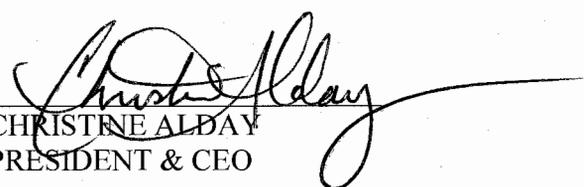
CONTRACT WITH THE CITY OF RIVIERA BEACH

IN WITNESS WHEREOF, the Parties unto this Contract have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

GUARDIAN COMMUNITY
RESOURCE MANAGEMENT, INC.

BY: 
THOMAS A. MASTERS
MAYOR

BY: 
CHRISTINE ALDAY
PRESIDENT & CEO

DATE: _____

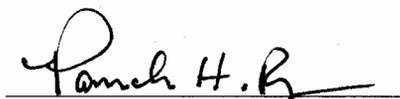
DATE: June 3, 2013

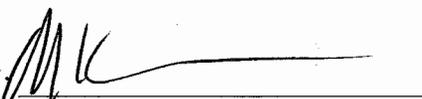
BY: 
CARRIE E. WARD
CITY CLERK

DATE: 6/20/13

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

BY: 
PAMALA H. RYAN
CITY ATTORNEY

BY: 
MARY MCKINNEY
DIRECTOR OF COMMUNITY DEVELOPMENT

DATE: 6/20/13

DATE: 6-19-13



EXHIBIT A: FEE AND SCOPE OF SERVICES: RIVIERA BEACH CDBG DRI PROGRAM

Fee is NTE \$105,000.

Our fees are inclusive of all travel, meals and lodging expenses.

Maximum of \$5000 for each unit.

Specific SOW is as follows:

INTAKE OF APPLICANTS AND HOMES

- Prepare / review Site Specific Environmental Review
- Applicant Intake Process (for both relocation and rehabilitation), and Relocation Program Procedures.
- Screen and vet all applicants to determine program eligibility.
- Meet with the Building Department to coordinate permitting and inspections
- Using the City's CDBG loan documents, assist with preparing the CDBG loan documents for each applicant.

The following steps are for rehabilitation/replacement (Note: These are general steps, and some steps may be skipped, or new steps may need to be added as work progresses):

- Advertise/select a contractor to perform a lead based paint inspection of each dwelling.
- Work with staff to bid out, select and receive approval of surveyors and asbestos inspectors, lead based paint inspections
- Coordinate execution of the contracts for surveyor and asbestos inspectors.
- Issue Notice to Proceed to surveyors.
- After surveys are completed, utilize them to develop specifications and plans for rehab.
- Work with staff to bid out, select/receive approval for demo/rehab contractors.
- Work with staff to bid out for contractors to construct/rehab the residences.
- Submit bid specifications to City.
- Complete and/or revise the work write-ups to address the rehab dwellings that have existing lead paint.
- Complete the work write-up on each dwelling and obtain applicant signature acknowledging agreement with same.
- Work with staff and the homeowner (or their representatives) to award the bids.
- Using the City's contract documents, assist with preparing the CDBG rehab contract documents. Meet with the homeowner and the construction contractor to complete contracts.
- Using the City's contract documents, coordinate the execution of contracts for demolition of the existing residences, if applicable
- Work with the contractor to obtain building and related permits
- Work with homeowner to temporarily relocate out of the dwelling, if applicable.

- Issue Notice to Proceed for the construction of the new residence or rehab of residence
- Work with the Building Department to coordinate inspections and approval of draw requests.

Guardian shall submit Monthly status reports, detailing:

- Contract status.
- Project progress and status of applications
- Any significant administrative actions that could affect the contract.
- Major accomplishments, success stories, etc.
- Noteworthy meetings.
- Pending issues.
- Other items deemed appropriate.

Proposed Fee Schedule for General and Other Grant Administration Services for ongoing public grant, loan or other funding opportunities for FFY2012-2013:

Standard Rates (for technical assistance, developer agreements, policy review, administration, housing rehab specialist, project delivery, contract management, planning, etc by the hour):

Hourly Rates for Additional Services, When and If Applicable

Grant Contracts Manager, Principal	\$140/hour
Grant Projects Manager, Officer	\$125/hour
Project Coordinator or Technical Support Specialist	\$115/hour
Project or Construction Manager	\$100/hour
Legislative Liaison or Public Relations Manager	\$100/hour
Grants or Program Administrator	\$90/hour
Grant Writer or Planner or Accountant	\$80/hour
Housing or Construction Specialist	\$80/hour
Grants or Program Specialist or Technical Assistant	\$70/hour
Office Manager/Grants Assistant/Case or Financial Clerk	\$50/hour

Typical Fees by Work Order (examples)

Affordable Housing Finance Proposals	\$25,000
USDA Water/Waste Grant-Loan Applications	\$25,000**
SRF Water or Waste Loan or Grant Pre-Application or App	\$20,000
EDA Infrastructure Grant Application	\$25,000**
EPA STAG or SPAP Grant Application	\$20,000
Economic Development Transportation Grant Application	\$10,000**
Rural Infrastructure Grant Application	\$10,000**
FCT Land Acquisition Application	\$25,000**
FRDAP Application	\$10,000

** Typically does not allow for admin fees, but there are other ways to pay Guardian which can be negotiated on a case by case basis.

Guardian has consistently maintained repeat clients, continuing to bid competitively keeping quality services and client satisfaction at the forefront of our practice. We will commit to adjusting our fees based on allowable application and or administrative costs of each grant and that which will be in the best financial interest of our client. Guardian welcomes the opportunity to enter into a Contract with the City of Riviera Beach.

***'The most valuable assets we have are our references, not our contracts. Take care of our clients and the contracts and invoices will come.'* -**

J. Corbett Alday, COO, VP



RESOLUTION NO. 61-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, TO APPROVE A MUTUAL AID AGREEMENT WITH THE UNITED STATES VETERANS AFFAIRS (VA) MEDICAL CENTER POLICE SERVICE, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE SAID AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Riviera Beach wishes to execute a Mutual Aid Agreement with the United States Veterans Affairs (VA) Medical Center Police Service; and

WHEREAS, The subscribed Law Enforcement agencies are so located in relation to each other that it is to the advantage of each to receive and extend Mutual Aid in the form of Law Enforcement services and resources to adequately respond to continuing multi-jurisdictional Law Enforcement problems, so as to protect the public peace and safety, and preserve the lives and property of the people, and in intensive situations; and

WHEREAS, The City of Riviera Beach Police Department has the authority under Part I of Chapter 23, Florida Statutes, the Florida Mutual Aid Act, to enter into a Voluntary Cooperation Agreement for assistance of a routine Law Enforcement nature that crosses jurisdictional lines, and a Requested Operational Assistance Agreement for rendering of assistance in connection with a Law Enforcement emergency; and

WHEREAS, The Department of Veterans Affairs has authority under the United States Code and Code of Federal Regulations to enforce all applicable laws on VA property; and

WHEREAS, It is beneficial to the City of Riviera Beach and the United States Department of Veterans Affairs to provide mutual aid and assistance to each other.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA, THAT:

SECTION 1: The Mayor and City Clerk are authorized to execute the Mutual Aid Agreement between the United States Veterans Affairs (VA) Medical Center Police Service and the City of Riviera Beach.

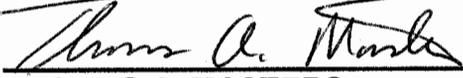
SECTION 2: A copy of said Agreement is attached hereto and made a part of this Resolution.

SECTION 3: This Resolution shall take effect immediately upon its approval.

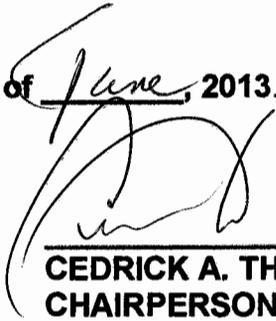
RESOLUTION NO. 61-13
PAGE 2

PASSED AND ADOPTED this 5 day of June, 2013.

APPROVED:

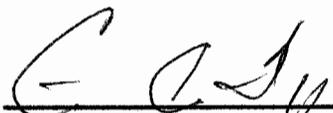


THOMAS A. MASTERS
MAYOR

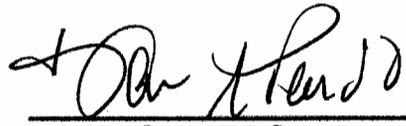


CEDRICK A. THOMAS
CHAIRPERSON

ATTEST:



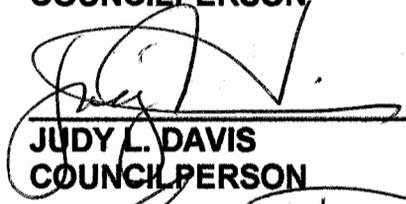
CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK



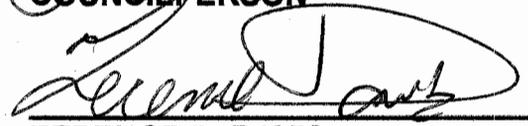
DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: J. DAVIS

SECONDED BY: B. GUYTON

B. GUYTON AYE

J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: _____

**VOLUNTARY COOPERATION AND REQUESTED OPERATIONAL ASSISTANCE
MUTUAL AID AGREEMENT**

THIS AGREEMENT ("Agreement") is entered into by and between the **City of Riviera Beach**, a Florida municipal corporation ("RBPB"), and the United States Department of Veterans Affairs Medical Center, Police Service ("VA").

WHEREAS, the subscribed law enforcement agencies are so located in relation to each other that it is to the advantage of each to receive and extend Mutual Aid in the form of law enforcement services and resources to adequately respond to continuing, multi-jurisdictional law enforcement problems, so as to protect the public peace and safety, and preserve the lives and property of the people and in intensive situations; and

WHEREAS, the RBPB has the authority under part I of Chapter 23, Florida Statutes, the Florida Mutual Aid Act, to enter into a Voluntary Cooperation Agreement for assistance of a routine law enforcement nature that crosses jurisdictional lines and a Requested Operational Assistance Agreement for the rendering of assistance in connection with a law enforcement emergency; and,

WHEREAS, the VA has authority under the United States Code and Code of Federal Regulations to enforce all applicable laws on VA property; and,

WHEREAS, it is beneficial to the RBPB and VA and the citizens they serve to enter this Agreement in order for the RBPB and VA to provide mutual aid and assistance to each other.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Section 1. Provisions for Requested Operational Assistance

The aforesaid law enforcement agencies hereby approve and enter into this Agreement whereby each of the agencies may request or agree to render law enforcement assistance to the other in law enforcement emergencies, investigations and other law enforcement related activities.

Section II. Provisions for Voluntary Cooperation

The aforesaid law enforcement agencies hereby approve and enter into this Agreement whereby each of the agencies may request and render voluntary cooperation and assistance of a routine law enforcement nature. This assistance shall, include but not be limited to:

1. Communications – ongoing dialogue will occur between both agencies with respect to matters of mutual interest, including; suspicious subjects, threats, crimes occurring on VA property or in areas surrounding VA property, special hazards, homeland security matters, and other intelligence issues.
2. Investigations – in the event of the occurrence of a crime on VA property that requires forensic processing or other technical assistance the VA Police may request assistance from the RBPd. It is understood in all such cases that approval of such assistance will be at the discretion of the RBPd Officer in Charge. Joint investigations may also be undertaken, and both agencies will cooperate in all matters of mutual interest.
3. Officer Involved Shootings- in the event of an officer involved shooting on VA property the RBPd may assist, in the investigation of the incident. Such investigation would be conducted in collaboration with the Federal Bureau of Investigations, the United States Attorney's Office, and Florida State Attorney's Office.
4. Mutual Aid – in the event of a situation in which on duty VA Police require mutual aid from the RBPd, due to a disruptive or violent incident, the RBPd will respond and provide all available and required assistance to re-establish safety for the patients, staff, visitors and police officers at the VA Medical Center (VAMC).
5. Missing Patient Response – in all cases in which high risk patients elope from the VA Medical Center the VA Police will notify the RBPd and provide the patient's name, date of birth, last known address, and physical description. The RBPd will then, depending upon the availability of their resources, assist in searching for and locating the high risk patient. High risk patients are generally defined as those who are at risk to themselves or others.
6. Given the VA Police jurisdictional limitations the RBPd will provide response capability to the VA office location at Woodbine Commons.
7. Both agencies will provide mutual assistance during inclement weather conditions and other such emergency situations.

Section III. Policy and Procedure

- A. In the event that a party to this Agreement is in need of assistance as set forth above, it shall notify the agency head or his designee from whom such assistance is required. The agency head or designee whose assistance is sought shall evaluate the situation and the agency's available resources, consult with his/her supervisors if necessary, and will respond in a manner he/she deems appropriate. The agency head's decision in this regard shall be final.
- B. The resources or facilities that are assigned by the assisting agency shall be under the immediate command of a supervising officer, designated by the assisting agency head. Such supervising officer shall be under the direct supervision and command of the agency head or his designee of the agency requesting assistance.
- C. Where investigative priorities arise during a law enforcement operation that may require the crossing of jurisdictional lines by the RBPD, each party agrees that RBPD's administrator or his designee on duty shall notify the VAMC Director and request enforcement assistance. The VAMC Director or his designee shall evaluate the situation, consult with his appropriate supervisor if necessary, and, if required, insure that proper enforcement assistance is rendered.
- D. Should a RBPD officer be within the VA's jurisdiction for matters of a routine nature or investigative nature; to arrest an individual for a felony offense; or, in hot pursuit of an individual suspecting to have committed a felony offense(s), the RBPD officer shall be empowered to render enforcement assistance and act in accordance with the law and this Agreement within the VA's jurisdiction. As soon as practicable, RBPD shall notify the VAMC Director of a RBPD officer within the VA's jurisdiction pursuant to this Agreement. The VAMC Director or his designee shall evaluate the situation, consult with his appropriate supervisor if necessary, and, if required, insure that proper enforcement assistance is rendered.

Section IV. Powers, Privileges, Immunities, and Costs

- A. Members of the RBPD, when actually engaging in mutual cooperation and assistance outside of the jurisdictional limits of the City of Riviera Beach, under the terms of this Agreement, shall, pursuant to the provisions of Section 23.127, Florida Statutes, have the same powers, duties, rights, privileges, and immunities, as if they were performing their duties in the jurisdiction in which they are normally employed.
- B. Each party agrees to furnish necessary equipment, resources, and facilities, and to render services to each other party to the Agreement as set forth above, provided however, that no party shall be required to deplete unreasonably its own equipment, resources, facilities, and services, in furnishing such mutual aid.

- C. The agency furnishing aid, pursuant to this Agreement, shall bear the loss or damages to such equipment, and shall pay any expense incurred in the operation and maintenance thereof.
- D. The agency furnishing aid, pursuant to this Agreement, shall compensate its appointees/employees during the time such aid is rendered, and shall defray the actual travel maintenance expenses of such appointees/employees while they are rendering such aid, including any amounts paid or due for compensation due to personal injury or death while such appointees/employees are engaged in rendering such aid.
- E. All the privileges and immunities from liability, exemption from laws, ordinances and rules, and all pension, insurance, relief, disability, worker's compensation, salary, death, and other benefits that apply to the activity of such officers, agents or employees of any such agency when performing their respective functions within the territorial limits of their respective public agencies, shall apply them to the same degree, manner, and extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of this Mutual Aid Agreement. The provisions of this section shall apply with equal effect to full-time paid, part-time, volunteers, and reserve members.

Section V. Liability

Each party shall be responsible for the acts, omissions, and conduct of its agents, employees, and appointees that occur while said persons are engaged in providing services pursuant to this Agreement, subject to the provisions of Florida Statute Section §768.28 where applicable and the Federal Tort Claims Act.

Section VI: Effective Date

This Agreement shall take effect upon execution and approval by the hereinafter named officials, and shall continue in full force and effect for the period from 6-24-13 until _____ unless terminated, cancelled or extended in writing by the parties.

Section VII. Cancellation

This Agreement may be canceled by either party upon delivery of 30 days written notice to the other party's authorized representative. Cancellation will occur at the direction of any subscribing party.

IN WITNESS WHEREOF, THE PARTIES TO THIS VOLUNTARY COOPERATION AND REQUESTED OPERATIONAL ASSISTANCE MUTUAL AID AGREEMENT HERETO CAUSE THESE PRESENTS TO BE SIGNED ON THE DATE SPECIFIED:

CITY OF RIVIERA BEACH:

BY: Thomas A. Masters
THOMAS A. MASTERS, MAYOR

Date

BY: Carrie E. Ward
CARRIE E. WARD
MASTER MUNICIPAL CLERK, CITY CLERK

6/5/13
Date

DEPARTMENT APPROVAL:

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: Clarence D. Williams, III
CLARENCE D. WILLIAMS, III
CHIEF OF POLICE

BY: Pamala H. Ryan
PAMALA H. RYAN,
CITY ATTORNEY

**UNITED STATES DEPARTMENT OF
VETERANS AFFAIRS, POLICE SERVICE**

BY: Steven B. Fage
STEVEN B. FAGE,
CHIEF, POLICE SERVICE

6-24-13
Date

RESOLUTION NO. 62-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING AN AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF RIVIERA BEACH AND THE RIVIERA BEACH COMMUNITY DEVELOPMENT AGENCY (CRA) COMMITTING MATCHING FUNDS FOR AN ECONOMIC DEVELOPMENT ADMINISTRATION GRANT, A FLORIDA INLAND NAVIGATION WATERWAY ASSISTANCE GRANT, AND A FLORIDA FISH AND WILDLIFE COMMISSION FLORIDA BOATING IMPROVEMENT FOR THE MARINA DISTRICT PROJECT TO INCREASE THE TOTAL COMMITMENT TO \$2.53 MILLION AND AUTHORIZING THE DISBURSEMENT OF \$530,014; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Commissioners of the Riviera Beach Community Agency adopted Resolution 2012-08 approving an Interlocal Agreement between the City of Riviera Beach (the "City") and the Agency, committing \$2 million as matching funds for grant submittals to the U.S. Commerce Department's Economic Development Administration, the Florida Inland Navigation District Waterway Assistance Grant, and the Florida Fish and Wildlife Commission Florida Boating Improvement Grant; and

WHEREAS, the City's revised budget for improvements to the Marina Bulkhead and Docks require an additional commitment of \$530,014 in Agency funds; and

WHEREAS, the City has requested the disbursement of \$530,014 to match certain grant awards for the completion improvements to the Marina Bulkhead and Docks.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1: That the City Council approves the Modification to the Interlocal Agreement between the City and the CRA to increase the total commitment for matching funds to \$2.53 million.

SECTION 2: That the City Council accepts funds in the amount of \$530,014 of the funds committed for the improvements to the Marina Bulkhead and Docks from the CRA.

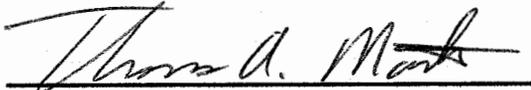
SECTION 3. This resolution shall be effective immediately upon its adoption.

RESOLUTION NO. 62-13

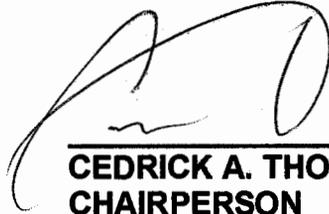
PAGE 2

PASSED AND APPROVED this 5TH day of JUNE, 2013.

APPROVED:



THOMAS A. MASTERS
MAYOR

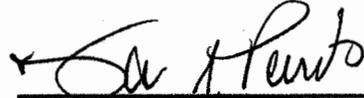


CEDRICK A. THOMAS
CHAIRPERSON

ATTEST:



CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK



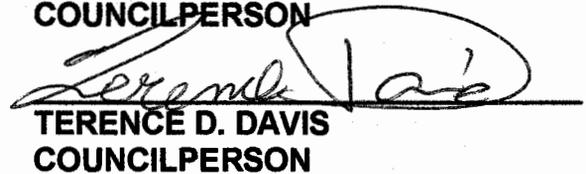
DAWN S. PARDO
CHAIR PRO TEM



JUDY L. DAVIS
COUNCILPERSON



BRUCE A. GUYTON
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: J. DAVIS

SECONDED BY: B. GUYTON

B. GUYTON AYE

J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: _____

FIRST MODIFICATION TO INTERLOCAL AGREEMENT BETWEEN
THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY
AND
THE CITY OF RIVIERA BEACH
COMMITTING MATCHING FUNDS FOR
VARIOUS GRANTS FOR THE MARINA DISTRICT PROJECT

This Interlocal Agreement is entered into this 5 of June, 2013, by and between Riviera Beach Community Redevelopment Agency, a body corporate ad politic created pursuant to Part III, Chapter 163, Florida Statutes (herein referred to as "Agency") and the City of Riviera Beach, a Florida municipal corporation (herein referred to as the "City"), each constituting a public agency as defined in Part I, Chapter 163, Florida Statutes.

WITNESSETH

WHEREAS, the Commissioners of the Riviera Beach Community Agency adopted Resolution 2012-08 approving an Interlocal Agreement between the City of Riviera Beach (the "City") and the Agency committing \$2 million as matching funds for grant submittals to the U.S. Commerce Department's Economic Development Administration, the Florida Inland Navigation District Waterway Assistance Grant and the Florida Fish and Wildlife Commission Florida Boating Improvement Grant; and

Whereas, the City's revised budget for improvements to the Marina Bulkhead and Docks require an additional commitment of \$530,014 in Agency funds; and

Now, Therefore, in consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

Section 1. Section 1 A. of the Interlocal Agreement is modified to read as follows:

A. The purpose of this Agreement is to agree to commit the required funding to match up to a total \$2.53 million dollar for a grant from EDA for construction of Phase II of the Riviera Beach Marina and the required funding to match the Florida Inland Navigation Waterway Assistance Grant and the Florida Fish and Wildlife Commission Improvement Grant

Section 2. Except as provided herein, all other terms, conditions and provisions of the Agreement, as herein extended, remain unchanged and are hereby ratified and confirmed.

Section 3. Effective Date

This Agreement shall become effective upon its approval by the City Council of the City of Riviera Beach and the Commissioners of the Riviera Beach Community Redevelopment Agency, the due execution thereof by the proper officer of the City and the Agency.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

ATTEST:

By: Tony R

RIVIERA BEACH
COMMUNITY
REDEVELOPMENT AGENCY

By: [Signature]
Cedrick A. Thomas,
Chairperson

Approved as to form and legal
sufficiency

By: [Signature]
J. Michael Haygood
CRA General Counsel

ATTEST:

By: [Signature]
Carrie E. Ward
Master Municipal Clerk
City Clerk

CITY OF RIVIERA BEACH

By: [Signature]
Thomas A. Masters, Mayor

Approved as to form and legal
sufficiency

By: [Signature]
Pamala H. Ryan, City
Attorney

RESOLUTION NO. 2013-13

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY (THE AGENCY) APPROVING AN AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN THE AGENCY AND THE CITY OF RIVIERA BEACH COMMITTING MATCHING FUNDS FOR AN ECONOMIC DEVELOPMENT ADMINISTRATION GRANT, A FLORIDA INLAND NAVIGATION WATERWAY ASSISTANCE GRANT AND A FLORIDA FISH AND WILDLIFE COMMISSION FLORIDA BOATING IMPROVEMENT FOR THE MARINA DISTRICT PROJECT TO INCREASE THE TOTAL COMMITMENT TO \$2.53 MILLION AND AUTHORIZING THE DISBURSEMENT OF \$530,014; PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, the Commissioners of the Riviera Beach Community Agency adopted Resolution 2012-08 approving an Interlocal Agreement between the City of Riviera Beach (the "City") and the Agency committing \$2 million as matching funds for grant submittals to the U.S. Commerce Department's Economic Development Administration, the Florida Inland Navigation District Waterway Assistance Grant and the Florida Fish and Wildlife Commission Florida Boating Improvement Grant; and

WHEREAS, the City's revised budget for improvements to the Marina Bulkhead and Docks require an additional commitment of \$530,014 in Agency funds; and

WHEREAS, the City has requested the disbursement of \$530,014 to match certain grant awards for the completion improvements to the Marina Bulkhead and Docks.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY THAT:

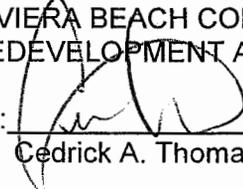
SECTION 1. The Board of Commissioners of the Riviera Beach Community Redevelopment Agency hereby approves the attached Modification to Interlocal Agreement between the City and the Agency to increase the total commitment for matching funds to \$2.53 million.

SECTION 2. The Board of Commissioners of the Riviera Beach Community Redevelopment Agency hereby authorizes the disbursement of \$530,014 of the funds committed for the improvements to the Marina Bulkhead and Docks.

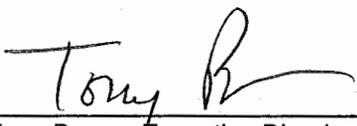
SECTION 3. This resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED this 10th day of April 2013

RIVIERA BEACH COMMUNITY
REDEVELOPMENT AGENCY

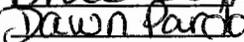
By: 
Cedrick A. Thomas, Chairperson

ATTEST:



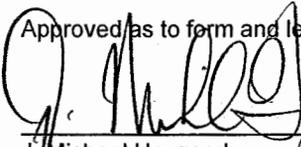
Tony Brown, Executive Director

MOTION BY:
SECONDED BY:

D. PARDO
J. DAVIS
B. GUYTON
C. THOMAS
T. DAVIS

AYE
AYE
AYE
AYE
NY

Approved as to form and legal sufficiency

J. Michael Haygood Date 4/2/2013
Haygood & Harris LLC
General Counsel to CRA

RESOLUTION NO. 2012-08

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY (THE AGENCY) APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE AGENCY AND THE CITY OF RIVIERA BEACH COMMITTING AGENCY MATCHING FUNDS FOR AN ECONOMIC DEVELOPMENT ADMINISTRATION GRANT, A FLORIDA INLAND NAVIGATION WATERWAY ASSISTANCE GRANT AND A FLORIDA FISH AND WILDLIFE COMMISSION FLORIDA BOATING IMPROVEMENT GRANT FOR THE MARINA DISTRICT PROJECT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Part I of Chapter 163, Florida Statutes, permits public agencies, as defined, to enter into interlocal agreements with each other to exercise jointly any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

WHEREAS, Section 163.400, Florida Statutes, authorizes any public body, for the purpose of aiding in the carrying out of community redevelopment, contribute funds to a municipality; and

WHEREAS, the adopted Community Redevelopment Plan provides for improvements to the Marina District; and

WHEREAS, the Agency in cooperation with the City of Riviera Beach desires to commit matching funds for a U.S. Economic Development Administration Grant, a Florida Inland Navigation Waterway Assistance Grant and a Florida Fish and Wildlife Commission Florida Boating Improvement Grant for the Marina District.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY THAT:

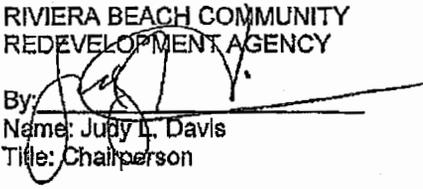
SECTION 1. The Community Redevelopment Agency hereby approves the attached Interlocal Agreement.

SECTION 2. This resolution shall be effective immediately upon its adoption.

[Signatures on next page]

PASSED AND ADOPTED this 14th day of March, 2012.

RIVIERA BEACH COMMUNITY
REDEVELOPMENT AGENCY

By: 
Name: Judy L. Davis
Title: Chairperson

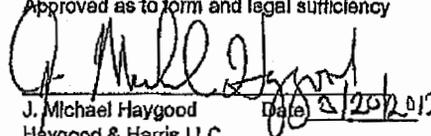
ATTEST:


Executive Director

MOTION BY: Dawn Pardo
SECONDED BY: Gedrick Thomas

B. BROOKS Absent
D. PARDO Aye
C. THOMAS Aye
S. LOWE Aye
J. DAVIS Aye

Approved as to form and legal sufficiency


J. Michael Haygood
Haygood & Harris LLC
General Counsel to CRA

Date 3/20/2012

**INTERLOCAL AGREEMENT BETWEEN
THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY
AND
THE CITY OF RIVIERA BEACH
COMMITTING MATCHING FUNDS FOR
VARIOUS GRANTS FOR THE MARINA DISTRICT PROJECT**

This Interlocal Agreement is entered into this 4 of April, 2012, by and between Riviera Beach Community Redevelopment Agency, a body corporate ad politic created pursuant to Part III, Chapter 163, Florida Statutes (herein referred to as "Agency") and the City of Riviera Beach, a Florida municipal corporation (herein referred to as the "City"), each constituting a public agency as defined in Part I, Chapter 163, Florida Statutes.

WITNESSETH

Whereas, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969," authorizes local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the need and development of local communities; and

Whereas, Part I of Chapter 163, Florida Statutes, permits public agencies as defined to enter into Interlocal agreements with each other to exercise jointly any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

Whereas, Section 163.400, Florida Statutes, authorizes any public body, for the purposes of aiding in the carrying out of community redevelopment, contribute funds to a municipality; and

Whereas, the City Council of the City of Riviera Beach has found and declared an area of the City of Riviera Beach in compliance with Redevelopment Area requirements, the area hereinafter referred to as the "CRA"; and

Whereas, the City Council of the City of Riviera Beach has adopted a community redevelopment plan pursuant to the Community Redevelopment Act (the "Plan"); and

Whereas, the Plan provide for a long term redevelopment strategy for the Redevelopment Area; and

Whereas, the City, the Agency, Viking Yachts and Rybovich are all working to bring to fruition the Marina District Plan to create 860 jobs from a \$167 million dollar investment and;

Whereas, the renovation of the Riviera Beach Marina with the completion of phase II is the cornerstone on which the Marina District Plan will rest and;

Whereas, the Agency is preparing a grant submittal to the U.S. Commerce Department's Economic Development Administration (EDA) for \$2 million dollars which requires a 50/50 match; and

Whereas, the City of Riviera Beach is preparing a grant submittals for the Florida Inland Navigation District Waterway Assistance Grant and the Florida Fish and Wildlife Commission Florida Boating Improvement Grant. These grants require a \$1.5 million grant match and a \$500,000 grant match respectively; and

Whereas, the Agency is committing \$1,000,000 from its BB& T loan funds towards the match; and

Whereas, the Agency agrees to commit a match of \$746,781 of Agency reserve funds originally allocated for City Services for FY 2009/2010; and

Whereas, the Agency agrees to commit a match of \$253,219 formerly designated as repayment for City Services for the FY 2010/2011 for the remaining match requirements.

Now, therefore, in consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

Section 1. Purpose

A. The purpose of this Agreement is to agree to commit the required funding to match up to a \$2 million grant from EDA for construction of Phase II of the Riviera Beach Marina and to commit the required funding to match the Florida Inland Navigation District Waterway Assistance Grant and the Florida Fish and Wildlife Commission Florida Boating Improvement Grant.

Section 2. General Terms and Conditions

A. The Agency and the City have provided the resources to identify and apply for grants as outlined above which are consistent with the Marina renovations and the Marine District Plan.

B. Should the grants be awarded to the City, the Agency will contribute to the City the matching funds as outlined above. The Agency shall remit the matching funds to the City as required by the grants.

Section 3. Entirety of Agreement

This Agreement represents the entire understanding between the parties. This Agreement may be modified and amended only by written instrument executed by parties hereto.

Section 4. Remedies

This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce this Agreement will be held in the State of Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

Section 5. Indemnification

Each party to this Agreement agrees, to the extent permitted by law, to save, defend, reimburse, indemnify, and hold harmless the other party, and the other respective officers, employees, servants or agents from each party's own negligence or willful misconduct and from any and all claims, demands, damages, liabilities, causes of actions, legal or administrative proceeds, judgments, interest, attorney's fees, costs and expenses arising in any manner directly or indirectly in connection with or incidental to the performance of this Agreement.

Section 6. Severability

Should any provision of this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, the same shall be deemed stricken here from and all other terms and conditions of the Interlocal Agreement shall continue in full force and effect as if such invalid provision had never been made a part of the Interlocal Agreement.

Section 7. Entirety of Agreement

This Agreement represents the entire understanding between the parties. This Agreement may be modified and amended only by written instrument executed by parties hereto.

Section 8. Notice and Contact

All notices provided under or pursuant to the Agreement shall be in writing, delivered either by hand, overnight express mail, or by first class, certified mail, return receipt requested, to the representatives identified below at the address set forth below:

For the Agency:

Tony Brown
Executive Director
2001 Broadway, Suite 300
Riviera Beach, FL 33404

For the City:

Ruth Jones
City Manager
600 West Blue Heron Boulevard
Riviera Beach, FL 33404

Section 9. Venue

The venue for this action shall be in Palm Beach County, Florida.

Section 10. Effective Date

This Agreement shall become effective upon its approval by the City Council of the City of Riviera Beach and the Commissioners of the Riviera Beach Community Redevelopment Agency, the due execution thereof by the proper officer of the City and the Agency.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

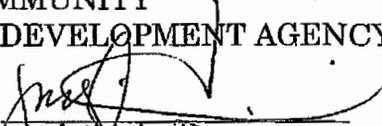
ATTEST:

By: 

By: 

Carrie E. Ward
Master Municipal Clerk
City Clerk

RIVIERA BEACH
COMMUNITY
REDEVELOPMENT AGENCY

By: 

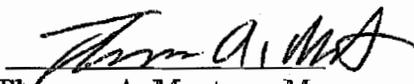
Name: Judy L. Davis
Title: Chairperson

Approved as to form and legal
sufficiency:

By: 

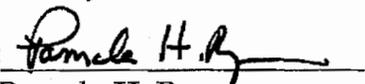
J. Michael Haygood
Haygood & Harris, LLC
CRA General Counsel

CITY OF RIVIERA BEACH

By: 

Thomas A. Masters, Mayor

Approved as to form and legal
sufficiency

By: 

Pamala H. Ryan,
City Attorney

RESOLUTION NO. 63-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING THE ECONOMIC DEVELOPMENT TRANSPORTATION PROJECT FUND AGREEMENT BETWEEN THE CITY OF RIVIERA BEACH AND THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR RECEIVING PROJECT FUNDS IN THE AMOUNT OF \$500,000 TO BE USED FOR THE RECONSTRUCTION OF WEST 13TH STREET; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on April 17, 2012, the Governor of Florida executed Fiscal Year 2012-13 General Appropriations Act, Chapter 2012-118, Laws of Florida providing appropriation of \$500,000 to the City of Riviera Beach; and

WHEREAS, through Resolution 66-12 City Council approved funding to pay for pre-design and design services required to move forward with reconstruction of West 13th Street between Old Dixie Highway and Avenue R; and

WHEREAS, the City is required to enter into an Economic Development Transportation Project Funds Agreement with the Florida Department of Transportation in order to receive the State appropriation funds; and

WHEREAS, the City, based on the terms of the agreement, agrees to accept all maintenance and other attendant costs occurring after completion of the 13th Street reconstruction; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA as follows:

SECTION 1. The City Council hereby approves the Economic Development Transportation Project Funds Agreement between the City of Riviera Beach and Florida Department of Transportation for receiving funds.

SECTION 2. The Mayor and City Clerk are authorized to execute the Agreement.

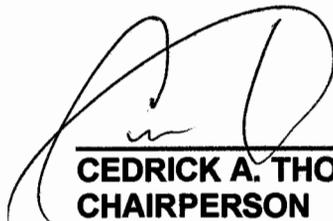
SECTION 3. That the Resolution take effect upon its passage and approval by City Council.

PASSED and APPROVED this 5TH day of JUNE, 2013.

APPROVED:



THOMAS A. MASTERS
MAYOR



CEDRICK A. THOMAS
CHAIRPERSON

ATTEST:



CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK



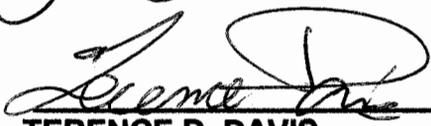
DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: J. DAVIS

SECONDED BY: B. GUYTON

B. GUYTON AYE

J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: _____

RESOLUTION NO. 64-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AMENDMENT TO THE PROFESSIONAL SERVICE AGREEMENT WITH JH SPRAGUE CONSULTING, L.L.C. TO PROVIDE CONSULTATION SERVICES ON THE MARINA PROJECT TO FACILITATE THE DEVELOPMENT AND IMPLEMENTATION OF THE MARINA RENOVATION AND DEVELOP AND MONITOR GRANT APPLICATION PROCESSES COMMENCING APRIL 1, 2013; AUTHORIZING THE DIRECTOR OF FINANCE AND ADMINISTRATIVE SERVICES TO MAKE PAYMENT FROM ACCOUNT NO. 001-0203-519-0-3406 IN AN AMOUNT NOT TO EXCEED \$72,000.00; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has approved the concept plan for the Riviera Beach Marina District; and

WHEREAS, the City desires to have JH Sprague Consulting, LLC provide continued consulting services on the Marina Renovation project, as Consultant, to ensure that the interests of the City are appropriately represented in renovation discussions and in the area of grant application processes as set forth in the Scope of Work detailed in Exhibit "A".

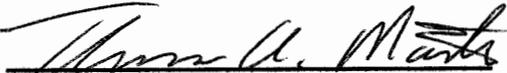
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, THAT:

SECTION 1. The Mayor and City Clerk are authorized to execute the Amendment to the Professional Services Agreement with JH Sprague Consulting, L.L.C., as Consultant, to assist the City with development of the marina renovation, in discussions of the various concept plan elements, and in the area of grant application processes, as specifically set forth in the Scope of Work in Exhibit "A".

SECTION 2. The Director of Finance & Administrative Services is authorized to make payment in an amount not to exceed \$72,000 from Account No. 001-0203-519-0-3406.

SECTION 3. This Resolution shall become effective upon its passage and approval by the City Council

APPROVED:


THOMAS A. MASTERS
MAYOR


CEDRICK A. THOMAS
CHAIRPERSON

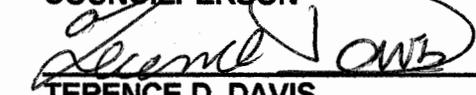
ATTEST:


CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK


DAWN S. PARDO
CHAIR PRO TEM


JUDY L. DAVIS
COUNCILPERSON


BRUCE A. GUYTON
COUNCILPERSON


TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: D. PARDO

SECONDED BY: T. DAVIS

B. GUYTON AYE

J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS NAY

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: _____

**SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT
JH SPRAGUE CONSULTING, LLC.**

This Amendment to the Professional Services Agreement is made and entered into this 5th day of June, 2013, by and between the CITY OF RIVIERA BEACH, FLORIDA, a municipal corporation existing under the laws of the State of Florida, hereinafter "City," and JH SPRAGUE CONSULTING, LLC, hereinafter referred to as "Consultant," whose mailing address is 10918 Larch CT, Palm Beach Gardens, FL 33418.

WITNESSED:

WHEREAS, the City entered into a Professional Services Agreement, hereinafter "Agreement," with the Consultant on November 3, 2010 to Coordinate and administer present grant funding for marina construction with city staff, professional services providers, consultants, developers, and other governmental entities to ensure that all grant requirements are met as to timelines, grant regulations and construction; Identify and apply for additional marina construction funding grants, Research grants that can be used for overall projects development elements and other elements as outlined in Exhibit "A" Scope of Services and Fee for Services Schedule Marina Grants Projects Manager; and

WHEREAS, the initial terms of the Agreement were to terminate when the services were complete as identified in "Exhibit A", or when the Consultant had reached \$36,000; and

WHEREAS, the city desires Consultant to continue to provide ongoing services to the City/CRA joint Project effort to assist the City and CRA with development of the marina renovation, and in the area of grant application processes in the amount not to exceed \$72,000.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the City and Consultant agree as follows:

Section 1. That Section 2 of the Agreement is hereby amended to read as follows:

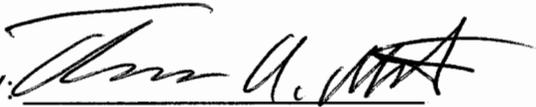
A. This Agreement shall commence on April 1, 2013, and shall terminate when the services are complete as identified in "Exhibit A", or when the Consultant has reached \$72,000, or unless terminated earlier in accordance with Section 4 of this Agreement."

Section 2. In all other respects, the terms of the Agreement shall remain in full force and effect, and the parties agree to perform all duties and obligations as set forth therein.

SECOND AMENDMENT TO PROFESSIONAL SERVICE AGREEMENT

IN WITNESS WHEREOF, the Parties unto this Amendment have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

BY: 
Thomas A. Masters,
MAYOR

JH SPRAGUE CONSULTING, LLC.

BY: 
John H. Sprague,
CONSULTANT

ATTEST:

BY:  6/5/13
CARRIE E. WARD
CITY CLERK, MMC

Exhibit "A"
Scope of Services and Fee for Services Schedule
Marina Grants Project Manager

Redevelopment of the Marina District will require cooperation of the City, Community Redevelopment Agency (CRA), local property owners, and prospective development partners. The City is in need of the services of a "Marina Grants Project Manager" to assist the overall Project Manager with professional support services to the Riviera Beach Project Marina Redevelopment Project or the "Project"). The Marina Grants Project Manager will ensure that the City optimizes the use of existing grant funds, and will ensure that construction of marina improvements are completed in accordance with various grant requirements. In addition to the above, the Marina Grants Project Manager will identify and apply for additional grant funding; monitor grant administrative activities; assist with grant reporting; and implement a coordinated grant strategy to optimize the use of existing and future grant funding.

The Marina Grants Project Manager will be responsible for the following scope of services.

1. Coordinate and administer present grant funding for marina construction with City staff, professional services providers, consultants, developers, and other governmental entities to ensure that all grant requirements of Phase II and beyond are met as to timelines, grant regulations, and construction.
2. Identify and apply for additional marina construction funding grants. Research grants that can be used for overall project development elements.
3. Work with City staff, CRA staff, and consultants/developers to implement various conceptual plan elements of the overall project.
4. Work with City staff, professional services providers and consultants, and developers on State lands dedication issues,
5. Work with City staff, agencies, and consultants on future marina Phase II replacement and other expansion needs.
6. Assist City staff with grant reimbursement processing and grant reporting for Phase I and Phase II.
7. Implement a coordinated grant strategy to optimize the use of existing and future grant funding.
8. Assist City with marina and uplands planning and construction activities.

Fee for Services and Schedule of Payments

The compensation of the Marina Grants Project Manager, by the City, for the Scope of Services identified above shall be \$72,000.

1. Consultant shall be paid by the City at the rate of \$6,000 per month, upon receipt of an invoice and progress/status report for the month, submitted by the Consultant.
2. Payments shall be made to the Consultant, and the Consultant shall provide services to the City, until the Consultant's billings have reached \$72,000, or unless terminated earlier in accordance with Section 4 of this Agreement.

**AMENDMENT TO PROFESSIONAL SERVICE AGREEMENT
JH SPRAGUE CONSULTING, LLC.**

This Amendment to the Professional Services Agreement is made and entered into this 7th day of March, 2012, by and between the **CITY OF RIVIERA BEACH, FLORIDA**, a municipal corporation existing under the laws of the State of Florida, hereinafter "City," and **JH SPRAGUE CONSULTING, LLC**, hereinafter referred to as "Consultant," whose mailing address is 10918 Larch CT, Palm Beach Gardens, FL 33418

WITNESSETH:

WHEREAS, the City entered into a Professional Service Agreement, hereinafter "Agreement," with the Consultant on November 3, 2010 to Coordinate and administer present grant funding for marina construction with city staff, professional services providers, consultants, developers, and other governmental entities to insure that all grant requirements are met as to timelines, grant regulations and construction; Identify and apply for additional marina construction funding grants, Research grants that can be used for overall projects development elements and other elements as outlined in Exhibit "A" Scope of Services and Fee for Services Schedule Marina Grants Projects Manager; and

WHEREAS, the initial terms of the Agreement was to terminate when the services were complete as identified in "Exhibit A", or when the Consultant has reached \$36,000; and

WHEREAS, the city desires Consultant to continue to provide ongoing services to the City/CRA joint Project effort to assist the City and CRA with development of the marina renovation and in the area of grant application processes in the amount not to exceed \$72,000.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the City and Consultant agree as follows:

Section 1. That Section 2 of the Agreement is hereby amended to read as follows: "A. This Agreement shall commence on April 1, 2012 and shall terminate when the services are complete as identified in "Exhibit A", or when the Consultant has reached \$72,000, or unless terminated earlier in accordance with Section 4 of this Agreement."

Section 2. In all other respects, the terms of the Agreement shall remain in full force and effect, and the parties agree to perform all duties and obligations as set forth therein.

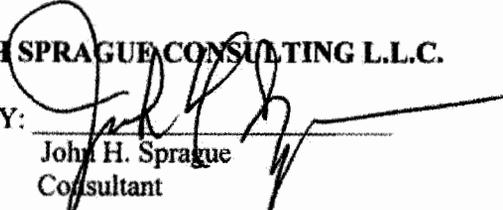
AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

IN WITNESS WHEREOF, the Parties unto this Amendment have set their hands and seals on the day and date first written above.

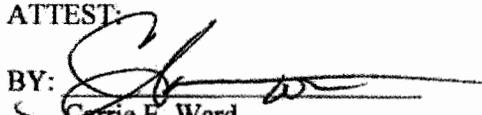
CITY OF RIVIERA BEACH

BY: 
Thomas A. Masters
Mayor

JH SPRAGUE CONSULTING L.L.C.

BY: 
John H. Sprague
Consultant

ATTEST:

BY: 
Carrie E. Ward
City Clerk, MMC

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

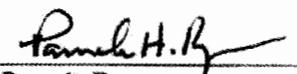
BY: 
Pamala Ryan
City Attorney

Exhibit "A"
Scope of Services and Fee for Services Schedule
Marina Grants Project Manager
"International Harbor at Riviera Beach Project"

Redevelopment of the Marina District will require cooperation of the City, Community Redevelopment Agency (CRA), local property owners, and prospective development partners. The City is in need of the services of a "Marina Grants Project Manager" to assist the overall Project Manager with professional support services to the International Harbor at Riviera Beach Project ("International Harbor Project" or the "Project"). The Marina Grants Project Manager will insure that the City optimizes the use of existing grant funds and will ensure that construction of marina improvements are completed in accordance with various grant requirements. In addition to the above, the Marina Grants Project Manager will identify and apply for additional grant funding; monitor grant administrative activities; assist with grant reporting; and, implement a coordinated grant strategy to optimize the use of existing and future grant funding.

The Marina Grants Project Manager will be responsible for the following scope of services.

1. Coordinate and administer present grant funding for marina construction with City staff, professional services providers, consultants, developers, and other governmental entities to insure that all grant requirements Phase I and Phase II are met as to timelines, grant regulations, and construction.
2. Identify and apply for additional marina construction funding grants. Research grants that can be used for overall project development elements.
3. Work with City staff, CRA staff, and consultants/developers to implement various conceptual plan elements of the overall project.
4. Work with City staff, professional services providers and consultants, and developers on State lands dedication issues.
5. Work with City staff, agencies, and consultants on future marina Phase II replacement and other expansion needs.
6. Assist City staff with grant reimbursement processing and grant reporting for Phase I and Phase II.
7. Implement a coordinated grant strategy to optimize the use of existing and future grant funding.
8. Assist City with marina and uplands planning and construction activities.

Fee for Services and Schedule of Payments

The compensation of the Marina Grants Project Manager, by the City, for the Scope of Services identified above shall be \$72,000.

The Project Manager will provide the City with monthly, written progress/status reports in support of Project activities conducted during the month.

1. Consultant shall be paid by the City at the rate of \$6,000 per month, upon receipt of an invoice and progress/status report for the month submitted by the Consultant.
2. Payments shall be made to the Consultant, and the Consultant shall provide services to the City, until the Consultant's billings have reached \$ \$72,000, or unless terminated earlier in accordance with Section 4 of this Agreement.

RESOLUTION NO 34-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AMENDMENT TO THE PROFESSIONAL SERVICE AGREEMENT WITH JH SPRAGUE CONSULTING, L.L.C. TO PROVIDE CONSULTATION SERVICES ON THE MARINA PROJECT TO FACILITATE THE DEVELOPMENT AND IMPLEMENTATION OF THE MARINA RENOVATION AND DEVELOP AND MONITOR GRANT APPLICATION PROCESSES COMMENCING APRIL 1, 2012; AUTHORIZING THE INTERIM FINANCE DIRECTOR TO MAKE PAYMENT FROM ACCOUNT NO. 001-0203-519-0-3406 IN AN AMOUNT NOT TO EXCEED \$72,000.00; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has approved the concept plan for the International Harbor at Riviera Beach Project; and

WHEREAS, the City desires to have JH Sprague Consulting, L.L.C. provide continued consulting services on the Marina Renovation project, as Consultant, to insure that the interests of the City are appropriately represented in renovation discussions and in the area of grant application processes as set forth in the Scope of Work detailed in Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA, THAT:

SECTION 1. The Mayor and City Clerk are authorized to execute the Amendment to the Professional Service Agreement with JH Sprague Consulting, L.L.C., as Consultant to assist the City with development of the marina renovation and in discussions of the various concept plan elements, and in the area of grant application processes, as specifically set forth in the Scope of Work in Exhibit "A".

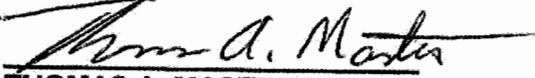
SECTION 2. The Interim Finance Director is authorized to make payment in the amount not to exceed \$72,000 from Account No. 001-0203-519-0-3406.

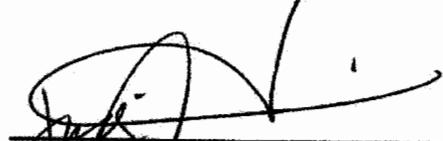
SECTION 3. This Resolution shall become effective upon its passage and approval by the City Council.

PASSED and APPROVED this 7TH day of MARCH, 2012.

RESOLUTION NO. 34-12
PAGE 2

APPROVED:

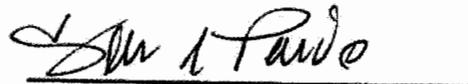

THOMAS A. MASTERS
MAYOR


JUDY L. DAVIS
CHAIRPERSON

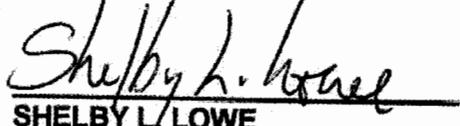
ATTEST:


CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK


BILLIE E. BROOKS
CHAIR PRO TEM


DAWN S. PARDO
COUNCILPERSON


CEDRICK A. THOMAS
COUNCILPERSON


SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: B. BROOKS

SECONDED BY: S. LOWE

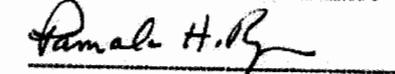
J. DAVIS AYE

B. BROOKS AYE

D. PARDO AYE

C. THOMAS AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY
DATE: 2/29/12

MEMORANDUM

TO: DANNY JONES, INTERIM DEPUTY CITY MANAGER
FROM:  PAMALA H. RYAN, CITY ATTORNEY
DATE: ¹MAY 22, 2013
RE: J. H. SPRAGUE CONSULTING, LLC

As requested I have reviewed the above referenced amendment for legal sufficiency. It is legally sufficient. However, it does not contain a signature line for legal sufficiency.

Thank you for your attention to this matter.

Attachments

PHR:syj

**PROFESSIONAL SERVICE AGREEMENT
BETWEEN THE
CITY OF RIVIERA BEACH, FLORIDA
AND
JH SPRAGUE CONSULTING, LLC.**

This Professional Service Agreement is entered in this 3rd day of ~~November~~, 2010, by and between the City of Riviera Beach (herein referred to as "City"), a municipal government existing under the laws of the State of Florida and JH Sprague Consulting Group, LLC, a Florida limited liability company, (herein referred to as "Consultant").

WITNESSETH:

WHEREAS, the "International Harbor at Riviera Beach" (the "Project") is a joint development project of the City of Riviera Beach (herein referred to as the "City") and the CRA; and

WHEREAS, the Board of Commissioners of the CRA approved the "International Harbor at Riviera Beach Conceptual Development Plan" ("Conceptual Plan") of Viking Developers, LLC (the "Developer-select") on February 10, 2010; and

WHEREAS, the City Council approved the "International Harbor at Riviera Beach Conceptual Development Plan" ("Conceptual Plan") of Viking Developers, LLC (the "Developer-select") on February 17, 2010; and

WHEREAS, the City desires Consultant to provide ongoing services to the City/CRA joint Project effort to assist the City and CRA with development of the marina renovation and in the area of grant application processes; and

WHEREAS, the City and the CRA will share in compensating the Consultant for services rendered in support of the Project.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties hereto agree as follows:

SECTION 1. PURPOSE

- A. The purpose of this Agreement is to contract with the Consultant as "Marina Grants Project Manager" to assist the City and the CRA with development of the marina renovation and including discussions of the various concept plan elements, and in the area of grant application processes, as specifically set forth in "Exhibit A."

SECTION 2. GENERAL TERMS AND CONDITIONS

- A. This Agreement shall commence on October 1, 2010 and shall terminate when the services are complete as identified in "Exhibit A", or when the Consultant has reached \$36,000, or unless terminated earlier in accordance with Section 4 of this Agreement.
- B. The Consultant shall fully perform the obligations identified in "Exhibit A" to the satisfaction of the City.
- C. The City and Consultant agree to be governed by applicable local, state and federal laws, rules and regulations.
- D. Modifications of this Agreement may be requested by any party. Changes, which are mutually agreed upon, shall be valid only when reduced to writing, duly signed by each party and attached to the original Agreement.
- E. The City agrees to:
 - 1. Provide all files, data, and information that are available as requested by the Consultant.
 - 2. Process all requests for payment in a timely manner.

SECTION 3. FUNDING/CONSIDERATION

- A. Services provided under this Agreement shall not exceed \$36,000.00.
- B. The Consultant will prepare and submit to the City an invoice detailing specific services provided. Payment for services will be made by the City within ten (10) days of the invoice date.
- C. The Consultant will provide the City with detailed invoices in support of the amounts billed and payable. Invoicing and payment details are more specifically identified in Attachment A.

SECTION 4. TERMINATION

This Agreement may be cancelled by the Consultant upon ten (10) days prior written notice to the City's representative in the event of substantial failure by the City to perform in accordance with the terms of this Agreement through no fault of the Consultant; provided the City shall fail to cure same within that ten (10) day period. It may also be terminated, in whole or in part, by the City, with or without cause, immediately upon written notice to the Consultant. Unless the Consultant is in breach of this Agreement, the Consultant shall be paid for services rendered to the City's satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the City the Consultant shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in progress, completed work, and other materials related to the terminated work to the City.
- D. Continue and complete all parts of the work that have not been terminated.

SECTION 5. PERSONNEL

The Consultant represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.

All of the services required hereunder shall be performed by the Consultant or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

The Consultant agrees that it is fully responsible to the City for the negligent acts and omissions of subcontractors and of persons either directly or indirectly employed by the Consultant. Nothing contained herein shall create any contractual relationship between any subcontractor and the City.

SECTION 6. REMEDIES

This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce this Agreement will be held in the State of Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

SECTION 7. INDEMNIFICATION

Each party to this Agreement agrees, to the extent permitted by law, to save, defend, reimburse, indemnify, and hold harmless the other parties, and the other parties respective officers, employees, servants or agents from each party's own negligence or willful misconduct and from any and all claims, demands, damages, liabilities, causes of actions, legal or administrative proceeds, judgments, interest, attorney's fees, costs and expenses arising in any manner directly or indirectly in connection with or incidental to the performance of this Agreement. Nothing in this provision shall be construed as consent by the parties to be sued, nor as a waiver of sovereign immunity beyond the limits provided for in Section 768.28, Florida Statutes.

SECTION 8. AVAILABILITY OF FUNDS

The City's performance and obligation to pay under this Agreement is contingent upon an annual budget for its purpose by the City Council.

SECTION 9. DELAYS AND EXTENSIONS OF TIME

The Consultant shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the Consultant or its subcontractors and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions.

Upon the Consultant's request, the City shall consider the facts and extent of any failure to perform the work and, if the Consultant's failure to perform was without it or its subcontractors fault or negligence the Agreement Schedule and/or any other affected provision of this Agreement shall be revised accordingly; subject to the City's rights to change, terminate, or stop any or all of the work at any time.

If the Consultant is delayed at any time in the process of the work by any act or neglect of the City or its employees, or by any other consultant employed by the City or by changes ordered by the City or any causes beyond the Consultant's control, or by delay authorized by the City pending negotiation or by any cause which the City shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the City may decide.

SECTION 10. REPRESENTATION AND NOTICE

In carrying out the terms of this Agreement, as more fully set forth in Exhibit "A" the City representative shall be the City Manager. Consultant representatives and/or employees shall report to the City representative for day to day reporting.

All notices provided under or pursuant to the Agreement shall be in writing, delivered either by hand, overnight express mail, or by first class, certified mail, return receipt requested, to the representatives identified below at the address set forth below:

For the City:

Ruth C. Jones
City Manager
600 W. Blue Heron Boulevard, C-234
Riviera Beach, FL 33404

For The Consultant:

John Sprague
JH Sprague Consulting LLC
10918 Larch CT
Palm Beach Gardens, FL 33418

SECTION 11. RECORD KEEPING

- A. All records submitted by the Consultant shall be kept for three years after the termination of this Agreement and shall be sufficient and complete to verify compliance with the requirements of this Agreement.
- B. The Consultant shall allow access to its records during normal business hours and upon reasonable advance requests of the City, its employees and agents.

SECTION 12. DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The Consultant shall deliver to the City's representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the City under this Agreement.

All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Agreement for or at the City's expense shall be and remain the City's property and may be reproduced and reused at the discretion of the City.

The City and the Consultant shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

SECTION 13. INDEPENDENT CONTRACTOR RELATIONSHIP

The Consultant is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the City. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the Consultant sole direction, supervision, and control. The Consultant shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Consultant's relationship and the relationship of its employees to the City shall be that of an Independent Contractor and not as employees or agents of the City.

The Consultant does not have the power or authority to bind the City in any promise, agreement or representation other than as specifically provided for in this Agreement.

SECTION 14. CONTINGENT FEES

The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm,

other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

SECTION 15. NON-DISCRIMINATION

The Consultant warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, political affiliation, marital status, handicap, or sexual orientation. Further, Consultant shall not discriminate or permit discrimination against any employee or an applicant for employment on the basis of race, color, sex, religion, political affiliation, natural origin, ancestry, marital status, sexual orientation or handicap.

SECTION 16. SEVERABILITY

Should any provision of this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, the same shall be deemed stricken here from and all other terms and conditions of this Agreement shall continue in full force and effect as if such invalid provision had never been made a part of the Agreement.

SECTION 17. ENTIRETY OF AGREEMENT

This Agreement represents the entire understanding between the parties. This Agreement may be modified and amended only by written instrument executed by parties hereto.

SECTION 18. VENUE

To the extent allowed by law, the venue for any action arising from this Agreement shall be in Palm Beach County, Florida.

SECTION 19. ATTORNEY'S FEES

Any costs or expense (including reasonable attorney's fees) associated with the enforcement of the terms and for conditions of this Agreement shall be borne by the respective parties, however, this clause pertains only to the parties to this Agreement.

SECTION 20. DELEGATION OF DUTY

Nothing contained herein shall deem to authorize the delegation of the constitutional or statutory duties of the officers of the City.

SECTION 21. EFFECTIVE DATE

This Agreement shall become effective upon the date first above written.

CONTRACT WITH THE CITY OF RIVIERA BEACH

IN WITNESS WHEREOF, the Parties unto this Contract have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

CONSULTANT:
JH SPRAGUE CONSULTING L.L.C.

BY: *Thomas A. Masters*
Thomas A. Masters
Mayor

BY: *John H. Sprague*
John H. Sprague

Attest:

By: *Carrie E. Ward* *7/13/10*
Carrie E. Ward
City Clerk, MMC

APPROVED AS TO LEGAL SUFFICIENCY

BY: *Pamala H. Ryan*
Pamala H. Ryan, City Attorney
DATE: *10/28/2010*

RCJ:apm110310.102710

Exhibit "A"
Scope of Services and Fee for Services Schedule
Marina Grants Project Manager
"International Harbor at Riviera Beach Project"

Redevelopment of the Marina District will require cooperation of the City, Community Redevelopment Agency (CRA), local property owners, and prospective development partners. The City is in need of the services of a "Marina Grants Project Manager" to assist the overall Project Manager provide professional support services to the International Harbor at Riviera Beach Project ("International Harbor Project" or the "Project"). The Marina Grants Project Manager will insure that the City optimizes the use of existing grant funds and will ensure that construction of marina improvements are completed in accordance with various grant requirements. In addition to the above, the Marina Grants Project Manager will identify and apply for additional grant funding; monitor grant administrative activities; assist with grant reporting; and, implement a coordinated grant strategy to optimize the use of existing and future grant funding for completion of the "Conceptual Development Plan" for the International Harbor project, which was approved by the Riviera Beach City Council on February 17, 2010 and the CRA Board of Commissioners on February 10, 2010.

The Marina Grants Project Manager will be responsible for the following scope of services.

1. Coordinate and administer present grant funding for marina construction with CITY staff, professional services providers, consultants, developers, and other governmental entities to insure that all grant requirements are met as to timelines, grant regulations, and construction.
2. Identify and apply for additional marina construction funding grants. Research grants that can be used for overall project development elements.
3. Work with City staff, CRA staff, and consultants/developers to implement various conceptual plan elements of the overall project.
4. Work with City staff, professional services providers and consultants, and developers on State lands dedication issues.
5. Work with City staff, agencies, and consultants on future marina expansion needs and lease requirements.
6. Assist City staff with grant reimbursement processing and grant reporting.
7. Implement a coordinated grant strategy to optimize the use of existing and future grant funding.
8. Assist City with marina and uplands planning and construction activities.

RESOLUTION NO. 146-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN UPDATED AGREEMENT WITH JH SPRAGUE CONSULTING, L.L.C. TO PROVIDE CONSULTATION SERVICES ON THE MARINA PROJECT TO ASSIST WITH THE DEVELOPMENT AND IMPLEMENTATION OF THE MARINA RENOVATION AND DEVELOP AND MONITOR GRANT APPLICATION PROCESSES, COMMENCING OCTOBER 1, 2010; AUTHORIZING THE INTERIM FINANCE DIRECTOR TO MAKE PAYMENTS NOT TO EXCEED \$36,000; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has approved the concept plan for the International Harbor at Riviera Beach Project; and

WHEREAS, the City desires to have JH Sprague Consulting, L.L.C. provide continued consulting services on the Marina Renovation project to insure that the interests of the City are appropriately represented in renovation discussions and in the area of grant application processes as set forth in the Scope of Work detailed in Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA, THAT:

SECTION 1. The Mayor and City Clerk are authorized to execute a contract with JH Sprague Consulting, L.L.C., as Consultant to assist the City with development of the marina renovation and in discussions of the various concept plan elements, and in the area of grant application processes, as specifically set forth in the Scope of Work in Exhibit "A".

SECTION 2. The Interim Finance Director is authorized to make payment in the amount not to exceed \$36,000 from Account No. 001-0203-519-0-3406.

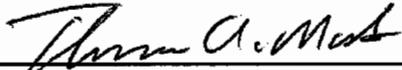
SECTION 3. This Resolution shall become effective upon its passage and approval by the City Council.

PASSED and APPROVED this 3 day of November, 2010.

RESOLUTION NO. 146-10

PAGE 2

APPROVED:



THOMAS A. MASTERS
MAYOR

DAWN S. PARDO
CHAIRPERSON

ATTEST:

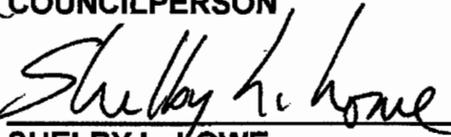


CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK


JUDY L. DAVIS
CHAIR PRO TEM


BILLIE E. BROOKS
COUNCILPERSON


CEDRICK A. THOMAS
COUNCILPERSON


SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: J. Davis

SECONDED BY: C. Thomas

D. PARDO aye

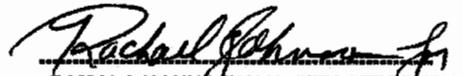
J. DAVIS aye

B. BROOKS aye

C. THOMAS aye

S. LOWE aye

REVIEWED AS TO LEGAL SUFFICIENCY


PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 10/28/10

RESOLUTION NO. 65-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA APPROVING THE CONTRACT WITH PUBLIC FINANCIAL MANGEMENT, INC. FOR FINANCIAL ADVISORY SERVICES COMMENCING JUNE 1, 2013 FOR A TERM OF THREE YEARS WITH UP TO TWO ADDITIONAL ONE YEAR EXTENSIONS; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE SAID CONTRACT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City entered into a contract with Dunlap & Associates for Financial Advisory Services on November 17, 2010 and,

WHEREAS, the contract with Dunlap & Associates expired on November 17, 2012 and,

WHEREAS, on February 7, 2013, the City issued a Request for Qualifications and fee proposals (RFQ No. 381-13) to retain the services of a financial advisor to provide specialized professional services in the form of financial analysis, debt structuring and issuance services and financial due diligence for major public/private development projects and,

WHEREAS, Public Financial Management, Inc. was the sole proposer and,

WHEREAS, Public Financial Management, Inc. was unanimously recommended by the selection committee and received only positive references and,

WHEREAS, Public Financial Management, Inc. has served as the City's Financial Advisor in the past and,

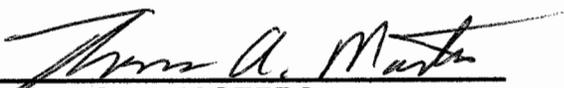
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, THAT:

SECTION 1. That the City Council approves said contract and authorizes the Mayor and City Clerk to execute the contract with Public Financial Management, Inc. for a three year term with up to two additional one-year extensions.

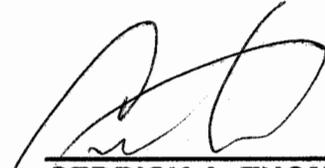
SECTION 2. That this Resolution shall take effect upon its passage and approval by the City Council.

PASSED AND APPROVED THIS 5TH DAY OF JUNE, 2013.

APPROVED:



THOMAS A. MASTERS
MAYOR

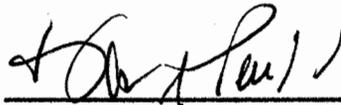


CEDRICK A. THOMAS
CHAIRPERSON

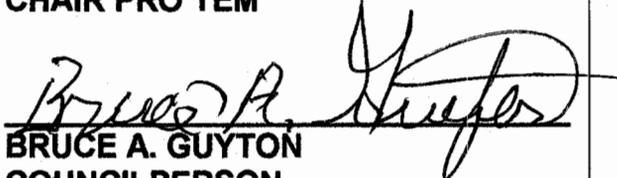
ATTEST:



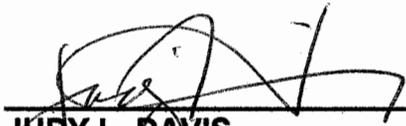
CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK



DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: B. GUYTON

SECONDED BY: J. DAVIS

D. PARDO NAY

J. DAVIS AYE

B. GUYTON AYE

C. THOMAS AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: _____

CONTRACT FOR FINANCIAL ADVISOR/PROFESSIONAL SERVICES

This Contract is made as of the 5th day of June, 2013 by and between the CITY OF RIVIERA BEACH, a Political Subdivision of the State of Florida, by and through its City Council, hereinafter referred to as the CITY, and Public Financial Management, Inc., a corporation authorized to do business in the State of Florida, hereinafter referred to as the FINANCIAL ADVISOR.

In consideration of the mutual promises contained herein, the CITY and the FINANCIAL ADVISOR agree as follows:

ARTICLE 1 – SERVICES

The FINANCIAL ADVISOR'S responsibility under this Contract is to provide professional/consultation services in the area of developing financing strategy and consultation, as more specifically set forth in the Scope of Work detailed in Exhibit "A".

Advisory services required by the City relating to the subject matter of this Contract may include services rendered by Financial Advisor's investment advisory affiliate PFM Asset Management LLC ("PFMAM"). Any such services and related compensation agreed between the City and PFMAM will be described in a separate addendum to which the relevant terms of this Contract will be applicable.

The CITY'S representative/liaison during the performance of this Contract shall be Randy M Sherman, Director of Finance and Administrative Services.

ARTICLE 2 - SCHEDULE

The Financial Advisor shall commence services on June 1, 2013 for a three year term, with the option to renew for two additional twelve month periods to be authorized by the City Council.

ARTICLE 3 – PAYMENTS TO FINANCIAL ADVISOR

- A. The CITY agrees to compensate the FINANCIAL ADVISOR in upon the completion of bond financing, or on an hourly basis for services other than those related to the issuance of bonds. The Financial Advisor shall be paid in accordance with Exhibit "B" from bond proceeds, which will not be paid from the Cities General Fund Operating Account. The total and cumulative amount of this contract shall not exceed the amount of funds annually budgeted for these services. Reimbursable expenses, as identified in said fee proposal, incurred during the course of performance of this contract shall be itemized and invoiced separately. The CITY shall not reimburse the FINANCIAL ADVISOR for any travel costs incurred as a direct result of the FINANCIAL ADVISOR providing deliverables to the CITY in pursuance of the scope of work contained in Exhibit A, attached hereto and made part hereof.
- B. Invoices received from the FINANCIAL ADVISOR pursuant to this Contract will be reviewed and approved by the CITY'S representative, indicating that services have been rendered in conformity with the

Contract Invoices will normally be paid within thirty (30) days following the CITY representative's approval.

- C. All requests for payment of expenses eligible for reimbursement under the terms of this Contract shall include copies of said receipts, invoices, or other documentation acceptable to the CITY OF RIVIERA BEACH Finance Department. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the scope of work described in this Contract. Any travel, per diem, mileage, meals, or lodging expenses which may be reimbursable under the terms of this Contract will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.
- D. Final Invoice: In order for both parties herein to close their books and records, the FINANCIAL ADVISOR will clearly state "final invoice" on the FINANCIAL ADVISOR'S final/last billing to the CITY. This certifies that all services have been properly performed and all charges and costs have been invoiced to the CITY OF RIVIERA BEACH. Since this account will thereupon be closed, any and other further charges if not properly included on this final invoice are waived by the FINANCIAL ADVISOR.

ARTICLE 4 – TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Contract by the FINANCIAL ADVISOR shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, overhead charges, and other costs used determined the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract.

ARTICLE 5 – TERMINATION

This Contract may be canceled by the FINANCIAL ADVISOR upon thirty (30) days' prior written notice to the CITY'S representative in the event of substantial failure by the CITY to perform in accordance with the terms of this Contract through no fault of the FINANCIAL ADVISOR. It may also be terminated, in whole or in part, by the CITY, with or without cause, immediately upon written notice to the FINANCIAL ADVISOR. Unless the FINANCIAL ADVISOR is in breach of this Contract, the FINANCIAL ADVISOR shall be paid for services rendered to the CITY'S satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the CITY the FINANCIAL ADVISOR shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in process, completed work, and other materials related to the terminated work to the CITY.
- D. Continue and complete all parts of the work that have not been terminated.

ARTICLE 6 – PERSONNEL

The FINANCIAL ADVISOR represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the CITY.

All of the services required herein under shall be performed by the FINANCIAL ADVISOR or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the FINANCIAL ADVISOR's key personnel, must be made known to the CITY'S representative and written approval must be granted by the CITY'S representative before said change or substitution can become effective.

The FINANCIAL ADVISOR warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

All of the Company's personnel (and all Subcontractors) while on City premises, will comply with all City requirements governing conduct, safety and security.

ARTICLE 7 – SUBCONTRACTING

The CITY reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor. The FINANCIAL ADVISOR is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities. If a subcontractor fails to perform or make progress, as required by this Contract, and it is necessary to replace the subcontractor to complete the work in a timely fashion the FINANCIAL ADVISOR shall promptly do so, subject to acceptance of the new subcontractor by the CITY.

ARTICLE 8 – FEDERAL AND STATE TAX

The CITY is exempt from payment of Florida State Sales and Use Taxes. The CITY will sign an exemption certificate submitted by the FINANCIAL ADVISOR. The FINANCIAL ADVISOR shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with CITY, nor is the FINANCIAL ADVISOR authorized to use the CITY'S Tax Exemption Number in securing such materials.

The FINANCIAL ADVISOR shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this contract.

ARTICLE 9 – AVAILABILITY OF FUNDS

The CITY's performance and obligation to pay under this contract is contingent upon an annual appropriation for its purpose by the CITY OF RIVIERA BEACH COUNCIL.

ARTICLE 10 – INSURANCE

- A. Prior to execution of this Contract by the CITY, the FINANCIAL ADVISOR shall provide certificates evidencing insurance coverages as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the FINANCIAL ADVISOR has obtained insurance of the type, amount, and classification as required for strict compliance with the ARTICLE. FINANCIAL ADVISOR will not materially alter any of the insurance policies currently in force and relied on in its proposal. Further, FINANCIAL ADVISOR will not reduce any coverage amount below the limits specified in the RFP. Compliance with the foregoing requirements shall not relieve the FINANCIAL ADVISOR of its liability and obligations under this Contract.
- B. The FINANCIAL ADVISOR shall maintain during the term of this Contract, standard Professional Liability Insurance in the minimum amount of \$500,000 per occurrence.
- C. The FINANCIAL ADVISOR shall maintain, during the life of this Contract, commercial general liability, including contractual liability insurance in the amount of \$500,000 per occurrence to protect the FINANCIAL ADVISOR from claims for damages for bodily and person injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the FINANCIAL ADVISOR or by anyone directly employed by or contracting with the FINANCIAL ADVISOR.
- D. The FINANCIAL ADVISOR shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of \$500,000 combined single limit for bodily injury and property damages liability to protect the FINANCIAL ADVISOR from claims for damages for bodily and personal property damages liability to protect the FINANCIAL ADVISOR from claims for damages for bodily and person injury, including death, as well as from claims for property damage, which may arise from the, use, or maintenance of non-owned automobiles, including rented automobiles whether such operations be by the FINANCIAL ADVISOR or by anyone directly or indirectly employed by the FINANCIAL ADVISOR.
- E. The FINANCIAL ADVISOR shall maintain, during the life of this Contract, adequate Workers' Compensation Insurance and Employer's Liability Insurance in at least such amounts as are required by law for all of its employees per Florida Statute 440.02.
- F. All insurance, other than Professional Liability and Workers' Compensation, to be maintained by the FINANCIAL ADVISOR shall specifically include the CITY as an "Additional Insured".
- G. The CITY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, reject or accept any required policies of insurance, including limits, coverages, or endorsements, therein from time to time throughout the term of this Contract. The CITY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition or failure to operate legally.

ARTICLE 11 – INDEMNIFICATION

The FINANCIAL ADVISOR shall indemnify and hold harmless and defend the CITY, its agents, servants, and employees from and against any and all claims, liabilities, losses, causes of action, and costs, including, but not limited to, reasonable attorney's fees (at the trial and appellate levels), which may arise from any negligent act or omission of the FINANCIAL ADVISOR, its agents, servants, or employees in the performance of services under this Contract. Nothing contained in this Article shall be construed or interpreted as consent by the CITY to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

ARTICLE 12 – SUCCESSORS AND ASSIGNS

The CITY and the FINANCIAL ADVISOR each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the CITY nor the FINANCIAL ADVISOR shall assign, sublet, convey or transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the CITY which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the CITY and the FINANCIAL ADVISOR.

ARTICLE 13 – DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES.

All claims arising out of this Contract or its breach shall be submitted first to mediation in accordance with the local rules for mediation in Palm Beach County, Florida. The parties shall share the mediator's fee equally. The mediation shall be held in Palm Beach County, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 14 – CONFLICT OF INTEREST

The FINANCIAL ADVISOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Florida Statutes 112.311. The FINANCIAL ADVISOR further represents that no person having any interest shall be employed for said performance.

The FINANCIAL ADVISOR shall promptly notify the CITY's representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the FINANCIAL ADVISOR'S judgment or quality of services being

provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the FINANCIAL ADVISOR may undertake and request an opinion of the CITY as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into the by the FINANCIAL ADVISOR. The CITY agrees to notify the FINANCIAL ADVISOR of its opinion by certified mail within thirty (30) days of receipt of notification by the FINANCIAL ADVISOR. If, in the opinion of the CITY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the FINANCIAL ADVISOR, the CITY shall so state in the notification and the FINANCIAL ADVISOR shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the CITY by the FINANCIAL ADVISOR under the terms of this Contract.

ARTICLE 15 – EXCUSABLE DELAYS

The FINANCIAL ADVISOR shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the FINANCIAL ADVISOR or its subcontractors and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions.

Upon the FINANCIAL ADVISOR’S request, the CITY shall consider the facts and extent of any failure to perform the work, and if the FINANCIAL ADVISOR’S failure to perform was without it or its subcontractors fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly; subject to the CITY’S rights to change, terminate, or stop any or all of the work at any time.

ARTICLE 16 – ARREARS

The FINANCIAL ADVISOR shall not pledge the CITY’S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The FINANCIAL ADVISOR further warrants and represents that it has no obligations or indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 17 – DISCLOSURE AND OWNERSHIP DOCUMENTS

The FINANCIAL ADVISOR shall deliver to the CITY’S representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the CITY under this Contract.

All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the CITY or at its expense will be kept confidential by the FINANCIAL ADVISOR and will not be disclosed to any other party, directly or indirectly, without the CITY’S prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the CITY’S expense shall be and remain the CITY’S property and may be reproduced and reused at the discretion of the CITY.

The CITY and the FINANCIAL ADVISOR shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

ARTICLE 18 – INDEPENDENT CONTRACTOR RELATIONSHIP

The FINANCIAL ADVISOR is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the FINANCIAL ADVISOR'S sole direction, supervision, and control. The FINANCIAL ADVISOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the FINANCIAL ADVISOR'S relationship and the relationship of its employees to the CITY shall be that of an Independent Contractor and not as employees or agents of the City.

The FINANCIAL ADVISOR does not have the power or authority to bind the CITY in any promise, agreement or representation other than specifically provided for in this Agreement.

ARTICLE 19 – CONTINGENT FEES

The FINANCIAL ADVISOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the FINANCIAL ADVISOR to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the FINANCIAL ADVISOR, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the aware of making of this Contract.

ARTICLE 20 – ACCESS AND AUDITS

The FINANCIAL ADVISOR shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of this Contract. The CITY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the FINANCIAL ADVISOR'S place of business.

ARTICLE 21 – NONDISCRIMINATION

The FINANCIAL ADVISOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national original, ancestry, marital status, or sexual orientation.

ARTICLE 22 – ENFORCEMENT COSTS

All parties shall be responsible for their own attorneys fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to the Contract's execution, validity, the obligations provided therein, or

performance of this Contract, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Contract.

ARTICLE 23 – AUTHORITY TO PRACTICE

The FINANCIAL ADVISOR hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the CITY’s representative upon request.

ARTICLE 24 – SEVERABILITY

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 25 – PUBLIC ENTITY CRIMES

As provided in F.S. 287.132-133 by entering into this Contract or performing any work in furtherance hereof, the contractor certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

ARTICLE 26 – MODIFICATIONS OF WORK

The CITY reserves the right to make changes in Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the FINANCIAL ADVISOR of the CITY’S notification of a contemplated change, the FINANCIAL ADVISOR shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the CITY of any estimated change in the completion date and (3) advise the City if the contemplated change shall affect the FINANCIAL ADVISOR’S ability to meet the completion dates or schedules of this Contract.

If the CITY so instructs in writing, the FINANCIAL ADVISOR shall suspend work on that portion of the Scope of Work affected by a contemplated change, pending the CITY’S decision to proceed with the change.

If the CITY elects to make the change, the CITY shall initiate a Contract Amendment and the FINANCIAL ADVISOR shall not commence work on any such change until such written amendment is signed by the FINANCIAL ADVISOR and approved and executed by the City Council for the CITY OF RIVIERA BEACH.

ARTICLE 27 – NOTICE

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the CITY shall be mailed to:

Director of Finance and Administrative Services
City of Riviera Beach
600 West Blue Heron Boulevard
Riviera Beach, FL 33404

and if sent to the FINANCIAL ADVISOR shall be mailed to:

Sergio Masvidal, Director
Public Financial Management, Inc.
255 Alhambra Circle, Suite 404
Coral Gables, FL 33134

ARTICLE 28 - PREPARATION

This Contract shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

ARTICLE 29 - MATERIALITY

All provisions of the Contract shall be deemed material, in the event FINANCIAL ADVISOR fails to comply with any of the provisions contained in this Contract or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Contract and CITY may at its option and without notice terminate this Contract.

ARTICLE 30 - REPRESENTATIONS/BINDING AUTHORITY

FINANCIAL ADVISOR has full power, authority and legal right to execute and deliver this Contract and perform all of its obligations under this Contract. By signing this Contract, Sergio Masvidal, Director, hereby represents to the CITY that he has the authority and full legal power to execute this Contract and any and all documents necessary to effectuate and implement the terms of this Contract on behalf of the FINANCIAL ADVISOR for whom he is signing and has the authority to bind and obligate such party with respect to all provisions contained in this Contract.

ARTICLE 31 – ENTIRETY OF CONTRACTUAL AGREEMENT

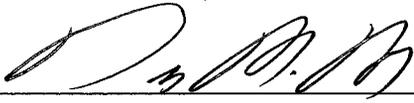
The CITY and the FINANCIAL ADVISOR agree that this Contract, with exhibits, sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 26 – Modifications of Work.

IN WITNESS WHEREOF, the Parties unto this Contract have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

PUBLIC FINANCIAL MANAGEMENT, INC.


THOMAS A. MASTERS, MAYOR

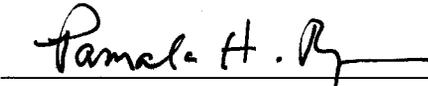

DAVID M. MOORE, MANAGING DIRECTOR

(MUNICIPAL SEAL)

ATTEST:


CARRIE E. WARD, MMC
CITY CLERK

REVIEWED AS TO LEGAL SUFFICIENCY


Pamala H. Ryan, City Attorney
City of Riviera Beach

DATE: 6/4/13

Exhibit A

SCOPE OF SERVICE

On an as needed basis, the consultant will perform financial/analytical services for a variety of assignments as requested by the Office of the City Manager and City of Riviera Beach Finance Department. At a minimum, the services provided may include, but need not necessarily be limited to the following:

1. **SERVICES RELATED TO FINANCIAL PLANNING**

- A. Assist the City in the design, implementation, and monitoring of the financing element of the City of Riviera Beach five (5) year capital plan. This task includes an overall evaluation of all financing sources presently or projected to be available to the City, including internally generated funds, debt financing, leasing, federal or state grants, private sources, and various combinations of all these sources.
- B. Prepare cash flow analysis for each of the various major capital improvements included in the City 5 year capital improvement plan and any other project that may not be included in the capital improvement plan.
- C. Prepare a comprehensive analysis of the City's current debt and financial capacity. This analysis shall include a long-term financial feasibility analysis for each significant capital improvement project contained in the City's 5 year capital plan for which financing must be considered. Implicit in this analysis is an evaluation of the impact of the operating costs of these improvements on the financial capacity of the City.
- D. The financial advisor should also review all indebtedness of the City and provide recommendations relative to the refinancing or early extinguishment of said obligations.
- E. Provide an analysis of all available financing options. As stated previously, this analysis should not be limited to a consideration of which type of debt should be issued to finance a particular project, but should also consider whether or not a financing alternative to debt exists.
- F. In the event that the issuance of debt is determined to represent the most viable financing alternative, this analysis should not necessarily be limited to the more traditional forms of financing available to governmental entities, but should also recognize some of the alternative financing methods available, such as sale/leaseback, pooled debt participation, even taxable instruments, new markets tax credit, and federal, state and local grants.

2. **SERVICES RELATED TO DEBT ISSUANCE**

Prepare a Debt Financing Structure. This is a complex function which will generally consist of, but need not necessarily be limited to, development of the following structural components:

Exhibit A

SCOPE OF SERVICE

- A. Establishment of sizing parameters for the debt to be issued, taking into consideration both the cash flow requirements associated with the capital improvements being financed, as well as reinvestment yields estimated to be available during the term of the project.
- B. Determination of a maturity schedule for the proposed debt. This evaluation should take into account the estimated useful life of the project to be constructed utilizing the proceeds of the debt, as well as future demands upon the funds pledged for the repayment of the debt. Functionally related to the proposed maturity schedule is a determination of whether or not to use exclusively serial instruments or an appropriate combination of term and serial obligations.
- C. Recommendation of an appropriate credit structure. One of the most critical elements in the design of any capital facility debt financing is a determination of source of funds to be used to repay the debt which is acceptable from the perspective of both the issuer and the purchaser. This evaluation will include recommendations as to appropriate primary as well as secondary revenue sources to be pledged for the repayment of the debt, and should also give serious consideration to the form of the pledge (i.e. Revenue vs. General Obligation).
- D. Evaluate the use of appropriate types of credit enhancements. This analysis should result in recommendations relating to, among other things, the use of bond insurance or letters of credit.
- E. Make recommendations concerning the timing of the issuance of debt obligations to fund the improvements. This analysis includes a review not only of when to issue the debt to take advantage of the most favorable market conditions, but also should include a recommendation as to the desirability of utilizing interim financing techniques, such as bond or revenue anticipation notes or lines of credit.
- F. Design and implement appropriate mechanical features of the debt issued. This item includes making recommendations pertaining to the physical form of the obligations issued, including recommendations relating to the feasibility of issuing book entry only obligations.
- G. The final task in preparing the debt financing structure is to determine whether the obligations should be sold competitively, negotiated, or placed privately. In the event that a negotiated sale is the preferred method, the financial advisor will be responsible for the preparation of a request for proposals for underwriting services, and will assist the City in the selection process.
- H. Assist the City and bond counsel, as necessary, in any required validation proceedings.

Exhibit A

SCOPE OF SERVICE

- I. Prepare, and make presentations on behalf of the City, to one or more of the nationally recognized credit rating organizations in order to obtain the highest possible credit rating for the obligations of the City. This task envisions not only obtaining a rating for the City but also ensuring the maintenance of the ratings obtained, where possible.
- J. Assist the City in the procurement of various types of professional services required in conjunction with the issuance of the obligations, including, but not limited to, the following:
 - 1. Investment Banking (Underwriting) Services (negotiated sale only)
 - 2. Bond Counsel
 - 3. Printing Services (for both the official statements as well as the actual bond forms)
 - 4. Bond Registration, Paying Agent, and Trustee Services (if applicable)
 - 5. Verification Services (for refunding issues)
 - 6. Arbitrage Rebate Calculation Services
 - 7. Disclosure Services

It is intended that the inclusion of this responsibility within the scope of services provided by the financial advisor also envisions the post issuance evaluation by the financial advisor of the services so obtained.
- K. Provide continuing updates on the impact of current or proposed state or federal legislation, or the effects of changing market conditions that could potentially affect the City's financing plans.
- L. Attend City Council meetings and other scheduled City meetings as requested, with reasonable advance notice.
- M. Evaluate the projected cash flow from any revenue sources that may constitute security for any obligation incurred.
- N. Work with the City and bond counsel to recommend size, financial structure, specific terms and conditions of any financial arrangement.

Exhibit A

SCOPE OF SERVICE

- O. Assist the City in the formation of a financing team along with a list of the required services of underwriter, trustee, bond rating agency, legal counsel, and any other professional service as required.
- P. Assist the City with determining the costs required to underwrite any proposed financing arrangement.

3. SERVICES RELATED TO COST-BENEFIT AND RISK ANALYSIS AND RELATED DUE DELIGENCE FOR PROSPECTIVE PUBLIC/PRIVATE DEVELOPMENT OPPORTUNITIES

On an as needed basis, the consultant will perform specialized financial/analytical services in relation to proposed public/private development projects. At a minimum, the selected Financial Advisor will provide the following services:

Provide economic analysis of proposed development property that illustrates the economic and real estate value of the property if developed as expected (the assumed baseline) and the economic and real estate potential if developed to maximize the economic development potential to the City, including assessing options to leverage public actions and investments. A successful product for the City shall include:

- A. Highest and best use analyses; alternative financing options; cost benefit analysis; fair market value and re-use analyses; evaluation of development cost; evaluation of financial projections and corporate due diligence.
- B. Identification and linkages between public-policy options and public benefit.
- C. Sensitivity analysis of uncertain variables.
- D. Discussion of risk and trade-offs from the City and Developer's perspective.
- E. Evaluation of development scenario to determine whether there are additional opportunities that could increase the return on investment and provide significant economic development to the City of Riviera Beach beyond that proposed in the developer's baseline scenario.
- F. Ensure the appropriate level of due diligence is completed to provide assurance the developer has the financial capacity and strength to complete the proposed development project; and the developer is in compliance with all regulatory bodies.
- G. Ensure the City only provides a level of public subsidy consistent with the anticipated return on investment (including economic development) and receives a level of return appropriate for the inherent risks associated with the proposed phased strategy of the development project.

- H. Assist in the negotiation of appropriate levels of Return on Investment (ROI) on the City' behalf consistent with the amount of risk and level of subsidy being requested by the developer.
- I. Analyze and report on the advantages and disadvantages of each proposed financing arrangements.

Exhibit B

FEE SCHEDULE

Transactional Fee Schedules:

<u>Bond Size</u>	<u>Incremental Fee Per \$1,000</u>
Up to 50,000,000	0.90
Over 50,000,001	0.75

A minimum fee of \$20,000 per transaction and a maximum of \$75,000 per transaction.

<u>Experience Level</u>	<u>Hourly Rate</u>
Managing Director, Director, and Senior Managing consultant <i>David Moore, Sergio Masvidal, Marissa Wortman (or equivalent)</i>	\$180.00
Senior analyst and Analyst <i>Nicklas Rocca, Pedro Varone (or equivalent)</i>	\$150.00
Administrative Staff	\$25.00

Out-of-Pocket Expenses

The lesser amount of not to exceed \$1,000 per issue, or actual costs (travel, lodging, meals, postage, telephone, copies, printing, all other miscellaneous expenses) excluding New York travel which is billed at cost.

Type of Expense

Photocopies	\$0.10 per page for Black and White \$1.00 per page for Color Printer
Facsimile	\$1.00 per page
Long Distance Telephone	At Cost
Conference Calls	At Cost
Travel	In accordance with F.S.12.061
Mileage	In accordance with F.S.112.061
Postage	At Cost
Courier, Overnight Delivery	At Cost

RESOLUTION NO. 66-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA APPROVING TOTAL SETTLEMENT OF THE MATTER OF ONDRA SCOTT-STYLES V. CITY OF RIVIERA BEACH AND APPROVING THE TOTAL SETTLEMENT AMOUNT OF \$80,000.00 AS COMPLETE AND FINAL SETTLEMENT OF INDEMNITY COMPENSATION, FURTHER LIABILITY FOR FUTURE MEDICAL CARE AND REHABILITATION TO THE CLAIMANT, INCLUSIVE OF ATTORNEY'S FEES AND COSTS; FURTHER AUTHORIZING PAYMENT FROM THE CITY'S WORKERS' COMPENSATION SETTLEMENT ACCOUNT NUMBER 602-0539-513-0-45 08 TO BE REIMBURSED BY THE INSURANCE CARRIER AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ms. Scott-Styles suffered an on the job injury on December 23, 1994; and

WHEREAS, Ms. Scott-Styles has continuously obtained medical care over the past nineteen (19) years for her workers' compensation injury; and

WHEREAS, the City's Workers' Compensation Attorney and the City's Insurance Administrator have agreed that the City should settle this claim.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA as follows:

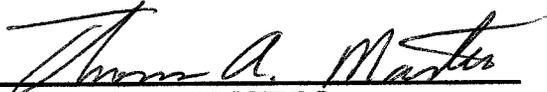
SECTION 1. That the City Council hereby authorizes settlement in the matter of Ondra Scott-Styles v. City of Riviera Beach for payment of indemnity compensation, further liability for future medical care and rehabilitation to the claimant, inclusive of Attorney's fees and costs of the Workers' Compensation claim in the total amount of \$80,000.00.

SECTION 2. That the settlement amount of \$80,000.00 shall be paid from the City's Workers' Compensation Settlement Account No. 602-0539-513-0-4508, said amount to be reimbursed by the insurance carrier and paid after Ms. Scott-Styles executes a general release in favor of the City.

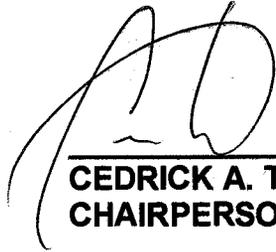
SECTION 3. This Resolution shall take effect upon its passage and approval.

PASSED AND APPROVED this 5 day of June, 2013.

APPROVED:



THOMAS A. MASTERS
MAYOR

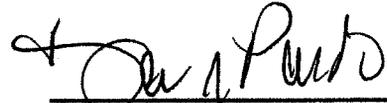


CEDRICK A. THOMAS
CHAIRPERSON

ATTEST:



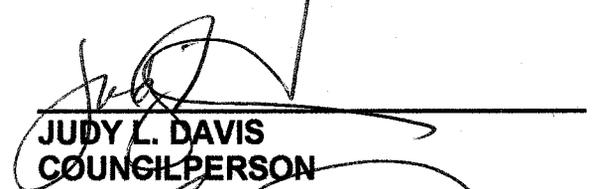
CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK



DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: J. DAVIS

SECONDED BY: B. GUYTON

B. GUYTON AYE

J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: _____

RESOLUTION NO. 67-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING SETTLEMENT IN THE MATTER OF LATANZA MCNEIL V. THE CITY OF RIVIERA BEACH, AND BRIAN JACKSON, CASE NO.: 9:12:-CV-81053-CIV-WILLIAMS IN THE TOTAL AMOUNT OF \$30,000; AUTHORIZING GALLAGHER BASSETT TO MAKE PAYMENT ON BEHALF OF THE CITY AFTER RECEIVING A GENERAL RELEASE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, this case arose out of an incident that occurred on March 8, 2008, in the West 9th Street area of Riviera Beach between Plaintiff, Latanza McNeil and City of Riviera Beach police officers, which resulted in Ms. McNeil's arrest; and

WHEREAS, Plaintiff alleges she incurred significant physical injuries from the incident and in September 2012, Ms. McNeill filed a lawsuit against the City and Officer Brian Jackson, seeking damages for the pain and suffering; and

WHEREAS, the parties participated in Federal mediation, and have tentatively agreed to settle the case for \$30,000, pending City Council approval.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

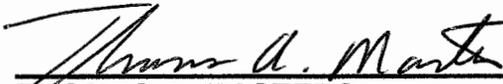
SECTION 1. That settlement in the matter of *Latanza McNeil v. City of Riviera Beach, Florida and Brian M. Jackson, Case No.: 9:12:-CV-81053-CIV-WILLIAMS*, is hereby approved in the total amount of \$30,000, which includes attorneys fees and costs.

SECTION 2. That Gallagher Bassett Services is authorized to make payment on behalf of the City, after receiving a general release from Ms. O'Neill.

SECTION 3. That this resolution shall take effect immediately upon its passage and approval by City Council.

PASSED and APPROVED this 5TH day of June, 2013.

APPROVED:



THOMAS A. MASTERS
MAYOR

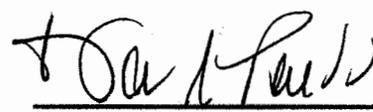


CEDRICK A. THOMAS
CHAIRPERSON

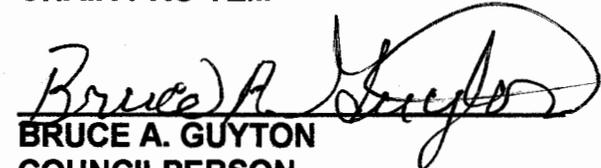
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CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK



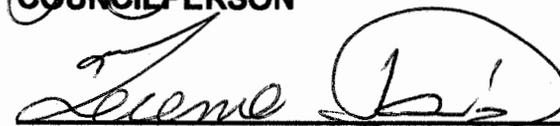
DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: J. DAVIS

SECONDED BY: B. GUYTON

C. THOMAS AYE

D. PARDO AYE

B. GUYTON AYE

J. DAVIS AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: _____

RESOLUTION NO. 68-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING RESOLUTION # 18-12, BY CORRECTING WORK ORDER ONE AMOUNT WITH MARINETEK NORTH AMERICA OF ST. PETERSBURG FLORIDA TO READ \$1,109,688.00 ; AUTHORIZING THE DIRECTOR OF FINANCE AND ADMINISTRATIVE SERVICES TO CORRECT THE WORK ORDER AMOUNT AND ADJUST THE PURCHASE ORDER ACCORDINGLY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 1, 2012, the City of Riviera Beach awarded a five (5) year contract in the amount of \$5,048,441.00 (for phases one and two), and approved work orders number one in the amount of \$1,009,688.00 and on June 20, 2012, work order two in the amount of \$2,248,535.00; and

WHEREAS, the amount of work order number one should have been \$1,109,688.00 but was inadvertently written as \$1,009,688 based on an early version of the work order; and

WHEREAS, the correct amounts were reflected in work order two and the total for phase one remains the same (\$3,358,223.00) as was budgeted and contracted for. This resolution does not increase the budget or have any adverse financial impact on grants or overall funding.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

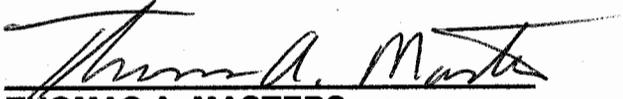
SECTION 1. That the City Council approves the amendment to Resolution 123-11 for work order one correcting the amount to read \$1,109,688.00.

SECTION 2. The Director of Finance and Administrative Services is authorized to correct work order one amount and adjust the affected purchase order accordingly.

SECTION 3. This Resolution shall become effective upon its passage and approval by City Council.

PASSED AND APPROVED this 5 day of June, 2013.

APPROVED:



THOMAS A. MASTERS
MAYOR



CEDRICK A. THOMAS
CHAIRPERSON

ATTEST:



CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK



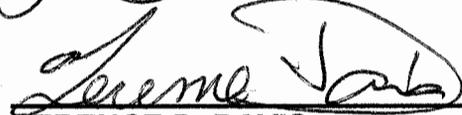
DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: B. GUYTON

SECONDED BY: D. PARDO

B. GUYTON AYE

J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS NAY

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: _____

RESOLUTION NO. 69-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING WORK ORDER NUMBER FOUR WITH MARINETEK NORTH AMERICA OF ST. PETERSBURG FLORIDA IN THE AMOUNT OF \$1,645,970.00 FOR MANUFACTURE AND DELIVERY OF THE FIXED AND FLOATING DOCK PRODUCTS FOR PHASE TWO OF THE MARINA PROJECT; AUTHORIZING THE DIRECTOR OF FINANCE AND ADMINISTRATIVE SERVICES TO MAKE PAYMENT FROM THE APPROPRIATE GRANT FUND ACCOUNT NUMBER 422-0000-575-4-6251; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 1, 2012, the City of Riviera Beach awarded a five (5) year contract with Marinetek N.A. Inc., and has approved work orders number one through three totaling \$ 3,790,033.00; and

WHEREAS, the City completed phase one of the marina project on December 28, 2012 and now wishes to move forward with phase two of the project. The approval of work order four will allow the manufacture for the fixed and floating dock components, specifically the balance of the promenade docks and dock "D" and "D1";and

WHEREAS, the manufacturing and delivery of the dock products and coordination with other trades, is essential for completing phase two of the marina project.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. That the City Council approves work order four with Marinetek North America of St. Petersburg Florida, in the amount of \$1,645,970.00 to complete the manufacture and delivery of the dock products for phase two of the project.

SECTION 2. The Director of Finance and Administrative Services is authorized to appropriate funds from the Florida Inland Navigation District, Federal Boating Improvement Program (FBIP) and matching funds provided by the interlocal agreement between the City/CRA, with the payment being made the same.

SECTION 3. That the City Manager is authorized to approve change orders not to exceed twenty percent (20%) of the work order amount.

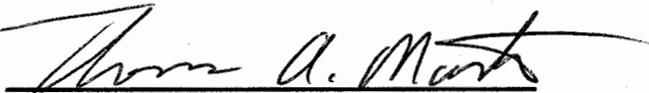
SECTION 4. This Resolution shall become effective upon its passage and approval by City Council.

RESOLUTION NO. 69-13

PAGE 2

PASSED AND APPROVED this 6TH day of JUNE, 2013

APPROVED:



THOMAS A. MASTERS
MAYOR

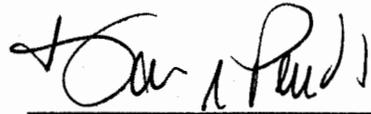


CEDRICK A. THOMAS
CHAIRPERSON

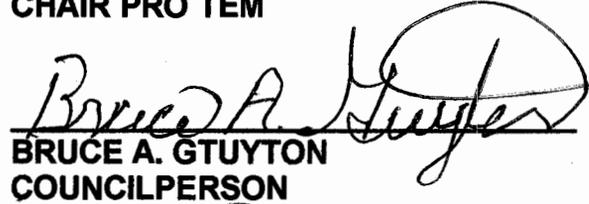
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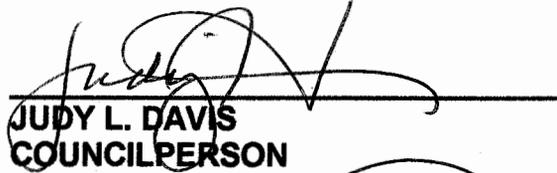
CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK



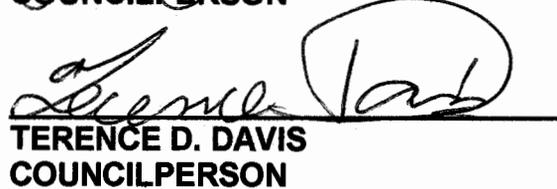
DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: J. DAVIS

SECONDED BY: B. GUYTON

B. GUYTON AYE

J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: _____

RESOLUTION NO. 70-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AWARING BID NO. 394-13 AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE PROPOSED MATERIALS AND INSTALLATION CONTRACT WITH KOLDAIRE, INC. OF SUNRISE, FLORIDA FOR THE INSTALLATION OF SIX NEW HVAC UNITS AT CITY HALL IN THE AMOUNT OF \$39,247.00; AUTHORIZING THE CITY MANAGER TO APPROVE CHANGE ORDERS UP TO TEN PERCENT (10%); AUTHORIZING THE DIRECTOR OF FINANCE AND ADMINISTRATIVE SERVICES TO MAKE PAYMENT FOR SAME FROM ACCOUNT NUMBER 310-1123-519-1-6251; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Riviera Beach City Hall is in need of new Heating, Ventilation and Air Conditioning (HVAC) units to replace the current aged units; and

WHEREAS, the City's Purchasing Department solicited bids for the installation of the new units with Koldaire, Inc., being the lowest responsive and responsible bidder; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1: The City Council accepts the bid proposal and awards a Materials and Installation Contract to Koldaire Inc., the lowest responsive and responsible bidder, in the amount of \$39,247.00 for the installation of new HVAC units at City Hall.

SECTION 2: The Mayor and City Clerk are authorized to execute the Construction Services Contract.

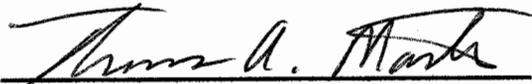
SECTION 3: The Director of Finance and Administrative Services is authorized to make payment for same from account number 310-1123-519-1-6251.

SECTION 4: That the City Manager shall have authority to approve change orders in an amount not to exceed ten percent (10%) of the contract amount.

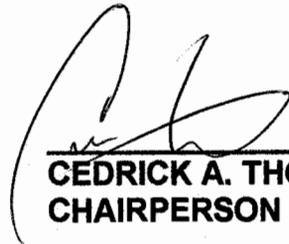
SECTION 5: This Resolution shall take effect immediately upon its passage and approval.

PASSED AND APPROVED this 5TH day of JUNE, 2013.

APPROVED:



THOMAS A. MASTERS
MAYOR

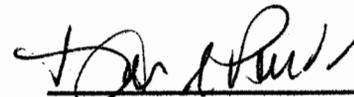


CEDRICK A. THOMAS
CHAIRPERSON

ATTEST:



CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK



DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: D. PARDO

SECONDED BY: B. GUYTON

B. GUYTON AYE

J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS NAY

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: _____

MATERIALS AND INSTALLATION CONTRACT

THIS CONTRACT made and entered into this 5 day of June, 2013 by and between Koldaire, Inc., hereinafter referred to as "Independent Contractor," whose mailing address is 4659 NW 103rd Avenue, Sunrise, Florida 33351 and the CITY OF RIVIERA BEACH, FLORIDA, a municipal corporation, hereinafter referred to as "City," whose address is 600 West Blue Heron Boulevard, Riviera Beach, Florida, 33404.

In consideration of the mutual covenants and promises set forth herein, the parties to this Contract do hereby agree as follows:

1. The City agrees to purchase six (6) new Lennox model heating, ventilation and air conditioning (HVAC) units from the Independent Contractor to be installed by Independent Contractor at City Hall located at 600 West Blue Heron Blvd., Riviera Beach, FL 33404. The specifications for the project are more specifically set out in the Bid documents attached as Exhibit "A".
2. Independent Contractor agrees to be bound by all the terms and conditions as set forth in the Bid.
3. To the extent that there exists a conflict between the Bid and this Contract, the terms, conditions, covenants, and/or provisions of this Contract shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.
4. Work must begin within ten calendar days from the date of receipt of official notice to proceed and shall be carried on at a rate to insure the project's full completion within 60 days from the date of official notice to proceed, the rate of progress and time of completion being essential conditions of this Contract.
5. If the contract work is not fully complete according to the terms of this Contract within the limits herein stipulated, the Independent Contractor shall pay the City, not as a penalty, but as liquidated damages, a sum equal to two hundred and fifty dollars (\$250) for each day elapsing between expiration of such time limit and the date of full completion, providing, however, that the time limits herein stated are subject to extension without payment of damages, as provided in section 21, herein.
6. The City agrees to compensate the Independent Contractor in the amount of Thirty-Nine Thousand Two Hundred Forty-Seven Dollars (\$39,247.00), as set forth in more detail in Exhibit "B". The total and cumulative amount of this contract shall not exceed the amount of funds annually budgeted for these services. The City shall not reimburse the Independent Contractor for any travel costs incurred as a direct result of the Independent Contractor providing deliverables to the City in pursuance of the scope of work contained in herein or in an exhibit.
7. This Contract may be terminated by either party with or without cause upon thirty (30) days prior written notice. In the event that the City terminates this Contract, for any reason whatsoever, the Independent Contractor understands and agrees that it shall not receive any further compensation beyond the termination date. This shall be true even where there are remaining months under the terms of this Contract.
8. Independent Contractor hereby represents that it has complied and shall continue to comply with all applicable Federal and State statutes and local ordinances. Further, Independent Contractor shall be solely responsible for obtaining and complying with all necessary permits, approvals and authorizations, required for the work to be performed pursuant to the terms of this Contract from any federal, state, regional, county, or city agency.
9. The Independent Contractor represents that it has, or will secure at its own expense, all necessary personnel, equipment and materials required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City.
10. All of the services required hereunder shall be performed by the Independent Contractor or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

11. The Independent Contractor agrees that it is fully responsible to the City for the acts and omissions of subcontractors and of persons either directly or indirectly employed by the Independent Contractor. Nothing contained herein shall create any contractual relationship between any subcontractor and the City.

12. All of the Independent Contractor's personnel (and all Subcontractors) while on City premises will comply with all City requirements governing conduct, safety and security.

13. The City is exempt from payment of Florida State Sales and Use Taxes. The City will sign an exemption certificate submitted by the Independent Contractor. The Independent Contractor shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the City, nor is the Independent Contractor authorized to use the City's Tax Exemption Number in securing such materials.

14. Prior to execution of this Contract by the City the Independent Contractor shall provide certificates evidencing insurance coverages as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the Independent Contractor has obtained insurance of the type, amount, and classification as required for strict compliance with this ARTICLE and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the City's representative. Compliance with the foregoing requirements shall not relieve the Independent Contractor of its liability and obligations under this Contract.

15. The Independent Contractor shall maintain, during the life of this Contract, commercial general liability, including contractual liability insurance in the amount of \$500,000 per occurrence to protect the Independent Contractor from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the Independent Contractor or by anyone directly employed by or contracting with the Independent Contractor.

16. The Independent Contractor shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of \$500,000 combined single limit for bodily injury and property damages liability to protect the Independent Contractor from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the Independent Contractor or by anyone directly or indirectly employed by the Independent Contractor.

17. The Independent Contractor shall maintain, during the life of this Contract, adequate Workers' Compensation Insurance and Employer's Liability Insurance in at least such amounts as are required by law for all of its employees per Florida Statute section 440.02.

18. All insurance, other than Professional Liability and Workers' Compensation, to be maintained by the Independent Contractor shall specifically include the City as an "Additional Insured."

19. The Independent Contractor shall indemnify and save harmless and defend the City, its agents, servants, and employees from and against any and all claims, liability, losses, and/or causes of action which may arise from any negligent act or omission of the Independent Contractor, its agents, servants, or employees in the performance of services under this Contract.

20. The Independent Contractor further agrees to indemnify, save harmless and defend the City, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the Independent Contractor not included in the paragraph above and for which the City, its agents, servants or employees are alleged to be liable. Nothing contained in this provision shall be construed or interpreted as consent by the City to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

21. The Independent Contractor shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the Independent Contractor or its

subcontractors and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions. Upon the Independent Contractor's request, the City shall consider the facts and extent of any failure to perform the work and, if the Independent Contractor's failure to perform was without it or its subcontractors fault or negligence, as determined by the City, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly; subject to the City's rights to change, terminate, or stop any or all of the work at any time. If the Independent Contractor is delayed at any time in the process of the work by any act or neglect of the City or its employees, or by any other contractor employed by the City, or by changes ordered by the City or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the Independent Contractor's control, or by delay authorized by the Engineer pending negotiation or by any cause which the Engineer shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the City may decide. In the case of continuing cause of delay, only one (1) claim is necessary.

22. The Independent Contractor does not have the power or authority to bind the City in any promise, Contract or representation other than as specifically provided for in this Contract.

23. The City reserves the right to make changes in the scope of work, including alterations, reductions therein or additions thereto. Upon receipt by the Independent Contractor of the City's notification of a contemplated change, the Independent Contractor shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the City of any estimated change in the completion date, and (3) advise the City if the contemplated change shall effect the Independent Contractor's ability to meet the completion dates or schedules of this Contract. If the City so instructs in writing, the Independent Contractor shall suspend work on that portion of the work affected by a contemplated change, pending the City's decision to proceed with the change.

24. If the City elects to make the change, the City shall initiate a Contract Amendment and the Independent Contractor shall NOT commence work on any such change until such written amendment is signed by the Independent Contractor and approved and executed by the City Manager for the City.

25. All materials and/or work to be furnished and/or installed by the Independent Contractor under this Contract shall be guaranteed by the Independent Contractor for a period of one year from the date of final acceptance thereof by the City against defects in design, workmanship, or materials. Upon receipt of notice from the City of failure or defect of any part covered under such warranty/guaranty period, the affected part, parts, or materials shall be replaced promptly with new parts or materials by the Independent Contractor at no expense to the City. In the event the Independent Contractor fails to make the necessary repairs or replacements within 30 days after notification by the City, the City may accomplish the work at the expense of the Independent Contractor.

26. The Independent Contractor shall continuously maintain adequate protection of all work from damage, and shall protect such work and the City's property from injury or loss arising during the term of the Contract. Except for any such damage, injury, or loss which may be directly due to errors caused by the City or employees of the City, the Independent Contractor shall adequately protect adjacent property, as provided by the law, and shall provide guard fences, lights, and any other necessary materials to carry out such protection.

27. Until acceptance of the work by the City, the City's property shall be under the charge and care of the Independent Contractor and the Independent Contractor shall take every necessary precaution against injury or damage to the work by the action of elements or from any other cause whatsoever, and the Independent Contractor shall repair, restore and make good, without additional charge any work occasioned by any of the above causes before its completion and acceptance by the City.

28. This Contract and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided herein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held in Palm Beach County.

29. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or

now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

30. All parties shall be responsible for their own attorneys fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to the Contract's execution, validity, the obligations provided therein, or performance of this Contract, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Contract.

31. Time is of the essence in all respects under this Contract.

32. Failure of the City to enforce or exercise any right(s) under this Contract shall not be deemed a waiver of City's right to enforce or exercise said right(s) at any time thereafter.

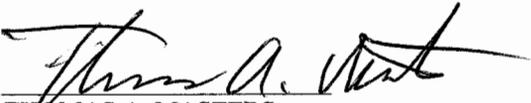
SIGNATURES ON FOLLOWING PAGE

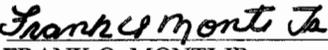
CONTRACT WITH THE CITY OF RIVIERA BEACH

IN WITNESS WHEREOF, the Parties unto this Contract have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

Koldaire, Inc.

BY: 
THOMAS A. MASTERS
MAYOR

BY: 
FRANK O. MONTI JR
PRESIDENT

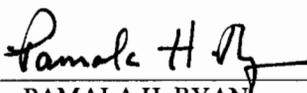
ATTEST:

(SEAL)

BY: 
CARRIE E. WARD, MMC
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

BY: 
PAMALA H. RYAN
CITY ATTORNEY

BY: 
BRYNT JOHNSON
DIRECTOR OF PUBLIC WORKS

DATE: 6/4/13

EXHIBIT "A"

SCOPE OF WORK

The specifications list shall be considered complete unless changes are made by addendum through the City's normal RFI process; otherwise, any additional work required in the installation of the six (6) new heating, ventilation and air conditioning (HVAC) units that are not listed in the specifications list of this scope shall be the responsibility of the contractor at no cost to the City, unless deemed an unforeseen condition.

Equipment: Lennox

1. RTU -1: KCA120S4BN 460 Volt/3 Phase Nominal 10 Ton R-410A Rooftop Unit
2. RTU -2: KCA048S4DN 460 Volt/3 Phase Nominal 4 Ton R-410A Rooftop Unit
3. RTU -3: KCA036S4DN 460 Volt/3 Phase Nominal 3 Ton R-410A Rooftop Unit
4. RTU -4: KCA072S4DN 460 Volt/3 Phase Nominal 6 Ton R-410A Rooftop Unit
5. RTU -5: KCA048S4DN 460 Volt/3 Phase Nominal 4 Ton R-410A Rooftop Unit
6. RTU -6: KCA150S4BN 460 Volt/3 Phase Nominal 12.5 Ton R-410A Rooftop Unit
 - a. All Units shall fit in the existing roof curb by means of a curb adapter
 - b. All units shall have manual outside air hoods
 - c. All units shall be provided with a programmable digital thermostat
 - d. RTU -1,6 shall be furnished with a 15KW electric heater
 - e. RTU-2,3,4,5 shall be furnished with a 7.5 KW electric heater

General Notes:

1. Disconnect and remove existing rooftop units
2. Remove old gasket material and clean the top of the roof curb
3. Furnish and install a new gasket around the top perimeter of the existing curb
4. Furnish and Install a curb adapter on the top of the existing curb
5. Furnish and install a new gasket around the top perimeter of the curb adapter
6. Set new roof top units on the new curb with a crane
7. Re-Connect high and low voltage wiring
8. Replace the low voltage sealtight conduit
9. Re-Connect Drain Pipe
10. Check, start and test for proper operation
11. Contractor to supply all labor, materials, equipment and incidentals required to perform the replacement work.

RESPONSIBILITIES OF THE CONTRACTOR

The responsibilities of the Contractor include, but shall not be limited to, the following:

The Contractor shall provide all labor management, supervision, materials, components and equipment.

The Contractor shall be responsible for securing all required permits including Application and Payment for City of Riviera Beach building permit. Cost of permit to be paid by contractor and should be reflected in overhead.

The Contractor shall be solely responsible for the safety of Contractor's employees and others relative to Contractor's work, work procedures, material, equipment, transportation, signage and related activities and equipment.

The Contractor shall provide competent workers and competent supervision.

The Contractor shall be responsible on a daily basis to maintain a clean work site, to remove debris, and to dispose of it properly at the Contractor's expense.

The Contractor shall obtain all necessary permits and inspections required for the work to perform and shall pay all charges incidental thereto.

The Contractor shall take precautions necessary to protect person or property against injury or damage and be responsible for any such damage, or injury that occurs as a result of their fault or negligence.

The Contractor shall install temporary construction fencing consisting of chain link fencing at least 6 feet in height around the work area. This fence shall be installed and maintained at all times during construction.

Reporting Dangerous Conditions/Situations: Any encounter with dangerous conditions or unusual situations shall be reported to the Purchasing Director (Benjamin Guy) at 561-845-4180.

Damages by CONTRACTOR: Any damage to buildings fences, structures, automobiles, windows, etc., as a result of the extraction/transport/disposal shall be repaired/replaced within two (2) weeks of date of damage by the CONTRACTOR, at no cost to the City. All incidents of damage by the CONTRACTOR and any discoveries of damage shall be reported to the City Contact Person.

SAMPLES

Contractor shall also provide a written work plan and timeline for the proposed job (Critical Path). The City may either (a) accept the work plan, timeline, or issue the Contractor a purchase order to proceed, (b) elect to not have Contractor proceed with the project, or (c) the City may provide a revised work plan and timeline for the Contractor to evaluate. Contractor shall not proceed with any work until it obtains written authorization to proceed from the City.

If a project requires special equipment such as a lift or hoist, roll-off dumpster, Contractor shall include the price for the use of such equipment in the written estimate. The City reserves the right to either accept such price or to reject it and request a lower price from Contractor. Both parties must be in agreement regarding such price before the City provides authorization to proceed.

Work shall be performed 7:00 a.m. to 5:00 p.m., Monday through Friday unless otherwise authorized by the Purchasing Director.

Contractor shall supervise all work performed under this Agreement. However, the City may inspect all work to determine that the quality is acceptable to the City. Fulfill appreciative

EXHIBIT "B"

SCHEDULE OF PAYMENTS

The Scope of Work to be completed by CONTRACTOR as defined in Exhibit "A" is based on 90% completion and compensation for the work tasks stated herein and shall be paid in accordance with Article 3 and the following Schedule of Values, which is attached herein and which forms a part of Exhibit B.

RESOLUTION NO. 71-13

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING RFP NO. 384-13 FOR EQUIPMENT, MATERIALS, INSTALLATION, AND OTHER PROFESSIONAL SERVICES FOR THE EXPANSION AND MAINTENANCE OF VARIOUS POLICE TECHNOLOGIES TO CONTROL COMMUNICATIONS, INC.; AUTHORIZING CONTROL COMMUNICATIONS, INC. TO PERFORM SERVICES PER THE NEGOTIATED CONTRACT; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE SAID CONTRACT; AUTHORIZING THE DIRECTOR OF FINANCE AND ADMINISTRATIVE SERVICES TO SET UP THE BUDGET AND MAKE EXPENDITURES IN THE AMOUNT OF \$330,000.00 FROM ACCOUNT NO. 001-0817-521-0-4601; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Police Department is in need of equipment, materials, installation and other professional services for the maintenance and expansion of various technology projects; and

WHEREAS, The Police Department desires to engage the services of an Independent Contractor who is qualified to provide the equipment, material, and the expertise to perform the installation services and maintenance for various Police technologies; and

WHEREAS, The City advertised RFP No. 384-13 and Independent Contractor, Control Communications, Inc. was chosen by the Committee as the lowest responsible responsive bidder for the project .

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA, THAT:

SECTION 1: The City Council hereby awards RFP 384-13 to Control Communications, Inc.

SECTION 2: The City Council approves the Contract between the City of Riviera Beach and Control Communications, Inc. and authorizes the Mayor and City Clerk to execute the Contract.

SECTION 3: The Director of Finance and Administrative Services to Set up the budget and make expenditures as follows:

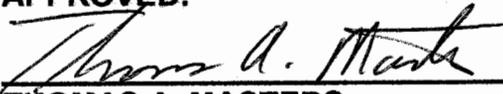
FISCAL YEAR	ACCOUNT NO.	AMOUNT
FY 2013	001-0817-521-0-4601	\$330,000.00
FY 2014	001-0817-521-0-4601	\$ 80,000.00
FY 2015	001-0817-521-0-4601	\$ 80,000.00

SECTION 4: This Resolution shall take effect immediately upon its approval.

PASSED AND ADOPTED this 5TH day of JUNE, 2013.

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APPROVED:

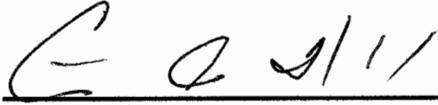


THOMAS A. MASTERS
MAYOR

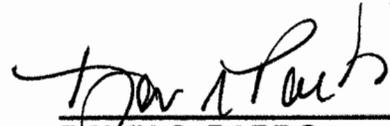


CEDRICK A. THOMAS
CHAIRPERSON

ATTEST:



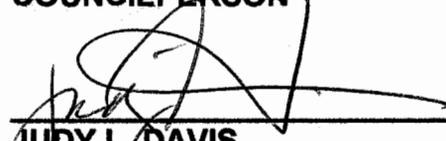
CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK



DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: J. DAVIS

SECONDED BY: B. GUYTON

B. GUYTON AYE

J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS NAY

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: _____

MATERIALS AND INSTALLATION CONTRACT

THIS CONTRACT made and entered into this 3rd day of June, 2013 by and between CONTROL COMMUNICATIONS, INC., hereinafter referred to as "Independent Contractor," whose mailing address is 3650 Hacienda Boulevard, Suite C, Davie, Fort Lauderdale, Florida 33314 and the CITY OF RIVIERA BEACH, FLORIDA, a municipal corporation, hereinafter referred to as "City," whose address is 600 West Blue Heron Boulevard, Riviera Beach, Florida, 33404.

WHEREAS, the Police Department is in need of equipment, materials and installation and other professional services for the expansion of various technology projects;

WHEREAS, Independent Contractor is qualified to provide the equipment, material and to perform the installation services for technological expansion of the Police Department; and the Police Department desires to engage the services of the Independent Contractor; and

WHEREAS, The City advertised RFP #384-13 and Independent Contractor was chosen by committee as the lowest responsible responsive bidder for the project.

NOW THEREFORE, In consideration of the mutual covenants and promises set forth herein, the parties to this Contract do hereby agree as follows:

1. The Independent Contractor agrees to provide equipment and related materials to the City and perform installation services for technologies expansion of the Police Department in the Scope of Work set forth in Exhibit "A", and the Fee Schedule set forth in Exhibit "B".

2. Independent Contractor agrees to be bound by all the terms and conditions as set forth in the Bid. However, to the extent that there exists a conflict between the Bid and this Contract, the terms, conditions, covenants, and/or provisions of this Contract shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

3. The term of this Contract shall expire three (3) years from the effective date. The effective date of this Contract shall be that date on which the last party has executed this Contract. The City shall have the right, but not the obligation, to extend the term of this Contract for up to two (2) additional, one (1) year periods following the expiration of the Initial Term. Upon renewal of the contract, the maximum increase in price will be 3 percent.

4. If the contract work is not fully complete according to the terms of this Contract within the limits herein stipulated, the Independent Contractor shall pay the City, not as a penalty, but as liquidated damages, a sum equal to one hundred dollars (\$100) for each day elapsing between expiration of such time limit and the date of full completion, providing, however, that the time limits herein stated are subject to extension without payment of damages, as provided in section 21, herein.

12. The Independent Contractor agrees that it is fully responsible to the City for the acts and omissions of subcontractors and of persons either directly or indirectly employed by the Independent Contractor. Nothing contained herein shall create any contractual relationship between any subcontractor and the City.

13. All of the Independent Contractor's personnel (and all Subcontractors) while on City premises will comply with all City requirements governing conduct, safety and security.

14. The City is exempt from payment of Florida State Sales and Use Taxes. The City will sign an exemption certificate submitted by the Independent Contractor. The Independent Contractor shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the City, nor is the Independent Contractor authorized to use the City's Tax Exemption Number in securing such materials.

15. Prior to execution of this Contract by the City the Independent Contractor shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the Independent Contractor has obtained insurance of the type, amount, and classification as required for strict compliance with this ARTICLE and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the City's representative. Compliance with the foregoing requirements shall not relieve the Independent Contractor of its liability and obligations under this Contract.

16. The Independent Contractor shall maintain, during the life of this Contract, commercial general liability, including contractual liability insurance in the amount of \$1,000,000.00 per occurrence to protect the Independent Contractor from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the Independent Contractor or by anyone directly employed by or contracting with the Independent Contractor.

17. The Independent Contractor shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of \$1,000,000.00 combined single limit for bodily injury and property damages liability to protect the Independent Contractor from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the Independent Contractor or by anyone directly or indirectly employed by the Independent Contractor.

18. The Independent Contractor shall maintain, during the life of this Contract, adequate Workers' Compensation Insurance and Employer's Liability Insurance in at least such amounts as are required by law for all of its employees per Florida Statute section 440.02.

19. All insurance, other than Professional Liability and Workers' Compensation, to be maintained by the Independent Contractor shall specifically include the City as an "Additional Insured."

20. The Independent Contractor shall indemnify and save harmless and defend the City, its agents, servants, and employees from and against any and all claims, liability, losses, and/or causes of action which may arise from any negligent act or omission of the Independent Contractor, its agents, servants, or employees in the performance of services under this Contract.

21. The Independent Contractor further agrees to indemnify, save harmless and defend the City, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the Independent Contractor not included in the paragraph above and for which the City, its agents, servants or employees are alleged to be liable. Nothing contained in this provision shall be construed or interpreted as consent by the City to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

22. The Independent Contractor shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the Independent Contractor or its subcontractors and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions. Upon the Independent Contractor's request, the City shall consider the facts and extent of any failure to perform the work and, if the Independent Contractor's failure to perform was without it or its subcontractors fault or negligence, as determined by the City, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly; subject to the City's rights to change, terminate, or stop any or all of the work at any time. If the Independent Contractor is delayed at any time in the process of the work by any act or neglect of the City or its employees, or by any other contractor employed by the City, or by changes ordered by the City or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the Independent Contractor's control, or by delay authorized by the Engineer pending negotiation or by any cause which the Engineer shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the City may decide. In the case of continuing cause of delay, only one (1) claim is necessary.

23. The Independent Contractor does not have the power or authority to bind the City in any promise, Contract or representation other than as specifically provided for in this Contract.

24. The City reserves the right to make changes in the scope of work, including alterations, reductions therein or additions thereto. Upon receipt by the Independent Contractor of the City's notification of a contemplated change, the Independent Contractor shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the City of any estimated change in the completion date, and (3) advise the City if the contemplated change shall effect the Independent Contractor's ability to meet the completion dates or schedules of this Contract. If the City so instructs in writing, the Independent Contractor shall suspend work on that portion of the work affected by a contemplated change, pending the City's decision to proceed with the change.

25. If the City elects to make the change, the City shall initiate a Contract Amendment and the Independent Contractor shall NOT commence work on any such change until such written amendment is signed by the Independent Contractor and approved and executed by the City Manager for the City.

26. All materials and/or work to be furnished and/or installed by the Independent Contractor under this Contract shall be guaranteed by the Independent Contractor for a period of one year from the date of final acceptance thereof by the City against defects in design, workmanship, or materials. Upon receipt of notice from the City of failure or defect of any part covered under such warranty/guaranty period, the affected part, parts, or materials shall be replaced promptly with new parts or materials by the Independent Contractor at no expense to the City. In the event the Independent Contractor fails to make the necessary repairs or replacements within 30 days after notification by the City, the City may accomplish the work at the expense of the Independent Contractor.

27. The Independent Contractor shall continuously maintain adequate protection of all work from damage, and shall protect such work and the City's property from injury or loss arising during the term of the Contract. Except for any such damage, injury, or loss which may be directly due to errors caused by the City or employees of the City, the Independent Contractor shall adequately protect adjacent property, as provided by the law, and shall provide guard fences, lights, and any other necessary materials to carry out such protection.

28. Until acceptance of the work by the City, the City's property shall be under the charge and care of the Independent Contractor and the Independent Contractor shall take every necessary precaution against injury or damage to the work by the action of elements or from any other cause whatsoever, and the Independent Contractor shall repair, restore and make good, without additional charge any work occasioned by any of the above causes before its completion and acceptance by the City.

29. This Contract and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided herein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held in Palm Beach County.

30. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

31. All parties shall be responsible for their own attorney's fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to the Contract's execution, validity, the obligations provided therein, or performance of this Contract, or because

of an alleged breach, default or misrepresentation in connection with any provisions of this Contract.

32. Time is of the essence in all respects under this Contract.

33. Failure of the City to enforce or exercise any right(s) under this Contract shall not be deemed a waiver of City's right to enforce or exercise said right(s) at any time thereafter.

SIGNATURES ON FOLLOWING PAGE

CONTRACT WITH THE CITY OF RIVIERA BEACH

IN WITNESS WHEREOF, the Parties unto this Contract have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

CONTROL COMMUNICATIONS, INC.

BY: 
THOMAS A. MASTERS
MAYOR

BY: 
Title: as president

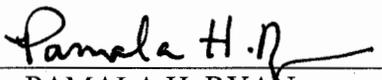
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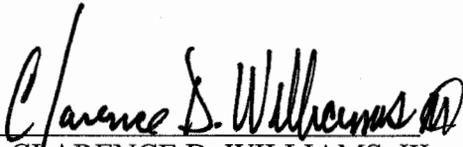
(SEAL)

BY: 
CARRIE E. WARD, MMC
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

BY: 
PAMALA H. RYAN
CITY ATTORNEY

BY: 
CLARENCE D. WILLIAMS, III
CHIEF OF POLICE

DATE: 5/29/13

EXHIBIT "A"

SCOPE OF WORK

OVERVIEW

The Independent Contractor will provide IT Services, equipment, and materials in support and expansion of various technological projects, to include, but not limited to: Mesh Network, Wireless IP Camera Network, In-Car Video, Laptop Support, 800 MHz Radio System, Emergency Vehicle Lighting/Equipment, and General On-site IT Support.

The Independent Contractor will be responsible for coordination and implementation of the following technology projects listed below as well as current and future projects established by the Police Department:

Additionally, the Independent Contractor is required to have expert level knowledge and support for the following projects:

Motorola Mesh Technology and NetMotion.

The scope of service will include the following:

MESH

The Mesh Network and Wireless IP Camera Network include the following components:

QTY SYSTEM EQUIPMENT

1	MISC (Mobile Internet Switching Control)
11	AP Units (Canopy Access Points)
22	Sony Cameras (RX55ON 360 PTZ White Camera)
3	CMM Units (Canopy Cluster Management Module)
30	IAP Units (MESH Intelligent Access Points)
60	MWR Units (MESH Wireless Router)
4	PTP58400 Lite Connectorized - End Complete Hops
37	SM Units (Canopy Subscriber Module)
22	ONSSI Software Support and Licenses

PANASONIC ARBITRATOR 360

The Panasonic Arbitrator 360 In-Car Video System includes the following components:

QTY SYSTEM EQUIPMENT

35	Arbitrator In-Car Systems (VPU, Camera, Microphones, Antennas, Memory Cards)
3	Wireless access points - Motorola Access Point AP 650 & Motorola Model Rfs 4010 Switch
1	Arbitrator Software (Backend Administrator, Backend Client, and Frontend)
1	Backend Server - Dell server with 11 terabyte external storage
100	Number of Laptops with Frontend Software Installed

LAPTOP SUPPORT

Laptop Support includes the following components:

QTY SYSTEM EQUIPMENT

- 100 Dell Laptops - E6510
- 13 Panasonic Laptops - CF53
- 60 Rugged Jet 4 Mobile Printers
- 5 Brother Pocket Jet 6 Mobile Printers
- 100 CJIS Compliant - Advanced Authentication Clients/Server – To Be Determined
- 120 NetMotion Clients/Server
- 100 Wireless Cards/Gobi

800 MHz RADIO SYSTEM

The 800 MHz Radio System Components include the following components:

QTY SMARTZONE RADIO EQUIPMENT

- 4 Gold Elite Consoles
- 1 CEB
- 4 Spectra Consolettes
- 4 MCC3600 Remotes
- 1 Dispatch Center
- 2 Control Stations
- 123 XTS5000 Portables (Police Dept)
- 9 XTS5000 Portables (Code Enforcement)

EMERGENCY LIGHTING AND EQUIPMENT

The Emergency Lighting and Equipment components are as follows:

QTY EMERGENCY EQUIPMENT

- 80 Vehicles equipment with standard emergency lighting and equipment, to include, but not limited to: Whelan LED 1 Tier--5X8-SLD-FSA, Whelan CenCom Controller, Whelan Vertex 4 Corner LED Clear, ProGuard P2600 Lexan Cage, Cargo Area Cage, ProGuard Prisoner Seat, Ram Tuff Box Center Console, American Aluminum SUV Vault, Whelan Dominator 0844000, Locks and Windows Inoperative

REQUIRED RESPONSE/SEVERITY TABLE

The Independent Contract will respond as follows:

Severity Table

Severity Level	Problem Types
Severity 1 On Site	<ul style="list-style-type: none"> ■ Response is provided continuously ■ Major System failure ■ 100% of System down ■ This level is meant to represent a major issue that results in an unusable system, No work-around or immediate solution is available.
Severity 2 On Site	<ul style="list-style-type: none"> ■ Response during Standard Business Day ■ Significant System Impairment not to exceed 33% of system down (<i>i.e.: Camera out other than holding cells</i>) ■ System problems presently being monitored ■ This level is meant to represent a moderate issue that limits a Customer's normal use of the system, sub-system, product, or major non-critical features from a Customer's perspective
Severity 3 On Site not Required	<ul style="list-style-type: none"> ■ Response during Standard Business Day ■ Intermittent system issues ■ Information questions ■ This level is meant to represent a minor issue that does not preclude use of the system, sub-system, product, or critical features from a Customer's perspective.

Response Time Table

Severity Level	Response Time
Severity 1	Within 4 hours from receipt of notification Continuously (7x24x365)
Severity 2	Within 4 hours from receipt of notification Standard Business Day (8x5)
Severity 3	Within 24 hours from receipt of notification Standard Business Day (8x5) or mutually agreed between Control and Customer

PROVIDED SERVICES

Level 1-Installer:

Technical labor consisting of but not limited to: Local infrastructure installation, repair and/or removal.

Level 2 - Service Technician:

Technical service and support such as but not limited to:

- Site Survey
- Computer, and camera, assessment programming and repair
- Imaging
- Radio System assessment, programming, tuning and repair (1st echelon)
- Staging
- Integration
- Troubleshooting

Level 3 - Service Specialist:

Certified service and support such as but not limited to:

- Software development
- System design
- System integration
- Network and security
- Broadband infrastructure
- Video Management System
- Integration and support of third party Software and/or System

Detailed service matrix by category

Category	Installation, Removal and/or relocation	Configuration, Integration and troubleshooting	System/Infrastructure Configuration, Update and design
MESH Equipment	Level 1	Level 2	Level 3
Camera equipment	Level 1	Level 2	Level 3
In-Car Video	Level 1	Level 2	Level 3
Laptops	Level 1 (include imaging without configuration)	Level 2	Level 3
Mobile Printers	Level 1	Level 2	Level 3
Radio Equipment	Level 1	Level 2 – Repair provided by Shop technician	Level 3
Emergency Vehicle lightning	Level 1	Level 1	Level 3
Emergency Vehicle Equipment	Level 1	Level 1	Level 3
IT Peripherals	Level 1	Level 2	Level 3
Misc. IT Supplies	Level 1	Level 2	Level 3
Misc. Vehicle Installation Shop Supplies	Level 1	Level 2	Level 3

REPORTING

The City of Riviera Beach will be provided with a monthly report of the job status as the project progresses. A paper report will be utilized until an electronic version becomes available.

EXHIBIT "B"
FEE SCHEDULE

SECTION 1: RATES

Pre-negotiated Rates:

Personnel Type	Rate per hour M-F, 8AM-5PM	Non-Business Hour Rate	Services Included
Level 1 Installer	\$80.00	\$120.00	See Scope of Work
Level 2 Service Technician	\$100.00	\$150.00	See Scope of Work
Level 3 Service Specialist	\$160.00	\$240.00	See Scope of Work

*Attachment describes services included at each level

Standard Hourly rates:

Personnel Type	Rate per hour M-F, 8AM-5PM	Non-business Hour Rate	Services Included
Level 1 Installer	\$100.00	\$150.00	See Scope of Work
Level 2 Service Technician	\$130.00	\$195.00	See Scope of Work
Level 3 Service Specialist	\$225.00	\$337.50	See Scope of Work

*Attached appendices, as needed, to describe services included at each level

Note: Standard hourly rates will be applied for services which are not part of a negotiated open Purchase Order.

Bucket Truck Usage –four (4) hours increments Includes one (1) installer	\$550.00
Bucket Truck Usage –eight (8) hours increments Includes one (1) installer	\$995.00

SECTION 2: FIELD LABOR

Pre-negotiated hourly Rates:

Type	Rate per hour M-F, 8AM-5PM	Non Business Hourly Rate*	Condition
Level 1-Installer	\$80/hr.	\$120/hr.**	Based on four (4)hour increments
Level 2-Service Technician	\$100/hr.	\$150/hr.**	Based on four (4) hour increments
Level 3-Service Specialist	\$160/hr.	\$240/hr.**	Based on two (2) hour increments

Standard Hourly rates:

Type	Rate per hour M-F, 8AM-5PM	Non Business Hourly Rate*	Condition
Level 1-Installer	\$100/hr.	\$150/hr.	Plus Trip charge**
Level 2-Service Technician	\$130/hr.	\$195/hr.	Plus Trip charge**
Level 3-Service Specialist	\$225/hr.	\$337.50/hr.	Plus Trip charge**

*All non-business hour rates are charged at 1 ½ times the standard hourly rate.

**A flat trip rate charge of \$60 will apply before and after regular business hours (Monday through Friday, 8AM to 5PM) and for services which are not part of a negotiated open Purchase Order within the CONTROL COMMUNICATIONS LOCAL SERVICE AREA.

SECTION 3: SHOP LABOR

The labor rate for shop labor (8:00AM-5:00PM, M-F, normal business days) is \$65 per hour, minimum one (1) hour. This rate applies to all routine man-hours used during shop repairs. If pickup and delivery is required a flat trip rate charge of \$60 will apply for this service within the CONTROL COMMUNICATIONS LOCAL SERVICE AREA. Minimum invoice for shop labor with pickup and delivery is \$125.

SECTION 4: EMERGENCY RESPONSE SERVICE (ERS)

If Emergency Response is included in your service plan there is no charge for event covered under the terms of the contract.

If Emergency Response is not included in your service plan charges will be applied as listed below.

A purchase order or advance agreement will be required for this service response. Minimum hourly charge is 2 hours and applies portal to portal:

<u>WHEN</u>	<u>DESCRIPTION</u>	<u>HOURLY</u>	<u>MIN. CHARGE</u>
Normal Workdays	8:00AM – 5:00PM, M-F	\$100	\$200
After Hours	All other times and Holidays	\$225	\$450

If the ERS call is handled by telephone communication only (technician not required to go anywhere or contact other personnel), the two (2) hour minimum is reduced to one (1) hour minimum. CUSTOMER is charged for an ERS call once the ERS call/selection is made. The ERS program is not intended to be used for leaving messages which request CONTROL COMMUNICATIONS to respond the next business day.

A request for ERS response is a request for CONTROL COMMUNICATIONS to execute “Control Communications effort” to resolve the customer problem. If CONTROL COMMUNICATIONS responds, and effort is expended, appropriate billing will occur for services rendered. The payment of ERS billing is not a customer determined factor, depending on whether “satisfactory” resolution of the problem occurred.

SECTION 5: EQUIPMENT AND MATERIALS

Equipment / Materials Pricing

Equipment/Material Category	% over documented cost	OR	% Discounted from Documented List
MESH Equipment	12		
Camera Equipment	12		
In-Car Video	5		
Laptops	5		
Mobile Printers	10		
Radio Equipment	10		
Emergency Vehicle Lighting	10		
Emergency Vehicle Equipment	10		
IT Peripherals	12		
Misc. IT Supplies	12		
Misc. Vehicle Installation Shop Supplies	10		

SECTION 6: REMOTE SUPPORT AND TELEPHONE TECHNICAL SUPPORT

This service applies to programming requests for CONTROL COMMUNICATIONS equipment accessed electronically, and to telephone technical support requests. Requests are handled with routine priority, during normal working hours. If outside normal business hours, ERS rates apply, as described above.

COST: \$120 per hour. Minimum invoice billing is \$65.

Requests received before 9:00 AM regular business hours will be handled the same day. **Immediate** programming or telephone technical support requests shall be considered an ERS call and those rules and pricing shall apply. A standing purchase order or other method of authorization will be required at the time services are provided.

SECTION 7: LOCAL SERVICE AREA DEFINITION

Local service area is defined as any service call within a one hour normal drive time from the CONTROL COMMUNICATIONS office or home base of where the service technician is being dispatched from.

SECTION 8: TRAVEL

A flat trip rate charge of \$60 will apply before and after regular business hours (Monday through Friday, 8AM to 5PM) and for services which are not part of a negotiated open Purchase Order within the CONTROL COMMUNICATIONS LOCAL SERVICE AREA.

Charges applicable for work outside of LOCAL SERVICE AREA:

Travel time: \$60 per hour per person
 Per Diem: \$175 per day per person (Additional fees may apply depending on location)

RESOLUTION NO. 72-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING BID NO. 395-13 FOR THE CONSTRUCTION OF 248 FEET OF NEW SEAWALL AND RELATED DEMOLITION AT THE CITY MARINA TO THE MURPHY CONSTRUCTION CO. OF WEST PALM BEACH, FLORIDA, THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER IN THE AMOUNT OF \$501,056.00; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE PROPOSED CONSTRUCTION SERVICES CONTRACT; AND AUTHORIZING THE DIRECTOR OF FINANCE AND ADMINISTRATIVE SERVICES TO ESTABLISH A BUDGET AND MAKE PAYMENTS FOR SAME FOR GENERAL GRANT ACCOUNT 422-0000-575-4-6251; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City intends to begin phase two (2) of the marina project and among the first steps in that process will be to construct the remaining 248 feet of new seawall along the southern portion of the marina; and

WHEREAS, in accordance with the provisions of the City's Procurement Ordinance (4010), an Invitation for Bid was publicly solicited for qualified contractors to furnish all supervision, personnel, equipment, materials, labor and supplies to complete the construction of 248 feet of new seawall and related demolition; and

WHEREAS, Four (4) companies responded to Invitation for Bid No. 395-13 and The Murphy Construction Co. of West Palm Beach, Florida submitted the lowest responsive and responsible bid in the amount of \$501,056.00.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA THAT:

SECTION 1. The City Council hereby accepts staff's recommendation to award the contract to complete the construction of a new seawall and related demolition at the City marina to The Murphy Construction Co., Inc of West Palm Beach, Florida, and authorizes the Mayor and City Clerk to execute a construction services contract for same.

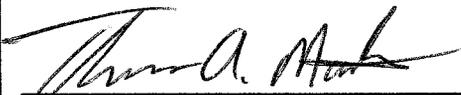
SECTION 2. The City Council authorizes the Director of Finance and Administrative Services to make payment from the appropriate account.

SECTION 3. The City Manager is authorized to approve change orders in an amount not to exceed 18% of the contract award amount.

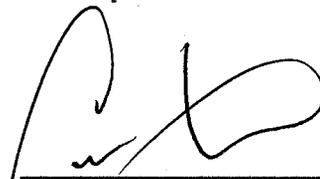
SECTION 4. This Resolution shall take effect upon its passage and approval by the City Council.

PASSED AND APPROVED THIS 5TH DAY OF JUNE

APPROVED:



THOMAS A. MASTERS
MAYOR



CEDRICK A. THOMAS
CHAIRPERSON

ATTEST:



CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK



DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

RESOLUTION NO. 72-13
PAGE 3

MOTIONED BY: D. PARDO

SECONDED BY: B. GUYTON

B. GUYTON AYE

J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS NAY

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: _____

**CITY OF RIVIERA BEACH
CONTRACT FOR CONSTRUCTION**

This Contract is made as of this 5th day of June, 2013 by and between the CITY OF RIVIERA BEACH, a Political Subdivision of the State of Florida, by and through its CITY COUNCIL, hereinafter referred to as the CITY, and The Murphy Construction Co. of West Palm Beach Florida, [] an individual, [] a partnership, [X] a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONTRACTOR, whose Federal I.D. number is: 59-1697495.

In consideration of the mutual promises contained herein, the CITY and the CONTRACTOR agree as follows:

ARTICLE 1 - SERVICES

The CONTRACTOR'S responsibility under this Contract is to provide and install Approximately **250 feet of sheet steel bulkhead and concrete cap** at the marina, as more specifically set forth in the Scope of Work and Bid Schedule detailed in Exhibits "A" and "B", attached hereto and made a part hereof, and in the Invitation to Bid #**395-13**.

The CITY'S representative/liaison during the performance of this Contract shall be Ed Legue, Marina Director, telephone no. (561) 845-3408.

ARTICLE 2 - SCHEDULE

- A. Time of Completion - Construction work must begin within ten (10) calendar days from the date of receipt of official notice to proceed; provided the CITY has received proof of insurance as set forth in Article 11 and a Performance and Surety Bond as set forth in Article 31 in a form satisfactory to the CITY. Construction work shall be carried out at a rate to insure its full completion in one hundred and twenty (120) days from the date of the official notice to proceed, the rate of progress and time of completion being essential conditions of this contract.

- B. Deduction for not completing on time - If the contract work is not fully complete according to the terms of this Contract within the limits herein stipulated, the CONTRACTOR shall pay the CITY, not as a penalty, but as liquidated damages, a sum equal to one thousand dollars (\$1000) for each day elapsing between the expiration of such time limit and the date of full completion, providing, however, that the time limits herein stated are subject to extension without payment of damages, as provided in Article 17, herein. It is agreed that these liquidated damages are a good faith and reasonable pre-estimate of CITY'S actual damages due to delay by CONTRACTOR because it is difficult, if not impossible, to accurately estimate the actual damages suffered by CITY due to any such delay.

- C. Reports - Reports and other items shall be delivered as required by the project manager and/or City Engineer. The contractor shall be available for periodic meeting not less than 2 times per month.

ARTICLE 3 - PAYMENTS TO CONTRACTOR

- A. Generally - The CITY agrees to compensate the CONTRACTOR in accordance with the fee proposal/bid amounts set forth in bid schedule documents, Exhibit "B". The total and cumulative amount of this Contract shall not exceed the amount of funds annually budgeted for these services. The CITY shall not reimburse the CONTRACTOR for any travel costs incurred as a direct result of the CONTRACTOR providing deliverables to the CITY in pursuance of the project, without specific, prior written approval of the CITY.
- B. Progress Invoices - No later than the 20th day of every month, the CONTRACTOR shall prepare and submit, on a form approved by the CITY'S representative, a detailed estimate and invoice of work which has been completed from the start of the job up to and including the last day of the preceding month, together with such supporting evidence of the expenditures as required by this Contract. The CONTRACTOR shall also submit with each invoice an updated revised work schedule. The CONTRACTOR shall include in the Progress Invoice a Warranty of Title indicating that as of the date of Progress Invoice that all work, materials, and equipment covered by the Progress Invoice passes to the City at the time of payment of the Progress Invoice and that all laborers, materialmen, and subcontractors have been paid in full for all work, materials, and equipment covered by the Progress Invoice and also provide Partial Releases of Lien and/or Partial Releases of Payment Bond from all laborers, materialmen, and subcontractors as to such work, materials, and equipment covered by the Progress Invoice. CITY has no obligation to pay any Progress Invoice until both a Warranty of Title and Partial Releases of Lien and/or Partial Releases of Payment Bond are provided to CITY.
- C. Progress Payments - Progress Invoices received from the CONTRACTOR pursuant to this Contract will be reviewed and approved by the CITY representative within ten days of receipt of the invoice, indicating that services have been rendered in conformity with the Contract unless the CITY requires clarification or a correction of the invoice. The invoices will be sent to the Finance Department for payment. The CITY will pay to the CONTRACTOR ninety percent (90%) of the value based on the CONTRACTOR'S estimate and invoice, as approved by the CITY representative. Invoices will normally be paid within thirty (30) days following the CITY representative's approval.
- D. Payment of Expenses - All requests for payment of expenses eligible for reimbursement under the terms of this Contract, if any, shall include copies of said receipts, invoices, or other documentation acceptable to the Finance Department. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the scope of work described in this Contract. Long distance telephone calls shall identify the person(s) called, purpose of call, time and costs. Mileage charges

shall identify the destination, number of miles, rate, and purpose of travel. Duplication charges shall describe the documents, purpose of duplicating, and rate charged. Any travel, per diem, mileage, meals, or lodging expenses which may be reimbursable under the terms of this Contract, if any, will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.

- E. Final Invoice - In order for both parties herein to close their books and records, the CONTRACTOR will clearly state "Final Invoice" on the CONTRACTOR'S final/last billing to the CITY. This certifies that all services have been properly performed and all charges and costs have been invoiced to the CITY. Since this account will thereupon be closed, any and other further charges if not properly included on this Final Invoice are waived by the CONTRACTOR and the CITY shall have no obligations for any other costs or expenses thereafter. Further, the CONTRACTOR shall include in the Final Invoice a Warranty of Title indicating that that all work, materials, and equipment covered by this Contract passes to the City at the time of payment of the Final Invoice and that all laborers, materialmen, and subcontractors have been paid in full for all work, materials, and equipment covered by Contract and also provide Final Releases of Lien and/or Final Releases of Payment Bond from all laborers, materialmen, and subcontractors as to such work, materials, and equipment covered by the Contract. CITY has no obligation to pay the Final Invoice until a Warranty of Title and Final Releases of Lien and/or Final Release of Payment Bond are provided to CITY.

ARTICLE 4 - TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Contract by the CONTRACTOR shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged to the CONTRACTOR'S most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the CITY determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside contractors. The CITY shall exercise its rights under this Article 4 within three (3) years following final payment.

ARTICLE 5 - TERMINATION

This Contract may be canceled by the CONTRACTOR upon thirty (30) days prior written notice to the CITY'S representative in the event of substantial failure by the CITY to perform in accordance with the terms of this Contract through no fault of the CONTRACTOR; provided the CITY fails to cure same within that thirty (30) day period. This Contract may also be terminated, in whole or in part, by the CITY, with or without cause, immediately upon written notice to the CONTRACTOR. Unless the CONTRACTOR is in breach of this Contract, the CONTRACTOR shall be paid for services rendered to the CITY'S satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the CITY, the CONTRACTOR shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in process, completed work, and other materials related to the terminated work to the CITY.
- D. Continue and complete all parts of the work that have not been terminated.

ARTICLE 6 - PERSONNEL

The CONTRACTOR represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the CITY.

All of the services required hereunder shall be performed by the CONTRACTOR or under its supervision, and all personnel engaged in performing the services shall be fully qualified and licensed and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the CONTRACTOR'S key personnel, as may be listed in Exhibit "A" or as is specified in the bid, must be made known to the CITY'S representative and written approval, at CITY's sole discretion, must be granted by the CITY'S representative before said change or substitution can become effective.

The CONTRACTOR warrants that all services shall be performed by skilled, properly licensed, and competent personnel to the highest professional standards in their respective field(s).

The CONTRACTOR agrees that it is fully responsible to the CITY for the acts and omissions of subcontractors and of persons either directly or indirectly employed by the CONTRACTOR. Nothing contained herein shall create any contractual relationship between any subcontractor and the CITY.

All of the CONTRACTOR'S personnel (and all Subcontractors) while on CITY premises will comply with all CITY requirements governing conduct, safety and security.

ARTICLE 7 - SUBCONTRACTING

The CITY reserves, at its sole discretion and for any reason, the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor by CONTRACTOR and to inspect all facilities and approve all qualifications of any subcontractor in order to make a determination as to the capability of the subcontractor to perform properly under this Contract. However, in any event the CONTRACTOR shall be responsible for performing 50% of the work, at a minimum, by its own forces and equipment. Any changes or substitutions in the CONTRACTOR'S subcontractors must be made known to the CITY'S representative and written

approval must be granted by the CITY'S representative before said change or substitution can become effective. The CONTRACTOR is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities.

Once a subcontractor is listed in a CONTRACTOR's response to an RFP or a BID and the CONTRACTOR wishes to change a subcontractor, if the response or bid has been accepted by the CITY, then specific approval from CITY staff must be given prior to any change in subcontractors. The CITY shall not unreasonably deny the request. However, the CONTRACTOR must demonstrate that the subcontractor being replaced is unable to perform the work, is performing the work poorly or untimely, or is unable to meet the requirements of the contract with the CITY. The CITY will not address issues related to the ENGINEER's specific agreement with the subcontractor including issues of pricing.

If a subcontractor fails to perform or make progress, as required by this Contract, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the CONTRACTOR shall promptly do so, subject to acceptance, in writing and at the CITY's sole discretion, of the new subcontractor by the CITY.

If subcontractor(s) are used, the CONTRACTOR shall use only licensed and insured subcontractor(s), and shall require any subcontractor, as may be applicable, to provide a payment and performance bond. All subcontractors shall be required to promptly make payments to any person who, directly or indirectly, provides services or supplies under this Contract.

The CONTRACTOR shall be responsible for the performance of all subcontractors.

ARTICLE 8 – SBE PARTICIPATION

Consistent with the City procurement code, Small Business Enterprises (SBE) shall have the opportunity to participate in this project. CONTRACTOR is hereby informed that the CITY has established a goal of 15% participation of SBE. Contractor is obligated to demonstrate and document a good faith effort toward the attainment of the 15% SBE participation as a condition of this contract. The CONTRACTOR agrees to maintain all relevant records and information necessary to document compliance with the Ordinance, and agrees to allow the CITY to inspect such records and provide such records to the CITY upon request.

ARTICLE 9 - FEDERAL AND STATE TAX

The CITY is exempt from payment of Florida State Sales and Use Taxes. The CITY will sign an exemption certificate submitted by the CONTRACTOR. The CONTRACTOR shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the CITY; nor is the CONTRACTOR authorized to use the CITY'S Tax Exemption Number in securing such materials.

The CONTRACTOR shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Contract.

ARTICLE 10 - AVAILABILITY OF FUNDS

The CITY'S performance and obligation to pay under this Contract is contingent upon an annual appropriation for its purpose by the CITY OF RIVIERA BEACH CITY COUNCIL.

ARTICLE 11 - INSURANCE

- A. Prior to execution of this Contract by the CITY, the CONTRACTOR shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the CONTRACTOR has obtained insurance of the type, amount, and classification as required for strict compliance with this ARTICLE and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the CITY'S representative. Compliance with the foregoing requirements shall not relieve the CONTRACTOR of its liability and obligations under this Contract.
- B. Contractor shall maintain Builder's Risk Insurance for all work to be prepared at the Site to the full insurable value thereof. This insurance shall include the interest of the City of Riviera Beach, in the specific materials, construction, labor and final built product, and shall insure against the perils of fire, hurricane, flood, wind-driven rain and extended coverage and shall include "all risk" insurance for physical loss or damage including, without duplication of coverage, wind, theft, vandalism and malicious mischief. If not covered under the "all risk" insurance or otherwise provided in the Contract Documents, the Contractor shall effect and maintain similar property insurance on portions of the work stored offsite or in transit when such portions of the work are to be included in an application for payment. The Contractor shall be responsible for policy deductibles.
- C. The CONTRACTOR shall maintain, during the life of this Contract, Long Shoreman's Insurance in the amount of \$500,000.00.
- D. The CONTRACTOR shall maintain, during the life of this Contract, commercial general liability, including contractual liability, insurance in the amount of \$1,000,000.00 per occurrence to protect the CONTRACTOR from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the CONTRACTOR or by anyone, directly or indirectly, employed by or contracting with the CONTRACTOR.
- E. The parties to this Contract shall carry Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes. In the event that a party does not carry Workers' Compensation Insurance and chooses not to obtain same, then such party shall, in accordance with Section 440.05, Florida Statutes,

apply for and obtain an exemption authorized by the Department of Insurance and shall provide a copy of such exemption to the CITY.

- F. The CONTRACTOR shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of \$500,000.00 combined single limit for bodily injury and property damages liability to protect the CONTRACTOR from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles including, but not limited to, leased and rented automobiles, whether such operations be by the CONTRACTOR or by anyone, directly or indirectly, employed by the CONTRACTOR.
- G. All insurance, other than Workers' Compensation insurance, to be maintained by the CONTRACTOR shall specifically include the CITY as an "Additional Insured." Further, if CITY is being reimbursed in whole or in part for the cost of the work contemplated by the Contract by any third party, including but not limited to, any County, State, or Federal agency, CONTRACTOR, at CITY's request, will also list any such third party as an "Additional Insured" on all insurance.

ARTICLE 12 - INDEMNIFICATION

To the extent allowed by law, the CONTRACTOR shall indemnify and hold harmless the CITY, its agents, officers, and employees from and against any and all claims, liability, losses, and/or causes of action which may arise from any negligent act, recklessness, or intentional wrongful conduct or omission of the CONTRACTOR, its agents, officers, or employees in the performance of services under this Contract, including, but not limited to, to all attorneys' fees and costs incurred by CITY.

The CONTRACTOR further agrees to indemnify and hold harmless the CITY, its agents, officers and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the CONTRACTOR not included in the paragraph above and for which the CITY, its agents, officers, or employees are alleged to be liable, including, but not limited to, to all attorneys' fees and costs incurred by CITY.

CONTRACTOR shall pay all claims, losses, liens, fines, settlements or judgments of any nature whatsoever in connection with the foregoing indemnifications including, but not limited to, all costs, expert witness fees, reasonable attorney's fees, and court and/or arbitration costs. These indemnifications shall survive the term of this Contract or any renewal thereof.

Nothing contained in this Article shall be construed or interpreted as consent by the CITY to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

ARTICLE 13 - SUCCESSORS AND ASSIGNS

The CITY and the CONTRACTOR each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Neither the CITY nor the CONTRACTOR shall assign, sublet, convey or transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the CITY which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the CITY and the CONTRACTOR.

ARTICLE 14 - VENUE

This Contract and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided therein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Venue for any and all actions arising from and/or relating to the Contract shall be exclusively held in Palm Beach County, Florida.

ARTICLE 15-REMEDIES

No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 16 - CONFLICT OF INTEREST

The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Florida Statutes, Section 112.311. The CONTRACTOR further represents that no person having any such conflicting interest shall be employed for said performance.

The CONTRACTOR shall promptly notify the CITY'S representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONTRACTOR'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONTRACTOR may undertake and request an opinion of the CITY as to whether the association, interest or circumstance would, in the opinion of the CITY, constitute a conflict of interest if entered into by the CONTRACTOR. The CITY agrees to notify the CONTRACTOR of its opinion by certified mail within thirty (30) days of receipt of notification by the CONTRACTOR. If, in the opinion of the CITY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONTRACTOR, the CITY shall

so state in the notification and the CONTRACTOR shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the CITY by the CONTRACTOR under the terms of this Contract.

ARTICLE 17 – DELAYS AND EXTENSION OF TIME

The CONTRACTOR shall not be considered in default by reason of a delay in timely performance if such delay and failure arises out of causes reasonably beyond the control of the CONTRACTOR or its subcontractors and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions. Upon the CONTRACTOR'S request, the CITY shall consider the facts and extent of any such delay and failure to timely perform the work for reason beyond the control of the CONTRACTOR and, if the CONTRACTOR'S delay and failure to timely perform was without it or its subcontractors' fault or negligence, as determined by the CITY in its sole discretion, the time of completion shall be extended for any reasonable time that the CITY, in its sole discretion, may decide; subject to the CITY'S rights to change, terminate, or stop any or all of the work at any time.

If the CONTRACTOR is delayed at any time in the progress of the work by any act or neglect of the CITY or its employees, or by any other contractor employed by the CITY, or by changes ordered by the CITY or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the CONTRACTOR'S control, or by delay authorized by the CITY pending negotiation or by any cause which the CITY, in its sole discretion, shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the CITY, in its sole discretion, may decide.

No extension of time shall be made for any delay occurring more than seven (7) days before a claim therefore is made in writing to the CITY. In the case of continuing cause of delay, only one (1) claim is necessary.

ARTICLE 18 - INDEBTEDNESS

The CONTRACTOR shall not pledge the CITY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 19 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The CONTRACTOR shall deliver to the CITY's representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the CITY under this Contract. All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the CITY or at its expense will be kept confidential by the CONTRACTOR and will not be disclosed to any other party, directly or indirectly, without the CITY's prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base,

reports and other data developed, or purchased, under this Contract for or at the CITY's expense shall be and remain the CITY's property and may be reproduced and reused at the discretion of the CITY.

The CITY and the CONTRACTOR shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

ARTICLE 20 - INDEPENDENT CONTRACTOR RELATIONSHIP

The CONTRACTOR is, and shall be, in the performance of all work, services and activities under this Contract, an Independent Contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the CONTRACTOR's sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR's relationship and the relationship of its employees to the CITY shall be that of an Independent Contractor and not as employees or agents of the CITY.

The CONTRACTOR does not have the power or authority to bind the CITY in any promise, agreement or representation other than as specifically provided for in this Contract.

ARTICLE 21 - CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

ARTICLE 22 - ACCESS AND AUDITS

The CONTRACTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of this Contract. The CITY shall have access to such books, records, and documents as required in this Article for the purpose of inspection or audit during normal business hours, at the CONTRACTOR'S place of business.

ARTICLE 23 - NONDISCRIMINATION

The CONTRACTOR warrants and represents that all of its employees are treated equally during

employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, political affiliation, marital status, handicap, or sexual orientation. Further, CONTRACTOR shall not discriminate or permit discrimination against any employee or an applicant for employment on the basis of race, color, sex, religion, political affiliation, natural origin, ancestry, marital status, sexual orientation or handicap.

ARTICLE 24 - ENFORCEMENT COSTS

All parties shall be responsible for their own attorneys fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to the Contract's execution, validity, the obligations provided therein, or performance of this Contract, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Contract.

ARTICLE 25 – LICENSES, APPROVALS AND PERMITS

The CONTRACTOR hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. This includes, but is not limited to, maintaining all licenses and performing all the duties required under Section 489.128, Florida Statutes. Proof of such licenses and approvals shall be submitted to the CITY's representative upon request.

The CONTRACTOR shall be solely responsible for obtaining, paying for, and complying with all necessary permits, licenses, approvals and authorizations required for any work done pursuant to this Contract from any federal, state, regional, county or city agency.

ARTICLE 26 - SEVERABILITY

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provisions, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 27 - PUBLIC ENTITY CRIMES

As provided in Sections 287.132-133, Florida Statutes, by entering into this Contract or performing any work in furtherance hereof, the CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and contractors who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

ARTICLE 28 - MODIFICATIONS OF WORK

The CITY reserves the right to make changes in the Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the CONTRACTOR of the CITY'S notification of a contemplated change, the CONTRACTOR shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change; (2) notify the CITY of any estimated change in the completion date; and, (3) advise the CITY if the contemplated change shall affect the CONTRACTOR'S ability to meet the completion dates or schedules of this Contract.

If the CITY so instructs in writing, the CONTRACTOR shall suspend work on that portion of the scope of work affected by a contemplated change, pending the CITY'S decision to proceed with the change.

If the CITY elects to make the change, the CITY shall initiate a Contract Amendment and the CONTRACTOR shall not commence work on any such change until such written amendment is signed by the CONTRACTOR and approved and executed by the CITY's designated representative and approved by the CITY COUNCIL FOR THE CITY OF RIVIERA BEACH.

ARTICLE 29 - NOTICE

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the CITY shall be mailed to:

**CITY OF RIVIERA BEACH
c/o EDWIN C. LEGUE, MARINA DIRECTOR
600 WEST BLUE HERON BOULEVARD
RIVIER BEACH FL 33404**

and if sent to the CONTRACTOR shall be mailed to:

**THE MURPHY CONSTRUCTION CO.
c/o MARTIN E. MURPHY JR.
1615 CLARE AVENUE
WEST PALM BEACH FL 33401**

ARTICLE 30 - ENTIRETY OF CONTRACTUAL AGREEMENT

The CITY and the CONTRACTOR agree that this Contract and any attachments hereto or other documents as referenced in the Contract sets forth the entire agreement between the parties, that there are no promises or understandings other than those stated herein, and this Contract supersedes all prior oral and written agreements between the parties hereto with respect to the subject matter hereof. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 28 - Modifications of Work.

ARTICLE 31 - SPECIAL CONDITIONS

All materials and supplies provided by CONTRACTOR shall be in strict accordance with the plans and specifications approved by the CITY.

The CONTRACTOR shall furnish bonds and maintain said bonds throughout the duration of the project as provided for in Florida Statutes section 255.01 Et. Seq., covering the faithful performance of the Contract and payment of all obligations arising thereunder. The bonds shall be secured by the CONTRACTOR from a surety company licensed in the State of Florida with an "A-" rating or better in management and a "10" rating or better in strength as rated by Best's Key Rating Guide published by Alfred M. Best Company, Oldwick, New Jersey 08858.

The CONTRACTOR shall be required to provide Surety Bonds in the amount of one hundred percent (100%) of the Contract amount. The required premiums shall be paid for by the CONTRACTOR.

In addition to the above-minimum qualifications, the surety company must meet at least one of the following additional qualifications:

1. The surety company shall hold a current certificate or authority as an acceptable surety of federal bonds in accordance with the United States Department of Treasury Circular 570, Current Revision. The surety company shall provide the CITY with satisfactory evidence that such excess risk has been protected in an acceptable manner.
2. The surety company shall have at least the following minimum ratings in the latest revision of Best's Key Rating Guide: Best's Policy Holders Ratings -A- (minimum); Best Financial Category - Class 1.
3. For projects that do not exceed \$500,000.00, the CITY will accept bonds in accordance with Florida Statute section 287.0935.
4. If the surety is declared bankrupt, becomes insolvent, its right to do business in the State of Florida is terminated or it ceases to meet the requirements set forth above, the CONTRACTOR shall within ten (10) working days after notification by the CITY substitute another bond and surety company, at no cost to the CITY, meeting the above requirements.

ARTICLE 32 - INSPECTION OF WORK

The CITY'S representative and the CITY'S Engineer shall at all times have access to work wherever it is, in preparation or progress, and the CONTRACTOR shall provide proper facilities for such access and for inspection.

If the specifications, the CITY, the Engineer's instructions, laws, ordinances or any public authority requires any work to be specially tested or approved, the CONTRACTOR shall give the CITY Representative and CITY Engineer timely notice of its readiness for inspection. If any such work should be covered up by CONTRACTOR and CITY Representative or CITY

Engineer desires to inspect or re-inspect such work for any reason, at the sole discretion of CITY Representative or CITY Engineer, such work must be uncovered for examination, at the CONTRACTOR'S expense.

ARTICLE 33- WARRANTY/GUARANTY

All materials and equipment to be furnished and/or installed by the CONTRACTOR under this Contract as it relates to the Seawall/bulkhead replacement and cap, shall be guaranteed by the product Manufacturer, if any, for a minimum period of 1 year from the date of final acceptance thereof against defective materials, design and workmanship. The CONTRACTOR shall guarantee all of its work, including but not limited to material defect and workmanship for a period of 1 year. Upon receipt of notice from the CITY of failure of any part covered under such warranty/guaranty period, the affected part, parts, or materials shall be replaced promptly with new parts or materials by the CONTRACTOR or Manufacturer at no expense to the CITY. In the event the CONTRACTOR fails to make the necessary repairs or replacements within thirty (30) days after notification by the CITY, the CITY may accomplish the work at the expense of the CONTRACTOR. The CONTRACTOR shall provide the CITY with a written warranty of its work and with a copy of the manufacturer's warranty as it relates to the materials and parts used to construct the seawall/bulkhead.

ARTICLE 34 - PROTECTION OF WORK AND PROPERTY

The CONTRACTOR shall continuously maintain adequate protection of all work from damage, and shall protect such work and the CITY'S property from injury or loss arising during the term of the Contract. Except for any such damage, injury, or loss which may be directly due to errors caused by the CITY or employees of the CITY, the CONTRACTOR shall adequately protect adjacent property, as provided by the law, and shall provide guard fences, lights, and any other necessary materials to carry out such protection.

Until acceptance of the work by the CITY, the CITY'S property shall be under the charge and care of the CONTRACTOR and the CONTRACTOR shall take every necessary precaution against injury or damage to the work by the action of the elements or from any other cause whatsoever, and the CONTRACTOR shall repair, restore and make good, without additional charge any work occasioned by any of the above causes before its completion and acceptance by the CITY.

ARTICLE 35 - TIME

Time is of the essence in all respects under this Contract.

ARTICLE 36 - TERMINOLOGY AND CAPTIONS

All pronouns, singular, plural, masculine, feminine or neuter, shall mean and include the person, entity, firm or corporation to which they relate as the context may require. Wherever the context may require, the singular shall mean and include the plural and the plural shall mean and include the singular. The term "Contract" as used herein, as well as the terms "herein", "hereof",

“hereunder”, “hereinafter” and the like mean this Contract in its entirety and all exhibits, amendments and addenda attached hereto and made a part hereof. The captions and paragraph headings are for reference and convenience only and do not enter into or become a part of the context of this Contract, nor shall such headings affect the meaning or interpretation of this Contract.

ARTICLE 37 - WAIVER

Failure of the CITY to enforce or exercise any right(s) under this Contract shall not be deemed a waiver of the CITY’S right to enforce or exercise said right(s) at any time thereafter.

ARTICLE 38 - PREPARATION

CITY and CONTRACTOR acknowledge that each has had the benefit of counsel or the ability to retain counsel and full and free access to counsel in connection with the negotiation and execution of Contract, that each has consulted or could have consulted with counsel in connection with this Contract, and that each has had the opportunity, prior to execution, to read this Contract and fully understand all of its provisions. Should any provision in this Contract require judicial or quasi-judicial interpretation it is agreed that a Court or other dispute resolution forum interpreting or enforcing the same shall not apply a presumption that the terms hereof shall be more strictly construed against any party by reason of the rule construction that a document is to be construed more strictly against the party who itself or through its agent has prepared the same. CITY and CONTRACTOR agree that this Contract is the product and result of a joint effort.

ARTICLE 39 - MATERIALITY

All provisions of the Contract shall be deemed material. In the event CONTRACTOR fails to comply with any of the provisions contained in this Contract or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Contract and CITY may at its option and without notice terminate this Contract.

ARTICLE 40 - REPRESENTATIONS/BINDING AUTHORITY

CONTRACTOR has full power, authority and legal right to execute and deliver this Contract and perform all of its obligations under this Contract. By signing this Contract, John E. Murphy, hereby represents to the CITY that he/she has the authority and full legal power to execute this Contract and any and all documents necessary to effectuate and implement the terms of this Contract on behalf of the party for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Contract.

ARTICLE 41 - EXHIBITS

Each exhibit referred to in this Contract forms an essential part of this Contract. The exhibits, if not physically attached, should be treated as part of this Contract and are incorporated herein by reference.

ARTICLE 42 - CONTRACT DOCUMENTS AND CONTROLLING PROVISIONS

This Contract consists of the contract in its entirety and all attachments in the Bid Documents, Technical Specifications, Construction Manual and Addenda as contained in the City of Riviera Beach Bid #395-13. The CONTRACTOR agrees to be bound by all the terms and conditions set forth in this Contract and any other applicable requirements. To the extent that there exists a conflict between this Contract and the Contractors response to the City's Bid # 395-13, the terms, conditions, covenants, and/or provisions of this Contract shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

ARTICLE 43 - LEGAL EFFECT

This Contract shall not become binding and effective until approved, in writing, by both CITY's designated representative and the CITY COUNCIL OF THE CITY OF RIVIERA BEACH.

ARTICLE 44 - NOTICE OF COMPLAINTS OR SUITS

Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Contract. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

ARTICLE 45 - SURVIVABILITY

Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination.

ARTICLE 46 - DEFAULT

Notwithstanding anything contained in this Contract to the contrary, the parties agree that, by way of inclusion and not limitation, the occurrence of any of the following shall be deemed a material event of default and shall be grounds for termination:

- a. The filing of a lien or claim of any kind by any subcontractor or third tier subcontractor including, but not limited to materialmen, suppliers, or laborers, upon any property, right of way, easement, other interest in land or right to use such land within the territorial boundaries of the CITY which lien is not satisfied, discharged or contested in a court of law within thirty (30) days from the date of notice to the CONTRACTOR;
- b. The filing of any claim, including, but not limited to, a claim against any Payment Bond by any subcontractor or third tier subcontractor including, but not limited to materialmen, suppliers, or laborers, concerning the failure of the CONTRACTOR to pay any such subcontractor or third tier subcontractor including, but not limited to materialmen, suppliers, or laborers, for any work performed or materials supplied pursuant to this Contract;

c. The filing of any judgment lien against the assets of CONTRACTOR related to the performance of this Contract which is not satisfied, discharged or contested in a court of law within thirty (30) days from the date of notice to the CONTRACTOR; or

d. The filing of a petition by or against the CONTRACTOR for relief under the Bankruptcy Code, or for its reorganization or for the appointment of a receiver or trustee of the CONTRACTOR or the CONTRACTOR'S property; or an assignment by CONTRACTOR for the benefit of creditors; or the taking possession of the property of the CONTRACTOR by any governmental officer or agency pursuant to statutory authority for the dissolution or liquidation of the CONTRACTOR; or if a temporary or permanent receiver or trustee shall be appointed for the CONTRACTOR or for the CONTRACTOR'S property and such temporary or permanent receiver or Trustee shall not be discharged within thirty (30) days from the date of appointment.

The CONTRACTOR shall provide written notice to the CITY of the occurrence of any event of default within ten (10) days of CONTRACTOR'S notice of any such default.

ARTICLE 47 - WAIVER OF SUBROGATION

CONTRACTOR hereby waives any and all rights to Subrogation against the CITY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then the CONTRACTOR shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should the CONTRACTOR enter into such an agreement on a pre-loss basis.

ARTICLE 48 - RIGHT TO REVIEW

The CITY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, reject or accept any required policies of insurance, including limits, coverages, or endorsements, therein from time to time throughout the term of this Contract. The CITY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition or failure to operate legally.

ARTICLE 49 – SUBRECIPIENT REQUIREMENTS

CONTRACTOR agrees and recognizes that CITY may be seeking reimbursement in whole or in part for the cost of the work contemplated by this Contract from a third party, including but not limited to, various County, State, and Federal agencies or subdivisions. The reimbursement sought by CITY may be dependent on, amongst other items, CONTRACTOR'S compliance with the terms and conditions of this Contract and the furnishing of Sub recipient Requirement information by CONTRACTOR to CITY. CONTRACTOR agrees to fully cooperate with CITY in any requests of CITY to fulfill CITY'S Sub recipient Requirements and to otherwise obtain the

sought after reimbursement. CONTRACTOR agrees and recognizes that the failure to comply with all the terms and conditions of this Contract and the furnishing of Sub recipient Requirement information to CITY by CONTRACTOR may result in the CITY failing to obtain the sought after reimbursement in whole or in part for the cost of the work contemplated by this Contract and that such failure by the CONTRACTOR shall constitute a material default under this Contract.

ARTICLE 50 – WAIVER OF TRIAL BY JURY

IN THE EVENT OF LITIGATION ARISING FROM THIS CONTRACT, CITY AND CONTRACTOR KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT TO A TRIAL BY JURY. CITY AND CONTRACTOR HEREBY ACKNOWLEDGE THAT THIS WAIVER PROVISION IS A MATERIAL INDUCEMENT FOR EACH PARTY AGREEING TO ENTER INTO THIS CONTRACT.

SIGNATURES ON FOLLOWING PAGE

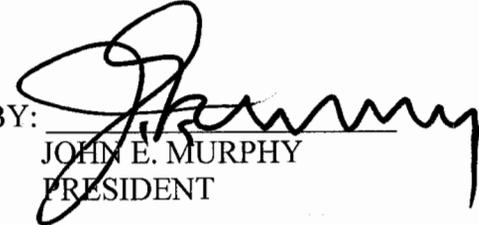
IN WITNESS WHEREOF, the parties unto this Contract have set their hand and seal on the day and year above written.

CITY OF RIVIERA BEACH

CONTRACTOR

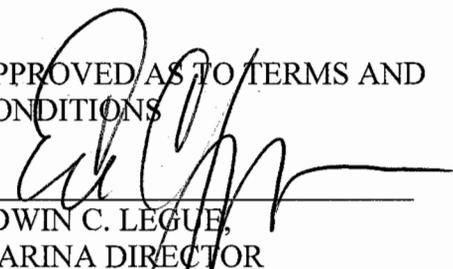
THE MURPHY CONSTRUCTION CO.

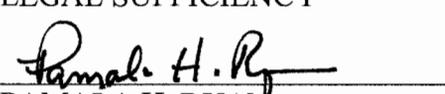
BY: 
THOMAS A. MASTERS,
MAYOR

BY: 
JOHN E. MURPHY
PRESIDENT

ATTEST:

BY: 
CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK

APPROVED AS TO TERMS AND
CONDITIONS
BY: 
EDWIN C. LEGUE,
MARINA DIRECTOR

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY
BY: 
PAMALA H. RYAN,
CITY ATTORNEY

Date: 6/4/13

SPECIAL TERMS AND CONDITIONS
BID NO. 395-13

The City of Riviera Beach Purchasing Department is soliciting Cost Proposals from qualified Marine Contractors for furnish all supervision, personnel, equipment, materials, labor and supplies to complete the construction of a steel sheetpile bulkhead located at the City of Riviera Beach Public Marina. All work performed shall be in accordance with specifications and plans prepared by Sea Diversified, Inc. of Delray Beach, Florida.

The project involves removal of approximately 250 feet of existing concrete bulkhead, and construction of approximately 250 feet of steel sheetpile bulkhead with lateral support system and cast-in-place concrete bulkhead cap. The Contractor will be responsible for demolition of an existing concrete slab abutting the landward side of the existing bulkhead along with the removal of existing fuel dispensers and fuel lines and minor marina utility systems. The project will also include backfill and compaction landward of the new bulkhead, construction of a paver brick walkway and site restoration. The contractor will be responsible for coordination with City representatives regarding temporary displacement of existing private and charter dive/fishing vessels. Additionally, the Contractor will be required to develop a work plan to minimize disruption of restaurant and other commercial operations presently ongoing at the Marina facility.

It is noted that this project will require special equipment to minimize noise and air pollution, impacts to upland structures and utility infrastructure and disruption of Marina and upland activities.

It is noted that this project will require special equipment to minimize noise and air pollution, impacts to upland structures and utility infrastructure and disruption of Marina and upland activities.

A mandatory site visit will be held **May 09, 2013 at 10:30 a.m.**, located at the Public Marina, 200 East 13th Street, Riviera Beach, FL 33404. All site improvements and any special conditions will be discussed during the non-mandatory site visit

The last day to submit questions concerning this IFB shall be **May 13, 2013** at 4:00 PM. Questions received after this time will not be answered.

Bids will be received until **3:00 p.m. May 17, 2013** at the office of the City Clerk, 600 West Blue Heron Boulevard, Suite #140, Riviera Beach, Florida. Bids will be opened and publicly read aloud in the Council Chambers on the specified date and time. No bids will be accepted after the time and date specified.

The bidder is required to examine carefully the Scope of Work and be thoroughly informed regarding any and all conditions and requirements that may in any manner affect the work to be performed under this bid, or affect the equipment, materials and labor required. Failure to do so will not be a basis for subsequent change orders.

Exhibit B

**BID SCHEDULE
CITY OF RIVIERA BEACH
INVITATION FOR BID (IFB) 395-13
PHASE II MARINA BULKHEAD IMPROVEMENTS**

NO	DESCRIPTION	BID/ QUANTITY	UNIT	UNIT PRICE	LINE ITEM BID/AMOUNT
1	Mobilization / Demobilization	1.0	LS	\$12,000.00	\$12,000.00
2	Construction Stake-Out / Surveys	1.0	LS	\$7,000.00	\$7,000.00
3	Demolition, removal and offsite disposal of existing concrete slab; removal and replacement of gangways; disconnection and reconnection of existing electric and water; and all other demolition related tasks not included in this Bid Schedule	1.0	LS	\$24,500.00	\$24,500.00
4	Demolition, removal and offsite disposal of existing concrete cap	250.0	LF	\$63.00	\$15,750.00
5	Demolition, removal and offsite disposal of existing concrete seawall below cap elevation	250.0	LF	\$25.00	\$6,250.00
6	Removal of existing fuel dispensers, hose reels and underground fuel lines	1.0	LS	\$6,360.00	\$6,360.00
7	Steel Sheetpile - Furnish and Install	250.0	LF	\$670.00	\$167,500.00
8	Concrete Cap	258.0	LF	\$217.00	\$55,986.00
9	Helical Anchors: 43' Long @ 7'-6" O.C.	35.0	EA	\$1,780.00	\$62,300.00
10	Backfill and Compaction	1.0	LS	\$10,800.00	\$10,800.00
11	Paver Brick Walkway	3,500.0	SF	\$6.20	\$21,700.00
12	Concrete retaining wall repairs including south extension	1.0	LS	\$6,900.00	\$6,900.00
13	Upland Site Restoration	1.0	LS	\$4,100.00	\$4,100.00
14	Final As-Built Survey	1.0	LS	\$910.00	\$910.00
15	Insurance, Bonding, License Fees and other miscellaneous items not included in this Bid Schedule	1.0	LS	\$14,700.00	\$14,700.00
16	City Building Permit (Refer to City Permit Fee Schedule)**	1.0	LS	\$9,300.00	\$9,300.00
17	Removal and offsite disposal of unknown buried timber bulkhead structure - Allowance	1.0	LS	\$ 25,000.00	\$25,000.00
18	Cut, remove and offsite dispose of unknown concrete foundation piles supporting existing concrete slab and / or other unforeseen buried obstructions - Allowance	1.0	LS	\$ 50,000.00	\$50,000.00
	Total Base Bid				\$501,056.00

Total Base Bid in Writing:

Alternate Bid Items	BID/ QUANTITY	UNIT	UNIT PRICE	LINE ITEM BID/AMOUNT
9a 14" x 40' Concrete Batter Piles @ 7.6" O.C.	35.0	EA	\$1,910.00	\$66,850.00
19 Mitigation	1.0	LS	N/A	N/A

Add / Deduct Items	Unit Price	Unit
Helical Anchor Extension Shafts	\$120.00	Per 5' Section
14" Batter Piles	\$55.00	Per Foot

Bid schedule has been prepared to include major components of work. It shall be the contractor's responsibility to review plans and specifications and to bid accordingly.

** Bidder to reference City Permit Fee Schedule included, herewith as Exhibit 1.