

RESOLUTION NO. 1-12

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING AN AGREEMENT BETWEEN THE CITY OF RIVIERA BEACH AND PALM BEACH COUNTY FOR RECEIVING COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS IN THE AMOUNT OF \$200,892; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT; AUTHORIZING THE INTERIM FINANCE DIRECTOR TO SET UP A BUDGET AND APPROPRIATE FUND BALANCE IN THE AMOUNT OF \$479,108 IN THE PAVING AND DRAINAGE CONSTRUCTION FUND; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on December 15, 2010, the City Council approved the submittal of an application to Palm Beach County for receiving funds under the Community Development Block Grant Program; and

**WHEREAS**, County staff has recommended to the Palm Beach County Commission approval of the application in the amount of \$200,892; and

**WHEREAS**, the City and Palm Beach County desire to enter into an agreement to implement the Northwest Neighborhood Strategy Area, by reconstructing West 36<sup>th</sup> Street between Avenue R and Avenue O.

**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 Agreement between the City of Riviera Beach and Palm Beach County for receiving Community Development Block Grant Funds.

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

**SECTION 3.** The Interim Finance Director is authorized to appropriate fund balance from account 301-00-399999 in the amount of \$479,108 to set up a budget in the Paving and Drainage Construction Fund and set up a budget in the CDBG fund in the amount of \$200,892 for West 36<sup>th</sup> Street Improvement as follows:

**RESOLUTION NO. 1-12**

**PAGE: 2**

Revenue:

|               |               |           |
|---------------|---------------|-----------|
| 108-00-337419 | CDBG Grant 11 | \$200,892 |
|---------------|---------------|-----------|

Expenditure:

|                     |  |           |
|---------------------|--|-----------|
| 108-0716-541-8-6355 | West 36 <sup>th</sup> Street Improvement | \$200,892 |
|---------------------|--|-----------|

Revenue:

|               |  |           |
|---------------|--|-----------|
| 301-00-399999 | Paving and Drainage<br>Construction Fund Balance | \$479,108 |
|---------------|--|-----------|

Expenditure:

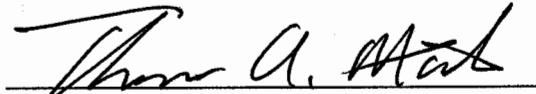
|                     |                    |           |
|---------------------|--------------------|-----------|
| 301-0716-541-8-6355 | Street Improvement | \$443,108 |
|---------------------|--------------------|-----------|

|                     |                       |           |
|---------------------|-----------------------|-----------|
| 301-0716-541-0-6355 | Professional Services | \$ 36,000 |
|---------------------|-----------------------|-----------|

**SECTION 4.** That the Resolution take effect upon its passage and approval by City Council.

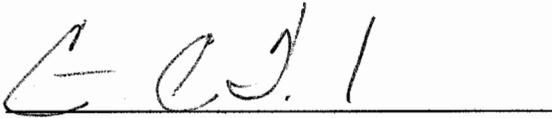
**PASSED and APPROVED** this 4 day of January, 2012.

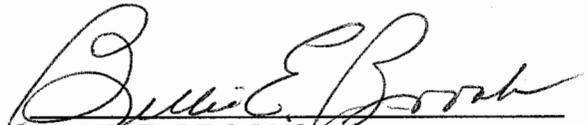
APPROVED:

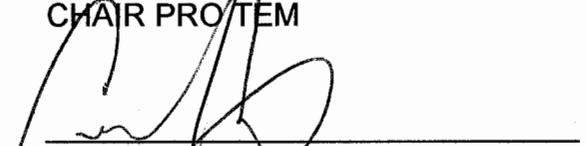
  
THOMAS A. MASTERS  
MAYOR

  
JUDY L. DAVIS  
CHAIRPERSON

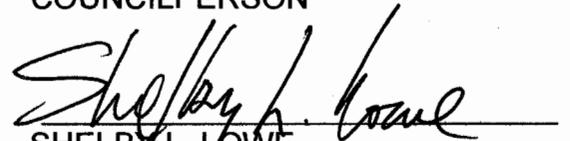
ATTEST:

  
CARRIE E. WARD  
MASTER MUNICIPAL CLERK  
CITY CLERK

  
BILLIE E. BROOKS  
CHAIR PRO TEM

  
CEDRICK A. THOMAS  
COUNCILPERSON

  
DAWN S. PARDO  
COUNCILPERSON

  
SHELBY L. LOWE  
COUNCILPERSON

MOTIONED BY: S. LOWE

SECONDED BY: B. BROOKS

J. DAVIS AYE

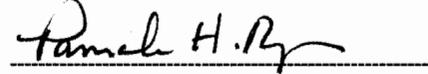
B. BROOKS AYE

C. THOMAS AYE

D. PARDO AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY

  
PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 12/15/11

RESOLUTION NO. 2-12

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A CONTRACT TO SGM ENGINEERING, INC OF ORLANDO, FLORIDA FOR MECHANICAL DESIGN SERVICES FOR DEVELOPMENT OF DESIGN SPECIFICATIONS, CONSTRUCTION DOCUMENTS AND RELATED SERVICES FOR THE HEATING, VENTILATION AND AIR CONDITIONING (HVAC) SYSTEM REPLACEMENT IN THE CITY HALL BUILDING IN THE AMOUNT OF \$21,000; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT; AUTHORIZING THE CITY MANAGER TO APPROVE CHANGE ORDERS UP TO TEN PERCENT (10%); AUTHORIZING THE INTERIM FINANCE DIRECTOR TO MAKE PAYMENT FOR SAME FROM ACCOUNT NUMBERS 310-1123-519-1-6251 AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the current HVAC system in the City Hall building is dated, inefficiently designed and requires frequent repairs to remain operational; and

**WHEREAS**, a direct replacement of units will not correct other inadequacies related to the system leaving redesign as the most practical option; and

**WHEREAS**, in accordance with the Consultants Competitive Negotiations Act, Chapter 287, Fla. Stat., the City issued a Request for Qualifications (RFQ) No. 288-10, seeking qualifications from qualified corporations, firms, or individuals to provide mechanical design services for the upgrade of the HVAC system in City Hall Building; and

**WHEREAS**, pursuant to applicable procedures, the City's Evaluation Committee selected SGM Engineering, Inc. to provide said mechanical design services based on the firm's qualifications in the desired field of design services; 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 City Council hereby awards a Contract to SGM Engineering, Inc. of Orlando, Florida to provide mechanical design services for development of design specifications, construction documents, and related services for the HVAC design for the City Hall building.

RESOLUTION NO. 2-12

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**SECTION 2.** That the Mayor and City Clerk are authorized to execute the Contract.

**SECTION 3.** That the Interim Finance Director is authorized to make payment in the amount of \$21,000 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.** That this Resolution shall take effect upon its passage and approval by City Council.

PASSED and APPROVED this 4 day of January, 2012.

APPROVED:

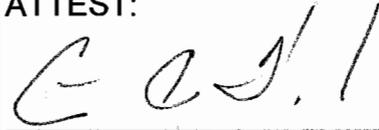


THOMAS A. MASTERS  
MAYOR



JUDY L. DAVIS  
CHAIRPERSON

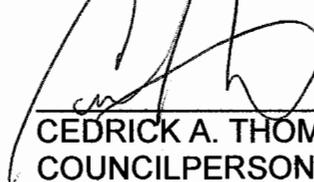
ATTEST:



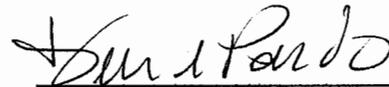
CARRIE E. WARD  
MASTER MUNICIPAL CLERK  
CITY CLERK



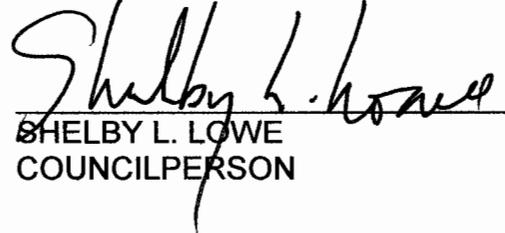
BILLIE E. BROOKS  
CHAIR PRO TEM



CEDRICK A. THOMAS  
COUNCILPERSON



DAWN S. PARDO  
COUNCILPERSON



SHELBY L. LOWE  
COUNCILPERSON

MOTIONED BY: S. LOWE

SECONDED BY: B. BROOKS

J. DAVIS AYE

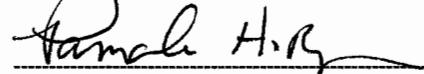
B. BROOKS AYE

C. THOMAS AYE

D. PARDO AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 12/15/11

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

This Contract is made as of this 7<sup>th</sup> day of January, 2011<sup>12th</sup>, 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 SGM Engineering, Inc. a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONSULTANT, whose Federal I.D. number is 596101052.

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 in the area of mechanical engineering design related to the replacement of existing HVAC units, as more specifically set forth in 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 the City's Director of Public Works, telephone number 561-845-4080.

**ARTICLE 2 - SCHEDULE**

The CONSULTANT shall commence services immediately upon receipt of the executed contract and complete all services within forty-five (45) calendar days.

Reports and other items shall be delivered or completed in accordance with the Scope of Work set forth in Exhibit "A".

**ARTICLE 3 - PAYMENTS TO CONSULTANT**

- A. Generally - The CITY agrees to compensate the CONSULTANT in accordance with the fee proposal set forth in Exhibit "A" attached hereto and incorporated by reference herein. The total and cumulative amount of this Contract shall not exceed Twenty-One Thousand Dollars (\$21,000.00) which shall not include certain reimbursable expenses. Reimbursable expenses, as identified in said fee proposal, incurred during the course of the performance of this Contract, including, but not limited to, out-of-pocket expenses for express mail, computerized research, word processing charges, long, postage and photocopying shall be itemized and invoiced separately. 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 and then will be sent to the Finance Department for payment. 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 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. 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 of Riviera Beach. 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.

#### **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.

Any changes or substitutions in the CONSULTANT'S key personnel, as may be listed in Exhibit "A", must be made known to the CITY'S representative and written approval must be granted by the CITY'S representative before said changes or substitution can become effective.

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 sub-consultants and of persons either directly or indirectly employed by the CONSULTANT. Nothing contained herein shall create any contractual relationship between any sub-consultant and the CITY.

All of the CONSULTANT'S personnel (and all Sub-consultants) 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 sub-consultant or to reject the selection of a particular sub-consultant and to inspect all facilities of any sub-consultant in order to make a determination as to the capability of the sub-consultant to perform properly under this Contract. The CONSULTANT is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities.

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

If sub-consultant(s) are used, the CONSULTANT shall use only licensed and insured sub-consultant(s), and shall require any sub-consultant, as may be applicable, to provide a payment bond. All sub-consultant 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 sub-consultants.

#### **ARTICLE 8 - M/WBE PARTICIPATION**

Minority/Women-Owned Business Enterprises ("M/WBE") shall have the opportunity to participate in this project. Proposers are hereby informed that the CITY has established a goal of a minimum of 15% participation of M/WBE. A good faith effort will be made to hire M/WBE.

In keeping with the CITY'S policy, the CONSULTANT further agrees to hire minority sub-contractors to work on this project.

In accordance with the CITY'S M/WBE Ordinance #2412, as amended, the CONSULTANT agrees to the M/WBE participation for this Contract and agrees to abide by all provisions of the M/WBE Ordinance and understands that failure to comply with any of the requirements will be considered a breach of contract.

The CONSULTANT agrees to maintain all relevant records and information necessary to document compliance with Ordinance #2412, as amended, and will allow the CITY to inspect such records.

## **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 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 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, 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. 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 in 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/agreement.

#### **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 sub-consultants 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 sub-consultants 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 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 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 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 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**

If any legal action or other proceeding, including but not limited to arbitration and/or mediation, is brought for any dispute, disagreement, or issue of construction, declaration 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, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

## **ARTICLE 25 - AUTHORITY TO PRACTICE**

The CONSULTANT 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.

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, sub-consultants 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 and executed 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 if sent to the CITY shall be mailed to:

**Director of Public Works  
City of Riviera Beach  
2391 Avenue L  
Riviera Beach, FL 33404**

and if sent to the CONSULTANT shall be mailed to:

**Bobby Shahnami  
SGM Engineering, Inc.  
935 Lake Baldwin Lane  
Orlando, FL 32814**

## **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 CONTRACTOR shall provide any necessary materials to maintain such protection.

Until acceptance of the work by the CITY, the CITY'S property shall be under the charge and care of the CONSULTANT and the CONSULTANT 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 CONSULTANT shall repair, restore and make good, without additional cost or expense to the CITY the work occasioned by any of the above causes before its completion and acceptance.

**ARTICLE 32 – TIME**

Time is of the essence in all respects under this Contract.

**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, Tony Shahnamy 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 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 attached Exhibits, the bid documents and this manual. The CONSULTANT agrees to be bound by all the terms and conditions set forth in this Contract and all related exhibits and bid documents. To the extent that there exists a conflict between this Contract and any other documents, 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 COUNCIL OF THE CITY OF RIVIERA BEACH or its designated representative.

### **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 sub-consultant or third tier sub-consultant 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.

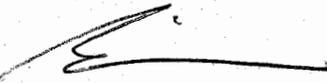
**CONTRACT WITH THE CITY OF RIVIERA BEACH**

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

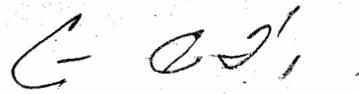
CITY OF RIVIERA BEACH

CONSULTANT: SGM Engineering

BY:   
THOMAS A. MASTERS  
MAYOR

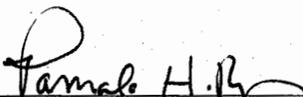
BY:   
TONY SHAHNAMI  
PRESIDENT

ATTEST:

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: \_\_\_\_\_  
INTERIM DIRECTOR OF PUBLIC WORKS  
BRYNT JOHNSON

DATE: 1/4/12

## **EXHIBIT "A"**

Design services to be performed include: submitting a detailed preliminary report assessing the current average energy usage of the existing facility, the project needs – determining the proper equipment and/or upgrades needed, the estimated project time and costs for completion and any and all drawings and specifications needed to accomplish the project goals. SGM shall also provide a projected cost savings scenario for the project based upon the execution of their designs.

The project consists of the design for replacing eight (8) existing HVAC units at the City Hall Building with two (2) to three (3) new HVAC units that are to provide heating and cooling to all areas of the building. All components of the HVAC system are to be included in the design including, but not limited to:

1. HVAC units
2. Electrical connections
3. Electrical disconnects as needed
4. Duct work (all new)
5. Thermostats

The structural engineering portion of the project as it relates to closure of the roof penetrations created by the old units shall be included in the final plans at no additional cost to the City.

All duct work will need to be redesigned to address each individual office space to provide maximum comfort to include considerations for thermostat placement, air flow returns, diffusers, energy management system and other compensating devices to provide maximum system adjustments and flexibility.

The contractor shall allow the City a minimum of two (2) plan reviews prior to the final design being submitted.

RESOLUTION NO. 3-12

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A THREE-YEAR LEASE FOR BAYS 12 & 13 AT 6557 GARDEN ROAD FOR THE PERIOD OF JANUARY 1, 2012 TO DECEMBER 31, 2014; AND APPROVING THIRTY-SIX (36) MONTHLY PAYMENTS TOTALING \$55,800 TO PALM BEACH COMMERCIAL PROPERTIES FROM ACCOUNT NUMBER 001-0822-521-0-4402; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Riviera Beach Police Department currently leases bays 8 & 9 at 835 13<sup>th</sup> Court, Riviera Beach, Florida, to store seized vehicles and large property related to criminal investigations; and

**WHEREAS**, the Police Department has been noticed by the property owner that bays 8 & 9 at 835 W 13th Court, are being acquired by the Department of Transportation by way of eminent domain and leases will not be renewed.

**WHEREAS**, staff has identified a suitable storage facility at 6557 Garden Road, Riviera Beach, FL and has negotiated a lease priced below current market value.

**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 lease agreement for the period of January 1, 2012 to December 31, 2014.

**SECTION 2:** The Finance Director is authorized to make thirty-six (36) monthly payments from the Police Department Rent & Lease Building Account Number 001-0822-521-0-4402 totaling \$55,800, to Palm Beach Commercial Properties.

RESOLUTION NO. 3-12  
PAGE 2

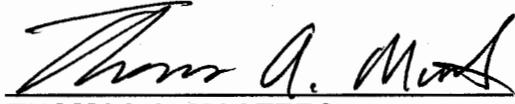
**SECTION 3:** This Resolution shall take effect immediately upon its passage and approval.

**PASSED** and **APPROVED** this 4TH day of JANUARY, 2012

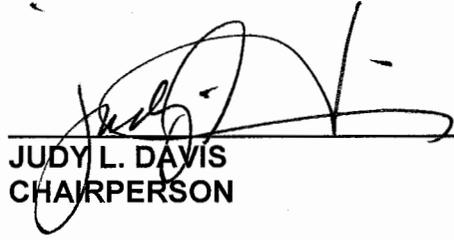
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RESOLUTION NO. 3-12  
PAGE 3

APPROVED:



THOMAS A. MASTERS  
MAYOR

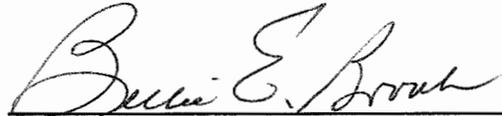


JUDY L. DAVIS  
CHAIRPERSON

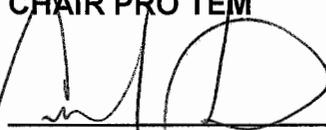
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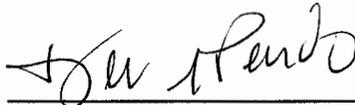
CARRIE E. WARD  
MASTER MUNICIPAL CLERK  
CITY CLERK



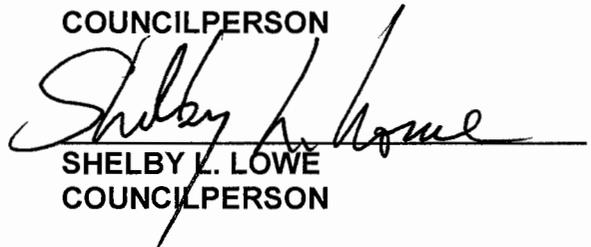
BILLIE E. BROOKS  
CHAIR PRO TEM



CEDRICK A. THOMAS  
COUNCILPERSON



DAWN S. PARDO  
COUNCILPERSON



SHELBY L. LOWE  
COUNCILPERSON

MOTIONED BY: S. LOWE

SECONDED BY: B. BROOKS

J. DAVIS AYE

B. BROOKS AYE

C. THOMAS AYE

D. PARDO AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 12/29/11

RESOLUTION NO. 4-12

**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 AGREEMENT WITH URS CORPORATION FOR PROFESSIONAL OWNER'S REPRESENTATIVE CONSTRUCTION SERVICES FOR A NEW RIVIERA BEACH POLICE COMPLEX AND VARIOUS IMPROVEMENTS TO EXISTING BUILDINGS LOCATED ON THE MUNICIPAL CAMPUS AND AUTHORIZE PAYMENT TO URS CORPORATION NOT TO EXCEED \$249,680 FROM ACCOUNT NO. 310-0817-521-0-6251; AND PROVIDE AN EFFECTIVE DATE.**

**WHEREAS**, in accordance with the Consultants Competitive Negotiations Act, Chapter 287, Fla. Stat., the City issued a Request for Qualifications and Proposals No. 226-09, seeking qualifications and proposals from qualified corporations, firms, or individuals to provide Owner's Representation relating to the Construction of the new City of Riviera Beach Police Department Operations Facility and Emergency Operations Center; and,

**WHEREAS**, pursuant to its applicable procedures, the City selected the URS Corporation to provide said professional owner's representative services based on the firm's qualifications as a nationally recognized firm having specialized and broad experience in the construction services; and,

**WHEREAS**, on July 6, 2011, in Resolution 90-11 the City Council authorized staff to negotiate with top ranking firms from Request For Proposal 301-11: and

**WHEREAS**, the negotiation team convened and negotiated an amicable contract agreement with URS Corporation for professional owner's construction representative services; and

**WHEREAS**, the purpose of the Contract between the City and URS Corporation is to set forth certain terms and conditions for URS Corporation to provide professional owner's construction representative services for the construction of the new City of Riviera Beach Police Department Operations Facility and Emergency Operations Center or as required by the City.

RESOLUTION NO. 4-12  
PAGE 2

**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 hereby authorized to execute the contract with URS Corporation on behalf of the City of Riviera Beach to provide professional owner's construction representative services for the construction of the new City of Riviera Beach Police Department Operations Facility and Emergency Operations and various improvements to existing buildings located on the municipal campus.

**SECTION 2.** That the Interim Finance Director is authorized to make payment not to exceed \$249,680 to URS Corporation for the scope of work outlined in the contract.

**SECTION 3.** This Resolution shall take effect immediately upon its approval by City Council.

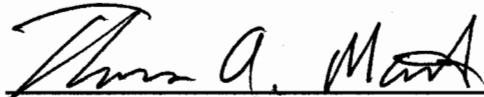
**PASSED and APPROVED** this 4TH day of JANUARY, <sup>2012</sup>~~2011~~.

**(The remainder of this page left blank intentionally.)**

RESOLUTION NO. 4-12

PAGE 3

APPROVED:

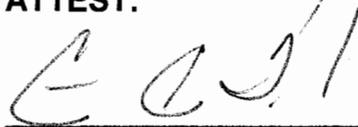


THOMAS A. MASTERS  
MAYOR



JUDY L. DAVIS  
CHAIRPERSON

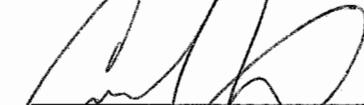
ATTEST:



CARRIE E. WARD  
MASTER MUNICIPAL CLERK  
CITY CLERK



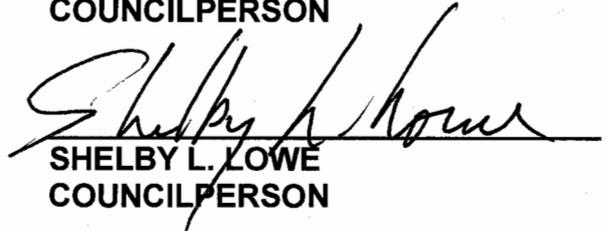
BILLIE E. BROOKS  
CHAIR PRO TEM



CEDRICK A. THOMAS  
COUNCILPERSON



DAWN S. PARDO  
COUNCILPERSON



SHELBY L. LOWE  
COUNCILPERSON

MOTIONED BY: C. THOMAS

SECONDED BY: B. BROOKS

J. DAVIS AYE

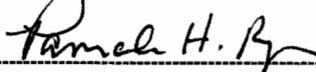
B. BROOKS AYE

C. THOMAS AYE

D. PARDO AYE

S. LOWE NAY

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 12/1/11

## OWNER'S REPRESENTATIVE AGREEMENT

THIS AGREEMENT is hereby made and entered into this 4 day of January 2011, by and between the CITY OF RIVIERA BEACH, FLORIDA, a municipal corporation existing under the laws of the State of Florida ("CITY" or "Owner" hereafter), and URS CORPORATION, a corporation authorized to do business in the State of Florida ("URS" or "Owner's Representative" hereafter).

In consideration of the promises and mutual covenants contained herein, the sufficiency of which is hereby acknowledged by both parties, the CITY and URS agree as follows:

### SECTION 1: OWNER'S REPRESENTATIVE SERVICES OF URS.

A. Based on URS's responsive proposal to the CITY's Request for Proposals for Owner's Construction Representative Services, RFP No. 301-11 (including all addenda) for the new police station complex (the "Project" hereafter), the CITY seeks to utilize and URS seeks to provide those services identified in RFP No. 301-11 (including all addenda), and as further clarified in URS's responsive proposal thereto, pursuant to the terms and conditions of this Agreement ("Services" hereafter). RFP No. 301-11 (including all addenda) and URS's responsive proposal thereto are hereby incorporated by reference into this Agreement. The term "ensure" and the phrase "to make sure", as used in this Agreement, are understood to require URS to meet the standard of care set forth below and shall not be construed as a warranty or guarantee.

B. Consistent with URS's revised fee schedule which is attached hereto as **Exhibit "A"** and incorporated herein, URS's Services shall include providing sufficient organization, personnel and management to perform the Services in an expeditious and economical manner. URS shall perform all work in a manner fully consistent with the terms of this Agreement and shall exercise that degree of care and skill ordinarily exercised under similar circumstances by members of its profession performing the types of services for projects of comparable size and complexity as those to be performed by URS under this Agreement. URS accepts the fiduciary relationship of trust and confidence established between URS and the CITY by this Agreement. URS shall provide its own project team including sub-consultants at all times that shall have sufficient capacity, skill and experience to perform the Services. URS shall not, without the CITY representative's prior written consent, which shall not be unreasonably delayed, conditioned or withheld, replace or reassign any of its project team members unless they are no longer employed by URS.

C. Consistent with the CITY's policy and goal to have a minimum of fifteen percent (15%) participation of Minority Business Enterprises (M/WBE) in all CITY contracts and consistent with URS's responsive proposal to meet such policy and goal, URS shall utilize an M/WBE sub-consultant in performing the Services for a minimum of fifteen percent (15%) of the fee to be paid to URS under this Agreement.

D. The Services to be provided by URS shall be commenced subsequent to the execution and approval of this Agreement by the CITY and upon written notice from the CITY representative to proceed.

E. If requested by the CITY and agreed to by URS, URS will perform additional services above and beyond the Services identified herein ("Additional Services") and such Additional Services shall also be governed by the provisions of this Agreement. CITY and URS will agree to URS's compensation and the scope for any Additional Services prior to commencing said Additional Services. The billable rate/hour shown in Exhibit "A" shall be utilized if the Additional Services require the services of the Owner's Representative and/or Contract Administrator/Technical Advisor.

F. URS and any of its authorized sub-consultants shall perform all Services in compliance with all applicable federal, state and local laws, regulations and codes. URS and all of its authorized sub-consultants shall maintain all required governmental licenses, certificates, approvals and permits throughout the term of this Agreement.

G. URS will provide all Services in cooperation with the CITY and the CITY's Project Team. The CITY's Project Team includes: the "Architect" which means the design architect, the engineer or such other design and design-related consultant with whom the CITY has contracted with for the Project and/or who will be preparing the plans, specifications, drawings, conducts inspections or provides other design-related services for the Project; the "Construction Contractor" or "Construction Manager" which means the person or entity with whom the CITY will contract with for preconstruction and construction services for the Project; and, "Consultants" which means such other consultants and professionals that perform consulting and other professional services for the Project. Nothing contained in this Agreement shall create any obligation or contractual relationship between URS and any third party, including without limitation any member of the CITY's Project Team. URS shall endeavor to promote harmony and cooperation among all Project Team members.

H. URS shall not have the authority to bind the CITY on any Project matter without the City Representative's prior written approval. However, with regard to decisions which would extend the Project schedule or increase the cost of the Project, the CITY's prior written approval shall be obtained by URS.

## **SECTION 2: PERIOD OF SERVICE.**

A. This Agreement is effective on the Effective Date and shall remain in effect until all Services and obligations set forth in this Agreement or any amendment hereto have been satisfactorily fulfilled (hereafter the "Term"). URS shall have a continuing obligation after the Term to comply with any provision of this Agreement and any amendment intended for the CITY's protection or benefit, or that by its sense and context is intended to survive the completion, expiration or termination of this Agreement.

B. URS shall not be considered in default by reason of any delay or failure in performance if such delay or failure arises out of causes reasonably beyond the control of URS or its authorized

sub-consultants 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; unreasonable permitting delays and abnormally severe and unusual weather conditions.

C. Notwithstanding the foregoing, URS shall not be entitled to an increase in the agreed to compensation in this Agreement or payment or compensation of any kind from the CITY solely for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance which is due to URS's sole fault and/or negligence.

**SECTION 3: CITY'S RESPONSIBILITIES AND REPRESENTATIVE.**

A. The CITY shall provide information regarding its design and construction requirements for the Project to URS in a timely fashion.

B. Unless otherwise specified by the CITY, the CITY's representative shall be ~~Clarence D. Williams, III, Chief of Police.~~ *Chief of Police* *Bruce C. Jones,* *City Manager*

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

D. The CITY waives consequential or incidental damages for claims, disputes or other matters in question arising out of or relating to this Agreement except as specifically provided for in this Agreement.

**SECTION 4: COMPENSATION AND METHOD OF PAYMENT.**

A. The CITY agrees to pay URS a fee which shall not exceed \$249,680 (Two Hundred Forty-Nine Thousand Six Hundred Eighty Dollars) for the provision of Services under this Agreement and consistent with URS's revised fee scheduled attached hereto as **Exhibit "A"** and inclusive of all sub-consultant costs and reimbursable expenses. All of URS's sub-consultant costs shall be billed at cost to the CITY with no mark-up. The Construction Contractor or Construction Manager shall be responsible for providing the reasonable general conditions necessary for URS to provide the Services required during construction and closeout of the Project. Should the CITY seek to utilize URS for any Additional Services, the CITY and URS shall negotiate a fee amount for the Additional Services. Any negotiations for Additional Services shall not modify or amend this Agreement until said negotiations are formalized in a written amendment to this Agreement and approved in writing by URS and the CITY.

B. For reimbursable expenses, the CITY shall pay URS the cost of all necessary, reasonable and ordinary reimbursable expenses incurred by URS and its sub-consultants in the provision of Services with no mark-up on said reimbursable expenses. Reimbursable expenses shall include, but is not limited to, Project-related travel (if outside Palm Beach County, Florida); long distance telephone services and other communication services; CITY requested printing, reproductions,

plots and standard forms; postage, handling and delivery of Instruments of Services or Works for Hire as requested by the CITY; and, renderings, models, mockups, professional photography and presentation materials requested by the CITY. All Project-related travel (outside Palm Beach County, Florida) shall be reimbursed pursuant to CITY policy and/or applicable law. Local travel within Palm Beach County, Florida, is not reimbursable.

C. URS shall invoice the CITY monthly, describing in reasonable detail the Services (and goods, if any) provided in the preceding month and include receipts for any reimbursable items. Payment shall be made by the CITY in accordance with Florida's Prompt Payment Act, Chapter 218, Florida Statutes, or as otherwise agreed by the parties. Notwithstanding anything to the contrary in this Agreement, the CITY may withhold payment to URS hereunder if and for so long as the CITY finds URS's Services to be defective, untimely or unsatisfactory or URS fails to perform any of its obligations under this Agreement or is otherwise in breach or default; provided that, any such holdback shall be limited to an amount sufficient in the CITY's reasonable opinion to cure any such breach, default or failure of performance of URS.

D. Final payment under this Agreement shall not be due to URS until URS submits to the CITY the following in such form as may be required by the CITY: (1) a statement that all sub-consultants used have been paid or the amount to be paid with final payment; and, (2) a final invoice including all outstanding reimbursable expenses. The final invoice shall certify that all Services and goods related thereto have been properly performed and provided and that all charges have been invoiced to the CITY. All other further charges if not properly included in the final invoice must be submitted to CITY within 30 days of the final invoice or are waived by URS.

E. Services undertaken or expenses incurred which exceed the amount or terms set forth in this Agreement without prior written authorization from the CITY shall be the sole liability of URS.

F. URS waives consequential or incidental damages for claims, disputes or other matters in question arising out of or relating to this Agreement except as specifically provided for in this Agreement.

G. URS and the CITY agree that URS's revised fee schedule set forth at **Exhibit "A"** is based on the parties estimate that the Project will take eighteen (18) months to complete (four months for design/pre-construction; twelve months for construction; and, two months for closeout). The parties agree that if the Project takes less than eighteen (18) months or longer than eighteen months to complete, the parties shall meet and discuss equitable adjustments to the fee to be paid URS under this Agreement. Any equitable adjustment agreed to must be in writing and executed by the CITY in the same fashion and manner as this Agreement.

#### **SECTION 5. USE OF DOCUMENTS AND INFORMATION.**

A. URS will be provided with all reports, documents, drawings, plans, specifications and other works of any similar nature related to the Project and reasonably necessary for URS to provide the Services hereunder ("Documents" hereafter) except those reports, documents and other works required to be prepared by URS. URS shall be familiar with the CITY's rights to such

Documents under the CITY's contracts with the Architect and Construction Contractor or Manager and any other CITY Project Team member. URS shall not use the Documents on other projects or for additions to this Project or in any manner beyond the CITY's rights to use such Documents without the specific written consent of the CITY, which consent the CITY may withhold in its sole discretion.

B. Any information which URS receives under this Agreement which is considered confidential under any applicable federal, state or local law, URS shall keep confidential and shall use said confidential information only for those purposes necessarily related to the provision of Services hereunder.

C. All reports, document and other works required to be prepared by URS under this Agreement shall be considered "Works for Hire" and the exclusive property of the CITY. To the extent such reports, documents and other works required to be prepared by URS under this Agreement may not be deemed "Works for Hire" under applicable law, URS will assign to the CITY all right, title and interest in and to URS's copyright(s) or other ownership interest for such reports, documents or other works. URS shall execute and deliver to the CITY such instruments of transfer and take such other action that CITY may reasonable request, including, without limitation, executing and filing, at CITY's expense, copyright applications, assignments and other documents required for the protection of CITY's right to such reports, documents and other works. Upon the request of the CITY, URS shall provide to the CITY all reports, documents and other works required to be prepared by URS under this Agreement.

D. Upon the request of the CITY, URS shall return to the CITY all original Documents, reports, other documents, data and works provided by the CITY or any other Project Team member to URS under this Agreement.

#### **SECTION 6: INDEMNIFICATION.**

A. URS shall indemnify and hold harmless the CITY, and its officers and employees, from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of URS and other persons employed or utilized by URS in the performance of this Agreement. Notwithstanding the foregoing, the CITY agrees to be responsible for its own negligence.

B. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CITY or URS, nor shall this Agreement be construed a waiver of sovereign immunity beyond the waiver provided in section 768.28, Fla. Stat.

C. ACCORDINGLY, NO RIGHTS OR INTERESTS GRANTED HEREIN BY THE CITY SHALL BE DEEMED TO CONFER ANY RIGHTS OF SOVEREIGN IMMUNITY TO URS, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, INDEPENDENT CONTRACTORS, AUTHORIZED SUB-CONSULTANTS AND REPRESENTATIVES, AND AS SUCH, ALL

RIGHTS AND INTERESTS OF SOVEREIGN IMMUNITY SHALL BE STRICTLY LIMITED TO THE CITY UNDER THE LAWS AND CONSTITUTION OF THE STATE OF FLORIDA.

D. CITY shall require all parties contracting with the CITY, including but not limited to the Architect and the Construction Manager or Construction Contractor to indemnify and hold harmless URS and its officers and employees, from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by their negligence, recklessness, or intentionally wrongful conduct and other persons employed or utilized by them in the performance of the project under in this Agreement.

**SECTION 7: PERSONNEL.** URS 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 URS's personnel (and all authorized sub-consultants) while on CITY premises and/or at the Project site, will comply with all CITY requirements governing conduct, safety, and security.

**SECTION 8: SUB-CONSULTANTS.**

A. The CITY reserves the right to reasonably reject the selection of a particular URS sub-consultant and approve all qualifications of any sub-consultant in order to make a determination as to the capability of the sub-consultant to perform properly under this Agreement.

B. All authorized sub-consultants providing services to URS under this Agreement will also be required to provide their own insurance coverage identical to those contained in this Agreement or as mutually agreed in writing by URS and the City representative.

C. If a subconsultant fails to perform or make progress, as required by this Agreement, and it is necessary to replace the subconsultant to complete the work in a timely fashion, URS shall promptly do so, subject to acceptance, in writing and at the CITY's sole discretion, of the new subconsultant by the CITY.

**SECTION 9: TERMINATION AND SUSPENSION.**

A. This Agreement may be cancelled by URS upon thirty (30) days prior written notice to the CITY. It may also be terminated, in whole or in part, by the CITY, with or without cause, upon thirty (30) days written notice to URS. Unless URS is in breach or default of this Agreement, URS shall be paid for Services rendered to the CITY's satisfaction through the date of termination together with reimbursable expenses then due. After receipt of a notice of termination and except as otherwise directed by the CITY, URS shall:

1. Stop all Services on the date (and to the extent) specified in the notice of termination.
2. Immediately terminate and/or settle with the consent of the CITY all orders and sub-consultants relating to the performance of the terminated Services.

3. Transfer all work in progress, completed work, and other materials related to the Services to the CITY on or before the date of termination.
4. Continue and complete all parts of the Services and/or work that have not been terminated.
5. Furnish the CITY with copies of all Documents and Project-related materials within seven (7) days of the notice of termination provided URS has received payment in full for services performed to date.

In no event shall URS be paid for work performed or costs incurred after the date of termination or for costs incurred which could have reasonably been avoided. URS shall not be paid for loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of transactions which occurred prior to termination.

B. The CITY may, without cause, order URS in writing to suspend its Services, in whole or in part, for such period of time as the CITY may determine. If the CITY suspends URS's Services in whole for more than thirty (30) consecutive days, prior to the CITY ordering URS to resume Services in writing, the CITY and URS shall agree to an amount of compensation to be paid to URS for reasonable expenses incurred as a direct result of the suspension, interruption and resumption of URS's Services. If appropriate, URS's fees for the remaining Services to be provided after resumption and the time schedules related thereto shall be equitably adjusted by the parties. If the CITY suspends URS's Services in whole for more than sixty (60) consecutive days for reasons other than the fault of URS, URS may terminate this Agreement by giving not less than ten (10) days written notice.

**SECTION 10: FEDERAL AND STATE TAX.** The CITY is exempt from payment of Florida State Sales and Use Tax. URS shall not be exempted from paying sales tax under the CITY's exemption nor is URS authorized to use the CITY's Tax Exemption Number in securing any materials necessary for the Services. URS shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this contract.

**SECTION 11: INSURANCE.** Prior to commencing any Services, URS shall provide proof of insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the state of Florida, and who must have a rating of no less than "excellent" by A.M. Best or as mutually agreed upon by the CITY and URS. All such insurance policies may not be modified or terminated without the express written authorization of the CITY.

**Type of Coverage**

**Amount of Coverage**

Professional liability/  
Errors and Omissions

\$1,000,000 per occurrence  
\$3, 000,000 annual aggregate

|   |   |
|---|---|
| Commercial general liability<br>(Products/completed operations<br>Contractual, insurance broad form property,<br>Independent contractor, personal injury) | \$1, 000,000 per occurrence<br><br>\$3,000,000 annual aggregate |
| Excess liability  | \$3,000,000   |
| Automobile (owned, non-owned, & hired)  | \$ 1,000,000 single limits                                      |
| Worker's Compensation   | \$ statutory limits   |
| Including employer's liability insurance  | \$ 1,000,000 per occurrence                                     |

The commercial general liability and excess liability policies will name the CITY as an additional insured and proof of all insurance coverage shall be furnished to the CITY by way of an endorsement to same or certificate of insurance prior to the provision of Services and upon renewal of each policy each year this Agreement remains in effect and for a period of one (1) year after the termination or expiration of this Agreement. URS shall continue to furnish the CITY with evidence of such insurance coverage upon renewal of each policy each year this Agreement remains in effect and for a period of one (1) year after the termination or expiration of this Agreement. The certificates shall clearly indicate that URS has obtained insurance of the type, amount, and classification as required for strict compliance with this section 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. Failure to comply with the foregoing requirements shall not relieve URS of its liability and obligations under this Agreement.

**SECTION 12: SUCCESSORS AND ASSIGNS.** The CITY and URS each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the CITY nor URS shall assign, sublet, convey or transfer its interest in this Agreement 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 URS.

**SECTION 13: DISPUTE RESOLUTION, LAW, VENUE, REMEDIES AND WAIVER OF JURY TRIAL.**

A. All claims arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the local rules for mediation in Palm Beach County, Florida, prior to the commencement of any formal legal action in court. 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. Notwithstanding the foregoing, should any party need to seek emergency injunctive relief in any court having jurisdiction thereof, the requirement for

mediation shall be stayed until the appropriate court rules on the request for emergency injunctive relief.

B. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. 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.

C. THE CITY AND URS SPECIFICALLY AGREE THAT NEITHER SHALL SEEK AND EACH HEREBY WAIVES ANY AND ALL RIGHTS TO A JURY TRIAL ON ANY AND ALL DISPUTES THAT MAY ARISE OUT OF OR BE RELATED TO THIS AGREEMENT.

**SECTION 14: INDEPENDENT CONTRACTOR RELATIONSHIP.** URS is, and shall be, in the performance of all Services under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the Services performed pursuant to this Agreement shall at all times, and in all places, be subject to URS's sole direction, supervision, and control. URS shall exercise control over the means and manner in which it, its employees and any authorized sub-consultants perform the Services.

**SECTION 15: ACCESS AND AUDITS.** URS shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the Services for at least five (5) years after completion of this Agreement. 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 URS's place of business. In no circumstances will URS be required to disclose any confidential or proprietary information regarding its products and service costs.

**SECTION 16: NONDISCRIMINATION.** URS 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, marital status, or sexual orientation.

**SECTION 17: ENFORCEMENT COSTS.** Except for mediation, if any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court awarded costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

**SECTION 18: AUTHORITY TO PRACTICE.** URS hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the Services under this Agreement, and that it will at all times conduct its business and

provide the Services under this Agreement in a reputable manner. Proof of such licenses and approvals shall be submitted to the CITY's representative upon request.

**SECTION 19: SEVERABILITY.**

If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, 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 Agreement shall be deemed valid and enforceable to the extent permitted by law.

**SECTION 20: PUBLIC ENTITY CRIMES.** URS acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or subcontractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Fla. Stat., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. URS will advise the CITY immediately if it becomes aware of any violation of this statute.

**SECTION 21: CONFLICTS OF INTEREST.** URS represents that it and any authorized sub-consultants presently have no interest and shall acquire no interest, either direct or indirect, which would knowingly conflict in any manner with the Services required hereunder, as provided for in section 112.313, Florida Statutes, or the Palm Beach County code of ethics. URS further represents that no person having any such interest shall be knowingly employed for said Services. URS shall promptly notify the CITY, in writing of all known potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence URS's and/or any of URS's authorized sub-consultant's judgment or quality of Services being provided hereunder.

**SECTION 22: NOTICE.** All notices required in this Agreement shall be sent by certified mail, return receipt requested; hand-delivery with signed receipt; and/or, by nationally recognized overnight courier; and, if sent to the CITY shall be mailed/delivered to:

City of Riviera Beach  
c/o Clarence D. Williams, III,  
Chief of Police  
600 W. Blue Heron Blvd.  
Riviera Beach, FL 33404

With a copy to:

City of Riviera Beach  
City Attorney  
600 W. Blue Heron Blvd.  
Riviera Beach, FL 33404

and if sent to URS shall be mailed/delivered to:

URS Corporation

Davin D. Ruohomaki, CGC, EMBA  
CMPM Office Manager - Florida  
URS Corporation  
315 East Robinson St., Suite 245  
Orlando, FL 32801-1949

The foregoing names and addresses may be changed if such change is provided in writing to the other party. Notice shall be considered given on the date the receipt for certified mailing or hand-delivery is signed or the day after overnight courier is sent.

**SECTION 23: ENTIRETY OF CONTRACTUAL AGREEMENT.** The CITY and URS agree that this Agreement 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 Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

**SECTION 24: TIME.** Time is of the essence in all respects under this Agreement.

**SECTION 25: 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 "Agreement" as used herein, as well as the terms "herein", "hereof", "hereunder", "hereinafter" and the like mean this Agreement 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 Agreement, nor shall such headings affect the meaning or interpretation of this Agreement.

**SECTION 26: WAIVER.** Failure of a party to enforce or exercise any of its right(s) under this Agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

**SECTION 27: PREPARATION.** This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

**SECTION 28: MATERIALITY.** All provisions of the Agreement shall be deemed material. In the event URS fails to comply with any of the provisions contained in this Agreement or

exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Agreement.

**SECTION 29: EXHIBITS AND AGREEMENT DOCUMENTS.** Each exhibit and other Agreement documents referred to in this Agreement forms an essential part of this Agreement. The exhibits and other Agreement documents, if not physically attached, should be treated as part of this Agreement and are incorporated herein by reference.

**SECTION 30: AGREEMENT DOCUMENTS AND CONTROLLING PROVISIONS.** This Agreement consists of the RFP No. 301-11 (including all addenda); URS's responsive proposal thereto, this Agreement and any and all exhibits or amendments hereto. URS agrees to be bound by all the terms and conditions set forth in the aforementioned documents. To the extent that there exists a conflict between this Agreement (including its exhibit(s) and any amendments thereto) and the remaining documents, the terms, conditions, covenants, and/or provisions of this Agreement (including its exhibit(s) and any amendments thereto) shall prevail with the RFP No. 301-11 taking precedence over URS's responsive proposal. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

**SECTION 31: LEGAL EFFECT.** This Agreement shall not become binding and effective until approved and executed by the CITY.

**SECTION 32: SURVIVABILITY.** Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

**SECTION 33: DEFAULT.**

A. Notwithstanding anything contained in this Agreement to the contrary, the parties agree that the occurrence of any of the following shall be deemed a material event of default and following written notice and time for URS to cure and if not cured shall be grounds for termination by the CITY:

1. The filing of a lien by URS or any authorized sub-consultant of URS upon any Project property, right of way, easement or other CITY property which lien is not satisfied, discharged or contested in a court of law within thirty (30) days from the date of notice to URS;
2. The filing of any judgment lien against the assets of URS related to the performance of this Agreement which is not satisfied, discharged or contested in a court of law within thirty (30) days from the date of notice to URS; or
3. The filing of a petition by or against URS for relief under the Bankruptcy Code, or for its reorganization or for the appointment of a receiver or trustee of URS or URS's property; or an assignment by URS for the benefit of creditors; or the taking possession of the property of URS by any governmental officer or agency pursuant to

statutory authority for the dissolution or liquidation of URS; or if a temporary or permanent receiver or trustee shall be appointed for URS or for URS's property and such temporary or permanent receiver or Trustee shall not be discharged within thirty (30) days from the date of appointment.

4. URS's failure to maintain the insurance coverage specifically required under this Agreement.

B. URS shall provide written notice to the CITY of the occurrence of any event of default within five (5) days of URS's receipt of notice or knowledge of any such default.

**SECTION 34: WAIVER OF SUBROGATION.** URS 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 URS 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 URS enter into such an agreement on a pre-loss basis.

**SECTION 35: REPRESENTATIONS/BINDING AUTHORITY.** URS's representative Davin D. Ruohomaki, CGC, EMBA, has full power, authority and legal right to execute and deliver this Agreement and perform all of its obligations under this Agreement. By signing this Agreement, Davin D. Ruohomaki, CGC, EMBA hereby represents to the CITY that he has the authority and full legal power to execute this Agreement and any and all documents necessary to effectuate and implement the terms of this Agreement on behalf of URS, the party for whom he is signing, and to bind and obligate URS with respect to all provisions contained in this Agreement.

**SECTION 36: NOTICE OF REGULATORY VIOLATIONS.** URS agrees to immediately notify the CITY of any and all instances of regulatory violations that are discovered during the Term of this Agreement including, but not limited to, those regulatory violations that concern matters outside the course and scope of this Agreement but which are related to the Project. URS understands and agrees that failure to notify the CITY of any regulatory violation URS discovered or should have discovered during the Term of this Agreement may result in immediate termination of this Agreement by the CITY in the CITY's sole and exclusive opinion.

**SECTION 37: COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement.

**SECTION 38: EFFECTIVE DATE.** The Effective Date of this Agreement is the date this Agreement is approved and executed by the CITY.

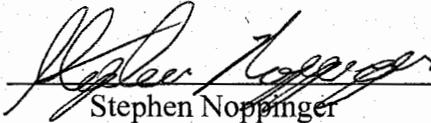
**SECTION 39. LITIGATION AS A NON-PARTY.** If URS is brought into litigation on this Project or in connection with this Agreement as a non-party through (for example) a subpoena for records, deposition request, court directive or otherwise, CITY, if it is a party to the litigation, will pay all reasonable costs incurred by URS, in compliance with any subpoena, deposition, court directive or otherwise including, but not limited to, document and records reproduction costs, search and review time, preparation time, appearance time, legal fees incurred, travel (paid in accordance with Florida Statutes) and other expenses directly related to said litigation, at all employees' regular billing rate at the time these costs are incurred. If CITY is brought into litigation on this Project or in connection with this Agreement as a non-party through (for example) a subpoena for records, deposition request, court directive or otherwise, URS, if it is a party to the litigation, will pay all reasonable costs incurred by CITY, in compliance with any subpoena, deposition, court directive or otherwise including, but not limited to, document and records reproduction costs, search and review time, preparation time, appearance time, legal fees incurred, travel (paid in accordance with Florida Statutes) and other expenses directly related to said litigation, at all employees' regular billing rate at the time these costs are incurred.

**SECTION 40. NO LIABILITY FOR DESIGN, CONSTRUCTION OR HAZMAT.** URS will not be held responsible for design defects and does not assume any of the contractual responsibilities or duties of the Architect. The Architect is solely responsible for the Project designs and shall perform all design related services in accordance with its contract. URS also does not assume any of the contractual responsibilities or duties of the Construction Manager or Construction Contractor. The Construction Manager or Construction Contractor is solely responsible for construction means, methods, sequences and procedures used in the construction of the Project and for related performance in accordance with its contract. URS will not be responsible for the presence and/or consequences of any asbestos, PCB's, petroleum, hazardous materials and/or radioactive materials on the Project but shall promptly inform the CITY of the presence of any asbestos, PCB's, hazardous materials or radioactive materials if URS has knowledge of the same on or at the Project..

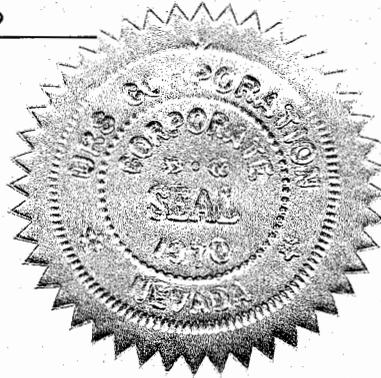
**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK  
SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, the CITY and URS hereto have made and executed this Owner's Representative Agreement as of the day and year first above written.

**URS CORPORATION**

BY:   
Stephen Noppinger  
VICE PRESIDENT

[Corporate Seal]



**CITY OF RIVIERA BEACH:**

BY:   
THOMAS A. MASTERS  
MAYOR

ATTEST:

BY:   
CARRIE E. WARD, MMC,  
CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

BY:   
PAMALA H. RYAN,  
CITY ATTORNEY

**EXHIBIT "A"**

**URS'S REVISED FEE SCHEDULE  
(Per-hour Cost - "Staffing Schedule" - dated October 18, 2011)  
(Fee Proposal dated October 18, 2011 – cover page and Excel Spreadsheet)**

**See next pages.**



October 18, 2011

Ms. Christy Goddeau, Esq.  
The Law Office of  
Glen J. Torcivia and Associates, P.A.  
Northpoint Corporate Center  
701 Northpoint Parkway, STE 209  
West Palm Beach, FL 33407-1950

Re: City of Riviera Beach RFP #301-11: Owner's Construction Representative (OAR) Services – Notice to Commence Negotiations and Request for Revised Cost Proposal

Dear Ms. Goddeau:

In accordance with our conversations, and per your request, we hereby submit our revised Owner's Construction Representative Services fee proposal for the above-referenced project.

**PROJECT DESCRIPTION**

The City of Riviera Beach project scope includes providing OAR services for design, preconstruction, construction and project closeout. We further understand that we will assist you with the Construction Manager selection process.

**SERVICES**

This fee includes project management/OAR services for your requested duration of 18 months as depicted in the attached spreadsheet breakdown.

**FEE SUMMARY**

Based upon the attached worksheets, we propose our staffing portion of this project not to exceed **\$249,680.00**.

Our staffing plan meets your budgetary constraint of \$250,000.00; however, we presume that reimbursable expenses can be kept to an extreme minimum if we are allowed to occupy owner (or CM) space and be afforded owner (or CM) supplied office supplies in our role as OAR/staff extension.

**M/WBE PARTICIPATION**

The projected M/WBE participation is estimated at 36%. Participation of sub-consultants include: Clarity Consulting in the role of Contract Administrator.

Thank you for the opportunity to provide this fee proposal.

Respectfully,

URS Corporation

Davin D. Ruohomaki

Enclosure: Exhibit A

**COST PROPOSAL**

| MONTH        | PROJECTED MONTHLY BILLING   |                                     | PROJECTED FEES BY PHASE  |                     |                    |  |
|--------------|-----------------------------|-------------------------------------|--------------------------|---------------------|--------------------|--|
|              | PROJECT MANAGER MONTHLY FEE | ADMINISTRATIVE/CLERICAL MONTHLY FEE | DESIGN/ PRE-CONSTRUCTION | CONSTRUCTION        | CLOSEOUT           |  |
| 1            | \$10,080.00                 | \$5,600.00                          | \$15,680.00              |                     |                    |  |
| 2            | \$9,900.00                  | \$5,500.00                          | \$15,400.00              |                     |                    |  |
| 3            | \$9,900.00                  | \$5,500.00                          | \$15,400.00              |                     |                    |  |
| 4            | \$9,900.00                  | \$5,500.00                          | \$15,400.00              |                     |                    |  |
| 5            | \$9,900.00                  | \$5,500.00                          |                          | \$15,400.00         |                    |  |
| 6            | \$9,900.00                  | \$5,500.00                          |                          | \$15,400.00         |                    |  |
| 7            | \$9,900.00                  | \$5,500.00                          |                          | \$15,400.00         |                    |  |
| 8            | \$9,900.00                  | \$5,500.00                          |                          | \$15,400.00         |                    |  |
| 9            | \$9,000.00                  | \$5,000.00                          |                          | \$14,000.00         |                    |  |
| 10           | \$9,000.00                  | \$5,000.00                          |                          | \$14,000.00         |                    |  |
| 11           | \$9,000.00                  | \$5,000.00                          |                          | \$14,000.00         |                    |  |
| 12           | \$9,000.00                  | \$5,000.00                          |                          | \$14,000.00         |                    |  |
| 13           | \$9,000.00                  | \$5,000.00                          |                          | \$14,000.00         |                    |  |
| 14           | \$9,000.00                  | \$5,000.00                          |                          | \$14,000.00         |                    |  |
| 15           | \$9,000.00                  | \$5,000.00                          |                          | \$14,000.00         |                    |  |
| 16           | \$7,200.00                  | \$4,000.00                          |                          | \$11,200.00         | \$9,400.00         |  |
| 17           | \$5,400.00                  | \$4,000.00                          |                          |                     | \$7,600.00         |  |
| 18           | \$3,600.00                  | \$4,000.00                          |                          |                     |                    |  |
| <b>TOTAL</b> | <b>\$158,580.00</b>         | <b>\$91,100.00</b>                  | <b>\$61,880.00</b>       | <b>\$170,800.00</b> | <b>\$17,000.00</b> |  |

Project Manager rate

\$90.00

Admin Rate

\$50.00

| ROLE                     | Duration (months) | Hours Per (approx) Week | Total Hours | Rate    | Total Cost          |
|--------------------------|-------------------|-------------------------|-------------|---------|---------------------|
| Project Manager Services |                   |                         |             |         |                     |
| Design Phase             | 3                 |                         |             |         |                     |
| Owner Rep/PM             |                   | 27.67                   | 332         | \$90.00 | \$29,880.00         |
| Contract Admin/Clerical  |                   | 27.67                   | 332         | \$50.00 | \$16,600.00         |
|                          |                   |                         |             |         | \$0.00              |
| Pre- Construction Phase  | 1                 |                         |             |         | \$0.00              |
| Owner Rep/PM             |                   | 27.5                    | 110         | \$90.00 | \$9,900.00          |
| Contract Admin/Clerical  |                   | 27.5                    | 110         | \$50.00 | \$5,500.00          |
|                          |                   |                         |             |         | \$0.00              |
| Construction Phase       | 12                |                         |             |         | \$0.00              |
| Owner Rep/PM             |                   | 25.42                   | 1220        | \$90.00 | \$109,800.00        |
| Contract Admin/Clerical  |                   | 25.42                   | 1220        | \$50.00 | \$61,000.00         |
|                          |                   |                         |             |         | \$0.00              |
| Close Out Phase          | 2                 |                         |             |         | \$0.00              |
| Owner Rep/PM             |                   | 12.5                    | 100         | \$90.00 | \$9,000.00          |
| Contract Admin/Clerical  |                   | 20                      | 160         | \$50.00 | \$8,000.00          |
|                          |                   |                         |             |         |                     |
| <b>Totals</b>            |                   |                         | <b>3584</b> |         | <b>\$249,680.00</b> |





**CITY OF RIVIERA BEACH  
OWNER'S REPRESENTATIVE SERVICES  
RFP #301-11  
COST PROPOSAL**

**I. Per-hour Cost**

| <u>Position</u>   | <u>Billable Rate/Hour*</u> | <u>No. of Hours**</u> |
|---|----------------------------|-----------------------|
| Owner's Representative  | \$90                       | TBD                   |
| Contract Administrator/<br>Technical Advisor (Clarity Consulting) | \$50                       | TBD                   |

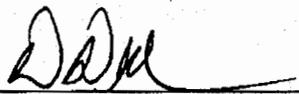
Clarity Consulting is an M/WBE firm – our planned M/WBE participation goal is projected at 30%.

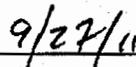
*\*This rate is fully loaded – contains raw salary, fringe benefits, overhead and profit*

*\*\*TBD – Hours predicated on construction schedule. Staff is flexible to adapt to your budget. URS would like to discuss to finalize desired hours.*

Prepared by:

Davin Ruohomaki, CM/PM Department Manager – URS Corporation

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date

RESOLUTION NO. 5-12

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 INTERLOCAL AGREEMENT BETWEEN THE CITY OF RIVIERA BEACH AND THE BOARD OF COUNTY COMMISSIONERS, PALM BEACH COUNTY, FOR CONTINUATION OF THE JUSTICE SERVICE CENTER IN THE AMOUNT OF \$212,165; 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 commitment to successful offender reentry; and

**WHEREAS**, the Justice Service Center meets the requirements for administering offender reentry services; and

**WHEREAS**, the Justice Service Center has presented a proposal in accordance with the Palm Beach County Criminal Justice Commission Reentry Task Force's 5-Year Strategic Plan; and

**WHEREAS**, the City has been awarded grant funds in the amount of \$212,165 for continuation of the Justice Service Center.

**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.

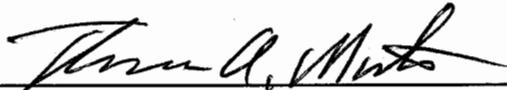
**SECTION 2.** The Finance Director is authorized to set up a budget for the same.

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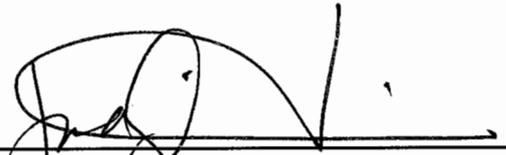
RESOLUTION NO. 5-12

PAGE 2

APPROVED:



THOMAS A. MASTERS  
MAYOR



JUDY L. DAVIS  
CHAIRPERSON

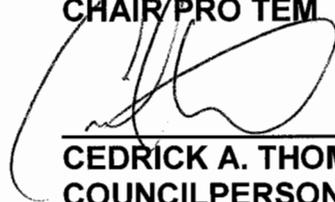
ATTEST:



CARRIE E. WARD  
MASTER MUNICIPAL CLERK  
CITY CLERK



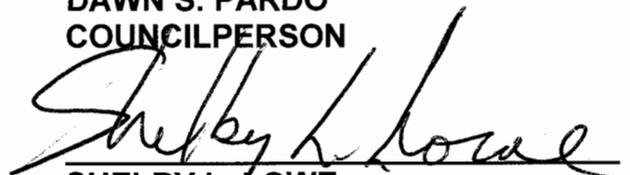
BILLIE E. BROOKS  
CHAIR PRO TEM



CEDRICK A. THOMAS  
COUNCILPERSON



DAWN S. PARDO  
COUNCILPERSON



SHELBY L. LOWE  
COUNCILPERSON

MOTIONED BY: B. BROOKS

SECONDED BY: S. LOWE

J. DAVIS AYE

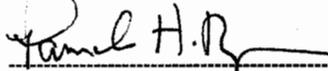
B. BROOKS AYE

C. THOMAS NAY

D. PARDO AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 12/27/11

RESOLUTION NO. 6-12

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE POLICE DEPARTMENT TO PURCHASE TWO (2) CODE ENFORCEMENT VEHICLES UNDER THE 2012 FLORIDA SHERIFF'S ASSOCIATION CONTRACT #11-19-0907, FROM DON REID FORD, INC. OF MAITLAND, FLORIDA; AUTHORIZING THE MAYOR AND INTERIM FINANCE DIRECTOR TO MAKE PAYMENT FROM THE POLICE DEPARTMENT CAPITAL MOTOR VEHICLE ACCOUNT NUMBER 001-0841-524-0-6451 TO DON REID FORD, INC IN THE AMOUNT OF \$30,442.00; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council approved funding for Police Department vehicles in the Fiscal Year 2012 Operating Budget; and

**WHEREAS**, the City seeks to purchase two (2) vehicles under the 2012 Florida Sheriff's Association Purchasing Contract #11-19-0907, from Don Reid Ford, Inc. in Maitland, Florida; and

**WHEREAS**, the vehicles will be used by Code Enforcement personnel to conduct inspections throughout the City.

**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 approves the purchase of two (2) vehicles, from Don Reid Ford, Inc. through Florida Sheriff's Contract #11-19-0907.

**SECTION 2:** The City Council authorizes the Mayor and Interim Finance Director to make payment to Don Reid Ford, Inc. in the amount of \$30,442.00 as follows:

\$30,442.00 Capital Motor Veh. Account 001-0841-524-0-6451

**RESOLUTION NO. 6-12**  
**PAGE 2**

**SECTION 3:** This Resolution shall take effect upon passage and approval by the City Council.

**PASSED and APPROVED** this 18TH day of JANUARY, 2012.

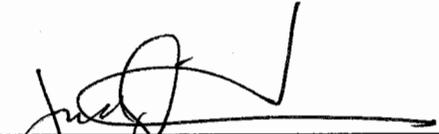
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RESOLUTION NO. 6-12

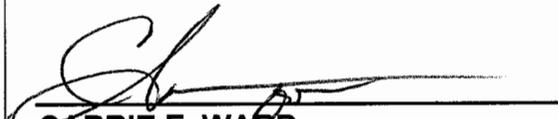
PAGE 3

APPROVED:

  
\_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

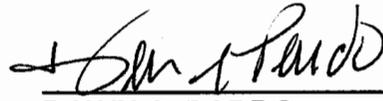
  
\_\_\_\_\_  
JUDY L. DAVIS  
CHAIRPERSON

ATTEST:

  
\_\_\_\_\_  
CARRIE E. WARD  
MASTER MUNICIPAL CLERK  
CITY CLERK

  
\_\_\_\_\_  
BILLIE E. BROOKS  
CHAIR PRO TEM

  
\_\_\_\_\_  
CEDRICK A. THOMAS  
COUNCILPERSON

  
\_\_\_\_\_  
DAWN S. PARDO  
COUNCILPERSON

  
\_\_\_\_\_  
SHELBY L. LOWE  
COUNCILPERSON

MOTIONED BY: B. BROOKS

SECONDED BY: D. PARDO

J. DAVIS AYE

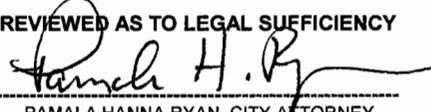
B. BROOKS AYE

C. THOMAS AYE

D. PARDO AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY

  
\_\_\_\_\_  
PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 1/9/12

RESOLUTION NO. 7-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE PURCHASING DIRECTOR TO PIGGYBACK STATE OF FLORIDA CONTRACT #DMS06/07-086 WITH AT&T FOR THE PURCHASE OF PHONE SETS, SET-UP COSTS AND MONTHLY HOSTED VOICE SERVICES AS A BEST VALUE SOLUTION FOR THE REPLACEMENT OF THE CITY'S EXISTING NEC PBX SYSTEM AND TO PROVIDE BENEFITS OF ADVANCED TELECOM FEATURES AND LOWER COST OF OPERATIONS; AUTHORIZING THE INTERIM FINANCE DIRECTOR TO MAKE MONTHLY PAYMENTS IN THE AMOUNT OF \$7,044 FROM VARIOUS OPERATIONAL ACCOUNTS FOR HOSTED VOICE SERVICES AND \$67,248 FROM CAPITAL ACCOUNT NUMBER 310-0243-519-0-6451 FOR THE PURCHASE OF PHONES AND ONE TIME SET UP FEES; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City uses a computerized NEC 2400 PBX telephone system to route and manage phone calls for its more than 300 phone lines; and

**WHEREAS**, the current system is more than 12 years old, at end of life, there is difficulty locating parts, and NEC no longer provides technical support or software upgrades for the system; and

**WHEREAS**, with the goal of leveraging the City's substantial investment in existing computer network infrastructure to achieve the benefits of advanced telecom features and enhanced economy, several VoIP telephony solutions were evaluated for their capacity to provide advance features at a lower operational cost; and

**WHEREAS**, after performing a 36 to 60 month "**Total Cost of Ownership**" analysis of PBX replacement solutions; it was determined that a pure hosted voice services solution provided by AT&T through an existing State of Florida contract (DMS 06/07-086) was the "**Best Value**" solution by providing an estimated annual operating savings of more than \$64,000.

RESOLUTION NO. 7-12  
PAGE 2.

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

**SECTION 1.** The Purchasing Director is authorized to piggyback State of Florida contract DMS06/07-086 for the purchase of **phone sets, set-up costs and monthly hosted voice services** as a best value solution for the replacement of the City's existing NEC PBX system and to provide the benefit of advanced telecom features and lower cost of operations.

**SECTION 2.** The Interim Finance Director is authorized to make monthly payments in the amount of \$7,044 from various departmental operational accounts for hosted voice services and \$67, 248 for the purchase of phones and one time set up charges from Capital Account number 310-0243-519-0-6451.

**SECTION 3.** This Resolution shall take effect upon its passage and approval by the City Council.

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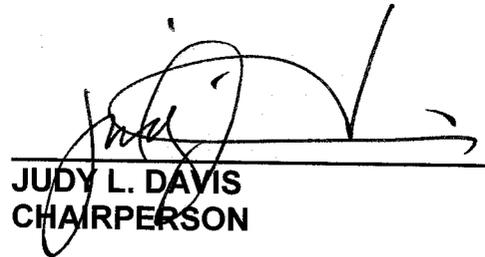
RESOLUTION NO. 7-12  
PAGE 3.

PASSED AND APPROVED this 18TH day of JANUARY, 2012

APPROVED:



THOMAS A. MASTERS  
MAYOR

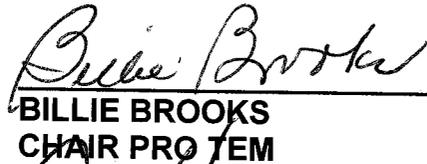


JUDY L. DAVIS  
CHAIRPERSON

ATTEST:



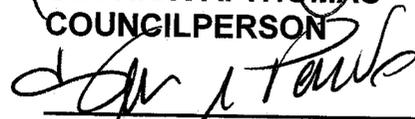
CARRIE E. WARD,  
MASTER MUNICIPAL CLERK  
CITY CLERK



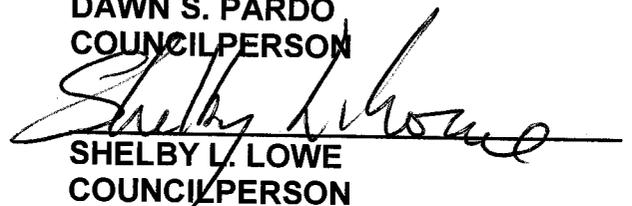
BILLIE BROOKS  
CHAIR PRO TEM



CEDRICK A. THOMAS  
COUNCILPERSON



DAWN S. PARDO  
COUNCILPERSON



SHELBY L. LOWE  
COUNCILPERSON

MOTIONED BY: C. THOMAS

SECONDED BY: S. LOWE

B. BROOKS: AYE

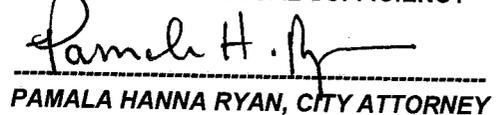
J. DAVIS: AYE

C. THOMAS: AYE

D. PARDO: AYE

S. LOWE: AYE

REVIEWED AS TO LEGAL SUFFICIENCY

  
PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 1/11/12

RESOLUTION NO. 8-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE 2011 THRU 2012 RENEWAL SERVICE AGREEMENT FOR BID 15107 WITH POWER PRO-TECH SERVICES OF MAITLAND, FLORIDA TO PROVIDE SCHEDULED SERVICE AND MAINTENANCE ON GENERATORS LOCATED THROUGHOUT THE CITY: AUTHORIZING THE INTERIM FINANCE DIRECTOR TO MAKE PAYMENTS FROM VARIOUS DEPARTMENTAL OPERATING BUDGETS, AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, It is critical that emergency generators throughout the City are adequately maintained to ensure their performance when the need arises, including natural disasters and random power outages; and

**WHEREAS**, the City publicly solicited bids on the project and Power Pro-Tech Services was the lowest responsible responsive bidder; and

**WHEREAS**, on July 21, 2010, the City Council via Resolution Number 75-10, approved the second renewal option for Power Pro-Tech; and

**WHEREAS**, Power Pro-Tech continues to provide this service to the City of Riviera Beach in a satisfactory manner; and

**WHEREAS**, Power Pro-Tech has agreed to renew this Agreement for an additional twelve (12) month period with a 3.8% increase based on the CPI index under the original terms of this Agreement; and

**WHEREAS**, various departments have budgeted funds for repair and maintenance of equipment.

**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 a Agreement with Power Pro-Tech Services for the provision of scheduled service and maintenance on generators located throughout the City.

**SECTION 2.** The Interim Finance Director is authorized to make payment from the appropriate departmental operating accounts.

**SECTION 3.** This Resolution shall take effect upon its passage and approval by the City Council.

PASSED AND APPROVED this 18TH day of JANUARY 2012

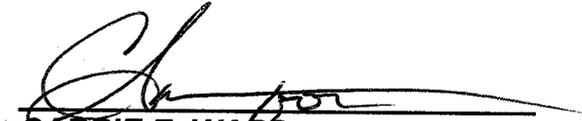


THOMAS A. MASTERS  
MAYOR



JUDY L. DAVIS  
CHAIRPERSON

ATTEST:



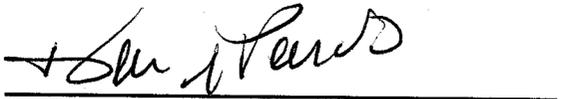
CARRIE E. WARD,  
MASTER MUNICIPAL CLERK  
CITY CLERK



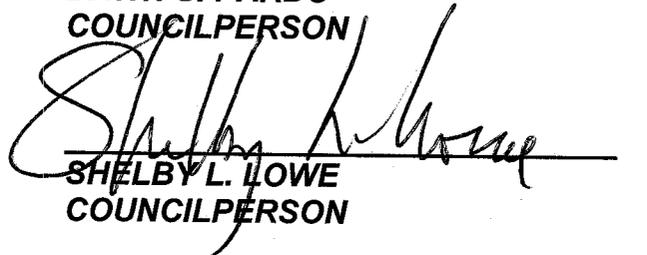
BILLIE E. BROOKS  
CHAIR PRO TEM



CEDRICK A. THOMAS  
COUNCILPERSON



DAWN S. PARDO  
COUNCILPERSON



SHELBY L. LOWE  
COUNCILPERSON

MOTIONED BY: B. BROOKS

SECONDED BY: C. THOMAS

B. BROOKS      AYE

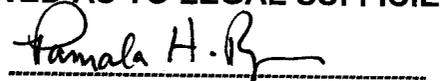
J DAVIS        AYE

C. THOMAS     AYE

D. PARDO      AYE

S. LOWE        AYE

REVIEWED AS TO LEGAL SUFFICIENCY

  
PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 1/11/12

RESOLUTION NO. 9-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, BE APPROVED BY DELETING THE UNCLASSIFIED POSITION OF DIRECTOR, FINANCE AND BY CREATING THE UNCLASSIFIED POSITION OF DIRECTOR, FINANCE AND ADMINISTRATIVE SERVICES AND THAT THE NEW UNCLASSIFIED POSITION BE ADDED TO THE DEPARTMENT HEAD JOB CLASSIFICATION LIST AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the unclassified position of Director, Finance is deleted and Director, Finance and Administrative Services is created and added to the Department Head Job Classification List; and

WHEREAS, the 2011 – 2012 Finance Department Budget was approved to reassign the Departments of Human Resources, Purchasing/IT and Library under the jurisdiction of the Finance Department; and

WHEREAS, the supervision will increase by newly created position due to the additional responsibilities of the above departments; and

WHEREAS, in order to enact this revision, this resolution must be approved by City Council.

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 unclassified position of Director, Finance be deleted from the Department Head Job Classification List as follows:

| JOB CLASSIFICATION LIST | POSITION          | PAY GRADE | ANNUAL SALARY       |
|-------------------------|-------------------|-----------|---------------------|
| DEPARTMENT HEAD         | DIRECTOR, FINANCE | 29        | \$ 87,285 - 130,927 |

RESOLUTION NO. 9-12  
PAGE 2

**SECTION 2.** That the unclassified position of Director, Finance and Administrative Services be added to the Department Head Job Classification List, as follows:

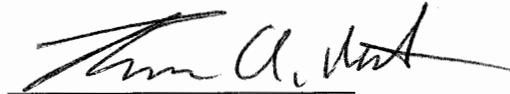
| <b>JOB CLASSIFICATION LIST</b> | <b>POSITION</b>                                      | <b>PAY GRADE</b> | <b>ANNUAL SALARY</b>       |
|--------------------------------|--|------------------|----------------------------|
| <b>DEPARTMENT HEAD</b>         | <b>Director, Finance and Administrative Services</b> | <b>30</b>        | <b>\$ 90,817 - 136,224</b> |

**SECTION 3.** This Resolution shall take effect upon its passage and approval by the City Council.

**PASSED AND APPROVED** this 18TH day of JANUARY, 2012.

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APPROVED:

  
THOMAS A. MASTERS  
MAYOR

  
JUDY L. DAVIS  
CHAIRPERSON

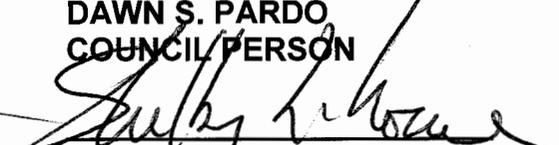
  
BILLIE E. BROOKS  
CHAIRPERSON PRO TEM

  
CEDRICK A. THOMAS  
COUNCIL PERSON

ATTEST:

  
CARRIE E. WARD  
MASTER MUNICIPAL CLERK  
CITY CLERK

  
DAWN S. PARDO  
COUNCIL PERSON

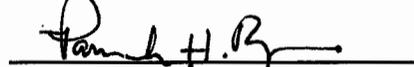
  
SHELBY L. LOWE  
COUNCIL PERSON

Motioned by: B. BROOKS

Seconded by: S. LOWE

J. DAVIS AYE  
B. BROOKS AYE  
C. THOMAS NAY  
D. PARDO NAY  
S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY

  
Pamala H. Ryan  
City Attorney

DATE 1/18/12

RESOLUTION NO. 10-12

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE INTERIM FINANCE DIRECTOR TO APPROPRIATE POLICE TRAINING FUND-FUND BALANCE IN THE AMOUNT OF \$67,500; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Florida Statute 318.18 (11d), the Palm Beach County Clerk of Courts collects \$2.00 court costs for certain Florida Uniform Traffic Citations written in Riviera Beach; and

**WHEREAS**, the Palm Beach County Clerk of Courts forwards the collected funds to the City each month; and

**WHEREAS**, the funds shall only be used for expenses associated with the training of police officers.

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

**SECTION 1:** The Interim Finance Director is authorized to appropriate Police Training Fund-Fund Balance in the amount of \$67,500.

**SECTION 2:** The Interim Finance Director is authorized to set up the budget as follows:

|                     |             |
|---------------------|-------------|
| 105-0822-521-0-4001 | \$44,000.00 |
| 105-0822-521-0-5403 | \$23,500.00 |

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

PASSED AND APPROVED this 18TH day of JANUARY, 2012

APPROVED:

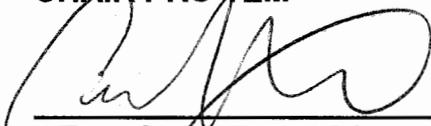
  
\_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

  
\_\_\_\_\_  
JUDY L. DAVIS  
CHAIRPERSON

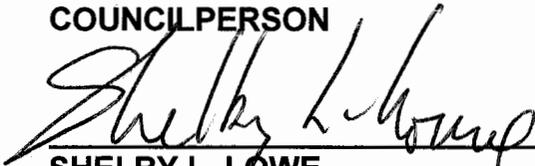
ATTEST:

  
\_\_\_\_\_  
CARRIE E. WARD  
MASTER MUNICIPAL CLERK  
CITY CLERK

  
\_\_\_\_\_  
BILLIE E. BROOKS  
CHAIR PRO TEM

  
\_\_\_\_\_  
CEDRICK A. THOMAS  
COUNCILPERSON

  
\_\_\_\_\_  
DAWN S. PARDO  
COUNCILPERSON

  
\_\_\_\_\_  
SHELBY L. LOWE  
COUNCILPERSON

MOTIONED BY: B. BROOKS

SECONDED BY: D. PARDO

J. DAVIS AYE

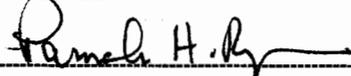
B. BROOKS AYE

C. THOMAS AYE

D. PARDO AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY

  
\_\_\_\_\_  
PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 11/6/12

RESOLUTION NO. 11-12

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, SUPPORTING THE ESTABLISHMENT OF A SISTER-CITY RELATIONSHIP BETWEEN THE CITY OF RIVIERA BEACH, FLORIDA, AND FREEPORT, GRAND BAHAMA, AS A SYMBOLIC STATEMENT OF FRIENDSHIP AND COOPERATION AND AN OFFICIAL COMMITMENT TO BUILD TANGIBLE CONNECTIONS BETWEEN THE TWO CITIES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the cities of Riviera Beach, Florida, and Freeport, Grand Bahama, are separated by just 85 miles and share not only similar demography, typography and geography, but also a distinct history and culture as Riviera Beach originated as a coastal fishing village populated by many transplanted Bahamians; and

**WHEREAS**, in March 2010 a direct, economically beneficial relationship was created when the Celebration Cruise Line began service between the two cities via the Port of Palm Beach and the Port of Freeport; and

**WHEREAS**, officials in both cities realized the opportunity to share international good will, trade and tourism, social, educational, governmental and cultural connections by establishing a sister-city program; and

**WHEREAS**, this special program of outreach and connection will benefit stakeholders in both communities, promoting growth, development and stronger cultural ties.

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

**Section 1:** The City of Riviera Beach hereby supports the establishment of a sister-city relationship with the City of Freeport, Grand Bahama.

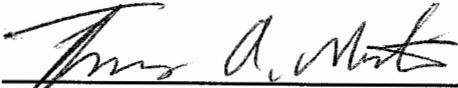
**Section 2:** This resolution shall take effect immediately upon its passage and approval.

**PASSED and APPROVED this 18TH day of JANUARY, 2012.**

RESOLUTION NO. 11-12

PAGE 2

APPROVED:

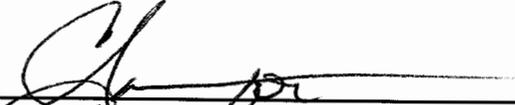


THOMAS A. MASTERS  
MAYOR

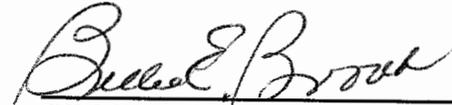


JUDY L. DAVIS  
CHAIRPERSON

ATTEST:



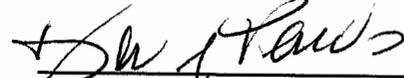
CARRIE E. WARD  
MASTER MUNICIPAL CLERK  
CITY CLERK



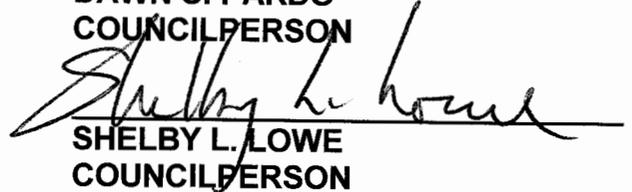
BILLIE E. BROOKS  
CHAIR PRO-TEM



CEDRICK A. THOMAS  
COUNCILPERSON



DAWN S. PARDO  
COUNCILPERSON



SHELBY L. LOWE  
COUNCILPERSON

MOTIONED BY: S. LOWE

SECONDED BY: B. BROOKS

J. DAVIS AYE

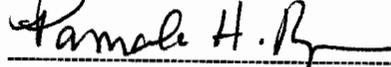
B. BROOKS AYE

C. THOMAS AYE

D. PARDO AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 1/11/12

RESOLUTION NO. 12-12

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, URGING LOCAL RETAILERS SELLING TOBACCO PRODUCTS TO REFRAIN FROM SELLING AND MARKETING FLAVORED TOBACCO PRODUCTS, WHICH TEND TO PROMOTE AND INFLUENCE UDNERAGE AND YOUTHFUL CONSUMPTION OF THESE PRODUCTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, tobacco use is the leading cause of preventable death in both the United States and the State of Florida, with nearly 90 percent of tobacco users beginning to smoke before their 18<sup>th</sup> birthdays; and

**WHEREAS**, every day in the United States, more than 4,000 young people under age 18 are estimated to sample smoking for the first time, with half of them becoming regular daily smokers; and

**WHEREAS**, the Campaign for Tobacco-Free Kids estimates that 28.7 million packs of cigarettes are purchased or consumed by minors in the State of Florida each year; and

**WHEREAS**, in Palm Beach County, 7.5 percent of middle school students and 20.5 percent of high school students report current tobacco use; and

**WHEREAS**, the 1998 Tobacco Master Settlement Agreement strictly forbids cigarette manufacturers from targeting youth in advertising, marketing and promotion of tobacco products;

**WHEREAS**, according to internal tobacco industry documents, manufacturers appear to be intentionally targeting minors through the use of candy-like and sweet-flavored tobacco products; and

**WHEREAS**, the Food and Drug Administration found in 2004 that less than seven percent of adults aged 25 or older reported smoking flavored tobacco products, while nearly 30 percent of teens reported using them, believing these products are "safer" and "taste better"; and

**WHEREAS**, surveys conducted by the statewide group Students Working Against Tobacco discovered tobacco products with grape, cream, apple, cherry and other flavorings were being sold in various retail outlets throughout Palm Beach County and the State of Florida.

RESOLUTION NO- 12-12  
PAGE 2

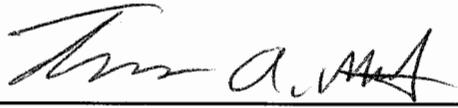
**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA THAT:**

**Section 1:** The City Council hereby urges all local retailers who sell tobacco products to cease the sale and marketing of all flavored tobacco products in order to reduce the exposure and use of tobacco products by minors in the City.

**Section 2:** This resolution shall take effect immediately upon its passage and approval.

**PASSED and APPROVED this 18TH day of JANUARY, 2012.**

APPROVED:

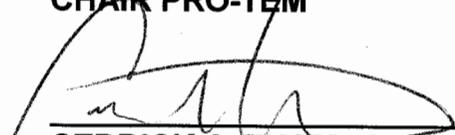
  
\_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

  
\_\_\_\_\_  
JUDY L. DAVIS  
CHAIRPERSON

ATTEST:

  
\_\_\_\_\_  
CARRIE E. WARD  
MASTER MUNICIPAL CLERK  
CITY CLERK

  
\_\_\_\_\_  
BILLIE E. BROOKS  
CHAIR PRO-TEM

  
\_\_\_\_\_  
CEDRICK A. THOMAS  
COUNCILPERSON

  
\_\_\_\_\_  
DAWN S. PARDO  
COUNCILPERSON

  
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SHELBY L. LOWE  
COUNCILPERSON

MOTIONED BY: D. PARDO

SECONDED BY: C. THOMAS

J. DAVIS AYE

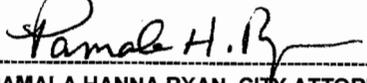
B. BROOKS AYE

C. THOMAS AYE

D. PARDO AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY

  
\_\_\_\_\_  
PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 1/11/12

**RESOLUTION NO. 13-12**

**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 BOARD OF COUNTY COMMISSIONERS, PALM BEACH COUNTY FOR THE FUNDING OF THE JUSTICE SERVICE CENTER REENTRY PROGRAM RESTORE GRANT AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council, on July 6, 2011, approved an Interlocal Agreement with the Criminal Justice Commission of Palm Beach County to fund the Justice Service Center Regional and State Transitional Offender Reentry (RESTORE) Initiative; and

**WHEREAS**, the initial agreement included funding from the Criminal Justice Commission of Palm Beach County in the amount of \$165,392; and

**WHEREAS**, in December of 2011, the Criminal Justice Commission, in its efforts to meet program objectives, reduced the contract amount by \$32,362; and

**WHEREAS**, the city must execute an amendment to the Interlocal Agreement to comply with the budget change.

**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 First Amendment to the Interlocal Agreement between the City of Riviera Beach and the Board of County Commissioners, Palm Beach County for the Justice Service Center.

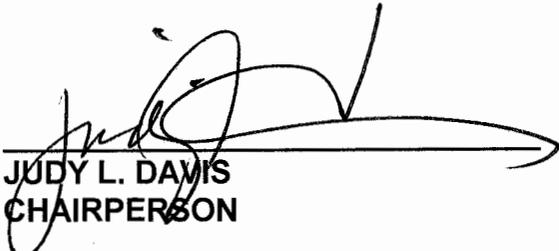
**SECTION 2.** This Resolution shall become effective upon its passage and approval by the City Council.

**RESOLUTION NO. 13-12**  
**PAGE 2**

**PASSED AND APPROVED this 18TH day of JANUARY, 2012.**

APPROVED:

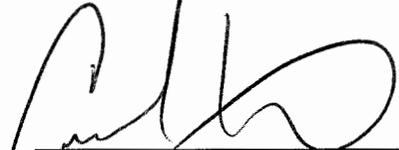
  
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THOMAS A. MASTERS  
MAYOR

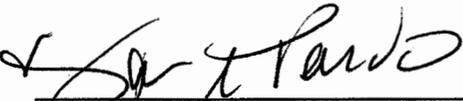
  
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JUDY L. DAVIS  
CHAIRPERSON

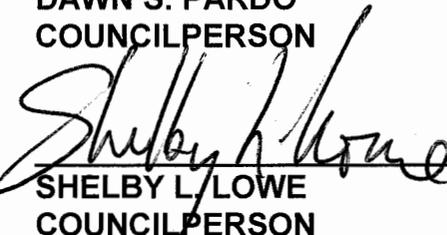
ATTEST:

  
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CARRIE E. WARD,  
MASTER MUNICIPAL CLERK  
CITY CLERK

  
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BILLIE E. BROOKS  
CHAIR PRO TEM

  
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CEDRICK A. THOMAS  
COUNCILPERSON

  
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DAWN S. PARDO  
COUNCILPERSON

  
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SHELBY L. LOWE  
COUNCILPERSON

MOTIONED BY: S. LOWE

SECONDED BY: B. BROOKS

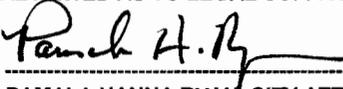
D. DAVIS AYE

B. BROOKS AYE

C. THOMAS AYE

D. PARDO AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY  
  
\_\_\_\_\_  
PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 1/11/12

## EMERGENCY GENERATOR MAINTENANCE SERVICES

THIS AGREEMENT made and entered into this 18<sup>th</sup> day of January, 2012 by and between **POWER PRO-TECH SERVICES**, hereinafter referred to as "**Independent Contractor**," whose Federal I.D. number is 01-0590478 and whose mailing address is 377 Maitland Avenue, Suite 1010, Altamonte Springs, Florida, 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 City of Riviera Beach posted a Request for Bid (151-07), hereinafter the "**BID**" for emergency generator maintenance services, the terms of which are incorporated herein by reference; and

**WHEREAS**, **CONTRACTOR** was the successful responsible bidder under the original contract that has expired; and

**WHEREAS**, the renewal term of this contract shall be from December 7<sup>th</sup>, 2011, through December 6<sup>th</sup>, 2012; and

**WHEREAS**, the Bid allowed for and encouraged the successful bidder to extend such terms and conditions to other governmental agencies; and

**WHEREAS**, **CONTRACTOR** desires to extend such to the **CITY**.

NOW, THEREFORE, the parties hereto agree as follows:

In consideration of the mutual covenants and promises set forth herein, the parties to this agreement do hereby agree as follows:

1. That the City does hereby retain the services of the Independent Contractor for the purpose of providing maintenance services of city generators. The scope of work is as set forth more fully in the General Terms and Conditions and Special Terms and Conditions in Bid No. 15107, Exhibit "A" attached hereto and incorporated herein by reference.
2. The City agrees to compensate the Independent Contractor in accordance with the fee proposal as set forth in Exhibit "B". In no event should the contract exceed sixty-five thousand dollars (\$65,000.00) for the maintenance services of city generators. Normal repair service calls are to be billed at a rate not to exceed seventy-dollars and three cent per hour (\$70.03). And emergency service calls are to be billed at a rate not to exceed one-hundred-five dollars and six cent per hour (\$105.06). 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 Exhibit "A".
3. This contract consists of this contract, Bid No. 15107 (Exhibit "A") and the Independent Contractor's fee proposal (Exhibit "B"). The Independent Contractor agrees to be bound by all the terms and conditions set forth in this Contract, Exhibit "A" and Exhibit "B". To the extent that there exists a conflict between this contract, Exhibit "A" and Exhibit "B", the terms, conditions, covenants, and/or provisions of this Contract shall prevail over all others.
4. The period of the Contract shall be (12 months); all prices, terms and conditions shall remain fixed for the term of the contract.
5. Independent Contractor hereby represents that it has complied and shall continue to comply with all applicable Federal and State statutes and local ordinances governing the work to be performed. 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 Agreement from any federal, state, regional, county, or city agency.

6. 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 Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.

7. 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.

8. 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.

9. 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.

10. 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.

11. Prior to execution of this Agreement 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 Agreement.

12. The Independent Contractor shall maintain, during the life of this Agreement, commercial general liability, including contractual liability insurance in the amount of \$1,000,000 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 Agreement, whether such operations be by the Independent Contractor or by anyone directly employed by or contracting with the Independent Contractor.

13. The Independent Contractor shall maintain, during the life of this Agreement, comprehensive automobile liability insurance in the minimum amount of \$1,000,000 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.

14. The Independent Contractor 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.

15. All work, materials and equipment and services to be furnished and/or installed by the Independent Contractor under this Contract as it relates to the servicing of generators shall be guaranteed by the Independent Contractor for a period of one (1) year from the date of service, thereof against defective

materials, design and workmanship. 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 corrective or new works, parts or materials by the Independent Contractor at no expense to the City. In the event the Independent Contractor fails to make the necessary corrective repairs or replacements within thirty (30) days after notification by the City, the City may accomplish the work at the expense of the Contractor and seek any and all legal remedies to enforce the same.

16. All emergency services to be purchased and performed under the terms of this Agreement shall be within three (3) hours from time of notification to the Contractor by the designated City representative. Response time for non-emergency repairs shall be within twenty-four (24) hours from time of notification by the designated City representative. The timely delivery and performance of said services being essential conditions of this Agreement. If the services are not performed according to the terms of this Agreement 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 and twenty-five dollars (\$125.00) for each hour elapsing between expiration of such time limit and the arrival of the Contractors personnel to begin service on the generator requiring servicing. The time limits herein stated are subject to extension without payment of damages, as provided in section 21, herein

17. The Independent Contractor shall provide the City with a written warranty of its work and with a copy of any and all applicable manufacture's warranty as it relates to the materials and parts used to accomplish the work.

18. 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 Agreement.

19. 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.

20. The Independent 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 Agreement.

21. 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 affect 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 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 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 Council or its designated representative.

22. This Agreement 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 Agreement will be held in Palm Beach County.

23. 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.

24. If any action, whether in law, equity or otherwise, is brought for any dispute, disagreement, or issue of construction, declaration or interpretation arising hereunder whether relating to the Agreement's execution, validity, the obligations provided therein, or performance of this Agreement, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

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

26. This Agreement 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 Agreement, for any reason whatsoever, the Independent Contractor understands and agrees that he 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 Agreement.

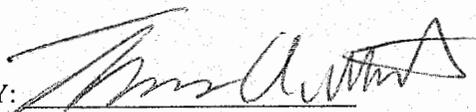
27. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions, to persons or circumstances other than those as to which it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

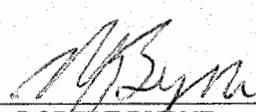
AGREEMENT WITH THE CITY OF RIVIERA BEACH

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

CITY OF RIVIERA BEACH

POWER PRO-TECH SERVICES

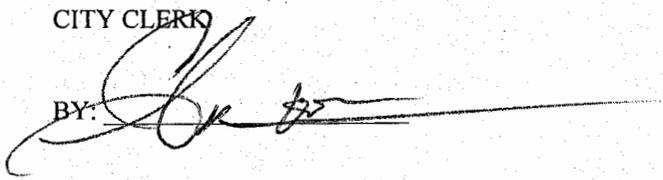
BY:   
THOMAS A. MASTERS,  
MAYOR

BY:   
ROBERT BYRNE  
OWNER/PRESIDENT

ATTEST:

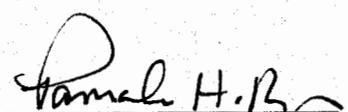
CARRIE E. WARD, MMC  
CITY CLERK

(SEAL)

BY: 

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND  
CONDITIONS

BY:   
PAMALA HANNA RYAN  
CITY ATTORNEY

BY: \_\_\_\_\_  
BENJAMIN GUY  
PURCHASING DIRECTOR

DATE: 12/15/11



## BID COST PROPOSAL SHEET

*(To Be Completed By the Bidder)*

### INVITATION FOR BID # 151-07 EMERGENCY GENERATOR MAINTENANCE SERVICES

| Quantity | Description                 | 2009-2011<br>Hourly<br>Rate | Adjusted Contract<br>Renewal Price<br>2011-2012 |
|----------|-----------------------------|-----------------------------|---|
| 40 Hours | Normal Repair Service Work  | <u>\$67.47</u>              | <u>\$70.03</u>                                  |
| 40 Hours | Emergency Service Work      | <u>\$101.21</u>             | <u>\$105.06</u>                                 |
|          | TOTAL REPAIR SERVICE COST   |                             |   |
| 2 Months | 65 KW                       | <u>\$4774.80</u>            | <u>\$4,956.24</u>                               |
| 2 Months | 100 KW                      | <u>\$4774.80</u>            | <u>\$4,956.24</u>                               |
| 2 Months | 150 KW                      | <u>\$5,968.50</u>           | <u>\$6,195.30</u>                               |
| 2 Months | 250 KW                      | <u>\$8,771.10</u>           | <u>\$9,104.40</u>                               |
| 2 Months | 500 KW                      | <u>\$14,884.92</u>          | <u>\$15,450.55</u>                              |
| 2 Months | 1000 KW                     | <u>\$28,077.90</u>          | <u>\$29,144.86</u>                              |
|          | TOTAL GENERATOR RENTAL COST |                             | \$ _____  |

Quarterly Preventive Maintenance

Fire Department

| Inventory Number | Location                               | Age    | Make      | Model#    | KW       | Fuel Type | 2009-2011 PRICE | RATE CHANGE | 2011-2012 PRICE |
|------------------|--|--------|-----------|-----------|----------|-----------|-----------------|-------------|-----------------|
| 4366             | 600 W. Blue Heron Blvd<br>Sta. # 1     | 1 yr   | Katolight | SP Series | 100 KW   | N-Gas     | \$ 1,001.67     | \$ 38.06    | \$ 1,039.73     |
|                  | 600 W. Blue Heron Blvd<br>Sta. # 1     | 5 yrs  | Honda     | EM2200X   | 2200 W   | Gasoline  | \$ 378.87       | \$ 14.40    | \$ 393.27       |
|                  | 601 W. Blue Heron Blvd<br>Sta. # 1     | 5 yrs  | Hale      | B/S 10 HP | 5000 W   | Gasoline  | \$ 378.87       | \$ 14.40    | \$ 393.27       |
|                  | 1663 W. Blue Heron Blvd<br>Sta. # 2    | 1 yr   | Katolight | SP Series | 60 KW    | N-Gas     | \$ 944.58       | \$ 35.89    | \$ 980.47       |
| 4366             | 5010 N. Ocean Drive<br>Sta. # 3        | 1 yr   | Katolight | SP Series | 60 KW    | N-Gas     | \$ 944.58       | \$ 35.89    | \$ 980.47       |
| 4366             | 7501 N. Military Trail<br>Sta. # 4     | 1 yr   | Ford      | LSG8751   | U/A      | Propane   | \$ 944.58       | \$ 35.89    | \$ 980.47       |
| 1128             | 600 W. Blue Heron<br>Ladder Truck 6    | 15 yrs | Honda     | EB 3500   | 3500 W   | Gasoline  | \$ 378.87       | \$ 14.40    | \$ 393.27       |
|                  | 600 W. Blue Heron<br>Ladder Truck 1    | 2 yrs  | Harrison  | U/A       | 10,000 W | Hydraulic | \$ 467.10       | \$ 17.75    | \$ 484.85       |
|                  | Fire Engine FD-1,<br>(location varies) | 11 yrs | U/A       | U/A       | U/A      | Diesel    | \$ 544.95       | \$ 20.71    | \$ 565.66       |
|                  | Fire Engine FD-2<br>(location varies)  | 7 yrs  | Honda     | EM 5000S  | 5000 W   | Gasoline  | \$ 456.72       | \$ 17.36    | \$ 474.08       |
|                  | Fire Engine FD-3<br>(location varies)  | 4 yrs  | Honda     | EM 3500S  | 3500 W   | Gasoline  | \$ 456.72       | \$ 17.36    | \$ 474.08       |
| 4020             | Fire Engine FD-4<br>(location varies)  | 10 yrs | Honda     | EM 3500S  | 3500 W   | Gasoline  | \$ 456.72       | \$ 17.36    | \$ 474.08       |
|                  | Fire Engine FD-5,<br>(location varies) | 2 yrs  | Honda     | EM 3800SX | 3800 W   | Gasoline  | \$ 456.72       | \$ 17.36    | \$ 474.08       |

Initial  
Acceptance

  
Accept

Initial  
Acceptance

| Inventory Number          | Location              | Age   | Make           | Model#   | KW     | Fuel Type | 2009-2011 PRICE | RATE CHANGE | 2011-2012 PRICE |
|---------------------------|-----------------------|-------|----------------|----------|--------|-----------|-----------------|-------------|-----------------|
| <b>Utilities District</b> |                       |       |                |          |        |           |                 |             |                 |
| 1                         | 800 W Blue Heron Blvd | 15yrs | ONAN - CUMMINS | 1000DFLA | 1000KW | DIESEL    | \$ 3,373.50     | \$ 128.19   | \$ 3,501.69     |
| 1                         | 800 W Blue Heron Blvd | 15yrs | ONAN - CUMMINS | 250DFAC  | 250KW  | DIESEL    | \$ 1,416.87     | \$ 53.84    | \$ 1,470.71     |
| 1                         | 909 Ave. U (REPUMP)   | 8yrs  | ONAN - CUMMINS | 250DFAC  | 250KW  | DIESEL    | \$ 1,416.87     | \$ 53.84    | \$ 1,470.71     |

| <b>Utilities District Lift Station Generators</b> |                           |       |                   |                   |       |        |             |          |             |
|---|---------------------------|-------|-------------------|-------------------|-------|--------|-------------|----------|-------------|
| 1   | 2050 Ave. H West US #1-A  | 3yrs  | CUMMINS           | NTA 855-62        | 350KW | DIESEL | \$ 1,448.01 | \$ 55.02 | \$ 1,503.03 |
| 1   | 909 Ave. U US #50         | 6yrs  | SDMO - JOHN DEERE | GSS230UCO100 9324 | 220KW | DIESEL | \$ 1,448.01 | \$ 55.02 | \$ 1,503.03 |
| 1   | 6522 Haverhill Rd. US #47 | 10yrs | KOHLER            | 230R0ZD71         | 480KW | DIESEL | \$ 1,899.54 | \$ 72.18 | \$ 1,971.72 |

| <b>Police Department</b> |                        |        |          |              |       |                |             |           |             |
|--------------------------|------------------------|--------|----------|--------------|-------|----------------|-------------|-----------|-------------|
|                          | 600 W. Blue Heron Blvd | 15 yrs | ONAN     | M#70KR/15R   | 70kw  | NATURAL        | \$ 944.58   | \$ 35.89  | \$ 980.47   |
|                          | 600 W. Blue Heron Blvd | 1 yrs  | CUMMINGS | GGFD-5664725 | 75KW  | NATURAL        | \$ 944.58   | \$ 35.89  | \$ 980.47   |
| <b>City Hall</b>         |                        |        |          |              |       |                |             |           |             |
| 1                        | 600 W. Blue Heron Blvd | 1 yrs  | Generac  |              | 750KW | DIESEL NATURAL | \$ 2,724.75 | \$ 103.54 | \$ 2,828.29 |

**Semi-Annual Preventive Maintenance**

| <b>Utilities District</b> |                                     |       |          |                  |    |             |           |          |           |
|---------------------------|-------------------------------------|-------|----------|------------------|----|-------------|-----------|----------|-----------|
| 1                         | 5020 North Ocean Blvd. REPUMP       | 37yrs | CHRYSLER | AUXILIARY ENGINE | HP | PROPANE GAS | \$ 394.44 | \$ 14.99 | \$ 409.43 |
| 1                         | Ave. C & 12TH Street REPUMP         | 37yrs | FORD     | AUXILIARY ENGINE | HP | PROPANE GAS | \$ 394.44 | \$ 14.99 | \$ 409.43 |
| 1                         | 1490 W. 8TH Street (MILK) Well #801 | 37yrs | FORD     | AUXILIARY ENGINE | HP | PROPANE GAS | \$ 394.44 | \$ 14.99 | \$ 409.43 |

Accept

Initial  
Acceptance

Annual Preventive Maintenance

| Inventory Number | Location              | Age   | Make                           | Model#     | KW        | Fuel Type | 2009-2011 PRICE | RATE CHANGE | 2011-2012 PRICE |
|------------------|-----------------------|-------|--------------------------------|------------|-----------|-----------|-----------------|-------------|-----------------|
| 1                | 800 W Blue Heron Blvd | 2yrs  | SDMO - JOHN DEERE              | J75UC      | 80KW      | DIESEL    | \$ 321.78       | \$ 12.23    | \$ 334.01       |
| 1                | 800 W Blue Heron Blvd | 2yrs  | SDMO - JOHN DEERE              | J75UC      | 80KW      | DIESEL    | \$ 321.78       | \$ 12.23    | \$ 334.01       |
| 1                | 800 W Blue Heron Blvd | 2yrs  | SDMO - JOHN DEERE              | J75UC      | 80KW      | DIESEL    | \$ 321.78       | \$ 12.23    | \$ 334.01       |
| 1                | 800 W Blue Heron Blvd | 2yrs  | SDMO - JOHN DEERE              | J75UC      | 80KW      | DIESEL    | \$ 321.78       | \$ 12.23    | \$ 334.01       |
| 1                | 800 W Blue Heron Blvd | 2yrs  | MARELLI POWERTECH - JOHN DEERE | TMJB225LA4 | 125KW     | DIESEL    | \$ 394.44       | \$ 14.99    | \$ 409.43       |
| 1                | 800 W Blue Heron Blvd | 2yrs  | MARELLI POWERTECH - JOHN DEERE | TMJB225LA4 | 125KW     | DIESEL    | \$ 394.44       | \$ 14.99    | \$ 409.43       |
| 1                | 800 W Blue Heron Blvd | 2yrs  | MARELLI POWERTECH - JOHN DEERE | TMJB225LA4 | 125KW     | DIESEL    | \$ 394.44       | \$ 14.99    | \$ 409.43       |
| 1                | 800 W Blue Heron Blvd | 2yrs  | MARELLI POWERTECH - JOHN DEERE | TMJB225LA4 | 125KW     | DIESEL    | \$ 394.44       | \$ 14.99    | \$ 409.43       |
| 1                | 800 W Blue Heron Blvd | 2yrs  | MARELLI POWERTECH - JOHN DEERE | TMJB225LA4 | 125KW     | DIESEL    | \$ 394.44       | \$ 14.99    | \$ 409.43       |
| 1                | 800 W Blue Heron Blvd | 10yrs | CUMMINS                        |            | 166/124KW | DIESEL    | \$ 394.44       | \$ 14.99    | \$ 409.43       |

Public Works

|  |               |       |                  |               |       |     |          |         |           |
|--|---------------|-------|------------------|---------------|-------|-----|----------|---------|-----------|
|  | 2391 Avenue L | 2 yrs | Multi-Quick 6000 | GH-64 5510422 | 6000w | Gas | \$ 98.61 | \$ 3.75 | \$ 102.36 |
|  | 2391 Avenue L | 8 yrs | Generac 4000XL   | 97772         | 4000w | Gas | \$ 98.61 | \$ 3.75 | \$ 102.36 |
|  | 2392 Avenue L | 3 yrs | Ex-cell 5000w    | 19E412        | 5000W | Gas | \$ 98.61 | \$ 3.75 | \$ 102.36 |
|  | 2393 Avenue L | 3 yrs | Ex-cell 5000w    | 19E412        | 5000W | Gas | \$ 98.61 | \$ 3.75 | \$ 102.36 |

Accept