

RESOLUTION NO. 14-12

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 FOURTH AMENDMENT TO THE GRANT AGREEMENT BY AND BETWEEN THE PALM BEACH COUNTY METROPOLITAN PLANNING ORGANIZATION (MPO) AND THE CITY OF RIVIERA BEACH EXTENDING THE COMPLETION DATE FOR A WATER TAXI DOCKING FACILITY TO MARCH 31, 2012; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the MPO Countywide Water Taxi Grant Program desires to encourage the creation of a countywide water taxi system linking cities along the intracoastal waterway;

WHEREAS, the City and the MPO approved by the second amendment to the agreement the consolidation and reallocation of funds to produce one facility thereby increasing the funding available to the project to \$196,910.00; and

WHEREAS, the City and MPO approved by the third amendment to the agreement an extension of the project until November 30, 2011 to enable the City to incorporate the Water Taxi dock into the Dock Replacement Project; and,

WHEREAS, the MPO has requested, and FDOT has agreed, to extend the terms of its Joint Partnership Agreement with MPO (JPA) to March 31, 2012, to enable MPO to use the funds provided by FDOT under the JPA to reimburse the Grantee for certain cost associated with the project; and,

WHEREAS, the MPO is willing to extend the completion date for the facility to March 31, 2012, and the parties are willing to modify certain other provisions of the grant agreement so that they are consistent with the new completion date.

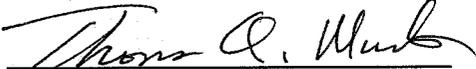
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. That the Mayor and City Clerk are authorized to execute the fourth amendment to the Grant Agreement by and between the Palm Beach Metropolitan Planning Organization and the City of Riviera Beach.

SECTION 2. This Resolution shall take effect immediately upon its approval.

PASSED and APPROVED this 1 day of February, 2012.

APPROVED:



THOMAS A. MASTERS
MAYOR



JUDY L. DAVIS
CHAIRPERSON

ATTEST:



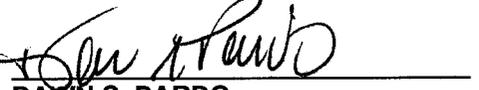
CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK



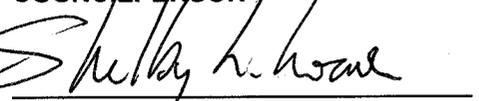
BILLIE E. BROOKS
CHAIR PRO TEM



CEDRICK A. THOMAS
COUNCILPERSON



DAWN S. PARDO
COUNCILPERSON



SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: D. PARDO

SECONDED BY: B. BROOKS

B. BROOKS AYE

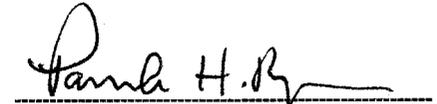
J. DAVIS AYE

C. THOMAS TARDY

D. PARDO AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE 1/25/12

RESOLUTION NO. 15-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE EXECUTION OF A TERMINATION AND RELEASE OF LEASE AGREEMENT BY AND AMONG THE CITY OF RIVIERA BEACH, THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY, THE RIVIERA BEACH UTILITY SPECIAL DISTRICT, AND RYBOVICH RIVIERA BEACH LLC, REGARDING DISPOSITION OF THAT CERTAIN SUBMERGED AND UPLAND LANDS LEASE ENTERED INTO BY THE PARTIES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Riviera Beach ("City"), the Riviera Beach Community Redevelopment Agency ("Agency"), and the Riviera Beach Utility Special District ("District") own certain properties located within the City of Riviera Beach; and

WHEREAS, the City, Agency, and District, as Lessors and Rybovich Riviera Beach LLC ("Rybovich") as Lessee, entered into that certain lease entitled Submerged and Upland Lands Lease dated September 15, 2010 (hereinafter the "Lease"); and

WHEREAS, the Lease provides the terms and conditions for the lease of the certain uplands and submerged lands owned by the City and the District and an option to lease certain property owned by the Agency; and

WHEREAS, Rybovich agreed to terminate its interest in the Lease and move its proposed use of the property in the lease to other property owned by Rybovich, but needed an abandonment of certain road rights-of-way; and

WHEREAS, Rybovich tendered a Termination and Release of Lease Agreement which was kept in escrow and not delivered to Lessors until the City approved an abandonment application for certain rights-of-way; and

WHEREAS, the Abandonment Application has been approved after public hearing and the executed Termination and Release of Lease Agreement from Rybovich has been delivered to the Lessors; and

WHEREAS, staff recommends approval of the Termination and Release of Lease Agreement.

RESOLUTION 15-12
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 City Council authorizes the Mayor and City Clerk to execute the Termination Agreement attached hereto.

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

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PASSED AND APPROVED this 1 day of February, 2012.

APPROVED:



THOMAS A. MASTERS
MAYOR



JUDY L. DAVIS
CHAIRPERSON

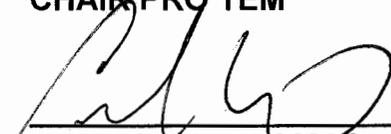
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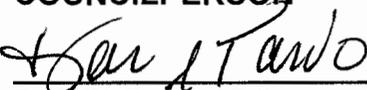
CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK



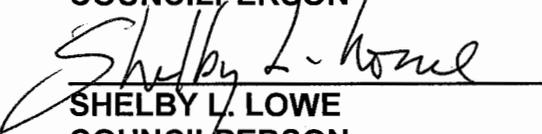
BILLIE E. BROOKS
CHAIR PRO TEM



CEDRICK A. THOMAS
COUNCILPERSON



DAWN S. PARDO
COUNCILPERSON



SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: D. PARDO

SECONDED BY: B. BROOKS

J. DAVIS AYE

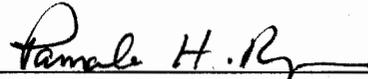
B. BROOKS AYE

C. THOMAS TARDY

D. PARDO AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA H. RYAN, CITY ATTORNEY

DATE: 1/25/12

RESOLUTION NO. 16-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, SUPPORTING THE EVENT "A NIGHT OF ELEGANCE HONORING OUR SENIOR CITIZENS" ON MARCH 3, 2012, TO RECOGNIZE OUR SENIOR CITIZENS IN RIVIERA BEACH AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, recognizing our senior citizens for the continuous improvements and recommendations that they provide to The City of Riviera Beach; and

WHEREAS, honoring our senior citizens and thanking them for the years of commitment and dedication to our City; and

WHEREAS, Councilman Cedrick Thomas will strive to make the Senior Citizen event a yearly event of recognition and will support initiatives that bring our seniors together to share and enjoy our City in a more elegant and distinctive way; and

WHEREAS, Councilman Cedrick Thomas will have an award presentation to honor (10) distinctive senior citizens who have portrayed great stewardship over the years for The City of Riviera Beach; and

WHEREAS, the City of Riviera Beach can play an important role in maintaining a strong and continuous relationship with our seniors, as we strive to make this City a better place to live, work and play.

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

SECTION 1: The above recitals are true and are hereby incorporated into this resolution.

SECTION 2: The City Council hereby endorses and authorizes the event "A Night of Elegance Honoring Our Senior Citizens" as planned from 6:00 p.m. – 8:30 p.m. on March 3, 2012

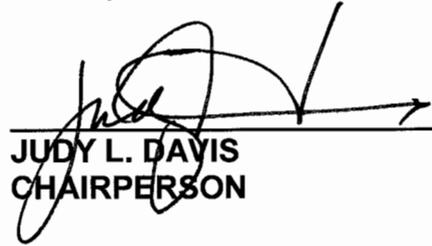
SECTION 3: The Interim Finance Director is authorized to expend funds in the amount of \$7000 until the Waste Management Community Benefits second half of funds is remitted from Waste Management which is after April 1st 2012.

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

APPROVED:

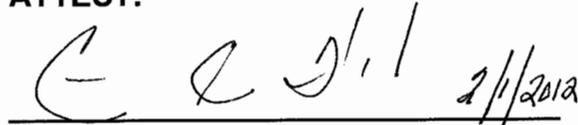


THOMAS A. MASTERS
MAYOR



JUDY L. DAVIS
CHAIRPERSON

ATTEST:

 2/1/2012

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

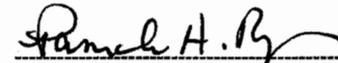
B. BROOKS AYE

C. THOMAS AYE

D. PARDO AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 1/26/12

RESOLUTION NO. 17-12

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 BETWEEN MCKINLEY INSURANCE SERVICES, AS AGENT OF RECORD FOR THE CITY OF RIVIERA BEACH TO FACILITATE HEALTH, DENTAL, LIFE SUPPLEMENTAL AND DISABILITY INSURANCE COVERAGES FOR THE CITY EMPLOYEES PERIOD BEGINNING JANUARY 1, 2012 THROUGH DECEMBER 31, 2015; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City issued a Request for Proposal for an Agent of Record to provide group insurance services to the City; and

WHEREAS, McKinley Financial Services, Inc./DBA/McKinley Insurance Services, was the successful respondent; and

WHEREAS, the parties desire to enter into this Agreement for the provision of group insurance services.

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

SECTION 1. That City Council authorizes the Mayor and City Clerk to execute the agreement with McKinley Insurance Services, Inc., as Agent of Record for the purpose of facilitating employee insurance benefits.

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

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PASSED AND APPROVED this 17 day of February 2012.

APPROVED:



THOMAS A. MASTERS
MAYOR



JUDY DAVIS
CHAIRPERSON

ATTEST:



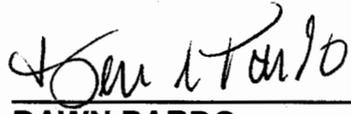
CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK



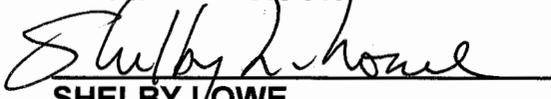
BILLIE BROOKS
CHAIR PRO TEM



CEDRICK A. THOMAS
COUNCIL PERSON



DAWN PARDO
COUNCIL PERSON



SHELBY LOWE
COUNCIL PERSON

MOTIONED BY: B. BROOKS

SECONDED BY: D. PARDO

J. DAVIS AYE

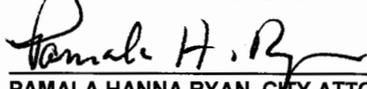
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C. THOMAS TARDY

D. PARDO AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 1/25/12

INSURANCE BROKERAGE SERVICES AGREEMENT

THIS AGREEMENT is made as of this 25th day of JANUARY, 2012, by and between the City of Riviera Beach, Florida, a Political Subdivision of the State of Florida, hereinafter referred to as the CITY, and McKinley Financial Services, Inc. /DBA/ McKinley Insurance Services whose mailing address 545 N. Andrews Ave Fort Lauderdale, Florida 33301, a corporation authorized to do business in the State of Florida, hereinafter referred to as the AGENT OF RECORD.

WHEREAS, the CITY issued a for Request for Proposal for an Agent of Record to provide group insurance services to the CITY; and

WHEREAS, McKinley Financial Services, Inc. /DBA/ McKinley Insurance Services, was the successful respondent; and

WHEREAS, the parties desire to enter into this Agreement for the provision of group insurance services.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the CITY and the AGENT OF RECORD agree as follows:

ARTICLE 1 - SERVICES

The AGENT OF RECORD will provide the following services to the CITY:

1. Develop appropriate Requests for Proposals as necessary from time to time, for Group Life, Cafeteria Plans, Group Legal, Accidental & Dismemberment (AD&D), Short-Term Disability (STD), Long-Term Disability (LTD), Medical, Dental, Vision, Long Term Care, and Employee Assistance Program (EAP).
2. Market the benefit programs listed above as necessary which will include but not be limited to:
 - a) Conducting detailed review, analysis and projection sessions with decision makers at key points throughout the plan year; mid year, fourth quarter and pre-renewal.
 - b) Negotiating all renewal rates, benefits and services with group insurance carriers, as directed by the City.
 - c) Coordinating, attending and conducting all group insurance committee meetings with employees and management, as well as conduct review sessions and renewal negotiations.
 - d) Facilitating quarterly planning/discussion meetings with Human Resources, City management leadership team and selected employees as well as union representatives.
 - e) If directed, conducting a formal bid process for insurances which includes analysis of bids,

recommendations to City staff and City Council, negotiation with selected carriers and coordinating contract process.

- f) Facilitating renewal analysis sessions on all group benefits to include projected rated increases/decreases, projected loss ratios, claims analysis and comparisons, high shock claim analysis, network utilization and prescription utilization.
- g) Serving as the liaison between the City and the insurance carriers to resolve any billing or enrollment issues, as well as resolving all benefit delivery issues with providers.
- h) Updating the City on changes in applicable laws and how they affect City benefits.
- i) If directed, conducting benefits surveys to compare City benefits with other municipalities and companies.
- j) Conducting periodic on-site meetings with employees and/or dependants on a voluntary basis for individual claim resolutions and benefits counseling.
- k) Facilitating annual open enrollment meetings with employees, as well as conducting monthly new hire meetings as directed by Human Resources.
- l) Assisting Human Resources with employee benefit and wellness fairs for the purpose of supporting and improving service to employees [three (3) Health Fairs will be conducted annually as follows: one (1) for General employees; one (1) for Police and one (1) for Fire].
- m) Being available to answer questions and give explanations, have discussions, and respond to requests from Human Resources with the time frame requested.
- n) Providing guidance and assistance with COBRA compliance and administration issues.
- o) Paying for all administration service fees related to COBRA, Section 125 plans, and Leave of Absences and Retiree benefits.
- p) Coordinating, developing, and producing Employee Benefits Handbook/Guide.
- q) Providing on a quarterly basis a claims utilization experience report.
- r) Providing additional service to employees at a cost to AGENT OF RECORD. The services will be in the approximate amount of \$50,000 and the details are set out in the AGENT OF

RECORD's booklet, attached hereto. If after six (6) months, the programs implemented are not successful to the satisfaction of Human Resources, then the programs may be modified with consultation from Human Resources.

ARTICLE 2 – TERM OF AGREEMENT

The term of this Agreement shall be from January 1, 2012 through December 31, 2015, with an option to renew for one additional three (3) year term if mutually agreed upon between the parties.

ARTICLE 3 – COMMISSION TO AGENT OF RECORD

The CITY does not provide compensation directly to the AGENT OF RECORD. The CITY agrees that up to the following maximum commissions may be paid to AGENT OF RECORD by the applicable vendors/underwriters and that such commissions shall be based on paid premium or paid premium equivalent.

Long Term Disability	10% of Paid Premium
Short Term Disability	10% of Paid Premium
Life & AD&D	10% of Paid Premium
Medical	5% of paid premium
Dental	10% of Paid Premium
Vision	10% of Paid Premium
EAP	0%
Long Term Care	15% of Paid Premium
Cafeteria Plans	Graded scale as filed with the Department of Financial Services
Legal	Graded scale as filed with the Department of Financial Services

ARTICLE 4 - TERMINATION

This AGREEMENT may be cancelled by the AGENT OF RECORD 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 Agreement through no fault of the AGENT OF RECORD; 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 AGENT OF RECORD. Unless the AGENT OF RECORD is in breach of this Agreement, the AGENT OF RECORD 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 AGENT OF RECORD shall:

- A. Stop work on the date and to the extent specified.
- B. Transfer all work in progress, completed work, and other materials related to the terminated work to the CITY.

C. Continue and complete all parts of the work that have not been terminated.

ARTICLE 5 - PERSONNEL

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

All of the services required hereunder shall be performed by the AGENT OF RECORD 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 AGENT OF RECORD'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 AGENT OF RECORD warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field(s).

The AGENT OF RECORD 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 AGENT OF RECORD. Nothing contained herein shall create any contractual relationship between any subcontractor and the CITY.

All of the AGENT OF RECORD'S personnel (and all Subcontractors) while on CITY premises, will comply with all CITY requirements governing conduct, safety, and security.

ARTICLE 6 - 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 AGENT OF RECORD as relevant. The AGENT OF RECORD shall not be exempted from paying sales tax to its suppliers for materials used to fill contractual obligations with the CITY, nor is the AGENT OF RECORD authorized to use the CITY'S Tax Exemption Number in securing such materials.

The AGENT OF RECORD shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Agreement.

ARTICLE 7 - INSURANCE

A. Prior to execution of this Agreement by the CITY, the AGENT OF RECORD 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 AGENT OF RECORD 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 AGENT OF RECORD of its liability and obligations under this Agreement.

- B. The AGENT OF RECORD shall maintain during the term of this Agreement, standard Professional Liability Insurance in the minimum amount of \$1,000,000.00 per occurrence.
- C. The AGENT OF RECORD shall maintain, during the life of this Agreement, commercial general liability, including contractual liability insurance in the amount of \$500,000.00 per occurrence to protect the AGENT OF RECORD 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 AGENT OF RECORD or by anyone directly or indirectly employed by or contracting with the AGENT OF RECORD.
- D. The AGENT OF RECORD shall maintain, during the life of this Agreement, 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 AGENT OF RECORD 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 AGENT OF RECORD or by anyone, directly or indirectly, employed by the AGENT OF RECORD.
- E. The parties to this Agreement 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, if requested.
- E. All insurance, other than Professional Liability and Workers' Compensation, to be maintained by the AGENT OF RECORD shall specifically include the CITY as an "Additional Insured".

ARTICLE 8 - INDEMNIFICATION

The AGENT OF RECORD 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 AGENT OF RECORD, its agents, servants, or employees in the performance of services under this Agreement.

The AGENT OF RECORD 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 AGENT OF RECORD not included in the paragraph above and for which the CITY, its agents, servants or employees are alleged to be liable.

AGENT OF RECORD 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 Agreement or any renewal thereof.

The AGENT OF RECORD shall defend all actions in the name of the CITY, when applicable, however, CITY reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of the AGENT OF RECORD .

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 9 - SUCCESSORS AND ASSIGNS

The CITY and the AGENT OF RECORD 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 the AGENT OF RECORD 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 the AGENT OF RECORD.

ARTICLE 10 - CONFLICT OF INTEREST

The AGENT OF RECORD 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 AGENT OF RECORD further represents that no person having any such conflicting interest shall be employed for said performance.

The AGENT OF RECORD 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 AGENT OF RECORD'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 AGENT OF RECORD 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 AGENT OF RECORD. The CITY agrees to notify the AGENT OF RECORD of its opinion by certified mail within thirty (30) days of receipt of notification by the AGENT OF RECORD. If, in the opinion of the CITY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the AGENT OF RECORD, the CITY shall so state in the notification and the AGENT OF RECORD 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 AGENT OF RECORD under the terms of this Agreement.

ARTICLE 11 - DELAYS AND EXTENSION OF TIME

The AGENT OF RECORD 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 AGENT OF RECORD or its subcontractors and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions.

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

If the AGENT OF RECORD 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 AGENT OF RECORD 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 AGENT OF RECORD'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 Agreement.

ARTICLE 12 - INDEBTEDNESS

The AGENT OF RECORD 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 AGENT OF RECORD further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

ARTICLE 13 - INDEPENDENT CONTRACTOR RELATIONSHIP

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

ARTICLE 14 - ACCESS AND AUDITS

The AGENT OF RECORD 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 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 the AGENT OF RECORD's place of business.

ARTICLE 15 - ENFORCEMENT COSTS

All parties shall be responsible for their own attorneys fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to the 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.

ARTICLE 16 - AUTHORITY TO PRACTICE

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

ARTICLE 17 - 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, 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.

ARTICLE 18 - NOTICE

All notices required in this Agreement shall be sent to the CITY, and shall be mailed to:

Marie Sullin, Risk Manager
2051 Martin Luther King Blvd. Suite 302
Riviera Beach, FL 33404

and if sent to the AGENT OF RECORD, the notices shall be mailed to:

Ralph Campbell, President
McKinley Financial Services, Inc.
545 N. Andrews Ave.
Fort Lauderdale, Florida 33301

ARTICLE 19 - MODIFICATION 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 AGENT OF RECORD of the CITY'S notification of a contemplated change, the AGENT OF RECORD 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 AGENT OF RECORD ability to meet the completion dates or schedules of this Agreement.

If the CITY so instructs in writing, the AGENT OF RECORD 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 agreement amendment and the AGENT OF RECORD shall not commence work on any such change until such written amendment is signed by the AGENT OF RECORD and the City Manager.

ARTICLE 20 - ENTIRETY OF CONTRACTUAL AGREEMENT

The CITY and the AGENT OF RECORD agree that this Agreement and any attachments hereto or other documents as referenced in the 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 in accordance with the Modification of Work article.

ARTICLE 21 - PROTECTION OF WORK AND PROPERTY

The AGENT OF RECORD 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 Agreement. 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 AGENT OF RECORD 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 AGENT OF RECORD and the AGENT OF RECORD 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 AGENT OF RECORD 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 22 - 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.

ARTICLE 23 - WAIVER

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.

ARTICLE 24 - PREPARATION

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

ARTICLE 25 - MATERIALITY

All provisions of the AGENT OF RECORD shall be deemed material, in the event AGENT OF RECORD 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 and CITY may at its option and without notice terminate this Agreement.

ARTICLE 26 - REPRESENTATIONS/BINDING AUTHORITY

AGENT OF RECORD 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, MCKINLEY INSURANCE SERVICES hereby represents to the CITY that he/she 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 the party for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Agreement

ARTICLE 27 - EXHIBITS

Each exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits, if not

physically attached, should be treated as part of this Agreement and are incorporated herein by reference.

ARTICLE 28 - 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 Agreement. 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 29 - 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.

ARTICLE 30 - WAIVER OF SUBROGATION

The AGENT OF RECORD 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 AGENT OF RECORD 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 AGENT OF RECORD enter into such an agreement on a pre-loss basis.

ARTICLE 31 - 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 Agreement. 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.

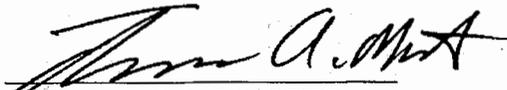
SIGNATURES ON FOLLOWING PAGE

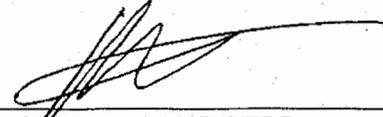
AGREEMENT WITH THE CITY OF RIVIERA BEACH

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

AGENT OF RECORD

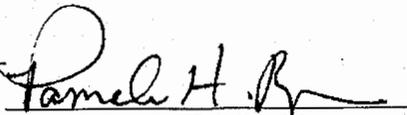
BY: 
THOMAS A. MASTER
MAYOR

BY: 
RALPH CAMPBELL
PRESIDENT & CEO

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: 
DORETHA PERRY
HUMAN RESOURCES DIRECTOR

DATE: 1/25/12

RESOLUTION NO. 18-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A FIVE YEAR (5) MANUFACTURING CONTRACT COMMENCING FEBRUARY 2, 2012 THROUGH FEBRUARY 1, 2017 TO THE TOP RANKED PROPOSER, MARINETEK NORTH AMERICA INC., OF ST. PETERSBURG FL, A SUBSIDIARY OF MARINETEK GROUP OY OF HELSINKI FINLAND AS THE PRIMARY MANUFACTURER FOR THE MARINA DOCK REPLACEMENT PROJECT, FOR MANUFACTURING AND DELIVERY OF THE FIXED AND FLOATING DOCK STRUCTURES INCLUDING, GANGWAYS, RELATED STRUCTURES AND COMPONENTS, AS A RESULT OF THE SUBMISSION TO REQUEST FOR PROPOSAL NO. 343-11, IN AN AMOUNT NOT TO EXCEED \$5,048,441.00 AND APPROVING WORK ORDER NUMBER ONE (1) IN THE AMOUNT OF \$1,009,688.00; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE PROPOSED MANUFACTURING CONTRACT; AUTHORIZING THE INTERIM FINANCE DIRECTOR TO ESTABLISH A BUDGET AND MAKE PAYMENTS FOR SAME; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, staff has determined the total cost to replace the City Marina docks including the seawall eastward to the dedication line is approximately 17 million dollars; and

WHEREAS, consistent with the provisions of the City's Procurement Ordinance (2412), a Request for Proposal was publicly solicited for qualified dock manufacturers to furnish all supervision, personnel, equipment, materials, labor and supplies to complete the manufacturing, delivery, of all fixed, floating docks and related structures and components; and

WHEREAS, two (2) manufacturers responded to the Request for Proposal No. 343-11 and the selection committee evaluated their proposals; and

WHEREAS, Marinetek North America Inc., of St. Petersburg Fl, a subsidiary of Marinetek Group OY of Helsinki Finland was evaluated as the top ranked manufacturer to provide a fixed and floating dock system as identified in the City's Request for Proposals; and

WHEREAS, the City desires to award a five (5) year contract, restricted by available funds, to Marinetek North America Inc., as the top ranked manufacturer in the amount not to exceed \$5,048,441.00 for phases one and two of the marina dock replacement project; and

WHEREAS, staff recommends City Council approve the contract with Marinetek North America Inc., and authorize work order #1 in the amount of \$1,009,688.00.

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

SECTION 1. The City Council hereby accepts staff's recommendation to award the contract to complete the manufacturing and delivery of the fixed and floating docks and related fixed structures and components for the City marina to Marinetek North America Inc., of St. Petersburg Fl, a subsidiary of Marinetek Group OY of Helsinki Finland and authorizes the Mayor and City Clerk to execute the contract for same.

SECTION 2. The City Council authorizes Marinetek North America Inc. to complete work order #1 in the amount of \$1,009,688.00.

SECTION 3. That the Interim Finance Director is authorized to make payment from the appropriate Grant account(s).

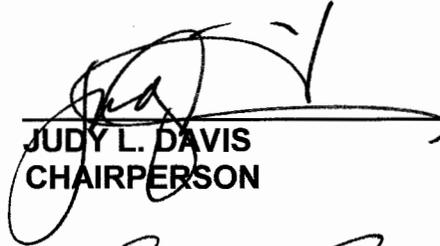
SECTION 4. The City Manager is authorized to approve change orders in an amount not to exceed 5% of the total contract award amount.

SECTION 5. This Resolution shall take effect upon its passage and approval by the City Council.

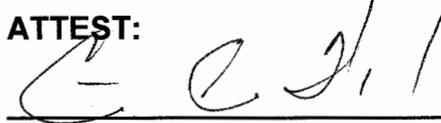
PASSED AND APPROVED THIS 1 DAY OF FEBRUARY, 2012.

APPROVED:


THOMAS A. MASTERS
MAYOR

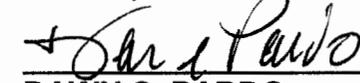

JUDY L. DAVIS
CHAIRPERSON

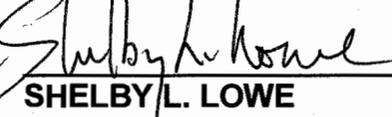
ATTEST:


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

B. BROOKS AYE

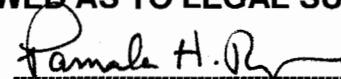
J. DAVIS AYE

C. THOMAS TARDY

D. PARDO AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY


PAMALA HANNA RYAN, CITY ATTORNEY

DATE 1/26/12

MANUFACTURING CONTRACT

This Contract is made as of this ___/___ day of February, 2012, by and between the CITY OF RIVIERA BEACH, a Political Subdivision of the State of Florida, by and through its CITY COUNCIL, hereinafter referred to as the CITY, and, Marinetek North America Inc., of St. Petersburg Fl, a subsidiary of Marinetek Group OY of Helsinki Finland, [] an individual, [] a partnership, [X] a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONTRACTOR, whose Federal I.D. (U.S.) number is 41-2276517

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

ARTICLE 1 – SERVICES AND PERIOD OF CONTRACT

The CONTRACTOR'S responsibility under this Contract is to provide fixed and floating dock structures for the city marina project including, gangways and related structures, components, launching and set up for the replacement of the docks at the Riviera Beach Marina, a description of which is more specifically set forth in the each work order. The performance of the Contract will be completed in phases by individual work orders and CONTRACTOR recognizes that funding for the Project will accordingly occur in phases as more specifically set out in the Request for Proposals (RFP) #343-11.

The period of the Contract shall be five (5) years. All prices, terms and conditions shall remain fixed for the initial two (2) year period of the contract with a price adjustment made after the second year of the contract and upon the first renewal based on the consumer price index (CPI) South Region (Florida), all Urban Consumers (CPI-U) subcategory, series title (mechanic) with contract anniversary month and index base year of 2009.

ARTICLE 2 - SCHEDULE

- A. Time of Completion - manufacturing must commence immediately after but not later than ten (10) calendar days from the date of receipt of official notice to proceed; provided the CITY has received proof of insurance as set forth in Article 11. Docks shall meet all specifications as outlined in RFP #343-11. NOTE: Manufacturing cannot commence until all technical specifications and certified shop drawings have been submitted and approved by the CITY.

- B. Deduction for not completing on time - Specific delivery dates for the Project will be outlined in each individual work order. CONTRACTOR agrees to abide by the schedule set forth in each work order. If the contract work is not fully complete according to the terms of this Contract and the specific work order, the CONTRACTOR shall pay the CITY, not as a penalty, but as liquidated damages, a sum equal to one thousand dollars (\$1000) for each day elapsing between the expiration of such time limit and the date of full completion, providing, however, that the time limits herein stated are subject to extension without payment of damages, as provided in Article 17, herein. It is agreed

that these liquidated damages are a good faith and reasonable pre-estimate of CITY's actual damages due to delay by CONTRACTOR because it is difficult, if not impossible, to accurately estimate the actual damages suffered by CITY due to any such delay.

- C. Reports - Reports and other items shall be delivered or completed in accordance with the requirements of the Engineer of Record, Sea Diversified Inc.

ARTICLE 3 - PAYMENTS TO CONTRACTOR

- A. Generally - The CITY agrees to compensate the CONTRACTOR in accordance with the fee proposal set forth in the individual work order. The total and cumulative amount of this Contract shall not exceed the amount of funds annually budgeted for these services. The CITY shall not reimburse the CONTRACTOR for any travel costs incurred as a direct result of the CONTRACTOR providing deliverables to the CITY in accordance with the project, without specific, prior written approval of the CITY.
- B. Progress Invoices - No later than by the 20th day of the month in which payment is being requested, the CONTRACTOR shall prepare and submit, on a form approved by the CITY'S representative, a detailed estimate and invoice of work which has been completed from the start of the job up to and including the last day of the preceding month, together with such supporting evidence of the expenditures as required by this Contract. The CONTRACTOR shall also submit with each invoice an updated revised work schedule. The CONTRACTOR shall include in the Progress Invoice a Warranty of Title indicating that as of the date of Progress Invoice that all work, materials, and equipment covered by the Progress Invoice passes to the City at the time of payment of the Progress Invoice and that all laborers, materialmen, and subcontractors have been paid in full for all work, materials, and equipment covered by the Progress Invoice and also provide Partial Releases of Lien and/or Partial Releases of Payment Bond from all laborers, materialmen, and subcontractors as to such work, materials, and equipment covered by the Progress Invoice. CITY has no obligation to pay any Progress Invoice until both a Warranty of Title and Partial Releases of Lien and/or Partial Releases of Payment Bond are provided to CITY.
- C. Progress Payments - At the sole discretion of the CITY, a deposit of not greater than 10% will be issued to the CONTRACTOR to begin the manufacturing process. Progress invoices received from the CONTRACTOR pursuant to this Contract will be reviewed and approved by the CITY representative within ten days of receipt of the invoice, indicating that invoiced materials have been received on site and inspected by the City Engineer (or City representative) and are in conformity with the Contract unless the CITY requires clarification or a correction of the invoice. The invoices will be sent to the Finance Department for payment. The CITY will pay to the CONTRACTOR ninety percent (90%) of the value based on the CONTRACTOR'S estimate and invoice, as approved by the CITY representative. Invoices will normally be paid within thirty (30) days following the CITY representative's approval.

- D. Project Phasing – The City at their discretion may contract with the CONTRACTOR for all or a portion of the project based on cost versus available funding at the time of the award. In the event that the City elects to defer portions of the project to a subsequent phase or add additional portions, the City at their sole discretion, reserves the right to negotiate with the Manufacturer. Unit price changes (if any), for subsequent phases will be reviewed and accepted only if sufficiently justified by the manufacturer and in no case will exceed the appropriate Consumer Price Index for Urban Consumers (CPIU), South Region.
- E. Payment of Expenses - All requests for payment of expenses eligible for reimbursement under the terms of this Contract, if any, shall include copies of said receipts, invoices, or other documentation acceptable to the Finance Department. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the scope of work described in this Contract. Long distance telephone calls shall identify the person(s) called, purpose of call, time and costs. Mileage charges shall identify the destination, number of miles, rate, and purpose of travel. Duplication charges shall describe the documents, purpose of duplicating, and rate charged. Any travel, per diem, mileage, meals, or lodging expenses which may be reimbursable under the terms of this Contract, if any, will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.
- F. Final Invoice - In order for both parties herein to close their books and records, the CONTRACTOR will clearly state "Final Invoice" on the CONTRACTOR'S final/last billing to the CITY. This certifies that all services have been properly performed and all charges and costs have been invoiced to the CITY. Since this account will thereupon be closed, any and other further charges if not properly included on this Final Invoice are waived by the CONTRACTOR and the CITY shall have no obligations for any other costs or expenses thereafter. Further, the CONTRACTOR shall include in the Final Invoice a Warranty of Title indicating that that all work, materials, and equipment covered by this Contract passes to the City at the time of payment of the Final Invoice and that all laborers, materialmen, and subcontractors have been paid in full for all work, materials, and equipment covered by Contract and also provide Final Releases of Lien and/or Final Releases of Payment Bond from all laborers, materialmen, and subcontractors as to such work, materials, and equipment covered by the Contract. The CITY has no obligation to pay the Final Invoice until a Warranty of Title and Final Releases of Lien and/or Final Release of Payment Bond are provided to the CITY.

ARTICLE 4 - TRUTH-IN-NEGOTIATION CERTIFICATE

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

The said rates and costs shall be adjusted to exclude any significant sums should the CITY determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent

wage rates or due to inaccurate representations of fees paid to outside contractors. The CITY shall exercise its rights under this Article 4 within three (3) years following final payment.

ARTICLE 5 - TERMINATION

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

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

ARTICLE 6 - PERSONNEL

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

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

Any changes or substitutions in the CONTRACTOR'S key personnel must be made known to the CITY'S representative and written approval, at CITY'S sole discretion, must be granted by the CITY'S representative before said change or substitution can become effective.

The CONTRACTOR warrants that all services shall be performed by skilled, properly licensed, and competent personnel to the highest professional standards in their respective field(s).

The CONTRACTOR agrees that it is fully responsible to the CITY for the acts and omissions of subcontractors and of persons either directly or indirectly employed by the CONTRACTOR.

nothing contained herein shall create any contractual relationship between any subcontractor and the CITY.

All of the CONTRACTOR'S personnel (and all Subcontractors) while on CITY premises will comply with all CITY requirements governing conduct, safety and security.

ARTICLE 7 - SUBCONTRACTING

The CITY reserves, at its sole discretion and for any reason, the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor by CONTRACTOR and to inspect all facilities and approve all qualifications of any subcontractor in order to make a determination as to the capability of the subcontractor to perform properly under this Contract. However, in any event the CONTRACTOR shall be responsible for performing 50% of the work, at a minimum, by its own forces and equipment. Any changes or substitutions in the CONTRACTOR'S subcontractors must be made known to the CITY'S representative and written approval must be granted by the CITY'S representative before said change or substitution can become effective. The CONTRACTOR is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities.

Once a subcontractor is listed in a CONTRACTOR'S response to an RFP or a BID and the CONTRACTOR wishes to change a subcontractor, if the response or bid has been accepted by the CITY, then specific approval from CITY staff must be given prior to any change in subcontractors. The CITY shall not unreasonably deny the request. However, the CONTRACTOR must demonstrate that the subcontractor being replaced is unable to perform the work, is performing the work poorly or untimely, or is unable to meet the requirements of the contract with the CITY. The CITY will not address issues related to the CONTRACTOR'S specific agreement with the subcontractor including issues of pricing.

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

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

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

ARTICLE 8 – M/WBE AND LOCAL PARTICIPATION

Minority/Women-Owned Business Enterprises ("M/WBE") shall have the opportunity to participate in this project. CONTRACTOR is 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 by CONTRACTOR to hire M/WBE.

In accordance with the CITY'S M/WBE Ordinance #2412, as amended, the CONTRACTOR agrees to the M/WBE participation for this Contract and agrees to abide by the provisions of the M/WBE Ordinance.

The CONTRACTOR 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 and provide such records to CITY upon request.

In keeping with the CITY'S policy, the CONTRACTOR further agrees to hire local labor in fulfilling the terms of this contract.

ARTICLE 9 - FEDERAL AND STATE TAX

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

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

ARTICLE 10 - AVAILABILITY OF FUNDS

The CITY'S performance and obligation to pay under this Contract is contingent upon an annual appropriation for its purpose by the CITY OF RIVIERA BEACH CITY COUNCIL.

ARTICLE 11 - INSURANCE

- A. Prior to execution of this Contract by the CITY, the CONTRACTOR shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the CONTRACTOR has obtained insurance of the type, amount, and classification as required for strict compliance with this ARTICLE and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the CITY'S representative. Compliance with the foregoing requirements shall not relieve the CONTRACTOR of its liability and obligations under this Contract.
- B. The CONTRACTOR shall maintain during the term of this Contract, standard Professional Liability Insurance in the minimum amount of \$1,000,000.00 per occurrence if required.
- C. The CONTRACTOR shall maintain, during the life of this Contract, commercial general liability, including contractual liability, insurance in the amount of \$1,000,000.00 per occurrence to protect the CONTRACTOR from claims for damages for bodily and

personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the CONTRACTOR or by anyone, directly or indirectly, employed by or contracting with the CONTRACTOR.

- D. The CONTRACTOR shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of \$1,000,000.00 combined single limit for bodily injury and property damages liability to protect the CONTRACTOR from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles including, but not limited to, leased and rented automobiles, whether such operations be by the CONTRACTOR or by anyone, directly or indirectly, employed by the CONTRACTOR.
- 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 CONTRACTOR shall specifically include the CITY as an "Additional Insured." Further, if CITY is being reimbursed in whole or in part for the cost of the work contemplated by the Contract by any third party, including but not limited to, any County, State, or Federal agency, CONTRACTOR, at CITY's request, will also list any such third party as an "Additional Insured" on all insurance.
- G. The CONTRACTOR shall maintain, during the life of this Contract, Long Shoreman's Insurance in the amount of \$500,000.00.

ARTICLE 12 - INDEMNIFICATION

To the extent allowed by law, the CONTRACTOR shall indemnify and hold harmless the CITY, its agents, officers, and employees from and against any and all claims, liability, losses, and/or causes of action which may arise from any negligent act, recklessness, or intentional wrongful conduct or omission of the CONTRACTOR, its agents, officers, or employees in the performance of services under this Contract, including, but not limited to, to all attorneys' fees and costs incurred by CITY.

The CONTRACTOR further agrees to indemnify and hold harmless the CITY, its agents, officers and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the CONTRACTOR not included in the paragraph above and for which the CITY, its agents, officers, or employees are alleged to be liable, including, but not limited to, to all attorneys' fees and costs incurred by CITY.

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

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

ARTICLE 13 - SUCCESSORS AND ASSIGNS

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

ARTICLE 14 - VENUE

This Contract and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided therein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Venue for any and all actions arising from and/or relating to the Contract shall be exclusively held in Palm Beach County, Florida.

ARTICLE 15-REMEDIES

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

ARTICLE 16 - CONFLICT OF INTEREST

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

The CONTRACTOR shall promptly notify the CITY'S representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or

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

ARTICLE 17 – DELAYS AND EXTENSION OF TIME

The CONTRACTOR shall not be considered in default by reason of a delay in timely performance if such delay and failure arises out of causes reasonably beyond the control of the CONTRACTOR or its subcontractors and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions. Upon the CONTRACTOR'S request, the CITY shall consider the facts and extent of any such delay and failure to timely perform the work for reason beyond the control of the CONTRACTOR and, if the CONTRACTOR'S delay and failure to timely perform was without it or its subcontractors' fault or negligence, as determined by the CITY in its sole discretion, the time of completion shall be extended for any reasonable time that the CITY, in its sole discretion, may decide; subject to the CITY'S rights to change, terminate, or stop any or all of the work at any time.

If the CONTRACTOR is delayed at any time in the progress of the work by any act or neglect of the CITY or its employees, or by any other contractor employed by the CITY, or by changes ordered by the CITY or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the CONTRACTOR'S control, or by delay authorized by the CITY pending negotiation or by any cause which the CITY, in its sole discretion, shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the CITY, in its sole discretion, may decide.

No extension of time shall be made for any delay occurring more than seven (7) days before a claim therefore is made in writing to the CITY. In the case of continuing cause of delay, only one (1) claim is necessary.

If no schedule or other agreement sets forth the dates by which the drawing(s) shall be furnished, then no claims for delay shall be allowed because of failure to furnish such drawing(s), until two (2) weeks after demand for the drawings and not then unless said claim is reasonable.

The CONTRACTOR'S sole remedy for a delay in completion of the work for any reason will be an extension of time to complete the work and CONTRACTOR specifically waives any right to seek any monetary damages or losses for a delay in completion of the work,

including, but not limited to, waiving any right to seek monetary amounts for lost profits, additional overhead, salaries, lost productivity, efficiency losses, or any other alleged monetary losses which may be allegedly suffered by CONTRACTOR due to a delay in completion of the work.

ARTICLE 18 - INDEBTEDNESS

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

ARTICLE 19 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

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

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

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

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

ARTICLE 20 - INDEPENDENT CONTRACTOR RELATIONSHIP

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

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

ARTICLE 21 - CONTINGENT FEES

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

ARTICLE 22 - ACCESS AND AUDITS

The CONTRACTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of this Contract. The CITY shall have access to such books, records, and documents as required in this Article for the purpose of inspection or audit during normal business hours, at the CONTRACTOR'S place of business.

ARTICLE 23 - NONDISCRIMINATION

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

ARTICLE 24 - ENFORCEMENT COSTS

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

ARTICLE 25 - AUTHORITY TO PRACTICE

The CONTRACTOR hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. This includes, but is not limited to, maintaining all licenses and performing all the duties required under Section 489.128, Florida Statutes. Proof of such licenses and approvals shall be submitted to the CITY'S representative upon request.

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

ARTICLE 26 - SEVERABILITY

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

ARTICLE 27 - PUBLIC ENTITY CRIMES

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

ARTICLE 28 - MODIFICATIONS OF WORK

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

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

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

ARTICLE 29 - NOTICE

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the CITY shall be mailed to:

**CITY OF RIVIERA BEACH
c/o EDWIN C. LEGUE, MARINA DIRECTOR
600 WEST BLUE HERON BOULEVARD
RIVIERA BEACH, FL 33404**

and if sent to the CONTRACTOR shall be mailed to:

**MARINETEK NORTH AMERICA INC.
c/o KENT JOHANSSON
111 2ND AVENUE, NE
ST PETERSBURG FL 33701**

ARTICLE 30 - ENTIRETY OF CONTRACTUAL AGREEMENT

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

ARTICLE 31 - SPECIAL CONDITIONS

All materials and supplies provided by CONTRACTOR shall be in strict accordance with the plans and specifications approved by the CITY.

The CONTRACTOR shall furnish bonds and maintain said bonds throughout the duration of the project covering the faithful performance of the Contract and payment of all obligations arising thereunder. The bonds shall be secured by the CONTRACTOR from a surety company licensed in the State of Florida with an "A-" rating or better in financial strength as rated by Best's Key Rating Guide published by Alfred M. Best Company, Oldwick, New Jersey 08858; Moody's Credit Rating Guide published by Moody's Investors Service, Inc., 250 Greenwich Street, New York, NY 10007; or Standard & Poor's Credit Rating Guide published by Standard & Poors Rating Services, 55 Water Street, New York New York, 10041

The CONTRACTOR shall be required to provide Surety Bonds in the amount of one hundred percent (100%) of the approved work order amount. The required premiums shall be paid for by the CONTRACTOR.

In addition to the above-minimum qualifications, the surety company must meet at least one of the following additional qualifications:

1. The surety company shall hold a current certificate or authority as an acceptable surety of federal bonds in accordance with the United States Department of Treasury Circular 570, Current Revision. The surety company shall provide the CITY with satisfactory evidence that such excess risk has been protected in an acceptable manner.
2. The surety company shall have at least the following minimum ratings in the latest revision

of Best's Key Rating Guide: Best's Policy Holders Ratings –A- (minimum); Best Financial Category – Class 1 or equivalent credit rating with Moody's or Standard and Poors credit rating services.

3. If the surety is declared bankrupt, becomes insolvent, its right to do business in the State of Florida is terminated or it ceases to meet the requirements set forth above, the CONTRACTOR shall within ten (10) working days after notification by the CITY to substitute another bond and surety company, at no cost to the CITY, meeting the above requirements.

ARTICLE 32 – INSPECTION OF WORK

The CITY'S representative and the CITY'S Engineer shall at all times have access to work wherever it is, in preparation or progress, and the CONTRACTOR shall provide proper facilities for such access and for inspection.

If the specifications, the CITY, the Engineer's instructions, laws, ordinances or any public authority requires any work to be specially tested or approved, the CONTRACTOR shall give the CITY Representative and CITY Engineer timely notice of its readiness for inspection. If any such work should be covered up by CONTRACTOR and CITY Representative or CITY Engineer desires to inspect or re-inspect such work for any reason, at the sole discretion of CITY Representative or CITY Engineer, such work must be uncovered for examination, at the CONTRACTOR'S expense.

ARTICLE 33– WARRANTY/GUARANTY

The fixed, floating dock and wave attenuation systems and aluminum gangways (systems), including all structural and utility components, shall be designed for a minimum twenty-five year life expectancy. The deck, sidewalls, structure framing, floatation and other components of the Systems shall be delivered to the site free of cracks, corrosion, blemishes, broken or bent parts, uneven or non-fitting parts, missing or non-correct parts. A manufacturer's Warranty shall be issued and go into effect upon acceptance by the CITY. The warranty shall be continuously effective for ten (10) years after acceptance. Subject to conditions at or below the specified design conditions, the warranty shall include, but not be limited to, the following items:

- Repair or replacement of the product or components of the project due to failure or damage resulting from any or all conditions that fall within the design criteria outlined in the Specifications. This includes damages caused by live loads, wind, currents, waves, surge, vessel impact, storm and hurricane events. Components to be warranted include but are not limited to aluminum and/or concrete structural members or special extrusions (i.e. utility troughs), floatation, decking material (wood, concrete or composite), pile guides, cleats, walers, fendering and hardware.
- Repair or replacement of the product or components of the product due to deterioration caused by corrosion from typical marine environmental conditions.

- Full repair or replacement cost including product manufacturing, system components, materials, hardware, taxes, shipping and handling and all required labor for removal of or repairs to damaged product and installation of new product. The manufacturer may not devalue the product or components of the product based on years in service from the date of final product acceptance.
- The warranty shall remain effective for the full ten (10) year term with no option by the manufacturer to refund to the CITY the original purchase price, or devalued price based on number of years in service from the date of final product acceptance.

Upon receipt of notice from the CITY of failure of any part covered under such warranty/guaranty period, the affected part, parts, or materials shall be replaced promptly with new parts or materials by the CONTRACTOR or Manufacturer at no expense to the CITY. In the event the CONTRACTOR fails to make the necessary repairs or replacements within thirty (30) days after notification by the CITY, the CITY may accomplish the work at the expense of the CONTRACTOR.

The CONTRACTOR shall provide the CITY with a written warranty of its products and any approved alternate manufacturer/ product warranty as may be required.

ARTICLE 34 – PROTECTION OF WORK AND PROPERTY

The CONTRACTOR shall continuously maintain adequate protection of all work from damage, and shall protect such work and the CITY'S property from injury or loss arising during the term of the Contract. Except for any such damage, injury, or loss which may be directly due to errors caused by the CITY or employees of the CITY, the CONTRACTOR shall adequately protect adjacent property, as provided by the law, and shall provide guard fences, lights, and any other necessary materials to carry out such protection.

Until acceptance of the work by the CITY, the CITY'S property shall be under the charge and care of the CONTRACTOR and the CONTRACTOR shall take every necessary precaution against injury or damage to the work by the action of the elements or from any other cause whatsoever, and the CONTRACTOR shall repair, restore and make good, without additional charge any work occasioned by any of the above causes before its completion and acceptance by the CITY.

ARTICLE 35 – TIME

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

ARTICLE 36 - TERMINOLOGY AND CAPTIONS

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

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

ARTICLE 37 - WAIVER

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

ARTICLE 38 - PREPARATION

CITY and CONTRACTOR acknowledge that each has had the benefit of counsel or the ability to retain counsel and full and free access to counsel in connection with the negotiation and execution of Contract, that each has consulted or could have consulted with counsel in connection with this Contract, and that each has had the opportunity, prior to execution, to read this Contract and fully understand all of its provisions. Should any provision in this Contract require judicial or quasi-judicial interpretation it is agreed that a Court or other dispute resolution forum interpreting or enforcing the same shall not apply a presumption that the terms hereof shall be more strictly construed against any party by reason of the rule construction that a document is to be construed more strictly against the party who itself or through its agent has prepared the same. CITY and CONTRACTOR agree that this Contract is the product and result of a joint effort.

ARTICLE 39 - MATERIALITY

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

ARTICLE 40 - REPRESENTATIONS/BINDING AUTHORITY

CONTRACTOR has full power, authority and legal right to execute and deliver this Contract and perform all of its obligations under this Contract. By signing this Contract, Kent Johansson, hereby represents to the CITY that he has the authority and full legal power to execute this Contract and any and all documents necessary to effectuate and implement the terms of this Contract on behalf of the party for whom he is signing and to bind and obligate such party with respect to all provisions contained in this Contract.

ARTICLE 41 - EXHIBITS

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

reference.

ARTICLE 42 - CONTRACT DOCUMENTS AND CONTROLLING PROVISIONS

This Contract consists of the contract in its entirety and all attachments in the Bid Documents, Technical Specifications, Construction Manual and Addenda as contained in the City of Riviera Beach Request for Proposal #343-11. The CONTRACTOR agrees to be bound by all the terms and conditions set forth in this Contract and any other applicable requirements. To the extent that there exist a conflict between this Contract and the Contractors response to the City's RFP # 343-11, the terms, conditions, covenants, and/or provisions of this Contract shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

ARTICLE 43 - LEGAL EFFECT

This Contract shall not become binding and effective until approved, in writing, by both CITY's designated representative and the CITY COUNCIL OF THE CITY OF RIVIERA BEACH.

ARTICLE 44 - NOTICE OF COMPLAINTS OR SUITS

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

ARTICLE 45 - SURVIVABILITY

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

ARTICLE 46 - DEFAULT

Notwithstanding anything contained in this Contract to the contrary, the parties agree that, by way of inclusion and not limitation, the occurrence of any of the following shall be deemed a material event of default and shall be grounds for termination:

- a. The filing of a lien or claim of any kind by any subcontractor or third tier subcontractor including, but not limited to materialmen, suppliers, or laborers, upon any property, right of way, easement, other interest in land or right to use such land within the territorial boundaries of the CITY which lien is not satisfied, discharged or contested in a court of law within thirty (30) days from the date of notice to the CONTRACTOR;
- b. The filing of any claim, including, but not limited to, a claim against any Payment Bond by any subcontractor or third tier subcontractor including, but not limited to materialmen, suppliers, or laborers, concerning the failure of the CONTRACTOR to pay any such subcontractor or third

tier subcontractor including, but not limited to materialmen, suppliers, or laborers, for any work performed or materials supplied pursuant to this Contract;

c. The filing of any judgment lien against the assets of CONTRACTOR related to the performance of this Contract which is not satisfied, discharged or contested in a court of law within thirty (30) days from the date of notice to the CONTRACTOR; or

d. The filing of a petition by or against the CONTRACTOR for relief under the Bankruptcy Code, or for its reorganization or for the appointment of a receiver or trustee of the CONTRACTOR or the CONTRACTOR'S property; or an assignment by CONTRACTOR for the benefit of creditors; or the taking possession of the property of the CONTRACTOR by any governmental officer or agency pursuant to statutory authority for the dissolution or liquidation of the CONTRACTOR; or if a temporary or permanent receiver or trustee shall be appointed for the CONTRACTOR or for the CONTRACTOR'S property and such temporary or permanent receiver or Trustee shall not be discharged within thirty (30) days from the date of appointment.

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

ARTICLE 47 - WAIVER OF SUBROGATION

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

ARTICLE 48 - RIGHT TO REVIEW

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

ARTICLE 49 - SUBRECIPIENT REQUIREMENTS

CONTRACTOR agrees and recognizes that the CITY may be seeking grants or other reimbursement in whole or in part for the cost of the work contemplated by this Contract from a third party, including but not limited to, various County, State, and Federal agencies or

subdivisions. The reimbursement sought by the CITY may be dependent on, amongst other items, CONTRACTOR's compliance with the terms and conditions of this Contract and the furnishing of Subrecipient Requirement information by CONTRACTOR to the CITY. CONTRACTOR agrees to fully cooperate with the CITY in any requests of the CITY to fulfill the CITY's Subrecipient Requirements and to otherwise obtain the sought after reimbursement. CONTRACTOR agrees and recognizes that the failure to comply with all the terms and conditions of this Contract and the furnishing of Subrecipient Requirement information to the CITY by CONTRACTOR may result in the CITY failing to obtain the sought after reimbursement in whole or in part for the cost of the work contemplated by this Contract and that such failure by the CONTRACTOR shall constitute a material default under this Contract.

ARTICLE 50 – WAIVER OF TRIAL BY JURY

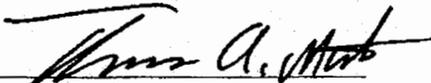
IN THE EVENT OF LITIGATION ARISING FROM THIS CONTRACT, THE CITY AND CONTRACTOR KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT TO A TRIAL BY JURY. THE CITY AND CONTRACTOR HEREBY ACKNOWLEDGE THAT THIS WAIVER PROVISION IS A MATERIAL INDUCEMENT FOR EACH PARTY AGREEING TO ENTER INTO THIS CONTRACT.

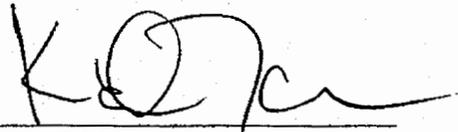
SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties unto this Contract have set their hand and seal on the day and year above written.

CITY OF RIVIERA BEACH

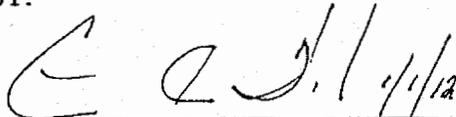
**MARINETEK
NORTH AMERICA, INC.**

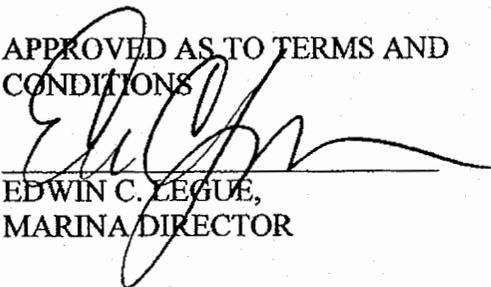
BY: 
THOMAS A. MASTERS,
MAYOR

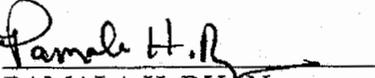
BY: 
KENT JOHANSSON
PRESIDENT

ATTEST:

CORPORATE SEAL:

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

APPROVED AS TO TERMS AND
CONDITIONS
BY: 
EDWIN C. LEGUE,
MARINA DIRECTOR

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY
BY: 
PAMALA H. RYAN,
CITY ATTORNEY

Date: 11/31/12

RESOLUTION NO. 19-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, URGING THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS TO IMPLEMENT THE PRECINCT CHANGES AS DIRECTED BY THE CITY CLERK; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is the desire of the City Council to maintain facilities conducive to the electorate geographical location, that do not impose upon their physical ability to exercise such a right to vote; and

WHEREAS, the City has scheduled its Municipal General Elections to be held within the municipal boundaries between the hours of 7:00 AM until 7:00 PM to filled the then two (2) expired seats in District 2; and District 4; and

WHEREAS, Chapter 5, section 5-8 through section 5-12, of Code of Ordinances dictates the procedures to follow for selection of Polling locations within the municipal boundaries and related procedures; and

WHEREAS, previous changes made by the Palm Beach County Elections Office conflict with the City's Election Code of Ordinances; and is considered to be an imposition to the voters of this municipality.

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

SECTION 1. That the Palm Beach County Supervisor of Elections is hereby advised to implement the following precinct location changes as directed by the City Clerk:

Relocate Precinct No. 1174 – Grove Park Elementary School, Palm Beach Gardens, FL, to Palm Beach Virtual School, Riviera Beach, FL

Relocate Precinct No: 7008 – Palm Beach Lakes Community High School, West Palm Beach, FL, to Sun Coast High School, Riviera Beach, FL

SECTION 2. As a cost savings to both the city and the county, relocate Precinct No. 7028 – VFW POST 4143 to Wells Recreation Center. Due to the current building utilized as Precinct Nos. 1192, and 1202 scheduled to be

RESOLUTION NO. 19-12
PAGE 2

demolished within the next week, relocate 1192 and 1202 to 900 East Blue Heron Blvd. Riviera Beach, Fl.

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

PASSED AND APPROVED THIS 1ST DAY OF FEBRUARY, 2012.

APPROVED:

Thomas A. Masters
THOMAS A. MASTERS
MAYOR

Judy L. Davis
JUDY L. DAVIS
CHAIRPERSON

ATTEST:

Carrie E. Ward
CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK

Billie E. Brooks
BILLIE E. BROOKS
CHAIR PRO TEM

Cedrick A. Thomas
CEDRICK A. THOMAS
COUNCILPERSON

Dawn S. Pardo
DAWN S. PARDO
COUNCILPERSON

Shelby L. Lowe
SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: B. BROOKS

SECONDED BY: S. LOWE

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

REVIEWED FOR LEGAL SUFFICIENCY

Pamala Hanna Ryan
PAMALA HANNA RYAN, CITY ATTORNEY

DATE

RESOLUTION NO. 20-12

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF RIVIERA BEACH, PALM
BEACH COUNTY, FLORIDA, DECLARING
THE NEED FOR EMERGENCY COASTAL
BEACH SAND PROTECTION SEAWARD OF
THE COASTAL CONSTRUCTION CONTROL
LINE FOR THE SEAWINDS CONDOMINIUM;
AND PROVIDING FOR AN EFFECTIVE
DATE.**

WHEREAS, the Florida Department of Environmental Protection (FDEP) regulates construction activity seaward of the Coastal Construction Control Line (CCCL); and

WHEREAS, under the authority of Florida Statutes Section 161.085 and Florida Administrative Code Chapter 62B-33, a local government may take emergency measures for the protection of threatened private residences or public infrastructure; and

WHEREAS, Singer Island has experienced erosion from coastal storms; and

WHEREAS, the Seawinds Condominium is located on Singer Island in the City of Riviera Beach; and

WHEREAS, an FDEP permit is required for construction activity seaward of the CCCL; and

WHEREAS, the Seawinds Condominium Association wishes to place sand seaward of the CCCL adjacent to the Seawinds Condominium and does not possess an FDEP permit; and

WHEREAS, the Seawinds Condominium Association has requested, by way of letter dated February 1, 2012 (Exhibit A), that the City utilize its powers under the Florida Statutes and Florida Administrative Code to issue an emergency permit for the Seawinds Condominium Association to place sand seaward of the CCCL; and

WHEREAS, the Seawinds Condominium Association has submitted a letter from Douglas W. Mann, P.E. dated February 1, 2012 (Exhibit B), finding that the beach and dune system adjacent to the Seawinds Condominium lacks the appropriate volume and elevations of sand to fully protect the upland habitable structures.

RESOLUTION NO. 20-12
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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 Seawinds Condominium Association request for the City to utilize its powers per Florida Statutes Section 161.085 and Florida Administrative Code Chapter 62B-33, to declare the need for emergency coastal beach sand protection seaward of the CCCL adjacent to the Seawinds Condominium is approved.

SECTION 2. That the Seawinds Condominium Association will apply for the required FDEP permit within 10 days of the date of the approval of this resolution.

SECTION 3. That the City is in no way liable for the placement of sand adjacent to the Seawinds Condominium.

SECTION 4. The Seawinds Condominium Association shall indemnify and hold harmless the City from any lawsuit or liability that may occur as a result of the City issuing an emergency permit. Such indemnity and hold harmless obligation shall include legal fees incurred by the City.

PASSED AND APPROVED this 1 day of February, 2012

APPROVED:

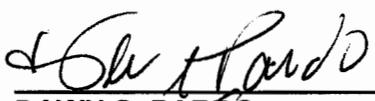

THOMAS A. MASTERS
MAYOR


JUDY L. DAVIS
CHAIRPERSON

ATTEST:


CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK


BILLIE E. BROOKS
CHAIR PRO TEM


DAWN S. PARDO
COUNCILPERSON


CEDRICK A. THOMAS
COUNCILPERSON


SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: Brooks

SECONDED BY: Pardo

J. DAVIS Aye

B. BROOKS Aye

D. PARDO Aye

C. THOMAS Aye

S. LOWE Aye

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: _____