

RESOLUTION NO. 64-11

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE INTERIM FINANCE DIRECTOR TO TRANSFER \$29,669 FROM GENERAL FUND CONTINGENCY ACCOUNT TO THE CITY CLERK'S ELECTION ACCOUNTS TO COVER THE BALANCE INCURRED DURING THE MARCH 22, 2011 MUNICIPAL RUN-OFF ELECTIONS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City's Municipal Elections are held in accordance with the City Charter on an annual basis, and

**WHEREAS**, the City Council authorized approval for expenses for the Municipal Election in the 2010/2011 budget. Additional cost incurred as a result of the Run-Off Elections and the State authorized Audit Elections.

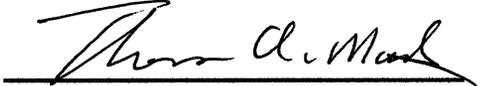
**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, as follows:**

**SECTION 1.** That the Interim Finance Director is hereby authorized to transfer \$29,669.00 from General Fund Contingency to the City Clerk's Elections Account Line Item No. 001-0410-5190-3404 in the amount of \$2695; and Account Line Item No, 001-0410-519-0-3101 in the amount of \$26,974 to cover invoices received from the Palm Beach County Supervisor of Elections Office; Suddath Relocation Systems, and Printing Systems, Inc. for services rendered during the Municipal Run-off Elections, and the Audit Elections for March 22, 2011.

**SECTION 2.** This Resolution shall take effect immediately upon passage and adoption by the City Council.

**PASSED AND ADOPTED this 18th day of May, 2011.**

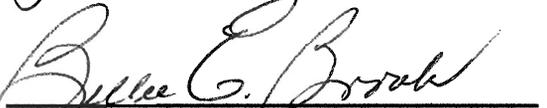
APPROVED:

  
THOMAS A. MASTERS  
MAYOR

  
JUDY L. DAVIS  
CHAIRPERSON

ATTEST:

  
CARRIE E. WARD  
MASTER MUNICIPAL CLERK  
CITY CLERK

  
BILLIE E. BROOKS  
CHAIR PRO-TEM

  
CEDRICK A. THOMAS  
COUNCILPERSON

  
DAWN S. PARDO  
COUNCILPERSON

  
SHELBY L. LOWE  
COUNCILPERSON

MOTIONED BY: B. Brooks

SECONDED BY: D. Pardo

J. DAVIS: aye

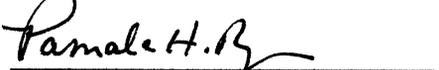
B. BROOKS: aye

C. THOMAS: aye

D. PARDO: aye

S. LOWE: aye

REVIEWED AS TO LEGAL SUFFICIENCY

  
PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/6/11

RESOLUTION NO. 65-11

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AUTHORIZING THE CITY MANAGER TO EXECUTE THE BOATING INFRASTRUCTURE GRANT AGREEMENT WITH THE FLORIDIA FISH AND WILDLIFE COMMISSION ON BEHALF OF THE CITY; ACCEPTING FUNDS IN THE AMOUNT OF \$1,780,823 WITH A REQUIRED MATCH OF \$1,780,823; AUTHORIZING THE INTERIM FINANCE DIRECTOR TO SET UP A BUDGET FOR SAME; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, The Florida Fish and Wildlife Commission provides assistance under the Boating Infrastructure Grant Program; and

**WHEREAS**, The City of Riviera Beach has submitted an application to FWCC; and

**WHEREAS**, The City of Riviera Beach has been awarded grant funds in the amount of \$1,780,823 for the period of January 1, 2011 to December 31, 2012; and

**WHEREAS**, The \$1,780,823 required match will be funded from the Palm Beach County Water Access Bond Grant account number 424-0000-543-6-3103 and the Florida Inland Navigational District (FIND) Construction Grant account number 425-0000-543-0-3106;

**WHEREAS**, The City Staff will, upon completion the architectural and engineering phase, issue a Request for Proposal for the construction phase of the project.

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

**SECTION 1.** That the Mayor and City Clerk are authorized to execute the FWCC Riviera Beach Marina Grant Agreement on behalf of the City accepting funds in the amount of \$1,780,823 from the FWCC Boating Infrastructure Grant Program with a required match of \$1,780,823 coming Palm Beach County Water Access and Florida Inland Navigational District grants.

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

**REVENUE:**

FWCC (BIG P) Grant	\$1,780,823
TOTAL	\$1,780,823

**EXPENDITURE:**

Professional Services and Vendors	\$1,780,825
TOTAL	\$1,780,825

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

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PASSED AND APPROVED this 18 day of May, 2011.

APPROVED:

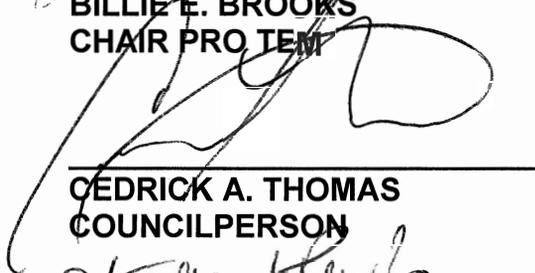
  
\_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

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

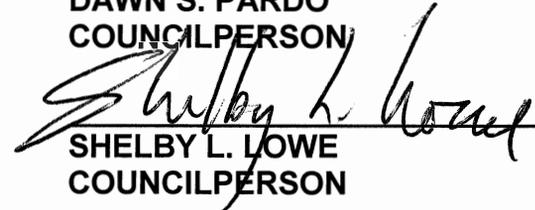
ATTEST:

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

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

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

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

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

MOTIONED BY: B, Brooks

SECONDED BY: D. Pardo

J. DAVIS aye

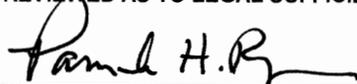
B. BROOKS aye

C. THOMAS aye

D. PARDO aye

S. LOWE aye

REVIEWED AS TO LEGAL SUFFICIENCY

  
\_\_\_\_\_  
PAMALA H. RYAN, CITY ATTORNEY

DATE: 5/10/11

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, SUPPORTING OUR COMMUNITY'S MILITARY VETERANS BY ENDORSING THE "STAND DOWN" EVENT AT THE DAN CALLOWAY "TATE" RECREATION COMPLEX ON JUNE 4, 2011, TO ADDRESS THE NEEDS OF HOMELESS AND AT-RISK VETERANS AND THEIR FAMILIES, TO OFFER A DAY OF RESPITE AND FUN AND TO HONOR ALL OUR MEN AND WOMEN IN UNIFORM FOR THEIR SERVICE, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** The term "Stand Down" refers to a time of respite and recovery during wartime when exhausted combat units are removed from the battlefield and taken to a place of relative security and safety; and

**WHEREAS,** Today "Stand Down" has been broadened to mean a grassroots, community-based intervention program designed to help the nation's estimated 275,000 homeless veterans "combat" life on the streets; and

**WHEREAS,** The nonprofit organization, Palm Springs-based Faith, Hope, Love, Charity, Inc., is partnering with the City of Riviera Beach and a host of volunteers and organizations to produce the event and will bring services, resources and a day of relaxation and care to these troubled men and women in uniform on June 4, 2011; and

**WHEREAS,** The partnership between the City and Faith, Hope, Love, Charity, Inc. is meant as a show of care and concern for all veterans who have served their country with duty and faith.

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

**Section 1:** The above recitals are true and are hereby incorporated into this Resolution.

**Section 2:** The City Council hereby endorses support for our men and women in uniform and authorizes the "Stand Down" event as planned from 10 a.m. to 4 p.m. on June 4, 2011.

**SECTION 3:** This resolution shall take effect immediately upon its passage and adoption.

PASSED AND APPROVED this 18 day of May, 2011.

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

J. DAVIS aye

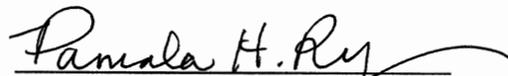
B. BROOKS aye

C. THOMAS aye

D. PARDO aye

S. LOWE aye

REVIEWED AS TO LEGAL SUFFICIENCY

  
PAMALA H. RYAN, CITY ATTORNEY

DATE: 5/12/11

RESOLUTION NO. 67-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONTRACT EXTENSION UP TO SIX (6) MONTHS, WITH ADVANCED DATA PROCESSING, INCORPORATED (ADPI); PROVIDING FOR EMERGENCY MEDICAL TRANSPORTATION BILLING SERVICES; AUTHORIZING INTERIM FINANCE DIRECTOR TO MAKE PAYMENT FROM BUDGET ITEM 001-0921-526-0-3105; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Fire Rescue provides emergency medical service transport to the citizens and visitors of the City of Riviera Beach, and

**WHEREAS**, Advanced Data Processing Incorporated (ADPI) currently provides emergency medical transport billing services for Fire Rescue, and

**WHEREAS**, A contract extension is needed to provide a continuation of service for emergency medical transport billing services.

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

**Section 1:** The Mayor and City Clerk are authorized to execute a six (6) month extension with Advanced Data Processing, Inc., commencing for the provisions of emergency medical service transport billing; and a copy of the agreement is attached hereto and made part of this Resolution thereof.

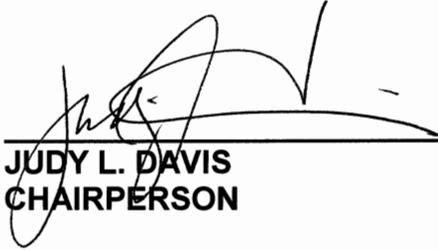
**Section 2:** The Interim Finance Director is hereby authorized to make payment from the budget item 001-0921-526-0-3105, Professional Services.

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

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APPROVED:

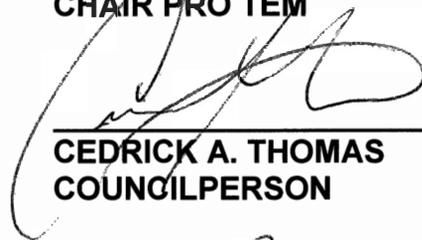
  
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THOMAS A. MASTERS  
MAYOR

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

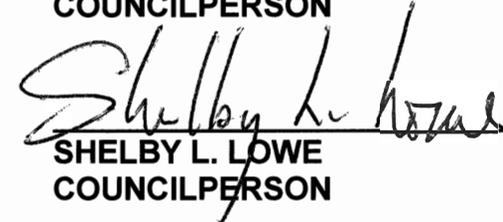
ATTEST:

  
\_\_\_\_\_  
CARRIE E. WARD  
MASTER MUNICIPAL CLERK  
CITY CLERK *5/18/11*

  
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BILLIE E. BROOKS  
CHAIR PRO TEM

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

  
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DAWN S. PARDO  
COUNCILPERSON

  
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SHELBY L. LOWE  
COUNCILPERSON

MOTIONED BY: D. Pardo

SECONDED BY: B. Brooks

B. BROOKS aye

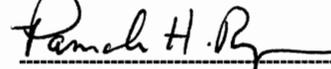
J. DAVIS aye

C. THOMAS aye

D. PARDO aye

S. LOWE aye

REVIEWED AS TO LEGAL SUFFICIENCY

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

DATE: 5/11/11

May 4, 2011

City of Riviera Beach  
Attn: Mr. Peter LeDUC, Fire Chief  
600 West Blue Heron Blvd.  
Riviera Beach, FL 33404

Dear Mr. LeDUC:

We are pleased with the opportunity to extend our contract for EMS billing and collections on a month to month basis. We greatly value your business and the relationship we have developed with the City over the years.

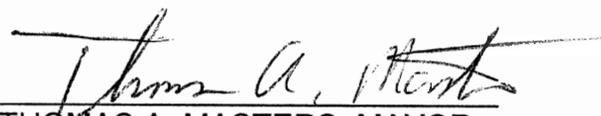
This letter hereby serves as our extension offer to the City of Riviera Beach, its Fire Rescue Operations and that, by mutual agreement, all terms and conditions of the in force Agreement, originally entered into on November 1, 2007, remain in effect for a six (6) month period. The effective date of this extension shall be the date as approved by the City Commission.

Sincerely,



Darryl Hartung  
Vice President

City of Riviera Beach

By:   
THOMAS A. MASTERS, MAYOR

Date: 5/18/11

ATTEST:   
CARRIE E. WARD  
MASTER MUNICIPAL CLERK  
CITY CLERK

Date: 5/18/11

RESOLUTION NO. 68-11

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, PURCHASING A NEW UNINTERRUPTED POWER SOURCE (UPS) SYSTEM FOR \$11,400.00 FROM NORTH STAR TECHNICAL SERVICES, INC.; AUTHORIZING THE MAYOR AND CITY COUNCIL TO APPROVE PURCHASE; AUTHORIZING THE INTERIM FINANCE DIRECTOR TO MAKE PAYMENT IN THE AMOUNT OF \$11,400.00 TO NORTH STAR TECHNICAL SERVICES, INC.; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Riviera Beach is included in the Countywide upgrade of the Palm Beach County Office of Emergency Management's VoIP 911 system; and,

**WHEREAS**, North Star Technical Services, Inc. has proposed to sell to the City of Riviera Beach an Uninterrupted Power Source (UPS) System capable of handling the electrical load necessary for the upgrade for a price of \$11,400.00, under State of Florida contract number 250-000-09-1 for equipment, to include a one (1) year on-site factory service plan; and,

**WHEREAS**, The City of Riviera Beach Police Department desires to upgrade and procure a UPS System; and,

**WHEREAS**, the Palm Beach County Office of Emergency Management has approved this purchase as part of the reimbursable 911 Annual Grant Award.

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

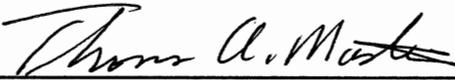
**SECTION 1.** That the purchase of the UPS System with North Star Technical Services, Inc., is hereby approved.

**SECTION 2.** That the Interim Finance Director is authorized to make payment from account number 124-0819-521-0-6404 to North Star Technical Services in the amount of \$11,400.00.

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

**PASSED and APPROVED** this 18 day of May, 2011.

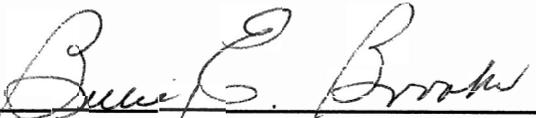
APPROVED:

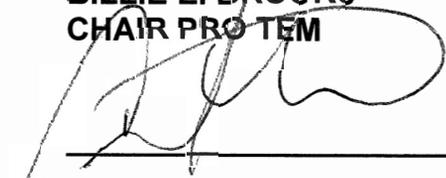
  
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THOMAS A. MASTERS  
MAYOR

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

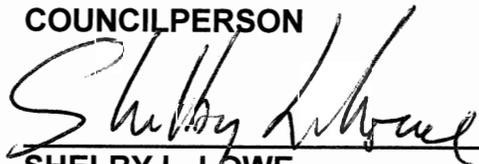
ATTEST:

  
\_\_\_\_\_  
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: C. Thomas

J. DAVIS aye

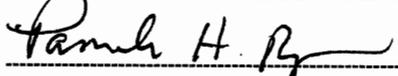
B. BROOKS aye

C. THOMAS aye

D. PARDO aye

S. LOWE aye

REVIEWED AS TO LEGAL SUFFICIENCY

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

DATE: 5/9/11

RESOLUTION NO. 69-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE APPROVAL OF CHANGE ORDER TWELVE (12) FROM FERREIRA CONSTRUCTION CO., INC. OF STUART, FLORIDA FOR ADDITIONAL DREDGING TO COMPLETE THE REQUIRED DREDGE TEMPLATE AND CONSTRUCTION DELAYS DUE TO UNEXPECTED FIELD CONDITIONS FOR THE LOCKHEED WORKING DOCK/ FISHING PIER AND DREDGE PROJECT IN THE AMOUNT OF \$316,277.96; ALL EXPENDITURES TO BE PAID WITH FUNDS FROM THE STATE OF FLORIDA ECONOMIC DEVELOPMENT TRANSPORTATION GRANT AND PALM BEACH COUNTY TRI-PARTY AGREEMENT.

**WHEREAS**, On June 2, 2010 Council approved Resolution 58-10 that authorized the construction of a combined fishing pier/working dock and dredging to Ferreira Construction Co., Inc. in the amount of \$1,018,530.63 with an eighteen percent (18%) contingency; and

**WHEREAS**, the City Manager previously approved change orders one (1) through ten (10) in the amount of \$113,052.34; and

**WHEREAS**, in the original specifications of the bid, it was estimated by the Project Engineer that the quantity of 13,000 cubic yards of sand needed to be removed. However, the actual volume is substantially more than what was estimated; and

**WHEREAS**, staff had the dredge amounts independently verified by performing a bathymetric survey independently conducted by Lidberg Land Surveying and calculations performed by the project engineer, Isiminger & Stubbs Engineering, Inc., indicates an additional 11,500 cubic yards will be required to meet the minimum dredge requirements for the project; and

**WHEREAS**, staff has additionally verified dredge quantities transported to Palm Beach County's South Cove Project by reviewing barge logs from the County's Environmental Resource Management Department (E.R.M); and

**WHEREAS**, during construction Ferreira Construction encountered field conditions not disclosed in the original specifications. Specifically, rock conditions in the pier footprint and an substantial amount of cemented sand in the dredge area, and

**WHEREAS**, the rock conditions caused delays in the installation of concrete piles and mooring timber piles for the dock and;

RESOLUTION NO. 69-11

PAGE 2

**WHEREAS**, as a result of these unexpected field conditions, Ferreira Construction incurred additional labor cost for crew time and had to lease additional equipment to penetrate and displace the rock for piling installation.

**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 approve change order twelve (12) in the amount of \$316,277.96 for additional dredging to meet the minimum dredge template for the project and construction delays due to unexpected field conditions.

**SECTION 2.** The City Council authorizes the Interim Finance Director to make payment from the appropriate account.

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

**PASSED AND APPROVED THIS 18<sup>th</sup> DAY OF May, 2011.**

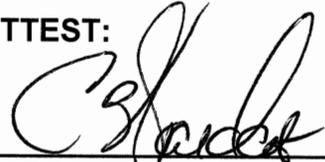
PASSED AND APPROVED this 18th day of May, 2011.

APPROVED:

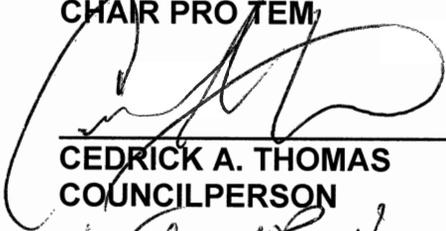
  
THOMAS A. MASTERS  
MAYOR

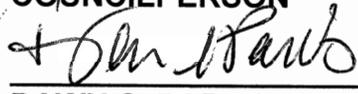
  
JUDY L. DAVIS  
CHAIRPERSON

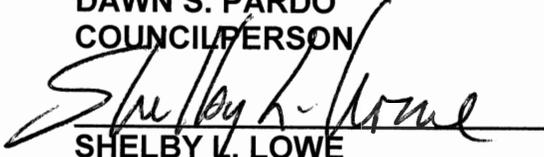
ATTEST:

  
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

J. DAVIS aye

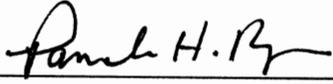
B. BROOKS aye

C. THOMAS aye

D. PARDO aye

S. LOWE aye

REVIEWED AS TO LEGAL SUFFICIENCY

  
PAMALA H. RYAN, CITY ATTORNEY

DATE: 4/26/11

RESOLUTION NO. 70-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, DECLARING THAT THE CITY WILL DISCONTINUE DRY STORAGE OPERATIONS AS OF JUNE 30, 2011; AUTHORIZING STAFF TO PROCEED WITH THE APPROPRIATE ACTIONS TO CLOSE THE EXTERIOR DRY STORAGE AND UTILIZE THE SAME FOR ADDITIONAL PARKING AND CONSTRUCTION STAGING AS DEEMED NECESSARY DURING THE CONSTRUCTION OF THE SEAWALL AND DOCKS; AUTHORIZING THE INTERIM FINANCE DIRECTOR TO AMEND THE CITY'S BUDGET TO REFLECT THE ELIMINATION OF THE DRY STORAGE OPERATION; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, on November 4, 2009, the City Council, by Resolution No. 139-09, voted to cease operations of the enclosed dry storage facility and to reallocate \$400,000 from repairs and renovation of the building to design and engineering; and

**WHEREAS**, since the closure of the enclosed dry storage building, the dry stack operation has had a significant reduction in occupancy and revenues to the extent that the dry storage operation is a fiscal liability to the City's and taxpayers; and

**WHEREAS**, the continued operation of the dry storage facility is a liability to the City due to potential safety issues with both pedestrian and vehicular traffic conflicting with forklift operations due the upcoming construction period; and

**WHEREAS**, the revenue losses due to reduced occupancy, economic conditions, and the overall poor condition of the facility, has made it necessary to supplement the marina using general fund monies; and

**WHEREAS**, the City does not currently have the funds available in order to completely rebuild the dry storage facility in the manner it should be rebuilt in order to be a viable revenue stream.

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

**SECTION 1.** The City Council declares that the City will discontinue all dry storage operations at the Marina as of June 30,2011.

**SECTION 2.** That staff is authorized to proceed with the appropriate action necessary to close the dry storage operation and to utilize the space for necessary construction and parking uses during construction.

**SECTION 3.** The Interim Finance Director is authorized to amend the current budget to reflect operations to date and the elimination of the dry storage operation at the Marina.

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

PASSED and APPROVED this 18 day of May, 2011.

*[The remainder of page left blank intentionally]*

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:

Pardo

SECONDED BY:

Brooks

B. BROOKS

Aye

J. DAVIS

Aye

C. THOMAS

Aye

D. PARDO

Aye

S. LOWE

May

REVIEWED AS TO LEGAL SUFFICIENCY

Pamela H. Ryan  
PAMALA HANNA RYAN, CITY ATTORNEY

DATE 5/12/11

RESOLUTION NO. 71-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING BID NO. 303-11 FOR THE CONSTRUCTION OF 752 FEET OF NEW SEAWALL AND RELATED DEMOLITION AT THE CITY MARINA TO THE MURPHY CONSTRUCTION CO., INC. OF WEST PALM BEACH, FLORIDA, THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER IN THE AMOUNT OF \$1,324,404.00; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE PROPOSED CONSTRUCTION SERVICES CONTRACT; AUTHORIZING THE INTERIM FINANCE DIRECTOR TO ESTABLISH A BUDGET AND MAKE PAYMENTS FOR SAME; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, in accordance with the provisions of the City's Procurement Ordinance (2412), an Invitation for Bid was publicly solicited for qualified contractors to furnish all supervision, personnel, equipment, materials, labor and supplies to complete the construction of 752 foot of new seawall and related demolition; and

**WHEREAS**, six (6) companies responded to Invitation for Bid No. 303-11 and The Murphy Construction Co., Inc. of West Palm Beach, Florida submitted the lowest responsive and responsible bid in the amount of \$1,324,404.00.

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

**SECTION 1.** The City Council hereby accepts staff's recommendation to award the contract to complete the construction of a new seawall and related demolition at the City marina to The Murphy Construction Co., Inc of West Palm Beach, Florida, and authorizes the Mayor and City Clerk to execute a construction services contract for same.

**SECTION 2.** The City Council authorizes the Interim Finance Director to make payment from the appropriate account.

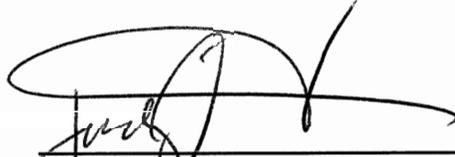
**SECTION 3.** The City Manager is authorized to approve change orders in an amount not to exceed 15% of the contract award amount.

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

**PASSED AND APPROVED THIS 23RD DAY OF May, 2011.**

APPROVED:

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

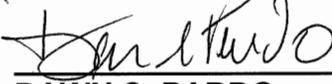
  
\_\_\_\_\_  
JUDY L. DAVIS  
CHAIRPERSON

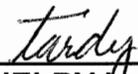
ATTEST:

  
\_\_\_\_\_  
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:   
\_\_\_\_\_

SECONDED BY:   
\_\_\_\_\_

B. BROOKS   
\_\_\_\_\_

J. DAVIS   
\_\_\_\_\_

C. THOMAS   
\_\_\_\_\_

D. PARDO   
\_\_\_\_\_

S. LOWE   
\_\_\_\_\_

REVIEWED AS TO LEGAL SUFFICIENCY

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

DATE \_\_\_\_\_

**CITY OF RIVIERA BEACH  
CONTRACT FOR CONSTRUCTION**

This Contract is made as of this 23<sup>rd</sup> day of May, 2011 by and between the CITY OF RIVIERA BEACH, a Political Subdivision of the State of Florida, by and through its CITY COUNCIL, hereinafter referred to as the CITY, and The Murphy Construction Co. of West Palm Beach Florida,  
[ ] an individual, [ ] a partnership, [X ] a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONTRACTOR, whose Federal I.D. or Social Security number is 59-1697495.

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

**ARTICLE 1 - SERVICES**

The CONTRACTOR'S responsibility under this Contract is to provide construction services in the area of bulkhead/seawall replacement, as more specifically set forth in the Scope of Work detailed in Exhibit "A", attached hereto and made a part hereof.

The CITY'S representative/liaison during the performance of this Contract shall be Mr. Ed Legue, Marina Director, telephone no. (561) 845 3408

**ARTICLE 2 - SCHEDULE**

- A. Time of Completion - Construction work must begin within ten (10) calendar days from the date of receipt of official notice to proceed; provided the CITY has received proof of insurance as set forth in Article 11 and a Performance and Surety Bond as set forth in Article 31 in a form satisfactory to the CITY. Construction work shall be carried on at a rate to insure its full completion within one hundred twenty (120) calendar days from the date of official notice to proceed, the rate of progress and time of completion being essential conditions of this Contract.
- B. Deduction for not completing on time - If the contract work is not fully complete according to the terms of this Contract within the limits herein stipulated, the CONTRACTOR shall pay the CITY, not as a penalty, but as liquidated damages, a sum equal to one thousand dollars (\$1000) for each day elapsing between the expiration of such time limit and the date of full completion, providing, however, that the time limits herein stated are subject to extension without payment of damages, as provided in Article 17, herein. It is agreed that these liquidated damages are a good faith and reasonable pre-estimate of CITY's actual damages due to delay by CONTRACTOR because it is difficult, if not impossible, to accurately estimate the actual damages suffered by CITY due to any such delay.
- C. Reports - Reports and other items shall be delivered or completed in accordance with the detailed schedule set forth in Exhibit "A."

### **ARTICLE 3 - PAYMENTS TO CONTRACTOR**

- A. **Generally** - The CITY agrees to compensate the CONTRACTOR in accordance with the fee proposal set forth in bid documents, Exhibit "A". The total and cumulative amount of this Contract shall not exceed the amount of funds annually budgeted for these services. The CITY shall not reimburse the CONTRACTOR for any travel costs incurred as a direct result of the CONTRACTOR providing deliverables to the CITY in pursuance of the project, without specific, prior written approval of the CITY.
- B. **Progress Invoices** - No later than the 20<sup>th</sup> day of every month, the CONTRACTOR shall prepare and submit, on a form approved by the CITY'S representative, a detailed estimate and invoice of work which has been completed from the start of the job up to and including the last day of the preceding month, together with such supporting evidence of the expenditures as required by this Contract. The CONTRACTOR shall also submit with each invoice an updated revised work schedule. The CONTRACTOR shall include in the Progress Invoice a Warranty of Title indicating that as of the date of Progress Invoice that all work, materials, and equipment covered by the Progress Invoice passes to the City at the time of payment of the Progress Invoice and that all laborers, materialmen, and subcontractors have been paid in full for all work, materials, and equipment covered by the Progress Invoice and also provide Partial Releases of Lien and/or Partial Releases of Payment Bond from all laborers, materialmen, and subcontractors as to such work, materials, and equipment covered by the Progress Invoice. CITY has no obligation to pay any Progress Invoice until both a Warranty of Title and Partial Releases of Lien and/or Partial Releases of Payment Bond are provided to CITY.
- C. **Progress Payments** - Progress Invoices received from the CONTRACTOR pursuant to this Contract will be reviewed and approved by the CITY representative within ten days of receipt of the invoice, indicating that services have been rendered in conformity with the Contract unless the CITY requires clarification or a correction of the invoice. The invoices will be sent to the Finance Department for payment. The CITY will pay to the CONTRACTOR ninety percent (90%) of the value based on the CONTRACTOR'S estimate and invoice, as approved by the CITY representative. Invoices will normally be paid within thirty (30) days following the CITY representative's approval.
- D. **Payment of Expenses** - All requests for payment of expenses eligible for reimbursement under the terms of this Contract, if any, shall include copies of said receipts, invoices, or other documentation acceptable to the Finance Department. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the scope of work described in this Contract. Long distance telephone calls shall identify the person(s) called, purpose of call, time and costs. Mileage charges shall identify the destination, number of miles, rate, and purpose of travel. Duplication charges shall describe the documents, purpose of duplicating, and rate charged. Any travel, per diem, mileage, meals, or lodging expenses which may be reimbursable under the terms of this Contract, if any, will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.
- E. **Final Invoice** - In order for both parties herein to close their books and records, the CONTRACTOR will clearly state "Final Invoice" on the CONTRACTOR'S final/last billing to the CITY. This certifies that all services have been properly performed and all charges and costs have been invoiced to the CITY.

Since this account will thereupon be closed, any and other further charges if not properly included on this Final Invoice are waived by the CONTRACTOR and the CITY shall have no obligations for any other costs or expenses thereafter. Further, the CONTRACTOR shall include in the Final Invoice a Warranty of Title indicating that that all work, materials, and equipment covered by this Contract passes to the City at the time of payment of the Final Invoice and that all laborers, materialmen, and subcontractors have been paid in full for all work, materials, and equipment covered by Contract and also provide Final Releases of Lien and/or Final Releases of Payment Bond from all laborers, materialmen, and subcontractors as to such work, materials, and equipment covered by the Contract. CITY has no obligation to pay the Final Invoice until both a Warranty of Title and Final Releases of Lien and/or Final Release of Payment Bond are provided to CITY.

#### **ARTICLE 4 - TRUTH-IN-NEGOTIATION CERTIFICATE**

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

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

#### **ARTICLE 5 - TERMINATION**

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

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

## **ARTICLE 6 - PERSONNEL**

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

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

Any changes or substitutions in the CONTRACTOR'S key personnel, as may be listed in Exhibit "A", 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 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 keeping with the CITY'S policy, the CONTRACTOR further agrees to hire minority sub-contractors to work on this project.

In accordance with the CITY'S M/WBE Ordinance #2412, as amended, the 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.

### **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 II - 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 \$500,000.00 combined single limit for bodily injury and property damages liability to protect the CONTRACTOR from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles including, but not limited to, leased and rented automobiles, whether such operations be by the CONTRACTOR or by anyone, directly or indirectly, employed by the CONTRACTOR.
- 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**

Std. Construction Contract February, 2011

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 of the 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  
RIVIER BEACH FL 33404**

and if sent to the CONTRACTOR shall be mailed to:

**MARTIN E. MURPHY JR.  
THE MURPHY CONSTRUCTION CO.  
1615 CLARE AVENUE  
WEST PALM BEACH FL 33401**

**ARTICLE 30 - ENTIRETY OF CONTRACTUAL AGREEMENT**

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

**ARTICLE 31 - SPECIAL CONDITIONS**

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

The CONTRACTOR shall furnish bonds and maintain said bonds throughout the duration of the project as provided for in Florida Statutes section 255.01 Et. Seq., covering the faithful performance of the Contract and payment of all obligations arising thereunder. The bonds shall be secured by the CONTRACTOR from a surety company licensed in the State of Florida with an "A-" rating or better in management and a "10" rating or better in strength as rated by Best's Key Rating Guide published by Alfred M. Best Company, Oldwick, New Jersey 08858.

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

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

Std. Construction Contract February, 2011

additional qualifications:

1. The surety company shall hold a current certificate or authority as an acceptable surety of federal bonds in accordance with the United States Department of Treasury Circular 570, Current Revision. The surety company shall provide the CITY with satisfactory evidence that such excess risk has been protected in an acceptable manner.
2. The surety company shall have at least the following minimum ratings in the latest revision of Best's Key Rating Guide: Best's Policy Holders Ratings –A- (minimum); Best Financial Category – Class 1.
3. For projects that do not exceed \$500,000.00, the CITY will accept bonds in accordance with Florida Statute section 287.0935.
4. If the surety is declared bankrupt, becomes insolvent, its right to do business in the State of Florida is terminated or it ceases to meet the requirements set forth above, the CONTRACTOR shall within ten (10) working days after notification by the CITY substitute another bond and surety company, at no cost to the CITY, meeting the above requirements.

#### **ARTICLE 32 – INSPECTION OF WORK**

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

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

#### **ARTICLE 33– WARRANTY/GUARANTY**

All materials and equipment to be furnished and/or installed by the CONTRACTOR under this Contract as it relates to the construction of Bulkhead/Seawall replacement shall be guaranteed by the Manufacturer, if any, for a period of 1 year from the date of final acceptance thereof against defective materials, design and workmanship. The CONTRACTOR shall guarantee all of its work, including but not limited to material defect and workmanship for a period of 1 years. Upon receipt of notice from the CITY of failure of any part covered under such warranty/guaranty period, the affected part, parts, or materials shall be replaced promptly with new parts or materials by the CONTRACTOR or Manufacturer at no expense to the CITY. In the event the CONTRACTOR fails to make the necessary repairs or replacements within thirty (30) days after notification by the CITY, the CITY may accomplish the work at the expense of the CONTRACTOR.

The CONTRACTOR shall provide the CITY with a written warranty of its work and with a copy of the

manufacture's warranty as it relates to the materials and parts used to construct the seawall/bulkhead.

#### **ARTICLE 34 – PROTECTION OF WORK AND PROPERTY**

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

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

#### **ARTICLE 35 – TIME**

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

#### **ARTICLE 36 - TERMINOLOGY AND CAPTIONS**

All pronouns, singular, plural, masculine, feminine or neuter, shall mean and include the person, entity, firm or corporation to which they relate as the context may require. Wherever the context may require, the singular shall mean and include the plural and the plural shall mean and include the singular. The term "Contract" as used herein, as well as the terms "herein", "hereof", "hereunder", "hereinafter" and the like mean this Contract in its entirety and all exhibits, amendments and addenda attached hereto and made a part hereof. The captions and paragraph headings are for reference and convenience only and do not enter into or become a part of the context of this Contract, nor shall such headings affect the meaning or interpretation of this Contract.

#### **ARTICLE 37 - WAIVER**

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

#### **ARTICLE 38 - PREPARATION**

CITY and CONTRACTOR acknowledge that each has had the benefit of counsel or the ability to retain counsel and full and free access to counsel in connection with the negotiation and execution of Contract, that each has consulted or could have consulted with counsel in connection with this Contract, and that each has had the opportunity, prior to execution, to read this Contract and fully understand all of its provisions. Should any provision in this Contract require judicial or quasi-judicial interpretation it is agreed that a Court or other dispute resolution forum interpreting or enforcing the same shall not apply a presumption that the terms hereof

shall be more strictly construed against any party by reason of the rule construction that a document is to be construed more strictly against the party who itself or through its agent has prepared the same. CITY and CONTRACTOR agree that this Contract is the product and result of a joint effort.

**ARTICLE 39 - MATERIALITY**

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

**ARTICLE 40 - REPRESENTATIONS/BINDING AUTHORITY**

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

**ARTICLE 41 - EXHIBITS**

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

**ARTICLE 42 - CONTRACT DOCUMENTS AND CONTROLLING PROVISIONS**

This Contract consists of the contract in its entirety and all attachments in the Bid Documents, Technical Specifications, Construction Manual and Addenda as contained in the City of Riviera Beach Bid #303-11. 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 exists a conflict between this Contract and the Contractors response to the City's Bid # 303-11, 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 CITY may be seeking reimbursement in whole or in part for the cost of the work contemplated by this Contract from a third party, including but not limited to, various County, State, and Federal agencies or subdivisions. The reimbursement sought by CITY may be dependent on, amongst other items, CONTRACTOR's compliance with the terms and conditions of this Contract and the furnishing of Subrecipient Requirement information by CONTRACTOR to CITY. CONTRACTOR agrees to fully cooperate with CITY in any requests of CITY to fulfill 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 CITY by CONTRACTOR may result in the CITY failing to obtain the sought after reimbursement in whole or in part for the cost of the work contemplated by this Contract and that such failure by the CONTRACTOR shall constitute a material default under this Contract.

#### **ARTICLE 50 – WAIVER OF TRIAL BY JURY**

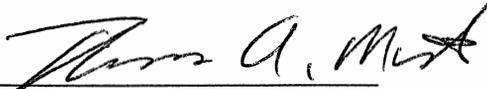
IN THE EVENT OF LITIGATION ARISING FROM THIS CONTRACT, CITY AND CONTRACTOR KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT TO A TRIAL BY JURY. CITY AND CONTRACTOR HEREBY ACKNOWLEDGE THAT THIS WAIVER PROVISION IS A MATERIAL INDUCEMENT FOR EACH PARTY AGREEING TO ENTER INTO THIS CONTRACT.

**SIGNATURES ON FOLLOWING PAGE**

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

CITY OF RIVIERA BEACH

CONTRACTOR

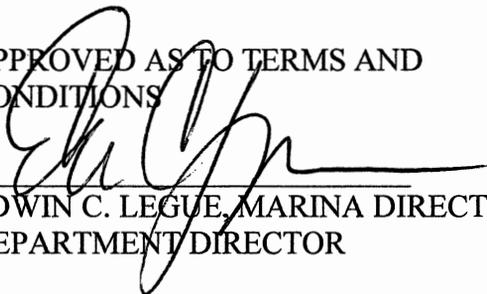
BY:   
THOMAS A. MASTERS,  
MAYOR

BY:   
JOHN E. MURPHY  
PRESIDENT

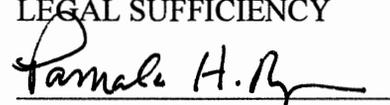
ATTEST:

BY:  5/23/11  
CARRIE E. WARD  
MASTER MUNICIPAL CLERK  
CITY CLERK

APPROVED AS TO TERMS AND  
CONDITIONS

BY:   
EDWIN C. LEGUE, MARINA DIRECTOR  
DEPARTMENT DIRECTOR

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

BY:   
PAMALA H. RYAN,  
CITY ATTORNEY

Date: 5/23/11

## **EXHIBIT "A"**

### **SCHEDULE OF PAYMENTS**

The Scope of Work to be completed by CONTRACTOR as defined in Exhibit "A" is based on 90% completion and compensation for the work tasks stated herein and shall be paid in accordance with Article 3 and the following Schedule of Values, which is attached herein and which forms a part of Exhibit B.

RESOLUTION NO. 72-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AUTHORIZING THE CITY MANAGER TO ENTER INTO DISCUSSIONS WITH PALM BEACH COUNTY TO MODIFY "AMENDMENT NUMBER 1" TO THE INTERLOCAL AGREEMENT, BETWEEN THE CITY AND THE COUNTY, FOR MARINA IMPROVEMENTS UNDER THE COUNTY'S 2004 BOND ISSUE FOR WATERFRONT ACCESS PROJECTS, TO INCLUDE THE USE OF THE BALANCE OF FUNDS IN THE GRANT FOR MARINA REPLACEMENT INSTEAD OF REPAIRS; REQUEST TO EXTEND THE PROJECT COMPLETION DATE TO SEPTEMBER 30, 2012; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, on November 2, 2004, a bond referendum was passed by the voters of Palm Beach County for the issuance of general obligation bonds for the purpose of financing the acquisition, construction, and/or improvements to waterfront access in Palm Beach County, in the principal amount of \$50 million ("the \$50 million Waterfront Access Bond"); and

**WHEREAS**, the Palm Beach County Board of County Commissioners, approved a funding allocation of \$5,000,000 for City of Riviera Beach water access projects; and

**WHEREAS**, the City and Palm Beach County entered into an Interlocal Agreement dated April 18, 2007 for "Expansion and Renovations of the Riviera Beach Marina" with an approved budget of \$5,000,000; and

**WHEREAS**, Amendment 1 to the 2007 Interlocal Agreement, which contained a revised Project Description, Conceptual Site Plan, and Cost Estimate, was approved by the Palm Beach County Board of County Commissioners, on November 17, 2009 and the City Council on December 16, 2009; and

**WHEREAS**, the City applied for and received grant funds from the Florida Inland Navigation District (FIND) and a U.S. Fish and Wildlife Service Boating Improvement Grant, Florida Fish and Wildlife Conservation Commission, Boating Infrastructure Grant Program, that, along with other grants for which the City is eligible to apply and receive, would allow it to substantially construct new docks, replace the Marina's existing seawall and finger piers, and perform other capital improvements to the Marina; and,

**WHEREAS**, with the receipt of, and anticipated application for and receipt of other grant funds in addition to the funds received from the County, the City is now underway with construction of the a new Marina and seawall, and will construct other related capital improvement projects designed to promote public access to the waterfront; and,

**WHEREAS**, with the proposed changes to the scope of the project, the project focus has changed from a repair project for funding of the expansion and renovation of the Riviera Beach Marina to a marina replacement and capital improvement project; and

**WHEREAS**, the City and the City's Community Redevelopment Agency (CRA) approved on February 10, 2010 and February 17, 2010, respectively, a "Conceptual Development Plan" for the re-development of its Marina District; and

**WHEREAS**, the key components of the Marina District redevelopment, that emphasize public access, are replacement of the City Marina, a new Newcomb Hall, a redesigned Bicentennial Park, construction of a public parking garage, and the Public Market; and

**WHEREAS**, the Marina replacement project requires the reallocation of remaining County grant funds (approximately \$3,800,000) to accommodate changes in the Marina capital improvement program into general construction categories; and

**WHEREAS**, the City Council requests that the County Commission extend the time to complete the project and expend the designated County grant funds to September 30, 2012, to allow for the remaining grants leveraging to take place.

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

**SECTION 1.** That the City Council approves changes in the Marina capital improvement program for the Palm Beach County waterfront access grant (\$5,000,000) from a repair project (as identified in "AMENDMENT NUMBER 1 TO INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY AND THE CITY OF RIVIERA BEACH FOR FUNDING OF THE EXPANSION AND RENOVATION OF THE RIVIERA BEACH MARINA") to a Marina replacement project.

**SECTION 2.** That the City Council approves the reallocation of remaining County grant funds (approximately \$3,800,000) to accommodate changes in the Marina capital improvement program.

**SECTION 3.** That the City Council approves the general construction categories for the use of remaining County grant funds as follows:

- Floating docks
- Utilities
- Seawall and finger-pier replacement
- Design/Engineering/Architecture
- Marina walkways/promenade and Landscaping

**SECTION 4.** That the City Council designates the following as the City's priority marina public access capital projects:

Marina  
Utility infrastructure  
Newcomb Hall  
Bicentennial Park  
Public Market  
Public Parking Garage  
Amphitheater in Bicentennial Park  
Restaurant/Retail/Mixed-use buildings

**SECTION 5.** The City Council authorizes the City Manager to develop, with appropriate county staff, an amendment to reflect the City's changes noted above.

**SECTION 6.** The City requests that the County modify the language in Amendment 1 to the 2007 Interlocal Agreement removing restrictions on the City's ability to transfer management or lease a part of the Marina without the requirement to reimburse the County for the full amount of grant funds used to accomplish the Marina Project.

**SECTION 7.** This Resolution shall take effect immediately upon its approval.

PASSED and APPROVED this 23 day of May, 2011.

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

*Absent*  
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:

*Pardo*

SECONDED BY:

*Thomas*

J. DAVIS

*Aye*

B. BROOKS

*Absent*

C. THOMAS

*Aye*

D. PARDO

*Aye*

S. LOWE

*Aye*

REVIEWED AS TO LEGAL SUFFICIENCY

-----  
PAMALA HANNA RYAN, CITY ATTORNEY

DATE \_\_\_\_\_