

RESOLUTION NO. 73-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING THE PAYMENT OF \$6,089.00 FOR SERVICES RENDERED BY W & W ENTERPRISE FOR PROVIDING JANITORIAL SERVICES TO LIBRARY, CITY HALL, AND MARINA THROUGH MARCH 15, 2011; AUTHORIZING THE INTERIM FINANCE DIRECTOR TO MAKE PAYMENT FOR SAME FROM ACCOUNT NUMBERS 001-1128-519-0-4602 AND 420-0000-575-0-3401 AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, maintenance of City-owned buildings is required in order to maintain a clean and safe environment for staff members; and

WHEREAS, janitorial services was being partially outsourced to W&W Enterprise to provide said services to the Marina, City Library and City Hall while staff explored the possibility of outsourcing; and

WHEREAS, the services of W & W Enterprises is no longer needed and final payment is required.

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

SECTION 1: The final payment of \$6,089.00 is approved for payment.

SECTION 2: That the Interim Finance Director is authorized to make payment from account numbers 001-1128-519-0-4602 and 420-0000-575-0-3401.

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

PASSED AND APPROVED this 1 day of June, 2011.

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APPROVED:


THOMAS A. MASTERS
MAYOR

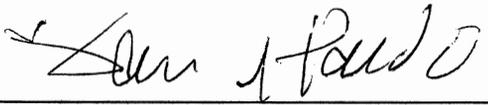

JUDY L. DAVIS
CHAIRPERSON

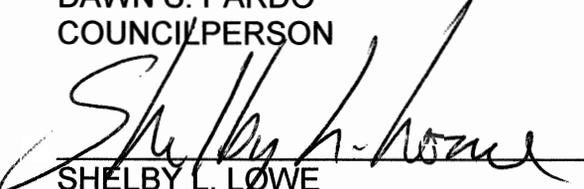
ATTEST:


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

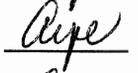
MOTIONED BY: 

SECONDED BY: 

J. DAVIS 

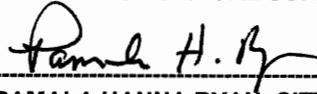
B. BROOKS 

C. THOMAS 

D. PARDO 

S. LOWE 

REVIEWED AS TO LEGAL SUFFICIENCY


PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/23/11

RESOLUTION NO. 74-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A CONTRACT TO SONG AND ASSOCIATES OF WEST PALM BEACH, FLORIDA FOR PROFESSIONAL ARCHITECTURAL DESIGN SERVICES FOR DEVELOPMENT OF DESIGN SPECIFICATIONS, CONSTRUCTION DOCUMENTS AND RELATED SERVICES FOR A NEW RIVIERA BEACH PUBLIC WORKS COMPLEX IN THE AMOUNT OF \$397,300.00; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE PROFESSIONAL SERVICES CONTRACT; AUTHORIZING THE CITY MANAGER TO APPROVE CHANGE ORDERS UP TO TWELVE PERCENT (12%); AUTHORIZING THE INTERIM FINANCE DIRECTOR TO MAKE PAYMENT FOR SAME FROM ACCOUNT NUMBERS 460-1127-541-0-6201 AND 310-1123-519-0-6251 AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in accordance with the Consultants Competitive Negotiations Act, Chapter 287, Fla. Stat., the City issued a Request for Qualifications (RFQ) No. 259-10, seeking qualifications from qualified corporations, firms, or individuals to provide professional design services for the City's new Public Works Complex; and

WHEREAS, pursuant to applicable procedures, the City selected Song and Associates to provide said professional design services based on the firm's qualifications in the desired field of design services; and

WHEREAS, on February 16, 2011, the City Council approved Resolution No. 20-10 authorizing staff to negotiate with Song and Associates to provide professional architectural design services for development of design specifications, construction, documents, and related services for a new Public Works Complex; and

WHEREAS, the City's negotiation team reached an amicable agreement with Song and Associates through negotiation efforts.

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

SECTION 1. That the City Council hereby awards a Professional Services Contract to Song and Associates of West Palm Beach, Florida to provide professional design services for development of design specifications, construction, documents, and related services for the new Public Works Complex.

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

SECTION 3. That the Interim Finance Director is authorized to make payment for same from Account Numbers 310-1123-519-0-6251 and 460-1127-541-0-6201.

SECTION 4. That the City Manager shall have authority to approve change orders in an amount not to exceed twelve percent (12%) of the contract amount.

SECTION 5. That this Resolution shall take effect upon its passage and approval by City Council.

PASSED and APPROVED this 1 day of June, 2011.

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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

J. DAVIS Aye

B. BROOKS Aye

C. THOMAS Aye

D. PARDO Aye

S. LOWE Aye

REVIEWED AS TO LEGAL SUFFICIENCY

Pamala H. Ryan
PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/23/11

CONTRACT FOR PROFESSIONAL SERVICES

THIS CONTRACT (hereinafter called Contract) is made this 1 day of June, 2011, by and between the City of Riviera Beach, Florida, a municipal corporation of Florida (hereinafter called CITY) and SONG AND ASSOCIATES, INC., a Florida Corporation, (hereinafter called ARCHITECT) whose Federal I.D. number is 650848859.

RECITALS

WHEREAS, in accordance the Consultants Competitive Negotiations Act, Chapter 287, Fla. Stat., the CITY issued a Request for Qualifications and Proposals (No: 259-10) (hereafter called CITY's RFQ) seeking qualifications and proposals from qualified corporations, firms or individuals to provide professional design services for the CITY's new public works complex; and,

WHEREAS, pursuant to its applicable procedures, the CITY selected the ARCHITECT to provide said professional design services based on ARCHITECT's qualifications as a firm having specialized in the desired field of design services; and,

WHEREAS, the ARCHITECT is willing and able to perform such professional design services for the CITY in accordance with the basic terms and conditions herein set forth; and,

WHEREAS, the purpose of this Contract is intended to set forth certain terms and conditions which shall be specific to the design of the CITY's new Public Works Complex.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, it is hereby agreed that the ARCHITECT shall serve as the CITY's design professional and owner's representative for the design of the new public works complex pursuant to the terms of this Contract and will give consultation, services and advice to the CITY during the performance of the services on the terms and conditions hereinafter set forth.

SECTION 1: INCORPORATION OF RECITALS. The foregoing true and correct recitals are hereby incorporated into this Contract.

SECTION 2: ARCHITECT'S SERVICES. The ARCHITECT will be engaged by the CITY to provide professional services for the design of the new public works complex. The terms and conditions of this Contract shall govern all such work unless specifically stated and agreed to by the parties in the executed contract. The services of the ARCHITECT may be for the following types of projects or similar disciplines:

- a. Programming Needs Assessment (if needed) for the new public works complex;
- b. Master Planning for the new public works complex;
- c. Standard Architectural and Engineering Services for the new public works complex; and,
- d. Additional Design Services including, but not limited to those identified in the CITY's RFQ and the ARCHITECT's revised responsive proposal to the CITY's RFQ number 259-10 (hereafter called ARCHITECT's Proposal).

Subsequently, other services falling generally into the areas of professional design services related to the public works complex may be added by executed work order.

SECTION 3: ARCHITECT'S RESPONSIBILITIES. In addition to other responsibilities described in this Contract, the ARCHITECT shall have the following responsibilities:

- a. The ARCHITECT shall perform the professional services to that degree of care and skill ordinarily exercised, under similar circumstances, by reputable members of its profession practicing in the same or similar locality at the time the services are provided.
- b. Any amendment, extension or modification to this Contract must be coordinated and approved by the CITY in writing prior to execution and commencing any work under said amendment, extension or modification.
- c. The CITY shall have the right to approve or disapprove any sub-consultant or sub-contractor of the ARCHITECT.
- d. ARCHITECT shall perform all services as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The ARCHITECT shall submit for the CITY's approval a schedule for the performance of the ARCHITECT's services. The schedule shall include allowances for periods of time required for the CITY's review, for the performance of the CITY's consultants, and for approval of submissions by authorities having jurisdiction over the Project.
- e. The schedule shall be extended as necessary in writing by the parties for periods of suspension or delay resulting from circumstances beyond the ARCHITECT's control. The ARCHITECT shall promptly provide the CITY with written notice of any such periods of suspension or delay resulting from circumstances beyond the ARCHITECT's control. The ARCHITECT shall not be entitled to an increase in the sum or payment or compensation of any kind from the CITY for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of periods of suspension or delay, disruption, interference or hindrance from any circumstances beyond the ARCHITECT's control. Provided, however, and subject to the provisions of sovereign immunity set forth in § 768.28, Fla. Stat., and otherwise under the law, that this provision shall not preclude recovery or damages by the ARCHITECT for hindrances or delays due solely to fraud, bad faith or active interference on the part of the CITY or its agents. Otherwise, the ARCHITECT shall be entitled only to extensions of the schedule or time as the sole and exclusive remedy for such resulting delay or suspension, in accordance with and to the extent specifically provided above. However, should any suspension or delay be due to circumstances within the ARCHITECT's control, the CITY shall have the right to withhold, set-off or reduce any payment to the ARCHITECT in an amount reasonably necessary to compensate CITY for any direct, incidental and consequential damages to the CITY. No extension of time shall be made for periods of suspension or delay resulting from circumstances beyond the ARCHITECT's control occurring more than seven (7) days before the

ARCHITECT provides written notice to the CITY of such periods of suspension or delay.

- f. ARCHITECT shall designate a representative to act on ARCHITECT's behalf with respect to the Project. Such person shall have authority to transmit instructions, receive information, interpret and define the ARCHITECT's policies with respect to the Project. Unless otherwise specified, the ARCHITECT's representative shall be Peter Gilstad, Director Civic / Commercial Studio.
- g. The ARCHITECT shall maintain the confidentiality of information specifically designated as confidential by the CITY, unless withholding such information would violate the law, including, but not limited to, Florida's Public Records law, Chapter 119, Fla. Stat.
- h. ARCHITECT shall review laws, codes, and regulations applicable to the ARCHITECT's services. ARCHITECT shall comply with all laws, codes and regulations imposed by governmental authorities having jurisdiction over the Project, including but not limited to, CITY policies, Palm Beach County's Code of Ordinances, or other local, state or federal regulations for the Project, including the requirements of section 255.2572(2), Florida Statutes, as it applies to "green" standards.
- i. ARCHITECT shall be entitled to rely on the accuracy and completeness of services and information furnished by the CITY. However, ARCHITECT shall provide prompt written notice to the CITY if ARCHITECT becomes aware of any errors, omissions or inconsistencies in such services or information.
- j. If, after a Project has begun, an error or omission by the ARCHITECT is discovered and the Project can still be provided within the planned schedule without cost to the CITY, then the ARCHITECT will correct such error or omission in accordance with said schedule.

SECTION 4: CITY'S RESPONSIBILITIES. In addition to other responsibilities described in this Contract, the CITY shall have the following responsibilities:

- a. Designate in writing a person to act as the CITY's representative with respect to the services to be rendered under this Contract. Such person shall have authority to transmit instructions, receive information, interpret and define the CITY's policies with respect to the ARCHITECT's services for the Project. Unless otherwise specified, the CITY's representative shall be Brynt Johnson, Interim Director of Public Works.
- b. Provide all available criteria and full information as to the CITY's requirements for the Project, and performance requirements and expectations, flexibility and expandability, and any budgetary limitations; and furnish copies of all available information to be utilized in a Project. However, if such information is not provided, ARCHITECT shall immediately notify the CITY in writing of the information needed from the

CITY for a Project. Furthermore, it shall be ARCHITECT's sole responsibility to ensure that each Project is accomplished in accordance with all local, state and federal rules, ordinances, regulations and laws as they may be applicable to each Project.

- c. Arrange for access to and make all provisions for the ARCHITECT to enter upon public and private property as required for the ARCHITECT to perform services under this Contract.
- d. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by the ARCHITECT, obtain advice of an attorney, insurance counselor and other consultants the CITY deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the ARCHITECT. The CITY shall be entitled to rely on the accuracy and completeness of services and information furnished by the ARCHITECT.
- e. Give prompt written notice to the ARCHITECT whenever the CITY observes or otherwise becomes aware of any development that affects the scope or timing of ARCHITECT's services, or any defect or nonconformance in any aspect of the Project.

SECTION 5: TERM OF SERVICES AND COMPENSATION.

- a. This Contract shall be for a term of two (2) years from the date of execution by the CITY unless earlier terminated in accordance with the terms and conditions of this Contract.
- b. The CITY shall pay the ARCHITECT the amount not to exceed Three Hundred Eighty-Nine Thousand Two Hundred Dollars (\$397,300.00) which shall not include certain reimbursable expenses (as addressed below). The fees are set forth more specifically in "Exhibit A". ARCHITECT's reimbursable expenses will be billed at 1.2 times cost under this Contract.
- c. ARCHITECT reimbursable expenses shall include only the following:
 - i. Mileage for travel that exceeds fifty (50) miles from ARCHITECT's principal place of business (in accordance with Florida Statutes);
 - ii. Long distance telephone calls;
 - iii. Fees paid for securing approval of authorities having jurisdiction over a Project;
 - iv. Reasonable expenses for reproductions, standard form documents, postage and delivery of same to the CITY or other authorities having jurisdiction over a Project;
 - v. Renderings, models and mock-ups requested by the CITY; and,
 - vi. Other similar direct Project-related expenditures approved in advance by the CITY.
- d. ALL of the ARCHITECT's compensation will be set forth in this contract. Services

undertaken or expenses incurred by the ARCHITECT exceeding an amount identified in this Contract shall be the liability of the ARCHITECT.

SECTION 6: METHOD OF PAYMENT.

- a. ARCHITECT shall invoice the CITY not more frequently than monthly for services that have been rendered in conformity with this Contract. The CITY's representative shall review each invoice and then forward each invoice to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the CITY representative's approval.
- b. Final Invoice - In order for both parties herein to close their books and records, ARCHITECT will clearly state "final invoice" on the ARCHITECT's final/last billing to the CITY. This certifies that all Services have been properly performed and all charges have been invoiced to the CITY. Since this account will thereupon be closed, any and other further charges if not properly included in this final invoice are waived by the ARCHITECT.
- c. If the CITY fails to make any payment due the ARCHITECT for services and expenses under this Contract within forty-five (45) days after the ARCHITECT's transmittal of its invoice to the CITY, the ARCHITECT may, after giving notice to the CITY, suspend services under this Contract until it has been paid in full all amounts due.
- d. If the CITY disputes any invoice or part of an invoice, CITY shall notify ARCHITECT of such dispute within fifteen (15) days of receipt of the invoice. CITY reserves the right to off-set, reduce or withhold any payment to ARCHITECT in accordance with the terms and conditions of this Contract.

SECTION 7. USE OF DOCUMENTS. All documents, including but not limited to drawings, specifications, plans, reports, other items and data stored electronically (collectively referred to as "Documents" hereafter), prepared by the ARCHITECT and ARCHITECT's sub-consultants or sub-contractors under this Contract shall be considered a "Work for Hire" and the exclusive property of the CITY. To the extent such Documents may not be deemed a "Work for Hire" under applicable law, ARCHITECT and ARCHITECT's sub-consultants and sub-contractors will assign to CITY all right, title and interest in and to ARCHITECT's and/or ARCHITECT's sub-consultants' and sub-contractors' copyright(s) for such Documents. ARCHITECT shall execute and deliver to CITY such instruments of transfer and take such other action that CITY may reasonable request, including, without limitation, executing and filing, at CITY's expense, copyright applications, assignments and other documents required for the protection of CITY's right to such Documents. The ARCHITECT shall retain copies of the Documents for a period of three (3) years from the date of completion of the Project. The CITY grants to the ARCHITECT and ARCHITECT's sub-consultants and sub-contractors the right and/or limited license to use a portion of the Documents prepared by the ARCHITECT or the ARCHITECT's sub-consultants and sub-contractors in future projects of the ARCHITECT or the ARCHITECT's sub-consultants and sub-contractors with said right and/or

limited license to use a portion at ARCHITECT's or ARCHITECT's sub-consultant's and sub-contractor's own risk and without any liability to CITY.

The ARCHITECT and the ARCHITECT's sub-consultants and sub-contractors, upon written request from the CITY, will provide in electronic form applicable portions of any Documents prepared for a Project appropriate to and for use of CITY or CITY's consultants. Release of the electronic form to CITY's consultants shall be without liability to the ARCHITECT.

Any modifications made by the CITY to any of the ARCHITECT's Documents, or any use, partial use or reuse of the Documents without written authorization or adaptation by the ARCHITECT will be at the CITY's sole risk and without liability to the ARCHITECT. Any electronic files not containing an electronic seal are provided only for the convenience of the CITY, and use of them is at the CITY's sole risk.

SECTION 8: INDEMNIFICATION. The ARCHITECT shall indemnify and hold harmless the CITY, and its officers and employees, from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the ARCHITECT and other persons employed or utilized by the ARCHITECT in the performance of a Project.

The ARCHITECT shall pay all claims, losses, liens, fines, settlements or judgments of any nature whatsoever in connection with the foregoing indemnification including, but not limited to, all costs, expert witness fees, reasonable attorney's fees, and court and/or arbitration costs.

If, consistent with the foregoing indemnification, the ARCHITECT is responsible for indemnifying the CITY for a liability, damage, loss and/or cost to the CITY, any sums due ARCHITECT under this Contract may be offset, reduced or withheld by the CITY until that claim for indemnification by the CITY has been resolved or settled, and any amount offset, reduced or withheld by the CITY under this Section shall not be subject to payment of interest by the CITY.

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

SECTION 9: PERSONNEL. The ARCHITECT 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 ARCHITECT 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.

All of the ARCHITECT's personnel (and all sub-consultants and sub-contractors) while on CITY premises, will comply with all CITY requirements governing conduct, safety, and security.

SECTION 10: SUB-CONSULTANTS. The CITY reserves the right to accept the use of a sub-consultant or sub-contractor (collectively "sub-consultant") or to reject the selection of a particular sub-consultant and approve all qualifications of any sub-consultant in order to make a determination as to the capability of the sub-consultant to perform properly under this Contract. The ARCHITECT

is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities. Rejection of a proposed sub-consultant may result in a change in pricing unless such rejection is due solely to a lack of qualifications or poor performance.

Once a sub-consultant is listed in an ARCHITECT's response to an RFP or a bid and the ARCHITECT wishes to change a sub-consultant, 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 sub-consultants. The CITY shall not unreasonably deny the request. However, the ARCHITECT must demonstrate that the sub-consultant 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 ARCHITECT's specific agreement with the sub-consultant including issues of pricing.

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

All sub-consultants providing professional services to the ARCHITECT under this Contract will also be required to provide their own insurance coverage identical to those contained in this Contract. In the event that a sub-consultant does not have insurance or does not meet the insurance limits as stated in this Contract, the ARCHITECT shall indemnify and hold harmless the CITY for any claim in excess of the sub-consultant's insurance coverage, arising out of the negligent acts, errors or omissions of the sub-consultant. The CITY will make no attempt to fix the scope of services for any of the ARCHITECT's sub-consultants. The ARCHITECT shall be solely responsible for fixing the scope of services for the ARCHITECT's sub-consultants and the responsibilities of each. Nothing herein shall be construed as creating a contractual relationship between the CITY and the ARCHITECT's sub-consultants.

SECTION 11: TERMINATION. This Contract may be cancelled by the ARCHITECT 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 ARCHITECT; 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, upon ten (10) days prior written notice to the ARCHITECT. Unless the ARCHITECT is in breach of this Contract, the ARCHITECT 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 ARCHITECT shall:

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

Termination of this Contract shall not affect any rights, obligations, and liabilities of the parties arising out of transactions which occurred prior to termination. Notwithstanding the foregoing, the parties acknowledge and agree that this Contract is subject to budgeting and appropriation by the CITY of funds sufficient to pay the costs associated herewith in any fiscal year of the CITY. Notwithstanding anything in this Contract to the contrary, in the event that no funds are appropriated or budgeted by the CITY's governing board in any fiscal year to pay the costs associated with the CITY's obligations under this Contract, or in the event the funds budgeted or appropriated are, or are estimated by the CITY to be, insufficient to pay the costs associated with the CITY's obligations hereunder in any fiscal period, then the CITY will notify ARCHITECT of such occurrence and either the CITY or ARCHITECT may terminate this Contract by notifying the other in writing, which notice shall specify a date of termination no earlier than twenty-four (24) hours after giving of such notice. Termination in accordance with the preceding sentence shall be without penalty or expense to the CITY of any kind whatsoever and the CITY shall pay ARCHITECT in accordance with the terms of this Contract.

SECTION 12: FEDERAL AND STATE TAX. The CITY is exempt from payment of Florida State Sales and Use Tax. The ARCHITECT shall not be exempted from paying sales tax to its suppliers for materials used to fill contractual obligations with the CITY, nor is the ARCHITECT authorized to use the CITY's Tax Exemption Number in securing such materials. The ARCHITECT shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes and benefits.

SECTION 13: INSURANCE.

- A. Prior to execution of this Contract by the CITY, the ARCHITECT 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 ARCHITECT has obtained insurance of the type, amount, and classification as required for strict compliance with this Section 13 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 ARCHITECT of its liability and obligations under this Contract.
- B. The ARCHITECT shall maintain during the term of this Contract, standard Professional Liability Insurance in the minimum amount of \$1,000,000.00 per occurrence.
- C. The ARCHITECT shall maintain, during the life of this Contract, commercial general liability, including contractual liability insurance in the amount of \$500,000.00 per occurrence to protect the ARCHITECT 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 ARCHITECT or by anyone directly or indirectly employed by or contracting with the ARCHITECT.
- D. The ARCHITECT 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 ARCHITECT 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 ARCHITECT or by anyone, directly or indirectly, employed by the ARCHITECT.

- E. The ARCHITECT shall maintain during the life of this Contract Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes.
- F. All insurance, other than Professional Liability and Workers' Compensation, to be maintained by the ARCHITECT shall specifically include the CITY as an "Additional Insured".
- G. The CITY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, reject or accept any required policies of insurance, including limits, coverages, or endorsements, therein from time to time throughout the term of this Contract. The CITY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition or failure to operate legally.

SECTION 14: SUCCESSORS AND ASSIGNS. The CITY and the ARCHITECT each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the CITY nor the ARCHITECT 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 ARCHITECT.

SECTION 15: DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES. All claims arising out of this Contract or its breach shall be submitted first to mediation in accordance with the local rules for mediation in Palm Beach County, Florida. The parties shall share the mediator's fee equally. The mediation shall be held in Palm Beach County, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

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

SECTION 16: INDEPENDENT CONTRACTOR RELATIONSHIP. The ARCHITECT is, and shall be, in the performance of all Services under this Contract, an independent contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the services performed pursuant to this Contract shall at all times, and in all places, be subject to the ARCHITECT'S sole

direction, supervision, and control. The ARCHITECT shall exercise control over the means and manner in which it and its employees perform the services.

SECTION 17: ACCESS AND AUDITS. The ARCHITECT shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the services for at least three (3) years after completion of this Contract. The CITY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the ARCHITECT's place of business.

SECTION 18: NONDISCRIMINATION. The ARCHITECT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

SECTION 19: ENFORCEMENT COSTS. Except for mediation, if any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court awarded costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

SECTION 20: AUTHORITY TO PRACTICE. The ARCHITECT hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the services under this Contract, and that it will at all times conduct its business and provide the services under this Contract in a reputable manner. Proof of such licenses and approvals shall be submitted to the CITY's representative upon request.

SECTION 21: SEVERABILITY. If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

SECTION 22: CONTINGENT FEES. ARCHITECT warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the ARCHITECT to solicit or secure this Contract and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the ARCHITECT any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract. For the breach or violation of this provision, the CITY shall have the right to terminate this Contract without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

SECTION 23: PUBLIC ENTITY CRIMES. ARCHITECT acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a

public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, sub-contractor, or ARCHITECT under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The ARCHITECT will advise the CITY immediately if it becomes aware of any violation of this statute.

SECTION 24: TRUTH-IN NEGOTIATIONS CERTIFICATE. Signature of this Contract by the ARCHITECT shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates and other factual unit costs supporting the ARCHITECT's compensation are accurate, complete, and current at the time of the CITY's approval and are no higher than those charged to the ARCHITECT's most favored customer for the same or substantially similar service. Accordingly, the original agreed to cost and any amendments thereto will be adjusted to exclude any significant sums by which CITY determines the cost was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such cost adjustments must be made within three (3) years following the end of this Contract.

SECTION 25: NOTICE. All notices required in this Contract shall be sent by certified mail, return receipt requested, or by nationally recognized overnight carrier, and if sent to the CITY shall be mailed to:

**BRYNT JOHNSON
INTERIM DIRECTOR OF PUBLIC WORKS
2391 AVENUE L
RIVIERA BEACH, FL 33404**

With copy to:

**CITY ATTORNEY
600 W. BLUE HERON BOULEVARD
RIVIERA BEACH, FL 33404**

and if sent to the ARCHITECT shall be mailed to:

**PETER GILSTAD, DIRECTOR CIVIC / COMMERCIAL STUDIO
SONG + ASSOCIATES, INC.
400 AUSTRALIAN AVENUE SOUTH, SIXTH FLOOR
WEST PALM BEACH, FL 33401**

The foregoing names and addresses may be changed if such change is provided in writing to the other party.

SECTION 26: ENTIRETY OF CONTRACTUAL AGREEMENT. The CITY and the ARCHITECT agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms

and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the ARCHITECT and the CITY by and through its CITY Council.

SECTION 27: TIME. Unless otherwise mutually agreed by the ARCHITECT and CITY, time shall be of the essence with respect to all Projects under this Contract.

SECTION 28: 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.

SECTION 29: WAIVER. Failure of a party to enforce or exercise any of its right(s) under this Contract shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

SECTION 30: PREPARATION. This Contract shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

SECTION 31: MATERIALITY. All provisions of the Contract shall be deemed material. In the event ARCHITECT 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.

SECTION 32: EXHIBITS AND CONTRACT DOCUMENTS. Each exhibit and other contract documents referred to in this Contract (including those in Section 34 below) forms an essential part of this Contract. The exhibits and other contract documents, if not physically attached, should be treated as part of this Contract and are incorporated herein by reference.

SECTION 33: CONTRACT DOCUMENTS AND CONTROLLING PROVISIONS. This Contract consists of the following contract documents: the CITY's RFQ; the ARCHITECT's Proposal; and, this Contract itself. The ARCHITECT agrees to be bound by all the terms and conditions set forth in the aforementioned documents. To the extent that there exists a conflict between any of the aforementioned documents, the order of precedence for the aforementioned documents shall be in the following order:

1. This Contract;
2. Then the CITY's RFQ; and,
3. Then the ARCHITECT's Proposal.

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

SECTION 34: LEGAL EFFECT. This Contract shall not become binding and effective until approved by the CITY by and through its CITY Council.

SECTION 35: 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.

SECTION 36: DEFAULT. Notwithstanding anything contained in this Contract to the contrary, the parties agree that the occurrence of any of the following shall be deemed a material event of default and shall be grounds for immediate termination:

- a. The filing of a lien by any sub-consultant, sub-contractor or third tier sub-contractor including, but not limited to materialmen, suppliers, or laborers, upon any property, right of way, easement or other interest in land or right to use 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 ARCHITECT;
- b. The filing of any judgment lien against the assets of ARCHITECT 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 ARCHITECT; or
- c. The filing of a petition by or against ARCHITECT for relief under the Bankruptcy Code, or for its reorganization or for the appointment of a receiver or trustee of ARCHITECT or ARCHITECT's property; or an assignment by ARCHITECT for the benefit of creditors; or the taking possession of the property of ARCHITECT by any governmental officer or agency pursuant to statutory authority for the dissolution or liquidation of ARCHITECT; or if a temporary or permanent receiver or trustee shall be appointed for ARCHITECT or for ARCHITECT's property and such temporary or permanent receiver or Trustee shall not be discharged within thirty (30) days from the date of appointment.
- d. Due to circumstances within the control of the ARCHITECT, ARCHITECT fails to provide Services under this Contract on schedule as agreed to by ARCHITECT.

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

SECTION 37: WAIVER OF SUBROGATION. ARCHITECT 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 ARCHITECT 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 ARCHITECT enter into such an agreement on a pre-loss basis.

SECTION 38: COUNTERPARTS. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Contract.

SECTION 39: CONFLICTS OF INTEREST. The ARCHITECT 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 Section 112.311, Florida Statutes. The ARCHITECT further represents that no person having any such conflicting interest shall be employed for said performance. The ARCHITECT shall promptly notify the CITY's representative, in writing, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the ARCHITECT'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 ARCHITECT 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 ARCHITECT. The CITY agrees to notify the ARCHITECT of its opinion by certified mail within thirty (30) days of receipt of notification by the ARCHITECT. If, in the opinion of the CITY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the ARCHITECT, the CITY shall so state in the notification and the ARCHITECT 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 ARCHITECT under the terms of this Contract.

SECTION 40: INDEBTEDNESS. The ARCHITECT 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 ARCHITECT further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

SECTION 41: REPRESENTATION AND BINDING AUTHORITY. ARCHITECT 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, I.S.K. Reeves, President, 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 or she is signing and to bind and obligate such party with respect to all provisions contained in this Contract.

SECTION 42: 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.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the CITY and ARCHITECT unto this Contract for Professional Services have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

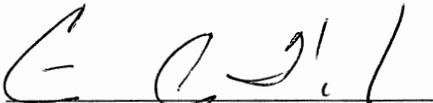
BY: 
THOMAS A. MASTERS
MAYOR

SONG AND ASSOCIATES, INC.

BY: 
YOUNG SONG
PRESIDENT

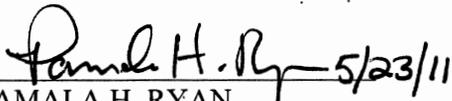
ATTEST:

(CORPORATE SEAL)

BY: 
CARRIE E. WARD, MMC,
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

BY:  5/23/11
PAMALA H. RYAN,
CITY ATTORNEY

BY: 
BRYNT JOHNSON
INTERIM DIRECTOR
OF PUBLIC WORKS

RESOLUTION NO. 75-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE ADMINISTRATIVE FEE SCHEDULE FOR THE RIVIERA BEACH POLICE DEPARTMENT EXTRA-DUTY POLICE SERVICES; AUTHORIZING THE INTERIM FINANCE DIRECTOR TO INCREASE REVENUE IN ACCOUNT NO. 001-00-342101 BY \$21,000; AUTHORIZING THE INTERIM FINANCE DIRECTOR TO INCREASE THE OVERTIME BUDGET IN ACCOUNT NO. 001-0817-521-0-1203; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Riviera Beach Police Department provides Extra-Duty Police Services to customers in the City at a rate of \$25.00 per hour, which is paid directly to the officer, by the customer; and

WHEREAS, the City incurs expenses related to coordination and management of Extra-Duty Police Services, therefore a \$5 per hour vehicle fee and a \$5 per hour administrative fee are charged, and

WHEREAS, the Police Department bills approximately 1400 extra duty detail hours per month, therefore a \$5 per hour increase in administrative fees results in a revenue increase of approximately \$7000 per month.

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

SECTION 1: The City Council does hereby adopt an amended fee schedule for Extra-Duty Police Services as follows:

Description	Per Hour Fee
Administrative Fee	10.00
Vehicle Fee	5.00

SECTION 2: That the City Council authorizes the Interim Finance Director to increase the 2011 General Fund Budget as follows:

REVENUE

001-00-342101	Police Services	21,000
	Total	\$21,000

EXPENDITURE

001-0817-521-0-1203	Overtime	21,000
	Total	\$21,000

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

PASSED AND APPROVED this 1 day of June, 2011

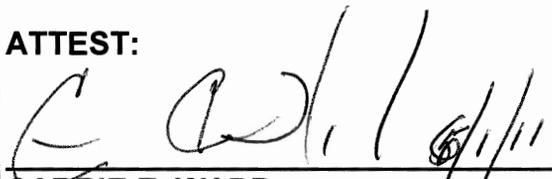
RESOLUTION NO. 75-11
PAGE 3

APPROVED:

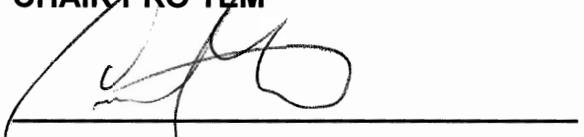

THOMAS A. MASTERS
MAYOR


JUDY L. DAVIS
CHAIRPERSON

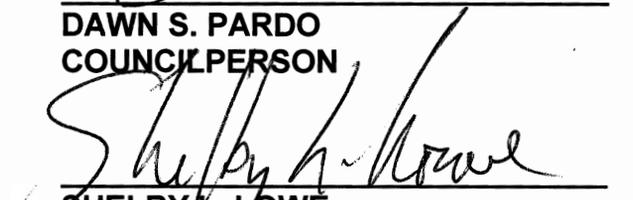
ATTEST:


CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK


BILLIE E. BROOKS
CHAIR PRO TEM


CEDRICK A. THOMAS
COUNCILPERSON


DAWN S. PARDO
COUNCILPERSON


SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: Pardo

SECONDED BY: Brooks

J. DAVIS Aye

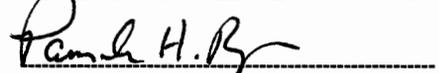
B. BROOKS Aye

C. THOMAS Aye

D. PARDO Aye

S. LOWE Aye

REVIEWED AS TO LEGAL SUFFICIENCY


PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/23/11

RESOLUTION NO. 76-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA APPROVING AN INTERLOCAL COOPERATION AGREEMENT BETWEEN PALM BEACH COUNTY AND THE CITY OF RIVIERA BEACH FOR PARTICIPATION IN THE URBAN COUNTY PROGRAM FOR FISCAL YEARS 2012 THRU 2014 IN ORDER TO RECEIVE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS; AUTHORIZING THE MAYOR AND CITY CLERK TO SIGN THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Palm Beach County qualifies as an Urban County under the United States Department of Housing and Urban Development Regulations to receive Community Development Block Grant (CDBG) funds; and

WHEREAS, it is mandated by Title I of the Housing and Community Development Act of 1974, as amended, that a county must enter into Interlocal Cooperation Agreements with municipalities within its jurisdiction for the purposes of implementing CDBG funds within said municipalities; and

WHEREAS, Florida Statutes, 163, Part III, grants municipalities the power to participate in CDBG and Home Investment Partnerships Program (HOME) activities within the County; and

WHEREAS, the City of Riviera Beach is not an entitlement municipality and therefore is allowing their population to be included with Palm Beach County to continue the Urban County Program to allow for the implementation of CDBG funds; and

WHEREAS, the existing Interlocal Cooperation Agreement with Palm Beach County will expire September 30, 2011; and

WHEREAS, Palm Beach County must enter into an Interlocal Cooperation Agreement with the City of Riviera Beach to receive CDBG and HOME funds for Fiscal Year 2012 thru 2014 for the City to be the recipient of said funds; and

WHEREAS, the City of Riviera Beach is desirous of continuing its participation in the Urban County Program with Palm Beach County through the Interlocal Cooperation Agreement to be the recipient of CDBG and HOME funds.

Resolution No. 76-11
Page -2-

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

SECTION 1. That the City of Riviera Beach agrees to enter into an Interlocal Cooperation Agreement with Palm Beach County in order for the City to be able to receive Community Development Block Grants (CDBG) and HOME funds for Fiscal Years 2012 thru 2014.

SECTION 2. That the Mayor and City Clerk are hereby authorized to sign the Interlocal Cooperation Agreement.

SECTION 3. This Resolution shall take effect immediately upon its passage.

PASSED and APPROVED this 1 **day of** June,
2008.

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RESOLUTION NO. 76-11
PAGE 3

APPROVED:


THOMAS A. MASTERS
MAYOR

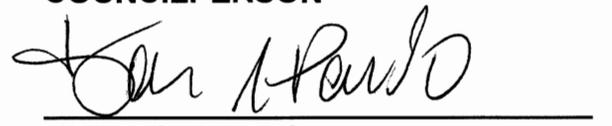

JUDY L. DAVIS
CHAIRPERSON

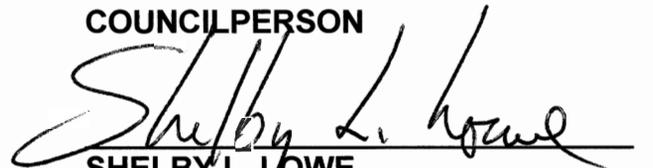
ATTEST:


CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK


BILLIE E. BROOKS
CHAIR PRO TEM


CEDRICK A. THOMAS
COUNCILPERSON


DAWN S. PARDO
COUNCILPERSON

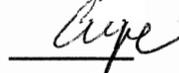

SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: 

SECONDED BY: 

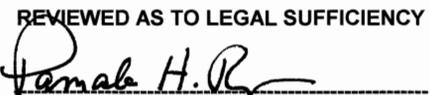
B. BROOKS 

J. DAVIS 

C. THOMAS 

D. PARDO 

S. LOWE 

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/23/11

RESOLUTION NO. 77-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, ACCEPTING THE RECOMMENDATION OF STAFF AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A THREE YEAR CONTINUING SERVICES CONTRACT TO PROVIDE PROFESSIONAL ENGINEERING AND CONSULTING SERVICES WITH THE FIRST RANKED FIRM CORZO CASTELLA CARBALLO THOMPSON SALMAN, P.A. (C3TS) OF BOCA RATON, FLORIDA COMMENCING JUNE 1, 2011 AND ENDING MAY 31, 2014; PROVIDING FOR TWO (2) ADDITIONAL TWELVE (12) MONTH RENEWAL OPTIONS BASED UPON THE MUTUAL CONSENT OF THE PARTIES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City often requires the services of a professional engineering firm to provide design, construction engineering inspection (CEI), and consulting services for a multitude of projects within the City; and

WHEREAS, in accordance with the provisions of the City's Procurement Ordinance (2412), staff solicited Request for Qualifications for Various Engineering Consulting Services; and

WHEREAS, the selection committee short-listed three (3) firms in accordance with the State of Florida's "Consultants' Competitive Negotiation Act" (FS 287.055) namely: Corzo Castella Carballo Thompson Salman, P.A. (C3TS) of Boca Raton, Florida, Chen and Associates of West Palm Beach, Florida, and URS Corporation Southern of Boca Raton, Florida; and

WHEREAS, Corzo Castella Carballo Thompson Salman, P.A. (C3TS) of Boca Raton, Florida was selected as the number one ranked firm to provide the services identified in the City's Request for Qualifications;

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

SECTION 1: The contract between the City of Riviera Beach and Corzo Castella Carballo Thompson Salman, P.A. (C3TS) of Boca Raton, Florida is approved.

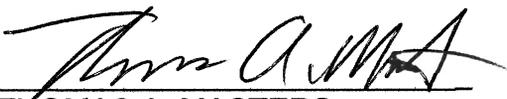
SECTION 2: That the City Council authorizes the Mayor and City Clerk to execute the contract with Corzo Castella Carballo Thompson Salman, P.A. (C3TS) to provide Engineering Consulting Services for the City of Riviera Beach.

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

PASSED AND APPROVED this 1 day of June, 2011.

RESOLUTION NO. 77-11
PAGE: 2

APPROVED:

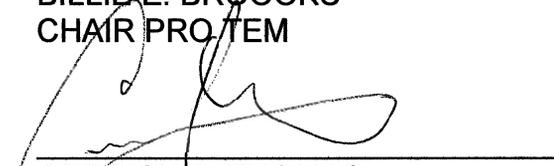

THOMAS A. MASTERS
MAYOR


JUDY L. DAVIS
CHAIRPERSON

ATTEST:


CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK


BILLIE E. BROOKS
CHAIR PRO TEM


CEDRICK A. THOMAS
COUNCILPERSON


DAWN S. PARDO
COUNCILPERSON


SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: Lowe

SECONDED BY: Thomas

J. DAVIS Aye

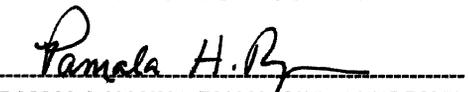
B. BROOKS Aye

C. THOMAS Aye

D. PARDO Aye

S. LOWE Aye

REVIEWED AS TO LEGAL SUFFICIENCY


PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/23/11

PROFESSIONAL ENGINEERING CONSULTING SERVICES FOR THE CITY OF RIVIERA BEACH

THIS CONTINUING SERVICES CONTRACT is entered into this 1 day of June, 2011, between the City of Riviera Beach, Florida, (hereinafter referred to as "CITY") and Corzo Castella Carballo Thompson Salman (C3TS), a Florida Corporation whose office is in Boca Raton, Florida and whose Federal Identification number is 65-0039493 (hereinafter referred to as "ENGINEER").

WHEREAS, it has been determined that it is advisable and desirable to employ a regionally recognized firm of engineers having special and broad experience in the desired fields for the purpose of providing professional engineering planning, and design services required in conjunction with improvements to the City of Riviera Beach; and

WHEREAS, the CITY, in accordance with the Florida State Statute 287.055 Consultant's Competitive Negotiation Act, has selected the ENGINEER to be one of the most qualified firm; and

WHEREAS, the CITY is now desirous of contracting with ENGINEER to provide continuing professional engineering services as set forth herein.

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants, Contracts, and benefits herein contained, the parties hereto mutually understand and agree as follows:

ARTICLE 1 – BASIC SERVICES OF ENGINEER

ENGINEER shall serve as CITY'S professional engineer and planning representative in those phases of all projects to which this CONTRACT applies, and will give consultation and advice to the CITY during the performance of its services.

- A. General Project Development - ENGINEER shall perform professional services as hereinafter provided which include general civil engineering services relating to projects as assigned by CITY. Services include, but are not limited to: (1) the preparation of construction plans, documents and specifications; (2) providing engineering services during construction (3) providing studies, investigations, and consultation as requested by staff; (4) the preparation of grant and permit applications and representation before all applicable governing and regulatory agencies; and (5) and providing monthly status reports for Projects.

In the event, that it is determined that a Work Order will be undertaken on a Lump Sum Basis, the ENGINEER shall submit to the CITY, for its approval, a detailed Scope of Service with an hourly staff rate estimate for each portion of the scope. The ENGINEER'S Lump Sum Fee shall be determined based on the actual hourly labor rates of the ENGINEER'S employees as indicated in Exhibit "2".

- B. Definitions Index - For the purpose of this CONTRACT, the following terms are defined as indicated in the sections below:

TERM	ARTICLE	SECTION	PARAGRAPH
Record Drawing	2	(A)	(12)
Project Representative	2	(B)	—

CITY'S Representative	3	(H)	—
Contract Period of Service	4	—	—
Payroll Costs	5	(D)	—
Reimbursable Expenses	5	(E)	—
Opinion of Probable Project Cost	49	—	—

C. Study and Report Phase - After written authorization to proceed, ENGINEER shall:

1. Consult with CITY to determine its requirements for a Project and review available data.
2. Advise CITY as to the necessity of the CITY providing or obtaining from others data or services of the types described in Article 3(C) and act as CITY'S representative in connection with any such services.
3. Provide special analyses of CITY'S needs, planning surveys, site elevations and comparative studies of prospective sites and solutions.
4. Provide general economic analysis of CITY'S requirements applicable to various alternatives.
5. Prepare a Report with appropriate exhibits indicating clearly the considerations involved and the alternative solutions available to CITY, and setting forth ENGINEER'S findings and recommendations with opinions of probable costs.
6. Furnish seven (7) copies of the Report and present and review it, in person, with CITY representatives.

D. Preliminary Design Phase - After written authorization to proceed with the Preliminary Design Phase, ENGINEER shall:

1. In consultation with CITY and on the basis of the accepted Report, determine the Scope of a Project.
2. Prepare preliminary design documents consisting of final design criteria, preliminary drawings and outline specifications.
3. Based on the information contained in the preliminary design documents, submit a revised opinion of probable cost for each Project including construction cost, contingencies, compensation for all professionals and engineers, cost of land, rights-of-way, and compensation for or damages to properties and interest and financing charges (all of which are hereinafter called "Project Costs").
4. Furnish seven (7) copies of the above preliminary design documents and present and review them in person with CITY representatives.
5. Furnish copies and solicit review comments from interested governmental and regulatory agencies and utility companies.

E. Final Design Phase - After written authorization to proceed with the Final Design Phase, ENGINEER shall:

1. On the basis of the accepted preliminary design documents prepare for incorporation in the Contract Documents, final drawings to show the character and scope of the work to be performed by Contractors on the Project (hereinafter called "Drawings"), and Specifications.
2. Furnish to CITY such documents and design data as may be required for, and prepare the required documents so that CITY may obtain approvals of such governmental authorities as having jurisdiction over design criteria applicable to each Project, and assume engineering responsibility in obtaining such approvals by participating in submissions to and negotiations with appropriate authorities.
3. Advise CITY of any adjustments to its latest opinion of probable Project Cost caused by changes in scope, design requirements or construction costs and furnish a revised opinion of probable Project Cost based on the Drawings and Specifications.
4. Prepare bid forms, notice to bidders, instructions to bidders, general conditions and supplementary conditions, and assist in the preparation of the other related documents.
5. Prepare routine application for approvals and permits from all governmental authorities having jurisdiction over each project and from others as may be necessary for completion and operation of each project. However, ENGINEER upon certification to the CITY that the application or permit is not routine, may have this service be considered as additional service. This shall include the furnishing of back-up data as required during the various permit application procedures.
6. Furnish seven (7) copies of the above mentioned documents and present and review them in person with CITY representatives.

F. Bidding or Negotiating Phase - Obtain bids from each separate prime Contract for construction or equipment.

1. Consult with and advise CITY as to the acceptability of subcontractors and other persons and organizations proposed by the prime Contractor(s) (hereinafter called "Contractor(s)") for those portions of the work as to which such acceptability is required by the Contract Documents.
2. Consult with and advise CITY as to the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution is permitted by the Contract Documents.
3. Evaluate bids and assemble Contract Documents and recommend to CITY award of Contracts, and participate in presentation to CITY Board and other appropriate authorities as necessary.

G. Engineering Services During Construction Phase

During Construction Phase, ENGINEER shall perform the following services by the ENGINEER'S design office staff and qualified design professionals:

1. Consult with and advise CITY and act as its representative. All of CITY'S instructions to Contractor(s) will be issued through ENGINEER who will have authority to act on behalf of CITY except as otherwise provided in writing.
2. Make periodic visits to the site to observe as an experienced and qualified design professional the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the Contract Documents. ENGINEER shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of such work unless provided for in the Work Order. ENGINEER shall not be responsible for the means, methods, techniques, sequences or

procedures of construction selected by Contractor(s) or the safety precautions and programs incident to the work of Contractor(s) during such visits and keep CITY informed of the progress of the work, shall endeavor to guard CITY against defects and deficiencies in the work of Contractor(s), disapprove or reject work as failing to conform to the Contract Documents, and endeavor to achieve expeditious correction of such deficiencies.

3. Review and approve Shop Drawings and samples, the results of tests and inspections and other data which any Contractor is required to submit, for conformance with the design concept and operational requirements of each Project and compliance with the information given in the Contract Documents; determine the acceptability of substitute materials and equipment proposed by Contractor(s); and receive and review (for general content as required by the Specifications) maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are to be assembled by Contractor(s) in accordance with the Contract Documents.
4. Issue all instructions of CITY to Contractor(s); prepare routine change orders as required; ENGINEER may, as CITY'S representative, require special inspection or testing of the work; act as interpreter of the requirements of the Contract Documents and judge the performance thereunder by the parties thereto; make decisions on all claims of CITY and Contractor(s) relating to the execution and progress of the work, and all other matters and questions related thereto; but ENGINEER shall not be liable for the results of any such interpretations or decisions rendered by him as a result of erroneous or incomplete information or data provided him by the CITY.
5. Whenever the CITY gives written notice of defects and deficiencies in any Project, as provided in Article 3-I, the ENGINEER shall endeavor to achieve expeditious correction of such defects and/or deficiencies.
6. Based on ENGINEER'S on-site observations as an experienced and qualified design professional, input from the Project Representative(s) and his review of Contractor(s)' application for payment and the accompanying data and schedules, determine the amounts owing to Contractor(s) and approve in writing payments to Contractor(s) in such amounts; such approvals of payment to constitute a representation to CITY, based on such observations and review, that the work has progressed to the point indicated and that, the quality of the work is in accordance with the Contract Documents (subject to an evaluation of the work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any qualifications stated in his recommendation). By recommending any payment, ENGINEER will not thereby be deemed to have represented that continuous or exhaustive examinations have been made by ENGINEER to check the quality or quantity of the work or to review the means, methods, sequences, techniques or procedures or construction or safety precautions or programs incident thereto. Approving an application for payment ENGINEER will not be deemed to have represented that he has made any examination to determine how or for what purposes any Contractor has used the monies paid on account of the Contract Price, or that title to any of the Contractor(s)' work, materials or equipment has passed to CITY free and clear of any lien, claims, security interests or encumbrances.
7. Conduct an inspection to determine if the Project is substantially complete and a final inspection to determine if the Project has been completed in accordance with the Contract Documents and if each Contractor has fulfilled all of his obligations thereunder so that ENGINEER may approve, in writing, final payment to each Contractor.
8. ENGINEER shall not be responsible for the acts or omissions of any Contractor, any subcontractor or any of the Contractor(s)' or subcontractors' agents or employees or any other persons (except his own employees and agents) at the Project site or otherwise performing any of the work of the project.

9. ENGINEER shall provide, for each construction project, the set of original record Drawings, including capital asset listing, conforming to construction records, showing the significant changes made during the construction process, based upon the marked-up prints, Drawings and other data furnished to the ENGINEER by the Contractor(s) and/or by Designees of the CITY.
10. Conduct an inspection sixty (60) days prior to the expiration of a guarantee period related to any Project designed by the ENGINEER and report to Contractor and CITY discrepancies for correction under guarantees provided in the prime Contract for the Project.

ARTICLE 2 - ADDITIONAL SERVICES OF ENGINEER

- A. General - If authorized in writing by CITY, ENGINEER shall furnish or obtain from others Additional Services of the following types which are not considered normal or customary Basic Services; these will be paid for by CITY as indicated in Article 5.
1. (1) Preparation of applications and supplemental project information for governmental grants, loans or advances in connection with a Project; (2) preparation of review of environmental assessments and impact statements; and (3) assume engineering responsibility in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of any Project.
 2. Services resulting from significant changes in general scope of the Project or its design including, but not limited to, changes in size, complexity, CITY'S schedule, or character of construction; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are due to causes beyond ENGINEER'S control.
 3. Proving renderings or models for CITY'S use.
 4. Perform those functions required of the ENGINEER by bond resolutions, and as otherwise authorized by the CITY.
 5. At request of CITY, furnishing the services of specialty engineers for special civil, geotechnical and environmental engineering incidental thereto.
 6. Service resulting from the involvement of more separate prime Contracts for construction or for equipment not originally contemplated.
 7. Services in connection with change orders to reflect changes requested by CITY if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered and services resulting from significant delays, changes in price increases occurring as a direct or indirect result of material, equipment or energy shortages.
 8. Additional or extended services during construction made necessary by (1) work damaged by fire or other causes during construction; (2) prolongation of time of Contract on any prime Contract by more than sixty (60) days; (3) acceleration of the work schedule involving services beyond normal working hours; and (4) default by any Contractor. The CITY will be reimbursed by the Contractor for these additional services, and the ENGINEER shall prepare the Contract Documents in such a way as to provide for reimbursement by the Contractor to the CITY for the required additional services, including CITY'S costs.
 9. (1) Preparation of systems operating and maintenance manuals; (2) extensive assistance in the utilization of any equipment or system (except for initial start-up, testing, adjusting and balancing to demonstrate an

operating facility as necessary to obtain the initial operating permit but in no case shall this exceed two weeks); and (3) training personnel for operation and maintenance.

10. Preparing to serve or serving as a witness for CITY in any litigation, public hearing or other legal or administrative proceeding involving a Project.
11. Additional services in connection with a Project, including services normally furnished by CITY and services not otherwise provided for in this CONTRACT.
12. Services to make measured drawings of or to investigate existing conditions of facilities or to verify the accuracy of drawings or other information furnished by CITY.
13. Preparing documents for alternative bids requested by CITY for work which is not executed or for out-of-sequence work.
14. Services after completion of the Construction Phase, such as inspections during any guarantee period and reporting observed discrepancies under guarantees called for in any Contract for the Project (except for the 60 day inspection).
15. Preparation of community planning, and utility studies, updating of CITY'S maps, utility maps, utility ordinances, subdivision regulations, review of reports, drawings and plans of the type customarily required by the CITY incident to its normal functions. Consult with and advise CITY in regard to Federal and State utility requirements.
16. Provide a Registered Land Surveyor, directly or subconsultant, to assist in easement or utility location, description and stake-out.
17. Services in connection with laboratory or field investigations.
18. Inspect and review necessary test borings or other subsurface explorations not covered under professional services during construction. The cost of borings or other subsurface explorations will be paid by the CITY.
19. Provide any services required in connection with re-advertisements for construction bids.

B. Project Representative(s) Service During Construction

1. The ENGINEER shall provide resident inspection services at the CITY'S request. Project Representative(s) will act as requested by the CITY in order to provide more extensive representation at the Project site during the Construction Phase.
2. The duties and responsibilities and the limitation on the authority of the Project Representative(s) is as set forth in Exhibit 1.
3. Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the Project Representative(s) (if furnished) ENGINEER shall endeavor to provide further protection for CITY against defects and deficiencies in the work, but the furnishing of such Project representation will not make ENGINEER or CITY responsible for construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or for Contractor(s) failure to perform the construction work in accordance with the Contract Documents.

ARTICLE 3 – CITY RESPONSIBILITIES

CITY SHALL:

- A. Provide complete and detailed information as to its requirements for a Project.
- B. Assist ENGINEER by placing at the company's disposal all available information pertinent to a project including previous reports and any other data relative to design and construction of a Project.
- C. Furnish to ENGINEER, as required by him for performance of his Basic Services, data prepared by or services of others, such as core borings, geophysical logs, probing and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples; appropriate professional interpretations of all of the foregoing; photogram metric surveys, property, boundary, easement, right-of-way, and property descriptions; zoning and deed restrictions; and other special data or consultations not covered in Article 2-A; all of which ENGINEER may rely upon in performing his services.
- D. Make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform its services.
- E. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER, obtain advice of an attorney, insurance counselor and other engineers as deemed appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of ENGINEER.
- F. Pay all costs incidental to obtaining bids or proposals from Contractors. This includes advertising and mailing, but does not include reimbursement for ENGINEER'S time to discuss the Contract Documents with bidders or equipment suppliers.
- G. Provide such legal, accounting, independent cost estimating and insurance counseling services as may be required for a Project, and such auditing service as CITY may require to ascertain how or for what purpose any Contractor has used the monies paid under the construction Contract.
- H. The City Manager or designee shall act as CITY'S representative with respect to the work to be performed under this CONTRACT. Such person shall have complete authority to transmit instructions, receive information, interpret and define CITY'S policies and decision with respect to materials, equipment, elements and systems pertinent to ENGINEER'S services.
- I. Give prompt written notice to ENGINEER whenever CITY observes or otherwise becomes aware of any defect in a Project.
- J. Furnish, as required, support and fees necessary during the various permit application processes required from all governmental authorities having jurisdiction over the approval, construction and operation of a Project.
- K. Furnish or direct ENGINEER to provide necessary Additional Services as stipulated in Section 2 of this Contract or other services as required.
- L. Bear all costs incidental to compliance with the requirements of this Section

ARTICLE 4 – PERIOD OF SERVICE

It is mutually agreed by CITY and ENGINEER that this Contract is of a continuing nature, subject to termination by either party as hereinafter provided. The period of service shall commence upon execution of this Contract and continue for a period of three (3) years unless otherwise terminated as provided herein or until completion of all outstanding Service authorizations issued within the period of the Contract, unless terminated as otherwise provided herein. At the option of the CITY, the Contract may be renewed for up to two (2) additional twelve (12) month periods.

ARTICLE 5 – PAYMENTS TO ENGINEER

Method of Payment for Services and Expenses of Engineer - Basic Services. CITY shall pay the ENGINEER for Basic Services rendered under Article 1 on one of the following bases, the choice to be mutually agreed upon at the time a Project is authorized.

- A. Per Hour, Per Assigned Employee Fee with a not to Exceed Maximum Price – CITY will submit a series of individual tasks or projects as more particularly described herein. Each task to be performed under this Contract shall be assigned to the ENGINEER for accomplishment by separate written authorization. For each task, CITY shall request ENGINEER to provide a scope of services and an estimate of cost, for the CITY'S review, including MBE goal setting, as particularly set forth in Article 10.

Upon mutual agreement of the scope of services, ENGINEER shall develop an estimate of cost based upon a per hour, per assigned employee fee with a "not to exceed" maximum price as provided for herein in accordance with rates set forth in Exhibit 2.

1. The "Per Hour, Per Assigned Employee" fee, shall include all allowable and allocable costs that are incurred in the performance of the work, up to, but not exceeding a predetermined maximum price. Allowable and allocable cost shall include direct labor plus fringe benefits, overhead fee, and direct non-salary expenses. Pending establishment of final approved overhead rates for any period, the ENGINEER shall be reimbursed at provisional overhead rates subject to appropriate adjustment when the final overhead rates for the fiscal period are established. The overhead rates shall not change the predetermined cost ceiling.
2. For a project that utilizes the "Per Hour, Per Assigned Employee" method of compensation, it is anticipated that the total cost to the CITY for the performance of the services will not exceed the estimated cost and that the ENGINEER agrees to use his good faith effort to perform his services within such estimated cost. If at any time, as the actual work progresses, the ENGINEER has reason to believe that the cost for the work will be greater than the estimated cost, the ENGINEER shall notify the CITY in writing to that effect, giving the revised estimate of such cost for said work or a suggested revised scope of work which will remain within the original estimate of cost.
3. The CITY shall not be obligated to reimburse the ENGINEER for costs incurred in excess of the estimated cost set forth above, and the ENGINEER shall not be obligated to continue performance of said work or otherwise to incur cost in excess of the estimated cost set forth above, unless and until the CITY shall have notified the ENGINEER in writing that such estimated cost has been increased or that a modification of scope of work is acceptable and shall have specified in such notice a revised estimated cost which shall thereupon constitute the revised estimated cost of said work. When and to the extent that the estimated cost has been increased, any costs incurred by the ENGINEER in excess of the estimated cost prior to such increases shall be allowable to the same extent as if such cost had been incurred after the increase.
4. Except as otherwise provided, if the ENGINEER stops performance before completion of the work hereunder because it has incurred costs in the amount of or in excess of the estimated cost set, and the CITY elects not to increase such estimated cost, then the CITY shall pay to the ENGINEER the balance

due on its cost and fee for said work. Both parties shall execute full and binding releases of the party from any and all obligations with regard to the work and the ENGINEER shall deliver to the CITY copies of the ENGINEER'S work product subject to receipt of payment due.

5. The ENGINEER may elect to waive notifying the CITY and agencies participating in the cost of the Project and is expected to do so whenever the work is close to completion and it is estimated that the cost increase will be small. In such event, if the cost subsequently exceeds that originally estimated by the ENGINEER, the ENGINEER may exercise his above obligation to notify the CITY of the cost increase then estimated, but the CITY shall not be obligated to pay for any overrun.
6. The term "Per Diem" shall mean a fixed hourly rate, which includes direct and indirect labor, overhead, fringe benefits and profit, for each category of personnel employed on the project, plus reimbursement for direct non-salary expenses.
7. In addition to the above methods, any other mutually agreed upon method of payment may be used.

B. Additional Service - CITY shall pay ENGINEER for Additional Services rendered under Article 2 as follows:

1. General - For Additional Services rendered under Article 2, Section (A) paragraphs 1 through 19, on the basis of any method in Article 5(A).
2. Day-to-Day Consulting Services - For day-to-day Consulting Services not considered as being covered under Article 1, Basic Services of ENGINEER, on the basis of Payroll Costs Times a Factor of 2.4 for services rendered by principals and employees assigned to the Project.
3. Special Engineers - For services and reimbursable expenses of special engineers or surveyors (when included in special task authorization) employed by ENGINEER, the amount billed to ENGINEER therefore times a factor of 1.10.
4. Serving as a Witness - For the services for the principals and employees as engineers or witnesses in any litigation, hearing or proceeding, on the basis of payroll costs times a factor of 2.4.
5. Project Representative(s) Services - For Resident Project Representative(s) Services during construction, on any mutually agreed basis.
6. Reimbursable Expenses - In addition to payments provided for in Article 5 (A) and (B), CITY shall pay ENGINEER the actual costs of all reimbursable expenses incurred in connection with all Basic and Additional Services.

C. Time of Payment

ENGINEER shall submit monthly statements for Basic and Additional Services rendered and for reimbursable expenses incurred. These monthly statements shall be based upon ENGINEER'S payroll cost times the appropriate factor. CITY shall make monthly payments in response to ENGINEER'S monthly statements, and as further outlined in subsection (F) below.

D. Payroll Cost

The payroll costs used as a basis for payment mean the salaries and wages paid to all personnel engaged directly on the Project, including, but not limited to, engineers, surveyors, designers, drafters, specifications writers,

estimators, other technical personnel, administrative personnel, typists and clerks; plus the cost of customary and statutory benefits including, but not limited to, social security contributions, unemployment, excise and payroll taxes, workmen's compensation, health and retirement benefits, sick leave, vacation and holiday pay applicable thereto. The amount of customary and statutory benefits of all personnel will be considered equal to 30% of salaries and wages.

E. Reimbursable Expenses

Reimbursable expenses shall mean the actual expense incurred directly or indirectly in connection with the Project to include but not be limited to: transportation and meals incidental thereto; obtaining bids or proposals from Contractor(s), furnishing and maintaining field office facilities; phone calls and faxes, excluding those to home office; reproduction of reports, Drawings and Specifications and similar Project related items in addition to those required under Article 1; and, if authorized in advance by CITY, overtime work requiring higher than regular rates.

F. Provision for Prompt Payment

1. If CITY fails to make any payment due ENGINEER for services and expenses within thirty (30) days after receipt of a non-contested ENGINEER'S bill, the amounts due ENGINEER shall include a charge at the rate of 1% per month for any time in excess of thirty (30) days from the date of invoice and in addition ENGINEER may, after giving thirty (30) days written notice to CITY, suspend services under this Contract until he has been paid in full all amounts due him for services and expenses.
2. If this Contract is terminated by CITY during any phase of the Basic Services, ENGINEER will be paid for services rendered during that phase on the basis of payroll costs times a factor of 2.4 for services rendered during that phase to date of termination by principals and employees assigned to Project, or the allocated percentage for that phase, whichever is less. In the event of any termination, ENGINEER will be paid for all unpaid Additional Services as provided in this paragraph.

ARTICLE 6 - TRUTH-IN NEGOTIATION CERTIFICATE

Signature of this Contract by the ENGINEER 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 ENGINEER'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 engineers. The CITY shall exercise its right under this Article within three (3) years following final payment.

ARTICLE 7 - TERMINATION

This Contract may be cancelled by the ENGINEER 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 ENGINEER; 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 ENGINEER. Unless the ENGINEER is in breach of this Contract, the ENGINEER 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 ENGINEER shall:

- A. Stop work on the date and to the extent specified.

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

Prior to settlement upon termination of this Contract, the ENGINEER and the CITY shall execute and deliver a mutual release by each party to the other of all claims and demands of any nature whatsoever arising under or by virtue of this Contract.

ARTICLE 8 - PERSONNEL

The ENGINEER 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 ENGINEER or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

The ENGINEER shall furnish services in a manner consistent with industry standards and to a level of professional skill generally acceptable in the industry with regard to services of this kind.

The ENGINEER agrees that it is fully responsible to the CITY for the acts and omissions of sub-consultants and of persons either directly or indirectly employed by the ENGINEER. Nothing contained herein shall create any Contractual relationship between any subcontractor and the CITY.

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

ARTICLE 9 - SUBCONTRACTING

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

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

Once a sub-consultant is listed in an ENGINEER'S response to an RFP or a bid and the ENGINEER wishes to change a sub-consultant, 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 sub-consultants. The CITY shall not unreasonably deny the request. However, the ENGINEER must demonstrate that the sub-consultant being replaced is unable to perform the work, is performing the work poorly or untimely, or is unable to meet the requirements of the Contract with the CITY. The CITY will not address issues related to the ENGINEER'S specific agreement with the sub-consultant including issues of pricing.

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

The ENGINEER shall be responsible for the performance of all sub-consultants.

ARTICLE 10 - M/WBE PARTICIPATION

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

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

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

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

ARTICLE 11- 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 ENGINEER. The ENGINEER shall not be exempted from paying sales tax to its suppliers for materials used to fulfill Contractual obligations with the CITY, nor is the ENGINEER authorized to use the CITY'S Tax Exemption Number in securing such materials.

The ENGINEER 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 12- INSURANCE

- A. Prior to execution of this Contract by the CITY, the ENGINEER 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 ENGINEER 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 ENGINEER of its liability and obligations under this Contract.
- B. The ENGINEER shall maintain during the term of this Contract, standard Professional Liability Insurance in the minimum amount of \$1,000,000.00 per occurrence.
- C. The ENGINEER shall maintain, during the life of this Contract, commercial general liability, including Contractual liability insurance in the amount of \$500,000.00 per occurrence to protect the ENGINEER 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 ENGINEER or by anyone directly or indirectly employed by or Contracting with the ENGINEER.

- D. The ENGINEER 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 ENGINEER 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 ENGINEER or by anyone, directly or indirectly, employed by the ENGINEER.
- 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 ENGINEER shall specifically include the CITY as an "Additional Insured".

ARTICLE 13 - INDEMNIFICATION

The ENGINEER 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 ENGINEER, its agents, servants, or employees in the performance of services under this Contract.

ENGINEER 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.

The ENGINEER shall defend all actions arising from ENGINEER'S negligent acts, in the name of the CITY, when applicable, and all costs and fees associated therewith shall be the responsibility of the ENGINEER.

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 limits provided in Section 768.28, Florida Statutes.

ARTICLE 14 - SUCCESSORS AND ASSIGNS

The CITY and the ENGINEER each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the CITY nor the ENGINEER 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 ENGINEER.

ARTICLE 15 - VENUE

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

ARTICLE 16 - 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 17 - CONFLICT OF INTEREST

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

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

ARTICLE 18 – DELAYS AND EXTENSION OF TIME

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

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

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

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

ARTICLE 19 - INDEBTEDNESS

The ENGINEER 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 ENGINEER further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 20 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The ENGINEER 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 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 ENGINEER 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, databases, 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 shall hold the ENGINEER harmless should the CITY use any of the ENGINEER'S work products for a purpose other than that intended by the ENGINEER.

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

All covenants, Contracts, 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 21 - INDEPENDENT CONTRACTOR RELATIONSHIP

The ENGINEER 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 ENGINEER'S sole direction, supervision, and control. The ENGINEER shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the ENGINEER'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 ENGINEER does not have the power or authority to bind the CITY in any promise, CONTRACT or representation other than as specifically provided for in this Contract.

ARTICLE 22 - CONTINGENT FEES

The ENGINEER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the ENGINEER 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 ENGINEER, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

ARTICLE 23 - ACCESS AND AUDITS

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

ARTICLE 24 - NONDISCRIMINATION

The ENGINEER 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, ENGINEER 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 25 - ENFORCEMENT COSTS

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

ARTICLE 26 - AUTHORITY TO PRACTICE

The ENGINEER 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 ENGINEER 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 27 - 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 28 - PUBLIC ENTITY CRIMES

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

ARTICLE 29 - 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 ENGINEER of the CITY'S notification of a contemplated change, the ENGINEER 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 ENGINEER'S ability to meet the completion dates or schedules of this Contract.

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

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

ARTICLE 30 - 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
BRYNT JOHNSON
2391 AVENUE L
RIVIERA BEACH, FL 33404**

and if sent to the ENGINEER shall be mailed to:

**TERRANCE N. GLUNT, P.E.
CORZO CASTELLA CARBALLO THOMPSON SALMAN, P.A. (C3TS)
21301 POWERLINE ROAD, SUITE 311
BOCA RATON, FLORIDA 33433**

ARTICLE 31 - ENTIRETY OF CONTRACTUAL CONTRACT

The CITY and the ENGINEER agree that this Contract and any attachments hereto or other documents as referenced in the Contract sets forth the entire CONTRACT between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 29- Modifications of Work.

ARTICLE 32 – WAIVER

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

ARTICLE 33 - PREPARATION

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

ARTICLE 34 - MATERIALITY

All provisions of the Contract shall be deemed material, in the event ENGINEER 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 35 - REPRESENTATIONS/BINDING AUTHORITY

ENGINEER 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, Terrance N. Glunt, Vice President, 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 or she is signing and to bind and obligate such party with respect to all provisions contained in this Contract.

ARTICLE 36 - 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 37 - CONTRACT DOCUMENTS AND CONTROLLING PROVISIONS

This Contract consists of the Contract, Exhibit "1", Exhibit "2" and RFQ No. 276-10. The ENGINEER agrees to be bound by all the terms and conditions set forth in this Contract and RFQ NO. 276-10. To the extent there exists a conflict between this Contract and RFQ NO. 276-10, 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 38 - LEGAL EFFECT

This Contract shall not become binding and effective until approved by both parties.

ARTICLE 39 - 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 40 – 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 41 - DEFAULT

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

- A. The filing of a lien by any subcontractor or third tier subcontractor including, but not limited to material, men, 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 ENGINEER;

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

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

ARTICLE 42 - WAIVER OF SUBROGATION

The ENGINEER 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 CONTRACT to waive subrogation without an endorsement, then the ENGINEER 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 ENGINEER enter into such a CONTRACT on a pre-loss basis.

ARTICLE 43 - 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 44 -REUSE OF DOCUMENTS

All documents including Drawings and Specifications furnished by ENGINEER pursuant to this Contract are instruments of his services in respect of a Project. They are not intended or represented to be suitable for reuse by CITY or others on extensions of the Project or any other project. Any reuse of said documents will be at CITY'S sole risk and without liability or legal exposure to ENGINEER, and CITY shall indemnify and hold harmless ENGINEER from all claims, damages, losses and expenses including attorney's fees arising out of or resulting there from. All preliminary and final design drawings and specification, and the drawings conforming to construction records become the property of the CITY.

ARTICLE 45 - OPINION OF PROBABLE PROJECT COST

Since ENGINEER has no control over the cost of labor, materials or equipment, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, his opinions of probable Project Cost or Construction Cost provided for herein are to be made on the basis of his experience and qualifications and represent his best judgment as a design professional familiar with the construction industry, but ENGINEER cannot and does not guarantee that proposals, bids or the Construction Cost will not vary from opinions of probable cost prepared by him. If prior to the Biding or Negotiating Phase, CITY wishes greater assurance as to Project or Construction Cost he shall employ an independent cost estimator.

SIGNATURES ON FOLLOWING PAGE

CONTRACT WITH THE CITY OF RIVIERA BEACH UTILITY SPECIAL CITY

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

CITY OF RIVIERA BEACH

CORZO CASTELLA CARBALLO THOMPSON SALMAN,
P.A. (C3TS)

BY: 
THOMAS A. MASTERS
MAYOR

BY: 
TERRANCE N. GLUNT, P.E.
VICE PRESIDENT

ATTEST:

BY: 
CARRIE E. WARD, MMC,
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

BY: 
PAMALA H. RYAN,
CITY ATTORNEY

BY: 
BRYNT JOHNSON
INTERIM DIRECTOR OF PUBLIC WORKS

DATE: 5/23/11

EXHIBIT 1

Duties, Responsibilities and Limitations of the Authority of Resident Project Representative

GENERAL.

Resident Project Representative is ENGINEER'S Agent. His dealings in matters pertaining to the on-site work will in general be only with the CITY, ENGINEER and Contractor. His dealings with subcontractors will only be through or with the full knowledge of Contractor or his superintendent.

DUTIES AND RESPONSIBILITIES.

Resident Project Representative shall:

1. **Schedules:** Review the progress schedule, schedule of Shop Drawing submissions, schedule of values and other schedules prepared by Contractor and consult with ENGINEER concerning their acceptability.
2. **Conferences:** Attend preconstruction conferences. Arrange a schedule of progress meetings and other job conferences and notify in advance those expected to attend. Attend meetings and maintain and circulate copies of minutes thereof.
3. **Liaison:**
 - a. Serve as ENGINEER'S liaison with Contractor, working principally through Contractor's superintendent and assist him in understanding the intent of the Contract Documents. Assist ENGINEER in serving as CITY'S liaison with Contractor when Contractor's operations affect CITY'S on-site operations.
 - b. Assist in obtaining from CITY additional details or information, when required at the job site for proper execution of the Work.
 - c. In the interest of preserving the proper channels of communication, advise ENGINEER of any direct communication between CITY and Contractor.
4. **Shop Drawings and Samples:**
 - a. Receive and record date of receipt of Shop Drawings and samples which has been furnished by Contractor.
 - b. Review the Shop Drawings for conformance with the information given in the Contract Documents.
 - d. Provide review and approval of Shop Drawings (as that term is defined in the General Conditions of the Project Contract Documents) and samples, the results of tests and inspections and other data which any Contractor is required to submit, but only for conformance with the design concept of the project and compliance with the information given in the Contract Documents; determine the acceptability of substitute materials and equipment proposed by Contractor (S); and receive and review (for general content as required by the Specifications) maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are to be assembled by

EXHIBIT 1 (Cont'd.)

Contractor in accordance with the Contract Documents.

5. Review of Work, Rejection of Defective Work, Inspections and Tests:
 - a. Conduct on-site observations of the Work in progress to assist ENGINEER in determining that the Project is proceeding in accordance with the Contract Documents and that completed Work will conform to the Contract Documents.
 - b. Report to ENGINEER whenever he believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspections, test or approvals required to be made; and advise ENGINEER when he believes work should be corrected or rejected or should be uncovered for observation, or requires special testing or inspection.
 - c. Verify that tests, equipment and systems startups and operating and maintenance instructions are conducted as required by the Contract Documents and in presence of the required personnel, and that Contractor maintains adequate records thereof; observe, record and report appropriate details relative to the test procedures and startups.
 - d. Accompany CITY and visiting inspectors representing public or other agencies having jurisdiction over the Project, record the outcome of these inspections.
 - e. Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative and assistants, ENGINEER shall endeavor to provide further protection for CITY against defects and deficiencies in the work, but the furnishing of such resident project representation will not make ENGINEER responsible for construction means, methods, techniques, sequences or procedures or for safety precautions or programs.
6. Interpretation of Contract Documents:

Transmit to Contractor clarification and interpretation of the Contract Documents.
7. Modifications:
 - a. Consider and evaluate Contractor's suggestion for modifications in Drawings or Specifications and report them with recommendations to ENGINEER.
 - b. Prepare routine change orders as required; he may, as CITY'S representative, require special inspection or testing of the work; he shall act as interpreter of the performance there under by the parties thereto and shall make decisions on all claims of CITY and Contractor(s) relating to the execution and progress of the Work and all other matters and questions related thereto.
 - c. Process Contract change orders to reflect final measured Contract quantities and to reflect changes in the Contract Drawings and Specifications.
8. Records:
 - a. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and sample submissions, reproductions of original Contract Documents including all addenda, change orders, field orders, additional Drawings issued subsequent to the execution of the Contract, ENGINEER'S clarifications and interpretations of the Contract Documents, progress reports and other Project-related documents.

EXHIBIT 1 (Cont'd.)

- b. Keep a diary or log book and Daily Construction Reports.
 - c. Advise ENGINEER whenever Contractor is not currently maintaining an up-to-date copy of Record Drawings at the site.
 - d. Prepare and maintain a set of marked prints for use in future comparison with the Contractor's record set.
9. Reports:
- a. Furnish ENGINEER periodic reports as required of progress of the Work and of Contractor's compliance with the approved progress schedule, schedule of Shop Drawing submissions and other schedules.
 - b. Consult with ENGINEER in advance of scheduled major tests, inspections or start of important phases of the Work.
 - c. Prepare and submit monthly reports, with the required number of copies for any participating Federal or State agency, concerning the general progress of the project.
 - d. Prepare monthly narrative report for submittal to CITY on project progress.
10. Payment Requisitions:
- a. Based on his on-site observations as an experienced and qualified professional and on his review of Contractor(s) and approve in writing payments to Contractor(s) in such amounts; such approval of payment will constitute a representation to CITY, based on such observations and review, that the Work has progressed to the point indicated and that, to the best of his knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents , and to any qualifications stated in his approval), but by approving an application for payment ENGINEER will not be deemed to have represented that he has made any examination to determine how or for what purposes any Contractor has used the monies paid on account of the Contract Price, or that title to any of the Contractor(s)' work , materials, or equipment has passed to CITY free and clear of any lien, claims, security interests or encumbrances.
 - b. Receive and check Contractor(s)' or subcontractor's payrolls for compliance with the provisions of the Contract.
11. Guarantees, Certificates, Maintenance and Operation Manuals:
During the course of the Work verify that guarantees, certificates, maintenance and operation manuals and other data required be assembled and furnished by Contractor are applicable to the items actually installed; and deliver these data to ENGINEER for his review and forwarding to CITY prior to final acceptance of the Project.

EXHIBIT 1 (Cont'd.)

12. Completion:

- a. Before ENGINEER issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring correction.
- b. Conduct final inspection in the company of ENGINEER, CITY, and Contractor and prepare a final list of items to be corrected.
- c. Verify that all items on final list have been corrected and make recommendations to ENGINEER concerning acceptance.

LIMITATIONS OF AUTHORITY.

The Resident Project Representative:

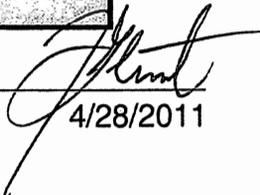
1. Shall not undertake any of the responsibilities of Contractor, subcontractors or Contractor's superintendent.
2. Shall not expedite Work of the Contractor.
3. Shall not advise on or issue directions as to safety precautions and programs in connection with the Work.
4. Shall not assist Contractor in maintaining up-to-date copy of Record Drawings.

Rate Table S2010

Standard Hourly Rates for 2010-2011

<i>Staff type</i>	<i>Classification</i>	<i>Hourly Rate</i>
01	Principal	\$ 185.00
02	Engineer (PE) or Architect (RA)	\$ 135.00
03	Engineer (EI) or Architect (AI)	\$ 98.00
04	Technician	\$ 77.50
05	Data Processor	\$ 58.00
06	Construction Inspector (CEI)	\$ 92.00
07	Division Director	\$ 155.00
08	Grants Coordinator	\$ 108.00
09	Senior Technician	\$ 85.00
10	Project Manager	\$ 140.00
14	Senior Inspector (CEI)	\$ 94.00
16	Inspector (CEI)	\$ 77.00
17	Secretary (CEI) / EEO Compliance	\$ 64.50
20	Public Involvement Coordinator	\$ 100.00
21	Accounting Coordinator	\$ 70.25
22	Marketing Coordinator	\$ 82.25
23	Technology Manager / IT	\$ 105.00
24	Clerical Assistant	\$ 46.25
25	Technology Assistant / IT	\$ 70.25
26	Human Resources Administrator	\$ 70.25

Sub Consultant Mark Up - 0% - No Additional Mark Up
 Reimbursable Mark Up - 1.10 Multiplier
 Q:\Riviera Beach\Contract Docs\S2010-2A.xls

Authorized 
 4/28/2011