

**CONTRACT BETWEEN THE CITY OF RIVIERA BEACH
AND THE VANCE CONSTRUCTION COMPANY
FOR INSTALLATION OF FIXED AND FLOATING DOCK SYSTEMS
PIERS "E", "F" AND "G" AT THE CITY OF RIVIERA BEACH MARINA**

THIS AGREEMENT is dated and will be effective on the _____ day of May, 2019, by and between the City of Riviera Beach, a municipal corporation existing under the laws of the State of Florida, by and through its City Council, hereinafter referred to as the ("CITY ") and The Vance Construction Company, a Florida corporation, whose address is 225 Southern Blvd., Suite 201, West Palm Beach, Florida 33405, hereinafter referred to as the ("CONTRACTOR").

WHEREAS, the CITY issued a request for proposals for Installation of Fixed and Floating Dock Systems for Piers "E", "F" and "G" at the City of Riviera Beach Marina (RFP No. 968-19-1) (hereinafter the "RFP"); and

WHEREAS, the CONTRACTOR submitted a proposal in response to the RFP;

and **WHEREAS**, the CITY desires to accept CONTRACTOR'S proposal; and

WHEREAS, the CITY finds awarding RFP to the CONTRACTOR as described herein serves a valid public purpose.

NOW THEREFORE, in consideration of the mutual promises contained herein, the sufficiency of which is acknowledged by both parties, the CITY and CONTRACTOR agree as follows:

ARTICLE 1. WORK.

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

The CONTRACTOR's responsibility under this Contract is for the installation of fixed and floating dock systems, wave attenuation system, gangways and other marina components to expand and replace existing facilities at the City of Riviera Beach Marina. The project will also include demolition and disposal of existing marine structures. (as further described in the Contract Documents), as more specifically set forth in the Scope of Services, The Vance Construction Company Bid Schedule, dated December 21,2018, Proposal, dated January 28,2019, and RFP No. 968-19-1 and addendum No. 1, 2, & 3, detailed in Exhibits "A", "B", "C", AND "D" respectively. The performance of the Contract will be completed as more specifically set out in the Enclosures and in the Request for Proposal No. 968-19-1, including Addendums 1 through 3, which are made a part hereof by reference (as further described in the Contract Documents).

The City's representative/liaison during the performance of this Contract shall be Terrence Bailey, Acting Director of Public Works, Public Works telephone number 561-845-4080, [email: tbailey@rivierabch.com](mailto:tbailey@rivierabch.com).

ARTICLE 2. CONTRACT PRICE.

2.1. CITY shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents, subject to adjustment as provided therein, in current funds as follows: One Million Three Hundred Eighty Nine Thousand, One Hundred Seventy Three Dollars and Thirty Five Cents (\$1,389,173.35).

ARTICLE 3. MISCELLANEOUS.

3.1. CITY and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

3.2. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be stricken, and all remaining provisions shall continue to be valid and binding upon CITY and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with valid and enforceable provisions that come as close as possible to expressing the intention of the stricken provision.

3.3. Failure of either party to enforce or exercise any right(s) under the Contract Documents shall not be deemed a waiver of either party's right to enforce said right(s) at any time thereafter.

3.4. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THE CONTRACT DOCUMENTS.

3.5. The CONTRACTOR is, and shall be, in the performance of all Work under the Contract Documents, an Independent Contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the Work performed pursuant to the Contract Documents shall at all times and in all places be subject to the CONTRACTOR's sole direction, supervision and control.

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

3.7. If the CONTRACTOR is determined to be providing services on behalf of the City, the CONTRACTOR shall comply with Florida's Public Records Laws, and specifically agrees to:

- a) Keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the service.
- b) Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Contract and following completion of this Contract if the Contractor does not transfer the records to the City.
- d) Upon completion of this Contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Contract, the Contractor shall destroy any duplicate

public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT CLAUDENE L. ANTHONY, CMC, CITY CLERK, TELEPHONE NUMBER 561-849-3419, EMAIL CROBINSON@RIVIERABCH.COM, OFFICE OF THE CITY CLERK, 600 W. BLUE HERON BLVD. RIVIERA BEACH, FLORIDA 33404.

3.8. Governing Law; Consent to Jurisdiction: The Contract Documents shall be governed by and construed and interpreted in accordance with the laws of the State of Florida. Each of the parties hereto (a) irrevocably submit itself to the exclusive jurisdiction of the Fifteenth Judicial Circuit Court in and for Palm Beach County, Florida for state actions, and jurisdiction of the United States Court for the Southern District of Florida, for federal actions, the purposes of any suit, action or other proceeding arising out of, or relating to, the Contract Documents; and, (b) waives and agrees not to assert against any party hereto, by way of motion, as a defense or otherwise, in any suit, action or other proceeding, any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason whatsoever.

3.9. Except where specifically provided for in the Contract Documents, the CONTRACTOR shall not be entitled to an increase in the Contract Price 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 out of or related to delay, disruption, interference or hindrance from any cause whatsoever. Provided, however, and subject to sovereign immunity under section 768.28, Florida Statutes, that this provision shall not preclude recovery or damages by the CONTRACTOR for hindrances or delays due solely to fraud, bad faith or active interference on the part of the CITY. Otherwise, the CONTRACTOR shall be entitled only to extensions of the Contract Times as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided in the Contract Documents.

3.10. All documents, including but not limited to drawings, specifications, plans, reports, other items and data or programs stored in hard-copy, electronically or otherwise (collectively referred to as "Documents" hereafter), prepared by the CONTRACTOR or its subcontractors under the Contract Documents 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, the CONTRACTOR and its subcontractors will assign to the CITY all right, title and interest in and to CONTRACTOR's and/or its subcontractors' copyright(s) for such Documents. CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR and its subcontractors the right and/or limited license to use a portion of the Documents prepared by the CONTRACTOR or its subcontractors in future projects of the CONTRACTOR or its subcontractors with said right and/or limited license to use a portion at CONTRACTOR's or its subcontractor's own risk and without any liability to the CITY. Any modifications made by the CITY to any of the CONTRACTOR's or its subcontractor's Documents, or any use, partial use or reuse of the Documents without written authorization or adaptation by the CONTRACTOR or its subcontractor(s) will be at the CITY's sole risk and without liability to the CONTRACTOR or its subcontractor(s).

3.10.1. The CITY has SBE, MBE and Local Preference requirements that are more fully set forth in the Contract Documents that the CONTRACTOR must comply with. Failure to comply with said requirements may be grounds for termination.

3.11. 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.

3.12. The WHEREAS clauses set forth at the outset of the Standard Form of Agreement are incorporated herein as true and correct statements.

ARTICLE 4. CONTRACT DOCUMENTS.

Upon execution by the CITY AND CONTRACTOR, this Standard Form of Agreement shall be and is considered part of the Contract Documents. The Contract Documents which comprise the entire agreement between CITY AND CONTRACTOR concerning the Work consist of the following:

- 4.1 Executed Change Orders, Work Directives, or other authorized changes to the Contract Documents executed after the execution of this Standard Form of Agreement.
- 4.2 Executed Standard Form of Agreement.
- 4.3 The General Conditions.
- 4.4 CITY'S ISSUED Notice of Award and Notice to Proceed.
- 4.5 Addenda issued to the Request for Proposal and Instructions to Proposal providers.
- 4.6 The Request for Proposal, Instructions to Proposal holders, all attachments to the Instruction to Proposal providers
- 4.7 Technical Specifications/Drawings/Plans
- 4.8 Issued Permits for the Work.

- 4.9 The CONTRACTOR's Certificate of Insurance; Performance Bond and Payment Bond (Plus Power of Attorney Forms as applicable).
- 4.10 CONTRACTOR's Proposal and all required submittals.
- 4.11 CONTRACTOR's submittals after Work has commenced.
- 4.12 Any other documents otherwise incorporated in the Contract Documents by reference.
- 4.13 Mandatory Apprenticeship Program

There are no Contract Documents other than those listed above in this Article 4. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions. In the event of a discrepancy or conflict in the Contract Documents, the above order of precedence for the Contract Documents will govern the interpretation of the Contract Documents after award with those Contract Documents identified in paragraph 4.1 taking precedence over all other Contract Documents.

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CONTRACT WITH THE CITY OF RIVIERA BEACH


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

CORPORATE SEAL

CITY OF RIVIERA BEACH

THE VANCE CONSTRUCTION
COMPANY

BY: _____
RONNIE L. FELDER
MAYOR

BY:  _____
JAMES VANCE
PRESIDENT

ATTEST:

APPROVED AS TO TERMS AND
CONDITIONS

BY: _____
CLAUDENE L. ANTHONY
CERTIFIED MUNICIPAL CLERK
CITY CLERK

BY: _____
TERRENCE BAILEY
ACTING DIRECTOR OF
PUBLIC WORKS

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____
DAWN S. WYNN
CITY ATTORNEY

Date: _____

Purchasing initials _____

EXHIBIT "A"

SCOPE OF SERVICES

The objective of the City is to select a qualified Marine Contractor for the installation of fixed and floating dock systems, wave attenuation system, gangways and other marina components to expand and replace existing facilities at the City of Riviera Beach Marina. The project will also include demolition and disposal of existing marine structures. The supply of fixed and floating docks, wave attenuator system and gangways are NOT the responsibility of the Contractor as the City has contracted directly with a dock manufacturer (Marinetek, N.A., Manufacturer) through separate bid process. The Contractor will also NOT be responsible for the supply and installation of new utilities (electric/lighting, potable water, sewer and fire) as the selection of a Utility Contractor will be handled via separate bid process. The Contractor shall be responsible for the installation of fixed and floating docks including support pilings in accordance with Manufacturer shop drawings and installation manuals. Plans and specifications prepared by Sea Diversified, Inc., the City Marine Engineer (Engineer), as pertaining to the installation of fixed and floating docks, show the general extent of work and are to be used for project bidding purposes only.

EXHIBIT "B"

BID **SCHEDULE OF PRICES**

EXHIBIT "C"

THE VANCE CONSTRUCTION COMPANY PROPOSAL

EXHIBIT "D"

**CITY OF RIVIERA BEACH
REQUEST FOR PROPOSAL
No. 968-19-1**

&

ADDENDUM 1, 2, & 3

FOR

**INSTALLATION OF FIXED AND FLOATING DOCK SYSTEMS
PIERS "E", "F" AND "G"**