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## Sample Agreement

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**THIS AGREEMENT** is by and between INDIAN RIVER COUNTY, a Political Subdivision of the State of Florida organized and existing under the Laws of the State of Florida, (hereinafter called OWNER)

and \_\_\_\_\_  
(hereinafter called CONTRACTOR). OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

### **ARTICLE 1 - WORK**

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

- Mobilization and FDEP and ACOE permitting;
- Restoration and modification of existing wood pier, including electrical and fire protection work, using synthetic replacement decking and stainless steel connectors;
- Removal of certain deteriorated submerged pilings;
- Site work; and
- New piles and support framing for existing historic ice house and necessary repair to floor and roof.

### **ARTICLE 2 - THE PROJECT**

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Project Name:	Archie Smith Fish House Dock Restoration
RFP Number:	2017054
Project Address:	1740 N. Indian River Drive, Sebastian, FL

### **ARTICLE 3 – TERM AND CONTRACT TIMES**

3.01 *Term:* This Agreement shall remain in effect for a term of one (1) year, unless otherwise sooner terminated by mutual consent of the parties.

3.02 *Time of Completion:* Project shall be completed, to include approval by the Building Division \_\_\_\_\_ days from receipt of the Notice to Proceed.

### **ARTICLE 4 - CONTRACT PRICE**

4.01 OWNER shall pay CONTRACTOR for completion of the Work an amount in current funds equal to the sum of the amounts determined pursuant to paragraph 4.01.A and summarized in paragraph 4.01.B, below:

- A. For all Work, at the prices stated in CONTRACTOR's Proposal, attached hereto as an exhibit.
- B. THE CONTRACT SUM subject to additions and deductions provided in the Contract Documents:

Numerical Amount: \$ \_\_\_\_\_

Written Amount: \_\_\_\_\_

#### **ARTICLE 5 – PAYMENT PROCEDURES**

##### 5.01 Method of Payment

Owner shall make only one payment for the entire amount of the contract when the work has been completed. Upon a determination of satisfactory completion, the COUNTY Project Manager will authorize payment to be made. All payments for services shall be made to the CONTRACTOR by the COUNTY in accordance with the Local Government Prompt Payment Act, as may be amended from time to time (Section 218.70, Florida Statutes, et seq.).

##### 5.02 Acceptance of Final Payment as Release

The acceptance by the CONTRACTOR of final payment shall be and shall operate as a release to the OWNER from all claims and all liability to the CONTRACTOR other than claims in stated amounts as may be specifically excepted by the CONTRACTOR for all things done or furnished in connection with the work under this Agreement and for every act and neglect of the OWNER and others relating to or arising out of the work. Any payment, however, final or otherwise, shall not release the CONTRACTOR or its sureties from any obligations under this Agreement, the Invitation to Bid or the Public Construction Bond.

#### **ARTICLE 6 –INDEMNIFICATION**

6.01 The CONTRACTOR shall indemnify and hold harmless the OWNER, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful misconduct of the CONTRACTOR and other persons employed or utilized by the CONTRACTOR in the performance of the Work.

#### **ARTICLE 7 - CONTRACTOR'S REPRESENTATIONS**

7.01 In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

- A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Request for Proposal documents.
- B. CONTRACTOR has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data

concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto.

- E. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- F. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Contract Documents.
- G. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- H. CONTRACTOR has given OWNER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents, and the written resolution thereof by OWNER is acceptable to CONTRACTOR.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

## **ARTICLE 8 - CONTRACT DOCUMENTS**

### 8.01 *Contents*

A. The Contract Documents consist of the following:

- (1) This Agreement (pages 1 to 7, inclusive);
- (2) Notice to Proceed
- (3) Public Construction Bond (pages    to   , inclusive);
- (4) Certificate of Liability Insurance
- (5) Invitation to Bid 2017054
- (6) Addenda (numbers    to   , inclusive);
- (7) CONTRACTOR'S Bid Form (pages    to   , inclusive);
- (8) Bid Bond (pages    inclusive);
- (9) Drug Free Workplace Form (pages    to   , inclusive);
- (10) Affidavit of Compliance (page   );

- (11) Sworn Statement Under Section 105.08, Indian River County Code, on Disclosure of Relationships  
(pages\_\_ to \_\_, inclusive);
- (12) The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
- a) Written Amendments;
  - b) Work Change Directives;
  - c) Change Order(s).

## **ARTICLE 9 – MISCELLANEOUS**

### 9.1 *Terms*

- A. Terms used in this Agreement will have the meanings indicated in the Invitation to Bid.

### 9.2 *Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Agreement will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

### 9.3 *Successors and Assigns*

- A. OWNER 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 to all covenants, agreements, and obligations contained in the Contract Documents.

### 9.4 *Severability*

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

### 9.5 *Venue*

- A. This Agreement shall be governed by the laws of the State of Florida. Venue for any lawsuit brought by either party against the other party or otherwise arising out of this Agreement shall be in Indian River County, Florida, or, in the event of a federal jurisdiction, in the United States District Court for the Southern District of Florida.

9.6 *Public Records Compliance*

- A. Indian River County is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:
- (1) Keep and maintain public records required by the County to perform the service.
  - (2) Upon request from the County's Custodian of Public Records, provide the County 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 or as otherwise provided by law.
  - (3) 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 the contract term and following completion of the contract if the contractor does not transfer the records to the County.
  - (4) Upon completion of the contract, transfer, at no cost, to the County all public records in possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County 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 County, upon request from the Custodian of Public Records, in a format that is compatible with the information technology systems of the County.

**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 AT:**

**(772) 226-1424**  
**[publicrecords@ircgov.com](mailto:publicrecords@ircgov.com)**  
**Indian River County Office of the County Attorney**  
**1801 27<sup>th</sup> Street**  
**Vero Beach, FL 32960**

Failure of the Contractor to comply with these requirements shall be a material breach of this Agreement.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or on their behalf

This Agreement will be effective on \_\_\_\_\_, 20\_\_ (the date the Contract is approved by the Indian River County Board of County Commissioners, which is the Effective Date of the Agreement).

**OWNER:**

**CONTRACTOR:**

INDIAN RIVER COUNTY

\_\_\_\_\_

By: \_\_\_\_\_  
Joseph E. Flescher, Chairman

By: \_\_\_\_\_  
(Contractor)

By: \_\_\_\_\_  
Jason E. Brown, County Administrator

(CORPORATE SEAL)

Attest \_\_\_\_\_

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY:**

By: \_\_\_\_\_  
Dylan Reingold, County Attorney

Address for giving notices:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Jeffrey R. Smith, Clerk of Court and Comptroller

Attest: \_\_\_\_\_  
Deputy Clerk  
(SEAL)

Agent for service of process: \_\_\_\_\_

Designated Representative:  
Name: Roland DeBlois  
Title: Chief, Environmental Planning and Code Enforcement  
Address: 1801 27<sup>th</sup> Street, Vero Beach, FL 32960  
Phone: (772) 226-1258  
Email: [rdeblois@ircgov.com](mailto:rdeblois@ircgov.com)

Designated Representative:  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

(If CONTRACTOR is a corporation or partnership, Attach evidence of authority to sign.)