ATTACHMENT "B"

AGREEMENT

THIS AGREEMENT made the _____ day of _____, 2009, by and between _____ hereinafter called the CONTRACTOR, and **WAKULLA COUNTY**, **FLORIDA**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter called the COUNTY.

WITNESSETH:

That for the consideration and under the provisions hereinafter referred to moving from each to the other said parties, respectively, it is mutually understood and agreed by the COUNTY and the CONTRACTOR as follows:

Article 1. The Contract Documents and Incorporation

The "Contract Documents" means and includes the following:

A. This Contractor Agreement, hereinafter called Agreement
B. Specifications (Attachment A)
C. Mashes Sands and Wooley Park, Invitation to Bid (Attachment B)
D. Schedule of Deadlines (Attachment C).

This Agreement and its listed attachments, which are hereby incorporated and fully integrated into this Agreement, shall embody the entire Agreement of the parties.

Article 2. Scope of Work

The CONTRACTOR shall furnish all of the materials and perform all of the work to construct the Mashes Sands and Wooley Park Pier Modifications in accordance with the plans and specifications attached hereto as Attachment A.

Article 3. Quality of Work

All work shall be completed in a workman-like manner and in compliance with all specifications and building codes and other applicable laws.

Article 4. The Contract Price

The COUNTY shall pay the CONTRACTOR for the material and satisfactory work to be performed under the Agreement the sum of _____.

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Article 5. Time of Completion

The work to be performed under this Agreement shall be commenced on or before September 1, 2009, and shall be substantially completed on or before October 15, 2009 with Schedule of Deadlines, attached hereto as Attachment C and incorporated by reference.

Article 6. Progress Payments

Payments of the Contract Price shall be paid in the following manner:

CONTRACTOR will submit to COUNTY, a partial payment application covering the work performed and materials stored, minus Ten Percent (10%) retainage, for the period covered by the partial payment application. These payment applications will be submitted by the 25th day of each month and payment is due to CONTRACTOR within 30 days.

COUNTY, within thirty days shall make the payment requested by the application unless COUNTY questions or rejects the work product, within said 15 days.

Article 7. CONTRACTOR's Responsibility for Timeliness

CONTRACTOR shall provide the improvements required by the Construction Documents and Specifications, attached hereto as Attachment A, in a timely manner in accordance to the Schedule of Deadlines, attached hereto as Attachment C. CONTRACTOR must report all extenuating circumstances and request exceptions in writing to COUNTY for consideration immediately upon discovery that the terms of services will not be met in a particular area. Any exceptions not submitted and approved in writing, as specified herein, will be assessed the applicable liquidated damages as described in Article 9 of this Agreement.

Article 8. Termination by COUNTY.

COUNTY may terminate this contract due to CONTRACTOR'S failure to comply with any material term of this contract; and/or failure to remedy said "failure to comply" within fifteen (15) days of written notice of same.

Article 9. CONTRACTOR's Responsibilities Upon Termination

After receipt of a Notice of Termination, and except as otherwise specified by COUNTY, CONTRACTOR shall:

1. Stop work under the Agreement of the date, and to the extent specified, in the notice.

2. Complete performance of such part of the work not terminated by the COUNTY.

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3. Take such actions as may be necessary, or as COUNTY may specify, to protect and preserve any property related to any contract that results from this Agreement which is in the possession of CONTRACTOR and in which COUNTY has or may acquire an interest.
4. Upon the effective date of termination of the Agreement, the CONTRACTOR shall transfer, assign, and make available to COUNTY all property and materials belonging to the COUNTY. No extra compensation will be paid to the CONTRACTOR for services in connection with such transfer or assignment.

Article 10. Liquidated Damages for Failure to Complete on Time

1. In as much as failure to complete the project within the time established in this Agreement will result in substantial injury to the COUNTY, and as damages arising from such failure cannot be calculated with any degree of certainty, it is hereby agreed that if the project is not completed, on time, in accordance with the provisions of this Agreement, $1,000.00 dollars for each and every calendar day elapsing between the date fixed for substantial completion of any stage of the project and the date such completion shall be fully accomplished shall be allowed for damages for such delay, not as a penalty. It is also hereby agreed that if this project is not finally complete, in accordance with the requirements of the Contract Documents, the CONTRACTOR shall pay to the COUNTY as liquidated damages for such delay, and not as penalty, one-fourth of the rate indicated above. Said liquidated damages shall be payable in addition to any excess expenses or costs payable by CONTRACTOR to COUNTY under this Agreement shall not exclude the recovery of damages by the COUNTY under the provisions of the Contract Documents, except for CONTRACTOR delays.
2. This provision for liquidated damages for delay shall in no manner affect the COUNTY's right to terminate the Agreement as provide elsewhere in the Contract Documents. The COUNTY's exercise of the right to terminate shall not release the CONTRACTOR from its obligation to pay said liquidated damages in the amount stated in this Agreement.
3. It is further agreed that the COUNTY may deduct from the balance retained by the COUNTY under the provisions provided for or such portion thereof as the said retained balance will cover.

Article 11. Change Order

Any alteration or deviation from the above specifications, including but not limited to any such alteration or deviation involving additional material and/or labor costs, will be executed only upon a written order for same, signed by the County's Administrator and CONTRACTOR. Any change orders must be signed before any changes whatsoever are made. All change orders shall be in writing and signed both by the County's Administrator and CONTRACTOR and shall be incorporated in, and become a part of the Agreement.

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Article 12. In the Event of COUNTY's Failure to Pay
If payment is not made when due, CONTRACTOR may suspend work on the job until such time as all payments due have been made. A failure to make payment for a period in excess of thirty (30) days from the due date of the approved payment shall be deemed a material breach of this Agreement.

Article 13. License Approved
To the extent required by law, all work shall be performed by individuals licensed and authorized by law to perform said work.

Article 14. Insurance Requirement
CONTRACTOR warrants it is adequately insured for injury to its employees and others incurring loss or injury as a result of the acts of CONTRACTOR or its employees or subcontractors, and will provide proof of insurance to COUNTY prior to commencement of work.

Article 15. Licenses, Permits and Taxes
CONTRACTOR shall pay for all licenses, permits, taxes, inspection and/ or architectural fees required for the project. Also, CONTRACTOR shall comply with all federal, state, and local codes, laws, ordinances, regulations and other requirements applicable to the work specified at no additional cost.

Article 16. Site to be Left Clean upon Completion of Project.
CONTRACTOR agrees to remove all debris and leave the premises in broom clean condition. Also CONTRACTOR shall leave the work area clean at the time of their completion.

Article 17. Warranty of Work
CONTRACTOR warrants all work for a period of one (1) year following completion of the entire project.

Article 18. Attorney's Fees
In the event litigation is necessary to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable costs and attorney's fees.

Article 19 Status
CONTRACTOR at all times relevant to this Agreement, shall be an independent contractor and in no event shall CONTRACTOR nor any employees or subcontractors under it be considered employees of COUNTY.

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Article 20 Venue and Governing Laws

Venue for all actions arising under this Agreement, and all work pertaining thereto, shall lie in Wakulla County, Florida. This Agreement shall be governed by the laws of the State of Florida wherever applicable.

Article 21 Prohibition of Liens

CONTRACTOR is prohibited from claiming a lien on property owned by COUNTY. This prohibition shall apply to all subcontractors.

Article 22 Severability

If any provision of this Agreement is determined to be illegal, invalid or unenforceable, such provision shall be deemed stricken here from and all remaining provisions of the Agreement shall remain binding upon the parties. If any provision is stricken under this Article, there will be added in lieu thereof, by written agreement between the parties, a provision as similar in terms to such stricken provision as is possible which is legal, valid and enforceable.

Article 23 Invitation to Bid Incorporated by Reference

Both parties shall be subject to all duties and requirements set forth expressly or impliedly from the Mashes Sands and Wooley Park Pier Modifications, Invitation to Bid Number: 2009-013, attached hereto as Attachment B and incorporated by reference.

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ATTACHMENT "B"

Signed in the presence of:

_____

_____

CONTRACTOR

By:
_____

Physical Address: _____
_____

Mailing Address:_____
_____

CONTRACTOR's State License No.: _____

DONE AND ADOPTED this _____ day of _____, 2009.

BOARD OF COUNTY COMMISSIONERS
OF WAKULLA COUNTY, FLORIDA

By: _____
HOWARD KESSLER, Chairman

ATTEST:

_____
BRENT X. THURMOND, Ex Officio
Clerk to the Board

APPROVED AS TO FORM:

_____
RONALD A. MOWREY, Esquire
Attorney for the Board

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