

PORT ST. LUCIE CITY COUNCIL  
AGENDA ITEM REQUEST

COUNCIL ITEM 13A  
DATE 8/20/12

Meeting Date: August 20, 2012

Public Hearing \_\_\_ Ordinance \_\_\_ Resolution \_\_\_ Motion X

Item: Contract #20050079 Master Contracts for Road Construction Firms

Recommended Action:

Approval of Renewal #1 to Contract #20050079 with Ranger Construction Industries, Inc. for the Master Contract for Road Construction firms. As per Section XXIII of the contract, renewal of this contract is being requested. Renewal Contract period will be September 1, 2012 to June 27, 2015.

Exhibits: Department memo attached [ X ] yes

Copies of the Renewal #1

Summary Explanation/Background Information: Due to the litigation agreement between the City and Ranger Construction the renewal of the Master Road Construction Contract is being submitted for approval.

Purchase ( ) is ( x ) is not a replacement

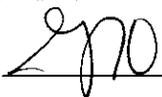
Purchase ( x ) was budgeted ( ) was not budgeted.

Expenditure: As Budget Allows

Department requests expenditure from the following:

Fund	TBD	
Cost Center	TBD	
Object Code	TBD	
Project	TBD	

Director of OMB concurs with award: 

City Manager concurs with award: 

Department requests 0 minutes to make a presentation.

Submitted by: Patricia Roebing

Title: City Engineer

Date: 8/9/2012

**RECEIVED**

AUG 10 2012

City Manager's Office

# CONTRACT RENEWAL FORM

Date: August 20, 2012

Contract 20050079 Renewal # 1

Contract Title: Master Contract Road Construction Services

Contractor's Name: Ranger Construction Industries, Inc.

Current Expiration: 06/27/10

Revised Expiration: 06/27/15

The above contract is hereby pursuant to Section XXIII until the date indicated above. All other terms and conditions of the original contract and/or Addenda are unchanged. This Contract Renewal is contingent upon an annual appropriation by City Council. The Contractor agrees that, in the event such appropriation is not forthcoming, the City may terminate this Contract Renewal and that no charges, penalties or other cost shall be assessed.

As a result of the Contractor's offer to provide the "Renewal Option" as specified in the original contract, the following modifications to the original contract will become effective September 1, 2012

1. The contract is extended to include the period of 9/1/2012 through 6/27/2015.
2. All other terms and conditions of the original contract and/or Addenda apply.

IN WITNESS WHEREOF, the parties have executed this contract at Port St. Lucie Florida, the day and year first above written.

CITY OF PORT ST. LUCIE FLORIDA

By: \_\_\_\_\_  
City Manager

ATTEST:

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Authorized Representative of Ranger Construction Industries, Inc.

State of: \_\_\_\_\_

County of: \_\_\_\_\_

Before me personally appeared: \_\_\_\_\_  
(Please Print)

Please check one:

Personally known \_\_\_\_\_

Produced Identification \_\_\_\_\_  
(Type of Identification)

Identification No. \_\_\_\_\_

known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that \_\_\_\_\_ executed said instrument for the purposes therein expressed.  
(he/she)

WITNESS my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Signature

Notary Public-State of \_\_\_\_\_ at Large

My Commission Expires \_\_\_\_\_.

(seal)

**SECTION XXI  
REIMBURSEMENT FOR INSPECTION**

The CONTRACTOR agrees to reimburse the City for any expenditures incurred by the City in the process of testing materials supplied by the CONTRACTOR against the specifications under which said materials were procured, if said materials prove to be defective, improperly applied, and/or in other manners not in compliance with specifications. Expenditures as defined herein shall include, but not be limited to, the replacement value of materials destroyed in testing, the cost paid by the City to testing laboratories and other entities utilized to provide tests, and the value of labor and materials expended by the City in the process of conducting the testing. Reimbursement of charges as specified herein shall not relieve the CONTRACTOR from other remedies provided in the Contract.

**SECTION XXII  
APPROPRIATION APPROVAL**

The CONTRACTOR acknowledges that the City of Port Saint Lucie's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. The Contractor agrees that, in the event such appropriation is not forthcoming, the City may terminate this Contract and that no charges, penalties or other costs shall be assessed.

**SECTION XXIII  
RENEWAL OPTION**

In the event CONTRACTOR offers in writing at least three (3) months, prior to the termination of this Contract, to provide the identical services required in this Contract for the identical period of time in the subsequent calendar period for a total charge that is acceptable, then the City, without additional bidding or negotiation, may, with the mutual agreement of the CONTRACTOR, extend this Contract for an additional five (5) year period.

**NOTE: CONTRACTOR may exercise the option to renew by submitting a written submission three (3) months prior to the termination of the Contract period.**

**SECTION XXIV  
ENTIRE AGREEMENT**

The written terms and provisions of this Contract shall supersede all prior verbal statements of any official or other representative of the City. Such statements shall not be effective or be construed as entering into, or forming a part of, or altering in any manner whatsoever, this Contract or Contract documents.

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## MEMORANDUM

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TO: GREGORY J. ORAVEC, CITY MANAGER  
THROUGH: ROGER G. ORR, CITY ATTORNEY   
FROM: PAM E. BOOKER, SENIOR ASSISTANT CITY ATTORNEY   
DATE: AUGUST 9, 2012  
SUBJECT: SETTLEMENT AGREEMENT- RANGER CONSTRUCTION

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Attached please find a Settlement Agreement memorandum for the City Council, dated April 5, 2011, regarding Ranger Construction. Paragraph five of the Settlement Agreement states,

"Nothing in this Agreement shall in any way impact, modify or affect RANGER or its subsidiaries, affiliates or related entities' rights to continue to be qualified, pre-qualified (where called for) or otherwise submit bids or participate in any CCNA selection procedures or the like in the future for CITY projects for any and all projects and scope of work for which RANGER or its subsidiaries, affiliates or related entities are duly licensed and qualified to perform. Nothing herein shall affect RANGER's standing to seek such work or in any way deemed it not to be considered a responsible bidder and to have completed its scope of work on the Project."

Ranger wants to be placed back on the master list as pre-qualified to bid on City projects. Pursuant to an email dated August 7, 2012, from Bob Schafer to Mr. Orr, Ranger has not been placed back on the master list of pre-qualified bidders as contemplated by the Settlement Agreement. Ranger is requesting to be placed on the list and allowed to bid on City projects. Should you have any questions or need additional information, please contact me at 871-5165.

PEB/liw

**RECEIVED**

AUG 14 2012

## Pam Booker

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**From:** Roger Orr  
**Sent:** Wednesday, August 08, 2012 11:34 AM  
**To:** 'Bob Schafer'; Mayor Faiella; Greg Oravec  
**Cc:** Cheryl Shanaberger; Robyn Holder; Pam Booker  
**Subject:** RE: Ranger Construction (Bayshore) Settlement

The city's OMB office will be contacting you regarding the renewal of Ranger's participation on the pre-qualified contractor's list.

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**From:** Bob Schafer [mailto:Bob.Schafer@rangerconstruction.com]  
**Sent:** Tuesday, August 07, 2012 3:09 PM  
**To:** Mayor Faiella; Greg Oravec; Roger Orr  
**Subject:** Ranger Construction (Bayshore) Settlement

Good afternoon,

Prior to Ranger's filing of the lawsuit on the Bayshore Blvd project, we were on the list of Contractors for the Master Contract for Road Construction. Subsequent to the suit, we were deemed "adversarial" and pulled from the list. Our settlement of the suit over a year ago, was to included Ranger being back in good standing.

The City recently advertised two projects that required the bidders to be on the Master list. Ranger doesn't appear on the current list but is requesting reinstatement. Please advise.

**Bob Schafer, Exec. Vice President**

**Ranger Construction Industries, Inc.**

101 Sansbury's Way  
West Palm Beach, FL 33411  
(772) 370-1598 Mobile  
(561) 793-9400 Office

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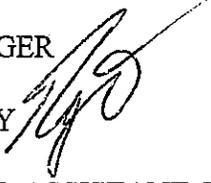
8/8/2012

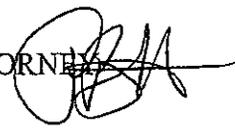
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**MEMORANDUM**

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TO: JERRY BENTROTT, CITY MANAGER

THRU: ROGER G. ORR, CITY ATTORNEY 

FROM: PAM E. BOOKER HAKIM, SENIOR ASSISTANT CITY ATTORNEY 

DATE: April 5, 2011

SUBJECT: SETTLEMENT AGREEMENT  
STIPULATION FOR DISMISSAL WITH PREJUDICE  
RANGER V. CITY OF PORT ST. LUCIE

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The City of Port St. Lucie was sued by Ranger Construction Industries, Inc., for breach of contract over the construction of Bayshore Boulevard. The City met with representatives of Ranger at their request to discuss possible settlement of the outstanding litigation. As a result of that meeting, the parties have proposed resolving the litigation for \$1,000,000.00., one million dollars pursuant to the attached Settlement Agreement and Stipulation for Dismissal with Prejudice. The lawsuit between the City of Port St. Lucie and Ranger would be dismissed upon approval of the Settlement Agreement.

These documents have been reviewed and approved by the legal department. Please place this item on the next available City Council agenda for approval. Should you have any questions, or need any additional information, please do not hesitate to contact me at 873-6525.

**RECEIVED**

APR 06 2011

City manager's Office

IN THE CIRCUIT COURT OF THE  
NINETEENTH JUDICIAL CIRCUIT, IN  
AND FOR ST. LUCIE COUNTY,  
FLORIDA

RANGER CONSTRUCTION INDUSTRIES,  
INC., a Florida corporation,

Plaintiff,  
vs.

CASE NO.: 562009CA002853  
JUDGE BURTON CONNER

CITY OF PORT ST. LUCIE,  
A Florida municipality

Defendants.

2011 APR 14 AM 8:53  
ST. LUCIE COUNTY  
CLERK OF CIRCUIT COURT

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**SETTLEMENT AGREEMENT**

This Settlement Agreement between the CITY OF PORT ST. LUCIE, Florida Municipal Corporation ("CITY") and RANGER CONSTRUCTION INDUSTRIES, INC, ("RANGER") (collectively "PARTIES") shall be effective the date last written below.

1. WHEREAS, on or about July, 20, 2004, the CITY entered into a contract with Ranger, by way of a Change Order to the Airoso Boulevard Project Contract (the "CONTRACT") with RANGER for Bayshore Boulevard Widening Improvements that included a four-lane road widening 3.2 miles long which included constructing drainage ponds and facilities, water and sewer adjustments, roadway, lighting, sidewalks, landscaping, drainage, and signalized intersection improvements (the "Project"). The Project is located in the CITY of Port St. Lucie;

2. WHEREAS, there arose a dispute between the CITY and RANGER regarding the scope of work, extra work, certain payments and other contractual issues;

3. WHEREAS, RANGER made a claim against the CITY for such extra work, extended general Conditions, loss of efficiency and other claims, all of which were brought in a lawsuit styled as RANGER CONSTRUCTION INDUSTRIES, INC., a Florida corporation, Plaintiff, vs. CITY OF PORT ST. LUCIE, a Florida municipality ("the LITIGATION");

4. WHEREAS, the CITY has denied responsibility for such claims and has so stated in its responsive pleading and further states that this Settlement Agreement shall not be construed as an admission by the City, its managers, employers, agents, representatives, assigns and successors or the Port St. Lucie City Council individually or collectively;

5. WHEREAS, the PARTIES in an effort to amicably resolve this dispute have negotiated and have reached a settlement of all claims, counterclaims or defenses to same which were brought or could have been brought in the LITIGATION;

6. WHEREAS, the PARTIES have agreed to compromise and fully settle their dispute with regard to all claims arising out of Case No. 562009CA002853, styled RANGER CONSTRUCTION INDUSTRIES, INC, a Florida corporation v. CITY OF PORT ST. LUCIE, a Florida municipality in the Nineteenth Judicial Circuit in and for St. Lucie County.

**NOW, THEREFORE**, in consideration of the sum of One Million Dollars and 00/100 (\$1,000,000.00) to be paid to RANGER and other good and valuable consideration, including but not limited to the adjustment of the CONTRACT Sum, the PARTIES hereby agree as follows:

1. The above stated recitals are true and correct as of the date hereof.

2. This Settlement Agreement is a compromise and settlement of the disputed claims on the PROJECT, the Contract, and the Litigation only, and is not intended as a settlement, waiver, or release of any other claims, matters disputed and contested claims and nothing contained herein shall be construed as an admission by any party hereto of any liability of any kind to any other party.

3. The PARTIES shall bear their own attorney's fees and costs in this matter except as otherwise provided herein.

4. The PARTIES agree that RANGER will prepare and execute a Joint Stipulation for Dismissal with Prejudice of the LITIGATION and RANGER will exchange same for the payment of the settlement sum. Upon receipt of the same, CITY shall have its counsel execute and immediately file the same.

5. Nothing in this Agreement shall in any way impact, modify or affect RANGER or its subsidiaries, affiliates or related entities' rights to continue to be qualified, pre-qualified (where called for) or otherwise submit bids or participate in any CCNA selection procedures or the like in the future for CITY projects for any and all projects and scope of work for which RANGER or its subsidiaries, affiliates or related entities are duly licensed and qualified to perform. Nothing herein shall affect RANGER's standing to seek such work or in any way deemed it not to be considered a responsible bidder and to have completed its scope of work on the Project.

6. Exclusive of the obligations, requirements and duties expressly set forth in this Settlement Agreement, the PARTIES hereto and each and every current and former parent, subsidiary, affiliate, division, partner, trustee, stockholder, director, officer, principal, employee, successor, predecessor, assign, attorney, and agent of the undersigned expressly release, waive, relinquish, remise, acquit, satisfy and forever discharge the other PARTY hereto and all persons and entities, their heirs, sureties,

insurance carrier, legal representatives, predecessors, successors, and assigns, and their current and former parents, subsidiaries, affiliates, divisions, partners, trustees, stockholders, directors, agents, officers, principals, escrow agents and employees from and all claims or causes of action, suits, debts, sums of money, accounts, covenants, contracts, controversies, agreements, promises, damages, claims and demands, both in law and in equity, which any party ever had, now has, or which any party hereafter, can, shall or may have against any other PARTY arising only out of and in connection with the disputed claims which were brought or could have been brought or asserted in the LITIGATION. In the event any parts of this Settlement Agreement are found to be void, the remaining provisions of this Settlement Agreement shall nevertheless be binding with the same effect as though the void parts were deleted.

7. If, under any present or future law, any clause or provision of this Settlement Agreement is determined to be unlawful, invalid or unenforceable by the final judgment of a court of competent jurisdiction, the remainder of this Settlement Agreement will not be affected thereby. It is the intention of the parties that if any such provision is held to be unlawful, invalid or unenforceable, there will be added in lieu thereof a provision as similar in terms of such provision as is possible that will be lawful, valid and enforceable.

8. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. The execution of this Settlement Agreement may be by actual, electronic or facsimile signature and said electronic or facsimile signature shall be binding upon the PARTIES hereto.

9. Subject to the provision of this Settlement Agreement, this Settlement Agreement shall be binding upon and inure to the benefit of the PARTIES hereto and their respective successors and assigns. This Settlement Agreement may only be amended by an instrument in writing executed by all PARTIES hereto.

10. This Settlement Agreement shall be construed under the laws of the State of Florida.

11. The PARTIES acknowledge that they have reviewed this Settlement Agreement and have had the opportunity to obtain the advice of counsel of their choice prior to executing this Settlement Agreement.

12. The PARTIES represent and warrant that the person executing this Settlement Agreement on their behalf is duly authorized by each of them to do so.

13. This Settlement Agreement constitutes and contains the complete understanding of the PARTIES with respect to the subject matters addressed herein and supersedes and replaces all prior negotiations and all agreements, proposed or otherwise, whether written or oral, concerning the subject matters hereof.

IN WITNESS WHEREOF, the PARTIES hereto have caused this Settlement Agreement to be executed effective the date last written below.

Signed, sealed and delivered  
the presence of:

RANGER CONSTRUCTION INDUSTRIES, INC

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Signed, sealed and delivered  
in the presence of:

CITY OF PORT ST. LUCIE

*Mary Ann Verillo*  
\_\_\_\_\_  
Print Name: *Mary Ann Verillo*

By: *Jerry A. Bentrutt*  
\_\_\_\_\_  
Print Name: Jerry A. Bentrutt

*Patricia A. Lipp*  
\_\_\_\_\_  
Print Name: *Patricia A. Lipp*

Title: City Manager  
Date: *4/12/11*

IN WITNESS WHEREOF, the PARTIES hereto have caused this Settlement Agreement to be executed effective the date last written below.

Signed, sealed and delivered  
the presence of:

RANGER CONSTRUCTION INDUSTRIES, INC

Michael Kracunas  
Print Name: MICHAEL KRACUNAS

Andrew D. Hughes  
Print Name: ANDREW D. HUGHES

By: Michael Slade  
Print Name: Michael Slade  
Title: President  
Date: April 7, 2011

Signed, sealed and delivered  
in the presence of:

CITY OF PORT ST. LUCIE

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: Jerry A. Bentrutt  
Title: City Manager  
Date: \_\_\_\_\_