

PROJECT-SPECIFIC CONSTRUCTION CONTRACT

THE PARTIES TO THIS CONTRACT are the City of Daytona Beach, a Florida municipal corporation, hereinafter the "CITY" or "OWNER," and P & S Paving, Inc., a Florida profit corporation, hereinafter the "CONTRACTOR."

WITNESSETH, that the CONTRACTOR and the CITY agree as follows, for the mutual valuable consideration provided herein:

ARTICLE I. SCOPE OF WORK

The CONTRACTOR will, at its sole cost and expense, provide, perform, and complete the construction project commonly known as "ISB/Clyde Morris Blvd Water Main Emergency Repair" and more fully described in the Contract Documents, hereinafter the "Work".

ARTICLE II. CONTRACT DOCUMENTS

The Contract Documents include this Contract, the General Conditions attached as **Exhibit A**, the City Utility Department's Standard Details, which are not attached but which are fully incorporated herein by reference as **Exhibit B** (CONTRACTOR acknowledges receipt of this Exhibit), and the Contract Price Schedule attached as **Exhibit C**. In case of conflicts, this Contract will control over and Exhibit.

The Contract Documents are intended to include all information necessary for CONTRACTOR's proper prosecution and timely completion of the Work. CONTRACTOR will prosecute the Work as necessary to produce the results indicated by the Contract Documents. The Contract Documents are complementary, and what is required by one will be as binding as if required by all.

ARTICLE III. COMMENCEMENT AND COMPLETION

The CITY and the CONTRACTOR mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents. To that end, the CONTRACTOR will commence the Work not later than the Commencement Date set forth in the General Conditions, and will diligently and continuously prosecute the Work at such a rate, and with sufficient forces as will allow the CONTRACTOR to achieve Substantial Completion within 28 calendar days after the Commencement Date and Final Completion within 7 calendar days after Substantial Completion, subject only to any adjustments in the Contract Time that may be authorized by Change Orders properly issued in accordance with the Contract Documents. In executing this Contract, CONTRACTOR affirms that the time set for completion is reasonable.

ARTICLE IV. CONTRACT PRICE

Subject to any adjustments that may be authorized pursuant to this Contract, the Contract Price due the CONTRACTOR will not exceed \$560,000 for Work completed and accepted in accordance with the Contract Documents. The Contract Price will be paid based on the Unit Prices contained in Exhibit C, and represents the CONTRACTOR's sole compensation from the CITY for prosecution of the Work. The Contract Price will be paid in a single lump sum payment, upon CONTRACTOR's completion and CITY's acceptance of the Work, and CONTRACTOR's delivery of a written invoice containing sufficient information to allow the CITY to verify the amount owed. CITY will pay the amount owed within 30 days of receipt of invoice.

ARTICLE V. PERFORMANCE SECURITY

CONTRACTOR must provide a payment bond and a performance bond, or alternate form of Performance Security in an amount equal to 100% of the Contract Price

If CONTRACTOR elects to provide a payment bond and performance bond, CONTRACTOR will use bond forms provided or approved by the City. Completed bonds must be originals, not copies, with raised corporate seals included where applicable. The bonds must be accompanied by sufficient evidence of the authority of the issuing agent, including a certified copy of the power of attorney of the person signing the bond on the surety's behalf. The surety company executing the bonds must be must be rated "A" or better by A.M. Best Key Rating Guide, authorized to do business in the State of Florida, and must be listed by the United States Treasury Department Treasury Fiscal Service, Bureau of Government Financial Operations, Federal Register, Part V, latest revision, entitled: "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," as being approved for writing bonds for federal projects on its current list in an amount not less than the required bond amount.

If CONTRACTOR desires to use an alternate form of security, CONTRACTOR must obtain prior CITY approval. Any alternate security must comply with Florida Statutes § 255.05(7) and is subject to prior CITY approval.

ARTICLE VI. INDEMNIFICATION

A. CONTRACTOR hereby indemnifies and holds harmless the CITY from and against all liabilities, damages, losses, and costs, including but not limited to reasonable attorneys' fees, arising out of or resulting from the Work provided that the liabilities, damages, losses, and costs are caused in whole or in part by any negligence, recklessness, or intentional wrongful misconduct of CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any one of them, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. This indemnification agreement is separate and apart from, and in no way limited by, any insurance provided pursuant to this agreement or otherwise.

B. CONTRACTOR indemnifies the CITY against any claim of supplier's or subcontractor's lien (in cases where such payment is not already guaranteed by payment bond). If any claim or lien remains unsatisfied after all payments are made, CONTRACTOR must refund to the CITY all monies that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

C. For purposes of the obligations stated in this Article, references to the CITY include the CITY's officers, employees, and agents.

D. CONTRACTOR's obligations under this Article are made without regard to the availability of insurance of the CITY.

ARTICLE VII. INSURANCE

A. Required Insurance.

CONTRACTOR will purchase and maintain, at its own expense, the following types and amounts of insurance, primary and non-contributory with the CITY's own insurance, in form and companies satisfactory to the CITY:

1. **Workers' Compensation Insurance** – As required by Florida Statutes, Chapter 440, Workers' Compensation Insurance, for all employees of CONTRACTOR employed at the project site or in any way connected with the Work.

The insurance required by this provision will comply fully with the Florida Workers' Compensation Law and include Employers' Liability Insurance with limits of not less than \$500,000 per accident. Any associated or subsidiary company involved in the service must be named in the Workers' Compensation coverage.

2. **Liability insurance – Including Commercial General Liability coverage** for operations, independent contractors, products-completed operations, broad form property damage, collapse and underground, and personal injury on an "occurrence" basis, insuring the CONTRACTOR and any other interests, including but not limited to any associated or subsidiary companies involved in the Work; and **Automobile Liability coverage** insuring claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle used by CONTRACTOR at the project site or in any way connected with the Work.

THE COMMERCIAL GENERAL LIABILITY INSURANCE POLICY WILL NAME THE CITY AS AN ADDITIONAL INSURED. CONTRACTOR'S Commercial General Liability insurance policy shall provide coverage to CONTRACTOR, and CITY when required to be named as an additional insured either by endorsement or pursuant to a blanket additional insured endorsement, for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) without the attachment of any endorsements excluding or limiting coverage for Products/Completed Operations, Independent CONTRACTORS, Property of CITY in CONTRACTOR's Care, Custody or Control or Property of CITY on which contracted operations are being performed, Explosion, Collapse or Underground hazards (XCU Coverage, Contractual Liability or Separation of Insureds). When CITY is added as additional insured by endorsement, ISO Endorsements CG 20 10 and CG 20 37 or their equivalent shall be used to provide such Additional Insured status.

The limit of liability will be a combined single limit for bodily injury and property damage of no less than \$1,000,000 per occurrence. If insurance is provided with a general aggregate, the aggregate will be in an amount of no less than \$2,000,000. The Risk Manager may authorize lower liability limits for the automobile policy only, at the Risk Manager's sole discretion.

Unless specifically waived hereafter in writing by the Risk Manager, CONTRACTOR agrees that the insurer will waive its rights of subrogation, if any, against the CITY on each of the types of required insurance coverage.

B. Subcontractors' Insurance. Each of CONTRACTOR's subcontractors will be required to provide insurance in substantially similar form to the insurance required of CONTRACTOR above based on the services they will provide to the project.

C. Proof of Insurance. CONTRACTOR will furnish proof of insurance acceptable to the CITY prior to or at the time of execution of this Contract. CONTRACTOR will not commence Work until all required insurance has been approved by the CITY. CONTRACTOR will furnish evidence of all required insurance in the form of certificates of insurance which will clearly outline all hazards covered as itemized above, the amounts of insurance applicable to each hazard and the expiration dates.

Upon request of the Risk Manager, CONTRACTOR will also provide the CITY copies of the insurance contracts referenced by the certificates.

D. Cancellation and Replacement. CONTRACTOR will file replacement certificates 30 days prior to expiration or termination of any required insurance occurring prior to expiration or termination of this Contract. If such insurance terminates without CONTRACTOR's prior knowledge, immediately upon becoming aware of such termination CONTRACTOR will provide notice to the City's Risk Manager at P.O. Box 2451, Daytona Beach, Florida 32115-2451.

The CITY reserves the right to suspend any or all of the Work until such insurance has been replaced, or to obtain replacement insurance at CONTRACTOR's sole cost.

E. Termination of Insurance. CONTRACTOR will not cancel any required insurance coverage until the Work is completed, accepted by the CITY and CONTRACTOR has received written notification from the Risk Manager that CONTRACTOR is authorized to cancel the insurance and the effective date of such authorization. The Risk Manager will provide such written notification at the request of CONTRACTOR if the request is made no earlier than two weeks before the Work is to be completed.

The liabilities of CONTRACTOR under this Contract will survive and not be terminated, reduced, or otherwise limited by any expiration, limitation, exclusion, or termination of insurance coverage. Neither approval nor failure to disapprove insurance furnished by the contractor will relieve the CONTRACTOR or its sub-contractors from responsibility to provide insurance as required by the contract.

ARTICLE VIII. NOTICES

A. Where the Contract Documents authorize or require the CITY to provide notice to CONTRACTOR, notice may be provided by delivery by hand to CONTRACTOR's designated Superintendent at the Project Site, or in the absence or unavailability of the Superintendent to any other person on the Project Site who holds himself or herself out as managing the Work on behalf of CONTRACTOR, or in lieu of either of these, by written notice to the address provided below.

B. Where the Contract Documents authorize or require CONTRACTOR to provide notice to the CITY, notice may be provided only by written notice to the address provided below.

C. Written notice is valid only if sent by certified United States mail, return receipt requested, facsimile with confirmation receipt required, or by recognized courier such as Federal Express with confirmation receipt requested. All such notices will be deemed to have been duly given and provided on (i) the date of receipt, (ii) upon receipt or refusal of delivery if transmitted by registered or certified mail, return receipt requested, or (iii) the first business day after the date of deposit, if transmitted by reputable overnight courier service, whichever occurs first. Written notices will be sent to the following persons:

If to CONTRACTOR:
Attn: Todd Phillips
3701 Olson Drive
Daytona Beach, FL 32124
Fax: 386-258-9313

If to the CITY:
Attn: Shannon Ponitz, Interim Utilities Director
Daytona Beach Public Utilities
125 Basin St., Suite 204
Daytona Beach, FL 32114
Fax: 386-671-5913

provided, however, that either Party may by written notice change the address designated for receipt of written and faxed notices.

ARTICLE IX. DISPUTE RESOLUTION

If a dispute exists concerning this Contract, the Parties agree to use the following procedure prior to pursuing any judicial remedies.

A. **Negotiations Required.** A Party will request in writing that a meeting be held between representatives of each Party within 14 days of the request or such later date that the Parties may agree to. Each Party will attend and will include, at a minimum, a senior level decision maker (an owner, officer, or employee of each organization) empowered to negotiate on behalf of their organization. The purpose of this meeting is to negotiate the matters constituting the dispute in good faith. The Parties may mutually agree in writing to waive this step and proceed directly to mediation as described below.

B. **Non-Binding Mediation.** Mediation is a forum in which an impartial person, the mediator, facilitates communication between parties to promote reconciliation, settlement, or understanding among them. Within 30 days after the procedure described above proves unsuccessful or the Parties mutually waive the procedure, the Parties will submit to a non-binding mediation. The mediation, at a minimum, will provide for (i) conducting an on-site investigation, if appropriate, by the mediator for fact gathering purposes, (ii) a meeting of all Parties for the exchange of points of view and (iii) separate meetings between the mediator and each Party to the dispute for the formulation of resolution alternatives. The Parties will select a mediator trained in mediation skills and certified to mediate by the Florida Bar, to assist with resolution of the dispute. The Parties will act in good faith in the selection of the mediator and give consideration to qualified individuals nominated to act as mediator. Nothing in this Contract prevents the Parties from relying on the skills of a person who also is trained in the subject matter of the dispute or a contract interpretation expert. Each Party will attend and will include, at a minimum, a senior level decision maker (an owner, officer, or employee of each organization) empowered to negotiate on behalf of their organization.

If the Parties fail to reach a resolution of the dispute through mediation, then the Parties are released to pursue any judicial remedies available to them.

ARTICLE X. GENERAL PROVISIONS

A. This Contract will be governed by the laws of the state of Florida without regard to any choice of law principles that could result in application of the laws of any other jurisdiction. Venue for any legal action or proceeding arising out of this Contract is exclusively in the federal or state courts in and for Volusia County, Florida. The Parties hereby waive any right to stay or dismiss any action or proceeding brought under or in connection with this Contract that is brought before the above-referenced courts on the basis of *forum non-conveniens*.

B. In case of litigation arising out of this Contract where the meaning of one or more provisions is at issue, the CITY will not be penalized by virtue of its having drafted this Contract. CONTRACTOR has carefully reviewed and had the opportunity to seek advice of legal counsel prior to executing this Contract.

C. The CITY and CONTRACTOR agree that they have knowingly waived the right to trial by jury and have instead agreed that, in the event of any litigation arising out of or connected to this Contract, to proceed with a trial before the court, unless both parties subsequently agree otherwise in writing.

D. In performing the services provided for herein, CONTRACTOR is an independent contractor and not an employee of the CITY.

E. The waiver of any provision of this Contract will not be deemed to be a waiver of any other provision of this Contract. No waiver of any provision of this Contract will be deemed to constitute a continuing waiver unless expressly provided in writing, nor will a waiver of any default be deemed a waiver of any subsequent defaults of the same type. The failure at any time to enforce this Contract, whether the default is known or not, does not constitute a waiver or estoppel of the right to do so.

F. All terms and conditions of this Contract which contemplate a period of time beyond completion or termination, will survive such completion or termination and not be merged therein or otherwise terminated.

G. If any word, phrase, clause, sentence or provision of the Contract, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, invalid or unenforceable, that finding will only effect such word, phrase, clause, sentence or provision, and such finding will not affect the remaining portions of this Contract; this being the intent of the Parties in entering into the Contract; and all provisions of the Contract are declared to be severable for this purpose.

H. The undersigned representative of CONTRACTOR affirms that in executing this Contract on behalf of CONTRACTOR, he or she is fully authorized to bind CONTRACTOR to the terms and conditions herein set forth.

I. No CITY officer, employee, or independent consultant who is involved in the development, evaluation, or decision-making process of the performance of any solicitation will have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any violation of this provision, with the knowledge, expressed or implied, of CONTRACTOR will render the Contract voidable by the CITY.


J. This Contract represents the entire and integrated agreement between the CITY and CONTRACTOR with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral.

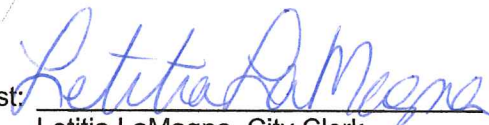
IN WITNESS WHEREOF, the Parties have executed this Contract on the dates written below.

THE CITY OF DAYTONA BEACH

P & S PAVING, INC.

By: 
James V. Chisholm, City Manager

By: 
Printed Name: TODD PHILLIPS
Title: V.P.

Attest: 
Letitia LaMagna, City Clerk

Date: 8-14-18

Date: 7-26-2018

Approved as to legal form:

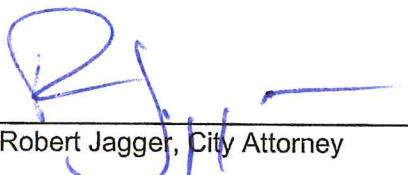
By: 
Robert Jagger, City Attorney

EXHIBIT A: GENERAL CONDITIONS

SECTION 1. Compliance with Legal Requirements. CONTRACTOR agrees to comply, at its own expense, with all federal, state and local laws, codes, statutes, ordinances, rules,

Regulations, and requirements (collectively, "Legal Requirements") applicable to the Work, including but not limited to the following:

- Legal Requirements dealing with taxation, Worker's compensation, and equal employment;
- The Occupational Safety and Health Administration's (OSHA) Excavation Safety Standard, 29 C.F.R.s 1926.650 Sub Part P, the Trench Safety Act, Florida Statutes § 553.60 et seq., the Underground Facility Damage Prevention and Safety Act, Florida Statutes § 556.101 et seq.; and
- The current stormwater permit issued to the City of Daytona Beach pursuant to the National Pollutant Discharge Elimination System (NPDES) program, a copy of which will be made available upon request.

SECTION 2. Reserved.

SECTION 3. Arrangement and Coordination. CONTRACTOR shall arrange the performance of the Work so as not to interfere with the CITY's normal hours of operation. CONTRACTOR shall meet with the CITY's Contract Administrator on a regular basis at the project site to review the prosecution of the Work. To the extent practical, CONTRACTOR shall reasonably accommodate the needs of City employees.

SECTION 4. Materials, Appliances, Employees. Unless otherwise stipulated, CONTRACTOR shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation, and other facilities necessary for the execution and completion of the Work. Unless otherwise specified, all materials incorporated in the Work shall be new and both Workmanship and materials shall be of good quality. If requested by the CITY, CONTRACTOR furnish satisfactory evidence as to the kind and quality of materials.

CONTRACTOR shall at all times enforce strict discipline and good order among CONTRACTOR's employees and personnel, and shall seek to avoid employing on the Work, any unfit person or anyone not skilled in the Work assigned.

SECTION 5. Public Safety. CONTRACTOR shall provide and maintain all necessary watchmen, barricades, red lights, or warning signs, as commonly used in the industry, to protect endangering life and property during prosecution of the Work, and shall otherwise take all necessary precautions to avoid undue risk towards endangering life and property. CONTRACTOR shall make good any damage or loss to the Work, to CITY's property, and to other property, or due to bodily injury or death, resulting from lack of reasonable protective precautions, except to the extent that such damage, injury, or loss is caused by employees or other agents of the CITY.

In an emergency affecting public safety, or endangering life or property, CONTRACTOR is, without special instructions or authorization from the CITY, hereby permitted to act at CONTRACTOR's discretion to prevent such threatening loss or injury. CONTRACTOR shall also act, without appeal, if so authorized or instructed by the Contract Administrator.

Any compensation claimed by the CONTRACTOR on account of emergency Work shall be determined by Contract.

SECTION 6. Inspection of Work. The CITY shall provide sufficient competent personnel for the inspection of Work. The CITY shall at all times have access to the Work whenever it is in preparation or progress, and CONTRACTOR shall provide proper facilities for such access and for inspection.

If pursuant to applicable regulations any aspect of the Work must be specially tested or approved, CONTRACTOR shall give the CITY timely notice of its readiness for inspection and, if the inspection is by an authority than the CITY, of the date fixed for such inspection. Inspections by the CITY shall be promptly made, and where practicable at the source of supply. If any Work should be covered up without the CITY's approval or consent, the CITY may require CONTRACTOR to, be uncover the same for examination. In such instance, the uncovering and restoration of the Work shall be at CONTRACTOR's expense.

The CITY may order reinspection of any Work; and if so ordered, CONTRACTOR must uncover it. If such Work is found to be in accordance with the Contract, the CITY shall pay the cost of re-inspection and replacement. If such Work is not in accordance with the Contract, CONTRACTOR shall pay such cost.

SECTION 7. Superintendence.

CONTRACTOR shall keep at the project site during progress of the Work, a competent superintendent and any necessary assistants, all satisfactory to the CITY. The superintendent shall represent CONTRACTOR in CONTRACTOR's absence, and all directions given to the superintendent shall be binding as if given to the CONTRACTOR. Important directions shall immediately be confirmed in writing to CONTRACTOR. Other directions shall be confirmed on written request in each case. CONTRACTOR shall give sufficient superintendence to the Work, using CONTRACTOR's best skill and attention.

SECTION 8. Changes in the Work.

In giving instructions, the CITY shall have authority to make minor changes in the Work not involving extra cost and not inconsistent with the purpose of the Work. No extra Work or change shall be made unless in pursuance of a written order issued by the CITY, and no claim for an addition to the Contract Sum shall be valid unless the additional Work was so ordered.

The City Manager for the City may order such changes in the Work that are (i) required in response to an emergency, or (ii) in accumulation with all other changes, would not cause the Contract Sum to be increased by more than \$25,000. Any other changes in the Work involving cost increases must be approved by the Daytona Beach City Commission to be valid.

CONTRACTOR shall proceed with the Work as changed and the value of any such extra Work or change shall be determined as provided below.

SECTION 9. Extension of Time.

a. The period of time for completion set forth in the Contract shall be extended in amount equal to time lost due to causes which could not have been foreseen or are beyond the control of CONTRACTOR, but not due to causes which are not the result of the CONTRACTOR's fault, negligence, or deliberate act. Extension of time for completion shall also be allowed for delays in the progress of the Work caused by any act or omission on the part of the CITY, or the CITY's officers, employees, agents, or by other contractors employed by the CITY; or delays due to the Government. Strikes and labor disputes shall be cause for an extension of time. However, if CONTRACTOR may avoid a delay otherwise justifying an extension of time by rearranging the Work without undue costs, the CONTRACTOR will not be given an extension of time to complete the Work.

b. CONTRACTOR shall notify the CITY within ten days of any occurrence which in the CONTRACTOR's opinion entitles CONTRACTOR to an extension of time for completion. Such notice shall be in writing shall state in detail the facts supporting CONTRACTOR's assertion that additional time is required, and shall include an estimate of the additional time needed. CITY shall acknowledge in writing receipt of any such claim by CONTRACTOR within ten days of its receipt.

SECTION 10. Claims for Extra Cost.

a. CONTRACTOR must notify CITY in writing of a claim for extra cost within 10 days after (i) discovery of site-related conditions that are unanticipated and could not reasonably be anticipated, (ii) receipt of revised instructions or requirements of regulatory government agencies issued after the Effective Date, or (iii) receipt of change orders issued by the CITY pursuant to the Contract. The notice must include sufficient detail to justify CONTRACTOR's claim for extra cost. If CONTRACTOR fails to provide notice of such claim within the timeframe required, or commences with Work directly in response to any of the foregoing conditions before receiving CITY's written response to such claim, which CITY will provide within 10 days after receipt, then CONTRACTOR shall be deemed to have waived CONTRACTOR's claim for extra cost.

b. Payment for extra Work will calculated based on extension of unit prices set forth in the Contract if applicable; or on the basis of the Schedule of Values; or if such payment cannot be reasonably determined on the basis of unit price extension or the

Schedule of Values, at mutually agreed upon unit prices ~~or on a lump sum basis as provided for "Force Account Work."~~

T.P. 7-26-2019

~~SECTION 11. Force Account Work. If the CITY orders, in writing, the performance of any Work not otherwise covered by the Contract, and for which no item in the Contract is provided, and for which no unit price or lump sum basis can be agreed upon, then such extra Work shall be done except for federally funded projects which shall comply with Federal Procurement Standard, on a cost-plus-percentage basis of payment as follows:~~

a. CONTRACTOR shall be reimbursed for all costs incurred in doing the Work, and shall receive an additional payment of 5% of all such costs to cover his indirect overhead costs, plus 10% of all costs, including indirect overhead, as his fee.

T.P. 7-26-2019

b. The term "Cost" shall cover all payroll charges for men employed and supervision required under the specific order, together with all Workers' Compensation, Social Security, pension and retirement allowances, and social insurance, or other regular payroll charges on same; the cost of all materials and supplies required of either temporary or permanent character; rental of all power-driven equipment at agreed-upon rates, together with cost of fuel and supply charges on same; and any other costs incurred by CONTRACTOR as a direct result of executing the order, if approved by the CITY.

c. The cost of the Work done each day shall be documented and submitted to the CITY in a satisfactory form on the succeeding day, and shall be approved by him or adjusted at once.

d. Monthly payments of all charges for Force Account Work in any one-month shall be made in accordance with this Contract. Those payments shall include the full amount of fee earned on the cost of the Work done.

SECTION 12. Deductions for Uncorrected Work. If the CITY deems it inexpedient to correct Work that has been damaged or that was not done in accordance with the Contract, an equitable deduction from the Contract Sum shall be made therefore.

SECTION 13. Correction of Work before Final Payment. During the prosecution of the Work, CONTRACTOR shall promptly remove from the project site, all defective materials, whether incorporated in the Work or not, and CONTRACTOR shall promptly replace and re-execute the Work in accordance with the Contract and without expense to the CITY, and shall bear the expense of making good all Work of other contractors destroyed or damaged by such removal or replacement.

If CONTRACTOR does not remove such defective materials as promptly as possible, after written notice, the CITY may remove them and store the material at the expense of CONTRACTOR.

SECTION 14. Suspension of Work.

The CITY may at any time suspend the Work, or any part thereof, by giving ten days' notice to CONTRACTOR in writing. The Work shall be resumed by CONTRACTOR within ten days after the date fixed in the written notice from the CITY to CONTRACTOR to do so. The CITY shall reimburse CONTRACTOR for expense incurred by CONTRACTOR in connection with the Work under this Contract as a result of such suspension.

SECTION 15. CITY's Right to Terminate Contract. If CONTRACTOR is adjudged as bankrupt or makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of CONTRACTOR's insolvency, or if CONTRACTOR persistently fails or refuses, except in cases for which extensions of time are provided, to supply enough properly skilled Workmen or proper materials, or if CONTRACTOR fails to make prompt payment to subcontractors or for material or labor, or persistently disregard applicable laws and regulations, including permit conditions, or is otherwise be guilty of a substantial violation of any provision of the Contract, then the CITY may, without prejudice to any other right or remedy and after giving the CONTRACTOR seven days' written notice, terminate the employment of CONTRACTOR and take possession of the project site and of all materials, tools, and appliances thereon, and finish the Work by whatever method the CITY may deem expedient. In such case, CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Sum shall exceed the expense of finishing the Work, including compensation for additional managerial and administrative services, such excess shall be paid to CONTRACTOR. If such expense shall exceed such unpaid balance, CONTRACTOR shall pay the difference to the CITY.

The CITY's termination of the Contract shall not affect or terminate any of the rights of the CITY as against CONTRACTOR or CONTRACTOR's surety, then existing or which may thereafter accrue because of such default. Any retention or payment of monies by the CITY due CONTRACTOR under the terms of the Contract shall not release CONTRACTOR or his surety from liability for such default.

The CITY may terminate performance of Work in accordance with this clause in whole, or from the time in part, whenever the CITY determines that such termination is in the best interest of the CITY. Any such termination shall be effected by the delivery to the CONTRACTOR of a Notice of Termination specifying the extent to which performance of Work is terminated, and the date upon which such termination becomes effective. Upon such termination for convenience, CONTRACTOR shall be entitled to payment, in accordance with the payment provisions, for services rendered up to the termination date, and the CITY shall have no other obligations to CONTRACTOR. CONTRACTOR shall be obligated to continue performance of contract services, in accordance with this Contract, until the termination date and shall have no further obligation to perform services after the termination date.

SECTION 16. CONTRACTOR's Right to Stop Work or Terminate Contract.

If the Work is stopped under an order of any court or other public authority, for a period of three months or more, through no act or fault of the CONTRACTOR or of anyone employed by him, or if the CITY fails to pay the CONTRACTOR an amount due under this Contract within 30 days of the due date, CONTRACTOR may, upon seven days' written notice to the CITY, stop Work or terminate this Contract, and recover from the CITY payment for all Work executed, plus any loss sustained upon any plant or materials, plus reasonable profit and damages.

SECTION 17. Removal of Equipment. In the case of termination of this Contract before completion for any cause whatever, CONTRACTOR, if notified to do so by the CITY, shall promptly remove any part or all of CONTRACTOR's equipment or supplies from the project site; failing to, the CITY shall have the right to remove such equipment and supplies at CONTRACTOR's expense.

SECTION 18. Use of Completed Portions. The CITY may, at any time during progress of the Work, after written notice to the CONTRACTOR, take over and place in service any completed portions of the Work which are ready for service, although the entire Work of the Contract is not fully completed, and notwithstanding the time for completion of the entire Work or such portions which may not be expired. In such case, the CITY shall issue certificates of acceptance for such portions of the Work, but such taking possession thereof shall not be deemed an acceptance of any other portions of the Work, nor of any uncompleted portions, nor of any Work not completed in accordance with the Contract Documents.

SECTION 19. Payment Withheld Prior to Final Acceptance of Work.

The CITY may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any certificate of payment to such extent as may be necessary to protect the CITY from loss on account of:

- a. Defective Work not remedied.
- b. Claims filed or reasonable evidence indicating public filing of claims by other parties against the CONTRACTOR.
- c. Failure of CONTRACTOR to make payments properly to subcontractors or for materials or labor.
- d. Damage to another contractor.

When the above grounds are removed or the CONTRACTOR provides a Surety Bond satisfactory to the CITY, which will protect the CITY in the amount withheld, payment shall be made for amounts withheld because of them.

SECTION 20. Reserved

SECTION 21. Reserved

SECTION 22. Assignments and Subcontracting. CONTRACTOR shall not assign the Contract or subcontract the Work as a whole or in part without CITY's written consent. CONTRACTOR shall not assign any monies due or to become due to CONTRACTOR hereunder without the CITY's written consent. Assigning the Contract and subcontracting the Work shall not relieve the CONTRACTOR or CONTRACTOR's surety from any Contract obligations.

SECTION 23. Rights of Various Interests. Wherever Work being done by the CITY's forces or by other contractors is contiguous to Work covered by this Contract, the respective rights of the various interests involved shall be established by the CITY to secure the completion of the various portions of the Work in general harmony.

SECTION 24. Separate Contracts. The CITY reserves the right to let other contracts in connection with this Work. CONTRACTOR shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their Work, and shall properly connect and coordinate his Work with theirs.

SECTION 25. Cleaning Up. CONTRACTOR shall remove at CONTRACTOR's own expense from the CITY's property and from all public and private property, all temporary structures, rubbish and waste materials resulting from CONTRACTOR's prosecution of the Work.. This requirement shall not apply to property used for permanent disposal of rubbish or waste materials in accordance with CITY's permission.

END OF GENERAL CONDITIONS

Balance of this page intentionally left blank



3701 Olson Drive, Daytona Beach, FL 32124

Office: (386) 258-7911 Fax: (386) 258-9313

Exhibit C

P & S Paving, Inc. proposes Exhibit C reflect the following:

Item No.	Description of Work	Qty.	Units	Unit Price	Extension
1	Labor and Equipment	35	Days	\$16,000.00	\$560,000.00
2	Subcontractors	1	LS	TBD	TBD
3	Vendors/Suppliers	1	LS	TBD	TBD
4	Profit at 23%	1	LS	TBD	TBD
Contract Amount					TBD

Note: Item No. 4 reflects CONTRACTOR's twenty-three (23) percent mark-up on Item No. 2 and Item No. 3.

The unit prices for Item No. 2, Item No. 3, and Item No. 4 will be determined upon completion of the Work. CONTRACTOR will deliver a written invoice containing sufficient information to allow the CITY to verify the amount owed.

Respectfully yours,

Todd Phillips
Vice President



3701 Olson Drive, Daytona Beach, FL 32124

Office: (386) 258-7911 Fax: (386) 258-9313

July 25, 2018

Nichole Lloyd
125 Basin Street, Suite 131
Daytona Beach, FL 32114

Re: US-92 EB/Clyde Morris Blvd. Waterline Leak

Dear Ms. Lloyd:

As discussed, P & S Paving, Inc. proposes the following schedule, guaranteed maximum price, and Exhibit C revisions for the Clyde Morris Blvd. Waterline Repair project:

Schedule

Start Date:	July 16, 2018
Substantial Completion:	August 13, 2018 (28 days)
Final Completion:	August 20, 2018 (35 days)

Guaranteed Maximum Price

Guaranteed Maximum Price (Labor and Equipment): \$16,000.00 x 35 days = \$560,000.00

The Guaranteed Maximum Price provided above is limited to labor and equipment, that is, \$16,000.00 each calendar day, paid to P & S Paving, Inc., from Start Date to Final Completion. Given the uncertainty of the work, P & S Paving, Inc. is unable to provide a guaranteed maximum price that includes unit prices for Item No. 2, Item No. 3, and Item No. 4 reflected in Exhibit C.



3701 Olson Drive, Daytona Beach, FL 32124

Office: (386) 258-7911 Fax: (386) 258-9313

Exhibit C Revisions

P & S Paving, Inc. proposes Exhibit C reflect the following:

Item No.	Description of Work	Qty.	Units	Unit Price	Extension
1	Labor and Equipment	35	Days	\$16,000.00	\$560,000.00
2	Subcontractors	1	LS	TBD	TBD
3	Vendors/Suppliers	1	LS	TBD	TBD
4	Profit at 23%	1	LS	TBD	TBD
Contract Amount					TBD

Note: *Item No. 4 reflects CONTRACTOR's twenty-three (23) percent mark-up on Item No. 2 and Item No. 3.*

The unit prices for Item No. 2, Item No. 3, and Item No. 4 will be determined upon completion of the Work. CONTRACTOR will deliver a written invoice containing sufficient information to allow the CITY to verify the amount owed.

Respectfully yours,

Todd Phillips
Vice President