

GENERAL SERVICES TERM CONTRACT CONTRACT NO. 19591

THE PARTIES TO THIS CONTRACT are the City of Daytona Beach, a Florida municipal corporation (the "CITY"), and Roadsafe Traffic Systems, Inc., a foreign profit corporation ("CONTRACTOR").

In consideration of the mutual covenants herein contained, the Parties agree as follows:

Section 1. Scope of Services. CONTRACTOR will provide Temporary Traffic Control services to the CITY from time to time at the request of the CITY during the Term of this Contract.

Exhibit A, attached hereto and incorporated herein by reference, provides a detailed description of the range of services that may be provided under this Contract.

Section 2. Services Must Be Authorized in Writing. This Contract, in and of itself, does not require the CONTRACTOR to perform any services or obligate the CITY to pay for any services rendered. No services will be provided under this Contract, and no payment obligation will arise for performance of services, except when specifically authorized by work authorization issued in accordance with the CITY's procurement policies. A work authorization may consist of a contract document signed by both the CITY and CONTRACTOR; or it may consist of CONTRACTOR's written quotation/proposal, identifying the work to be performed and the unit prices for such work, and the CITY's written acceptance of such quotation or proposal. No work authorization may alter the terms and conditions of this Contract. In case of a conflict with a work authorization this Contract will govern. The work authorization may provide more detailed parameters for the services to be provided, such as deliverables, deadlines, etc., consistent with the provisions of this Contract.

No claim for services furnished by the CONTRACTOR not specifically provided for herein will be honored by the CITY.

If CONTRACTOR is providing services under a work authorization at the time that this Contract expires or terminates for any reason other than CONTRACTOR's material breach, CONTRACTOR will continue to provide such services unless and until the CITY provides CONTRACTOR a notice suspending or terminating such services. If CONTRACTOR is providing services under an open work authorization at the time that the CITY terminates this Contract due to CONTRACTOR's material breach, CONTRACTOR will immediately cease performing all services unless the notice of termination specifically provides otherwise.

Section 3. Fees and Other Payments; Limitations.

(a) **Fee.** Each work authorization will set forth the Fee to be paid to CONTRACTOR. The Fee will be established as either a not-to-exceed or fixed fee. In either instance the work authorization will include sufficient documentation to describe the basis on which the fee has been calculated.

(1) Except as provided below, the Fee for a work authorization will be based on the Fee Schedule attached hereto and incorporated herein as **Exhibit B**. The parties may agree to amend the current Fee Schedule only through formal amendment to this Contract.

(2) A fixed fee will be construed to be based on the Fee Schedule only where documentation is included that sets forth a good-faith estimate of the time required by CONTRACTOR to complete the work, at commercially reasonable hourly rates; provided, however, that in such instances neither CONTRACTOR's obligation to perform the work nor the fixed Fee will be altered merely based on the need to spend more or less time than shown on the estimate to complete the work.

(c) **Limitation on Compensation.** No additional compensation will be due CONTRACTOR for any reason.

Section 4. Billing and Payment Procedure. In addition to requirements for payment established by applicable federal, state, or local law including the City Code, or the **Exhibits**, payment terms and conditions are as follows:

(a) No payment will be due for services performed until CONTRACTOR submits a proper invoice. CONTRACTOR must separately invoice the CITY for each work authorization. CONTRACTOR may invoice the CITY no more frequently than monthly, and no sooner than 30 days after the date of the work authorization.

(b) For work authorizations providing for fixed fees: if the work authorization specifically provides for payment to be made in stages based upon completion of phases, tasks, or other discrete increment of the service to be provided, CONTRACTOR will invoice the CITY as these increments of service are completed, and in any event no more frequently than monthly. If the work authorization so provides, or is silent as to the method for payment, payments will be made on the basis of the percentage of work completed and accepted.

(c) For work authorizations providing for Fees based on the hours worked, payment will be made based on the hours worked and billed during the monthly billing interval.

(d) In order to be considered proper, the invoice must include all information and documentation that the CITY may need to verify the accuracy of the invoice and the amount of payment due based on the specific requirements of this Contract. Where payment is for the cost incurred for certain reimbursables (such as for subcontractors or air travel), the invoice must include proof that CONTRACTOR has paid such costs.

(e) The CITY will within 30 days after receipt of an invoice notify the CONTRACTOR that the invoice is improper, or pay CONTRACTOR the amount due.

Section 5. Standard of Performance. CONTRACTOR's services will at a minimum meet the level care and skill ordinarily used by members of CONTRACTOR's profession performing the type of services provided herein within the State of Florida.

Section 6. Relationship between Parties. This Contract does not create an employee-employer relationship between the CITY and CONTRACTOR. CONTRACTOR is an independent contractor of the CITY and will be in control of the means and the method in which the requested work is performed. As an independent contractor, CONTRACTOR will be solely responsible for payment of all federal, state and local income tax, and self-employment taxes, arising from this Contract; and CONTRACTOR agrees to indemnify and hold harmless the CITY from any obligations relating to such taxes. The CITY will not make deductions from payments due, for such taxes, or for social security, unemployment insurance, worker's compensation, or other

employment or payroll taxes. CONTRACTOR will also be responsible for the performance of CONTRACTOR's sub-contractors.

Section 7. Documents. All reports, estimates, logs, original drawings, and other materials furnished, prepared or executed by CONTRACTOR during the term of and in accordance with the provisions of this Contract will be the property of the CITY and delivered to the CITY upon demand or, if no demand has previously been made, upon completion of the particular task for which such materials were prepared, executed, or otherwise required; or, if this Contract is terminated prior to completion of service, immediately upon termination.

Section 8. Public Records. Each work authorization will be deemed to incorporate the following provision in substantially final form regarding Public Records:

(a) To the extent applicable, CONTRACTOR will comply with the requirements of Florida Statutes Section 119.0701, which include the following:

(1) Keeping and maintaining public records that the CITY requires for performance of the service provided herein.

(2) Upon the request of the City Clerk of the CITY, (i) providing the City Clerk with a copy of requested public records or (ii) allowing inspection or copying of the records, within a reasonable time after receipt of the City Clerk's request, at a cost that does not exceed the cost provided in Ch. 119, Florida Statutes, or as otherwise provided by law.

(3) Ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law until completion of the work required by a work authorization, and following such completion if CONTRACTOR fails to transfer such records to the CITY.

(4) Upon completion of the work required by a work authorization, keep and maintain public records required by the CITY to perform the service. CONTRACTOR will meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY upon request from the City Clerk, in a format that is compatible with the CITY's information technology systems.

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, CONTRACTOR MUST CONTACT THE CITY CLERK, WHOSE CONTACT INFORMATION IS AS FOLLOWS:

(Phone)	386 671-8023
(Email)	clerk@codb.us
(Address)	301 S. Ridgewood Avenue Daytona Beach, FL 32114

(b) Nothing herein will be deemed to waive CONTRACTOR's obligation to comply with Section 119.0701(3)(a), Florida Statutes.

Section 9. Effective Date and Term.

The Effective Date of this Contract is the date on which the last Party signs it. The Term of this Contract is one year, commencing on the Effective Date. The CITY will have the option to renew this Contract for up to 2 Terms of 1-year each, by providing CONTRACTOR written notice. Such notice must be provided at least 60 days before the end of the current Term, unless waived by CONTRACTOR.

Section 10. Termination of Contract.

(a) The CITY may by written notice to CONTRACTOR terminate this Contract, in whole or in part, at any time, either for the CITY's convenience or because of the failure of the CONTRACTOR to fulfill its contractual obligations.

(1) Before terminating for convenience, CITY must provide CONTRACTOR at least 30 day's advance notice of termination. This Contract will terminate automatically and without need for further notice upon the expiration of the notice period.

(2) Except as provided in Section 10(a)(3), before terminating due to CONTRACTOR's material breach of its contractual obligations, CITY must provide CONTRACTOR prior written notice, specifying the breach and demanding CONTRACTOR remedy the breach within 10 days of the notice, or within such longer period as may be reasonably required if the nature of the breach is that it cannot be remedied within 10 days of notice. This Contract will terminate automatically and without need for further notice if CONTRACTOR fails to remedy the material breach within the period described in the CITY's notice of breach.

(3) The CITY may terminate this Contract upon CONTRACTOR's breach without providing CONTRACTOR an opportunity to remedy the breach as referenced immediately above, if CONTRACTOR or any of CONTRACTOR'S personnel, in connection with the services or rights provided herein, commit a criminal act or engage in activity that poses a material risk of injury to persons or damage to property. Such termination will be effective immediately upon providing CONTRACTOR written notice.

(b) If the termination is for convenience, CONTRACTOR will be paid compensation for authorized services performed to the date of termination. If termination is due to CONTRACTOR's material breach, the CITY reserves all rights and remedies it may have under law due to such breach. Among other things, the CITY may take over the work and prosecute the same to completion by other agreements or otherwise; and in such case, the CONTRACTOR will be liable to the CITY for all reasonable additional costs occasioned to the CITY thereby.

(c) If after notice of termination for the CONTRACTOR's failure to fulfill contractual obligations it is judicially determined by a court of law that the CONTRACTOR had not so failed, the termination will be conclusively deemed to have been effected for the CITY's convenience. In such event, adjustment in payment to CONTRACTOR will be made as provided in Section 10(b) for a termination for convenience.

(d) The rights and remedies of CITY provided for in this Section are in addition and supplemental to any and all other rights and remedies provided by law or under this Contract.

If CONTRACTOR is providing services under an open work authorization at the time that this Contract expires or terminates for any reason other than CONTRACTOR's material breach,

CONTRACTOR will continue to provide such services unless and until the CITY provides CONTRACTOR a notice suspending or terminating such services.

Section 11. Suspension of Services. The CITY may suspend CONTRACTOR's services if the notice of material breach provided pursuant to Section 10(a)(2) so directs. The CITY may also suspend CONTRACTOR's services in lieu of termination, under the conditions set forth in Section 10(a)(3), by providing CONTRACTOR written notice of suspension. CONTRACTOR will suspend activities immediately upon receipt thereof; and in such instance CONTRACTOR's rights to provide services referenced herein will also automatically be suspended for the period of such suspension.

Section 12. Indemnification. CONTRACTOR will indemnify and hold harmless the CITY, including the CITY's officers, employees, and agents, 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 conduct of CONTRACTOR, or CONTRACTOR's officers, employees, or agents, including subcontractors and other persons employed or used by CONTRACTOR in the performance of this Contract. This indemnification agreement is separate and apart from, and in no way limited by, any insurance provided pursuant to this agreement or otherwise.

Section 13. Insurance. CONTRACTOR will provide and maintain at CONTRACTOR's own expense, insurance of the kinds of coverage and in the amounts set forth in this Section. Each CONTRACTOR'S subcontractor will be required to provide insurance in substantially similar form to the insurance required of CONTRACTOR based on services provided and with prior review and approval of CITY's Risk Manager. All such insurance will be primary and non-contributory with the CITY's own insurance. In the event any request for the performance of services presents exposures to the CITY not covered by the requirements set forth below, the CITY reserves the right to add insurance requirements that will cover such an exposure.

(a) Coverage and Amounts.

(1) **Workers Compensation Insurance** as required by Florida Statutes, Chapter 440, Workers' Compensation Insurance, for all employees of CONTRACTOR, employed at the site of the service or in any way connected with the work, which is the subject of this service. 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 occurrence. Any associated or subsidiary company involved in the service must be named in the Workers' Compensation coverage.

(2) **Liability Insurance**, including (i) **Commercial General Liability coverage** for operations, independent contractors, products-completed operations, broad form property damage, and personal injury on an "occurrence" basis insuring CONTRACTOR and any other interests, including but not limited to any associated or subsidiary companies involved in the work; and (ii) **Automobile Liability Insurance**, which will insure 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 the CONTRACTOR in the performance of this Contract.

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 that is at least as broad as ISO form CG 20 10 11 85.

The limit of liability for each policy 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, then 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.

(b) 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 proof of such insurance has been filed with and 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.

If requested by the CITY, CONTRACTOR will furnish copies of the insurance contracts to support the certificates of insurance and the copies of said insurance must be acceptable to the CITY.

(c) Cancellation; Replacement Required. CONTRACTOR will file replacement certificates 30 days prior to expiration or termination of the required insurance occurring prior to the acceptance of the work by the CITY. If a required policy is canceled without CONTRACTOR's prior knowledge CONTRACTOR will immediately notify the CITY immediately upon becoming aware that a required insurance coverage has been canceled for any reason, and promptly replace the canceled policy. The CITY expressly reserves the right to replace the canceled policy at CONTRACTOR's expense if CONTRACTOR fails to do so.

(d) Termination of Insurance. CONTRACTOR may not cancel the insurance required by this Contract until the work is completed, accepted by the CITY and CONTRACTOR has received written notification from the Risk Management Division of the CITY that CONTRACTOR may cancel the insurance required by this Contract and the date upon which the insurance may be canceled. The Risk Management Division of the CITY 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.

(e) Liabilities Unaffected. CONTRACTOR's liabilities under this Contract will survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverages. Similarly, CONTRACTOR's liabilities under this Contract will not be limited to the extent of the existence of any exclusions or limitations in insurance coverages, or by CONTRACTOR's failure to obtain insurance coverage.

CONTRACTOR will not be relieved from responsibility to provide required insurance by any failure of the CITY to demand such coverage, or by CITY's approval of a policy submitted by CONTRACTOR that does not meet the requirements of this Contract.

Section 14. Reserved

Section 15. Notice. Unless otherwise expressly agreed herein, all notices, requests, and demands to or upon the Parties will be delivered by hand, delivered by a courier service, provided to a nationally recognized delivery service for overnight delivery, transmitted to a receiving fax machine followed by hard copy within two days, or by U.S. mail, postage prepaid by registered or certified mail, return receipt requested, to the addresses set forth herein:

To the CITY:
Darren Greer, Traffic Division Administrator
Daytona Beach Public Works Dept.
950 Bellevue Ave.
Daytona Beach, FL 32114
Fax: 386-671-8620

To CONTRACTOR:
Roadsafe Traffic Systems
830 Jimmy Drive
Daytona Beach, FL 32114

provided, however, that either Party may change the person or address designated for receipt of the Party's notices, by providing written notice to the other Party.

The person identified for receipt of notices to the CITY pursuant to this Section will also serve as the CITY's project representative.

Section 16. Personnel. CONTRACTOR represents that CONTRACTOR has or will secure at CONTRACTOR's own expense, all personnel required in performing the services under this Contract. Such personnel will not be employees of or have any contractual relationship with the CITY.

All personnel engaged in the work will be fully qualified and will be authorized under state and local law to perform such services.

Section 17. CITY's Responsibilities. The CITY agrees to make available for review and use by the CONTRACTOR, reports, studies, and data relating to the services required. The CITY will establish a project manager to meet periodically with the CONTRACTOR to facilitate coordination and ensure expeditious review of work product.

Section 18. Limitation on Waivers. Neither the CITY's review, approval, or acceptance of, or payment for, any of the services provided by CONTRACTOR, will be construed to operate as a waiver of the CITY's rights under this Contract. CONTRACTOR will be and always remain liable to the CITY in accordance with applicable law for any and all damages to the CITY caused by the CONTRACTOR's negligent or wrongful provision of any of the services furnished under this Contract.

Failure of the CITY to exercise any right or option arising out of a breach of this Contract will not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach. Furthermore, the failure of the CITY at any time to insist upon strict performance of any condition, promise, agreement or understanding set forth herein will not be construed as a waiver or relinquishment of the CITY's right to insist upon strict performance of the same condition, promise, agreement or understanding at a future time.

Section 19. 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.** A Party will request in writing that a meeting be held between representatives of each Party within 14 calendar 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 in 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 in Subsection (a) proves unsuccessful or the Parties mutually waive the subsection (a) 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.

Section 20. General Terms and Conditions.

(a) **Amendments.** Except as otherwise provided herein, no change or modification of this Contract will be valid unless the same is in writing and signed by both Parties.

(b) **Assignments and Subcontracting.** No assignment or subcontracting will be permitted without the CITY's written approval.

(c) **Compliance with Laws and Regulations.** In providing all services pursuant to this Contract, CONTRACTOR will abide by all statutes, ordinances, rules, and regulations pertaining to, or regulating the provisions of, such services including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations will constitute a material breach of this Contract and will entitle the CITY to terminate this Contract immediately upon delivery of written notice of termination to the CONTRACTOR.

(d) **Truth in Negotiations Certificate.** CONTRACTOR hereby certifies that the wages and other factual unit costs supporting the compensation herein are accurate, complete, and current at the time of this Contract.

(e) **No Third Party Beneficiaries.** There are no third party beneficiaries of CONTRACTOR's services under this Contract.

(f) **Contingency Fee.** CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONTRACTOR, to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONTRACTOR, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.

(g) **Nondiscrimination.** CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, sex, or national origin. CONTRACTOR will take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their sex, race, creed, color, or national origin. Further, CONTRACTOR agrees to comply with all local, state, and federal laws and ordinances regarding discrimination in employment against any individual on the basis of race, color, religion, sex, national origin, physical or mental impairment, or age. In particular, CONTRACTOR agrees to comply with the provisions of Title 7 of the Civil Rights Act of 1964, as amended, and applicable executive orders including, but not limited to, Executive Order No. 11246.

(h) **Principles in Construing Contract.** This Contract will be governed by and construed in accordance with the laws of the State of Florida. Captions and paragraph headings used herein are for convenience only, are not a part of this Contract and will not be deemed to limit or alter any provisions hereof or to be relevant in construing this Contract. The use of any gender herein will be deemed to be or include the other genders, and the use of the singular herein will be deemed to be or include the plural (and vice versa), wherever appropriate. 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.

(i) **Venue.** The exclusive venue for any litigation arising out of this Contract will be Volusia County, Florida if in state court, or the U.S. District Court, Middle District of Florida if in federal court.

(j) **Litigation Costs.** Except where specifically provided herein, in case of litigation between the Parties concerning this Contract, each party will bear all of its litigation costs, including attorney's fees.

(k) **Force Majeure.** A force majeure event is an act of God or of the public enemy, riots, civil commotion, war, acts of government or government immobility (whether federal, state, or local) fire, flood, epidemic, quarantine restriction, strike, freight embargo, or unusually severe weather; provided, however, that no event or occurrence will be deemed to be a force majeure event unless the failure to perform is beyond the control and without any fault or negligence of the Party charged with performing or that Party's officers, employees, or agents. Whenever this Contract imposes a deadline for performing upon a Party, the deadline will be extended by one day for each day that a Force Majeure event prevents the Party from performing; provided, however, that the Party charged with performing and claiming delay due to a Force Majeure event

will promptly notify the other Party of the Event and will use its best efforts to minimize any resulting delay.

(l) **Jury Trial Waived.** THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS CONTRACT, OR ANY DEALINGS BETWEEN THE PARTIES. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY DISPUTES BETWEEN THE PARTIES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER, INCLUDING WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS.

(m) **Authority to Bind CONTRACTOR.** The undersigned representative of CONTRACTOR represents and warrants that he or she is fully authorized to bind CONTRACTOR to the terms and conditions of this Contract.

(n) **Incorporation of ITB and Bid.** The CITY's Invitation to Bid 19591, and the CONTRACTOR's responsive proposal are incorporated herein by reference as **Composite Exhibit C**. **Composite Exhibit C** is not attached but will remain on file with the CITY's Purchasing Agent and will be available upon request made to the City Clerk. In case of conflicts between the ITB and Proposal, the ITB will govern. In case of conflicts between **Composite Exhibit C** and other provisions of this Contract, including **Exhibits A and B**, this Contract will govern.

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(o) **Integration.** This Contract represents the entire agreement of the parties with respect to the subject matter hereof. No representations, warranties, inducements or oral agreements have been made by either Party except as expressly set forth herein, or in other contemporaneous written agreements.

IN WITNESS WHEREOF, the Parties through their undersigned representatives have caused this Contract to be executed in duplicate original.

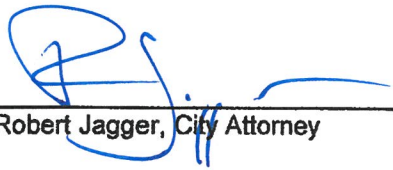
THE CITY

By: 
James V. Chisholm, City Manager

Date: 10-9-19

Attest: 
Letitia LaMagna, City Clerk

Approved as to legal form:

By: 
Robert Jagger, City Attorney

CONTRACTOR

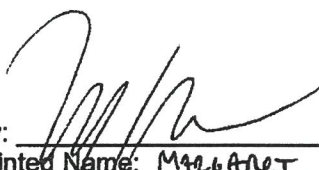
By: 
Printed Name: MARGARET BENNETT
Title: VP/GENERAL COUNSEL
Date: 10/7/19

EXHIBIT A
SCOPE OF WORK
TEMPORARY TRAFFIC CONTROL (TTC)

I. BACKGROUND

A. The City of Daytona Beach currently utilizes Traffic Engineering Division resources to provide Temporary Traffic Control (TTC) services for scheduled and emergency infrastructure maintenance and for special events produced by independent promoters. Events and activities requiring TTC have become too large and too numerous for CITY resources to provide. In those cases the CITY has been utilizing private TTC firms' services. In addition, the CITY has been renting Portable Changeable Message Signs (PCMS's) and Arrow Boards as needed.

The Contract will streamline and simplify the process of obtaining TTC services and equipment rentals.

B. The City hosts between 15-25 Promoter/Producer generated special events annually that may require TTC services. Independent Promoters/Producers may be permitted to utilize the CONTRACTOR for TTC at the Contract unit prices, however, the Promoter/Producer is *not obligated* to use this Contract. The Promoter/Producer may hire the TTC CONTRACTOR of their choice provided that company meets the City and FDOT requirements necessary for performing TTC work within the City & State.

C. Contractors retained by the City to perform emergency or scheduled infrastructure maintenance activities are responsible for work zone TTC and are *not eligible* to use this contract.

D. The CONTRACTOR will provide TTC services including lane closures, road closures, detour routes, flagging operations, TTC Plan design, Portable Changeable Message Sign (PCMS) rental, and Arrow Board rental for maintenance activities for all City Departments. Scheduled infrastructure maintenance is an ongoing operation some of which will not require CONTRACTOR services. Emergency infrastructure maintenance activity is unpredictable. Not all operations will require CONTRACTOR services.

E. The Contract term is one year with 2 one-year renewal options.

F. The CITY will utilize TTC services on an "as needed" basis. The CONTRACTOR will provide services, including PCMS and Arrow Board rental and all types of TTC in support of:

- All City Departments. Typical activities include:
 - Emergency infrastructure maintenance activity
 - Scheduled infrastructure maintenance activity
 - Peabody Auditorium events / activities

- Cultural Services events
- Promoters / Producers of special events. Typical areas of impact:
 - Downtown area (Beach St)
 - Midtown area (Mary McLeod Bethune Blvd)
 - Main St area
 - Atlantic Ave
 - Beachside Parking Garage areas (Earl St & Ora St)
 - LPGA (Municipal Stadium)

II. SCOPE OF WORK

A. The CONTRACTOR will provide TTC services during regular business hours, after regular business hours, or a combination of regular and after hours work. CONTRACTOR will be on site at the time specified by the CITY in writing on the Purchase Order authorizing the work.

1. "Regular Hours" of operation are 8:00 a.m. – 5:00 p.m. Monday through Friday, excluding City recognized holidays. The CONTRACTOR will be paid the "RG/HR" rate for crew, supervisor, and flagger hours worked during "regular hours".

2. "After Hours" are times worked outside of Regular Hours. The CONTRACTOR will be paid the "AH/HR" rate for crew, supervisor, and flagger hours worked "After Hours".

B. CONTRACTOR will supply all necessary materials, equipment, and staffing to establish and maintain the TTC work zone for the duration of the maintenance activity in accordance with FDOT 102-600 Series design standards and the MUTCD.

C. CONTRACTOR will ensure all materials and equipment utilized in the TTC work zone are in compliance with FDOT 102-600 series design standards and the MUTCD.

D. CONTRACTOR shall remain on-site for the duration of the maintenance activity when providing Flagger operations.

E. The CITY will notify CONTRACTOR 2 hours before completion of emergency maintenance activities that do not require CONTRACTOR to stay on-site to allow the CONTRACTOR time to return to the site, clear the work zone and establish normal traffic patterns.

F. If a scheduled maintenance activity is anticipated to conclude prior to the scheduled breakdown time, the CITY will notify the CONTRACTOR 2 hours in advance to allow CONTRACTOR to return to the site and be ready to breakdown and remove TTC materials from the work zone and establish normal traffic patterns.

G. The CONTRACTOR will ensure that all TTC materials are removed from public rights of way within 24 hours of completion of any maintenance activity. *Failure to removal all materials, devices, and equipment within 24 hours of completion of the CITY's maintenance or special event will result in the CITY reducing the amount due to the CONTRACTOR by 5% for each day the CONTRACTOR fails to remove the materials, devices, and equipment.*

H. CONTRACTOR will supply all necessary materials, equipment, and staffing to establish and maintain the TTC work zone for the duration of the maintenance activity in accordance with FDOT 102-600 series design standards, the MUTCD, and the previously submitted TTC plan, if applicable.

1. CONTRACTOR will ensure all materials and equipment utilized in the TTC work zone are in compliance with FDOT 102-600 series design standards and the MUTCD.

2. Flagger operations require CONTRACTOR to be on-site for the duration of the maintenance activity.

I. TTC Plans

1. The CITY will issue a Purchase Order to the CONTRACTOR requiring the TTC Plan to be produced in accordance with FDOT Plans Preparation Manual Volume 2 Chapter 19 The CONTRACTOR will submit the TTC Plan to the CITY's Traffic Engineering Division for review and approval within 18 calendar days of receipt of the Purchase Order.

2. The CITY will review and either accept plan or ask for revisions to the plan within 7 calendar days. The CONTRACTOR will have 7 calendar days to revise and resubmit plan if revisions are needed. The CONTRACTOR will continue this process until the CITY notifies the CONTRACTOR that the plan is acceptable.

3. The CITY will inspect the TTC zone for compliance with the previously submitted TTC plan, MUTCD and the FDOT 102-600 series design standards.

4. TTC Plans must be signed and sealed by a licensed engineer when required.

J. SCHEDULED INFRASTRUCTURE MAINTENANCE. For the purposes of this bid, Scheduled Maintenance is defined as any routine infrastructure maintenance to take place at a predetermined time and place that has been planned by the CITY and noticed in advance to the CONTRACTOR. Work may take place during regular hours or after hours.

1. The CITY department needing TTC Services for scheduled maintenance will request a quote in writing from CONTRACTOR.

2. The CONTRACTOR will provide a written quote within 14 calendar days utilizing the Contract unit pricing.

3. The CITY will acquire the necessary permits for the work and TTC operation from the appropriate agency.

4. The CITY will coordinate with the CONTRACTOR to establish the date and time of the maintenance activity at least 10 calendar days in advance.

5. The CITY will send out notification to the following entities of impending closures:

- o (DBPD) Daytona Beach Police Department: capricraig@dbpd.us
- o (VCSO) Volusia County Sheriff's Department: lwilliams@vcso.us
- o (FHP) Florida Highway Patrol: rodgercarpenter@flhsmv.gov
- o (DBFD) Daytona Beach Fire Dept.: driscollldru@dbfd.us
- o Volusia County Traffic Engineering: jcheney@volusia.org
- o VOTRAN: cmack@volusia.org
- o VOTRAN: esuchslan@volusia.org

K. EMERGENCY INFRASTRUCTURE MAINTENANCE. An "emergency" is defined as any condition which is a threat to the health, welfare, or safety of citizens or property, or a condition that will adversely affect an essential public service as determined solely by the CITY.

1. CONTRACTOR will report to an emergency with equipment and labor to install the TTC on-site as requested by the CITY within 2 hours after notification from the CITY.

2. CONTRACTOR will provide a telephone number for response to emergency needs that is accessible to the CITY for 24 hours 7 days a week.

L. PORTABLE CHANGEABLE MESSAGE SIGNS RENTALS

1. CONTRACTOR will be issued a PO to program and deliver PCMS at least 10 days before delivery of equipment is required.

2. CONTRACTOR will supply, program, deliver, setup and remove Portable Changeable Message Sign(s). The CITY will specify delivery and pickup dates, times and locations as well as the message(s) to be programmed.

3. CONTRACTOR will provide the CITY access (i.e., keys, passwords) to the PCMS programming functions so the CITY may change the message(s) as needed.

4. PCMS Rental unit price includes delivery and pickup.

M. ARROW BOARD RENTALS

1. CONTRACTOR will be issued a PO to program and deliver Arrow Boards at least 10 days prior to requested delivery date.
2. CONTRACTOR will supply, deliver, setup, and remove Arrow Boards to the CITY on the specified dates, times and locations.
3. Arrow Board Rental unit price includes delivery and pickup.

III. BASIC REQUIREMENTS

A. Provide Temporary Traffic Control in accordance with section 102 of the current FDOT Standard Specifications

B. CONTRACTOR will utilize staff FDOT TTC certified in accordance with Section 105-8.3 of the current FDOT Standard Specifications,

C. The CONTRACTOR will provide the following types of TTC services in conformance with Section 102 of the current FDOT Standard Specifications.

1. Flagger operations
2. Lane closures / Lane diversions
3. Full closures with off-site detour routes
4. Production of TTC Plan Design sealed by a PE if required.
5. Submittal of TTC Plans to the City Traffic Division for review and

acceptance

D. CONTRACTOR's employees shall wear approved personal protective equipment appropriate for the operation as defined in the FDOT 102 – 600 series design standards.

E. Possess a valid FDOT TTC Certification in accordance with section 105-8.3 of the current FDOT Standard Specifications.

F. CONTRACTOR'S staff shall be respectful at all times when dealing with the public. Offensive behavior or language will not be tolerated. Employees violating the requirement shall be removed for the jobsite immediately and will not be permitted to provide TTC services to the CITY during the duration of the Contract.

G. CONTRACTOR will possess sufficient quantities of all equipment and devices to ensure all requirements will be met.

IV. MEASUREMENT AND PAYMENT

A. Definitions

1. SY means square yards
2. ED means each day
3. LF means linear foot
4. HR means hour

B. All pay items includes the cost of delivery, set up, removal, and pick-up.

C. PEDESTRIAN DETOUR SPECIAL (102-4)

1. MEASUREMENT

a. Measurement for payment will be made on a Square Yard (SY) basis.

b. Temporary "Pedestrian Bridges" are NOT covered by this pay item.

c. To be used for pedestrian detours where a temporary surface is needed. Includes removal of detour facilities. Per the specification, material must meet ADA requirement' the designer should NOT require a specific material such as temporary asphalt or manufacturer mat.

Location(s) MUST be shown in the plans. Summarize on the Summary of Pedestrian Detours.

Temporary "Pedestrian Bridges" are NOT covered by the specification or pay items. If a temporary bridge is needed, contact the BOE coordinator for a project specific pay item. Details will be reviewed by responsible office(s).

2. PAYMENT

a. The (SY) payment shall be full compensation for including but not limited to the delivery of the temporary surface materials, construction of the surface to meet ADA requirements, maintenance, and removal of the temporary pedestrian surface and restoration of the ROW where the temporary pedestrian surface was required.

D. WORK ZONE SIGN POST MOUNT (102-60 P)

1. MEASUREMENT

a. Measurement for payment will be made on each sign on an EACH DAY (ED) basis.

2. PAYMENT

a. The payment shall be full compensation paid as an assembly for the work zone sign and post(s).

b. Delivery, installation, removal, and pick-up shall be included in the (ED) payment.

E. WORK ZONE SIGN STAND MOUNT (102-60 S)

1. MEASUREMENT

a. Measurement for payment will be made on each sign on an EACH DAY (ED) basis

2. PAYMENT

a. The payment shall be full compensation paid as an assembly for the work zone sign and stand.

b. Delivery, installation, removal, and pick-up shall be included in the (ED) payment

F. BUSINESS SIGN (106-61)

1. MEASUREMENT

a. Measurement for payment will be made on an EACH (EA) basis

2. PAYMENT

a. The payment shall be full compensation paid as an assembly for business sign with stand or post mounting.

b. Delivery, installation, removal, and pick-up shall be included in the (EA) payment

c. Maximum sign size per index 102-600 sheet 10 shall be 24 by 36 inches

G. CHANNELIZING DEVICES (102-74-1 & 102-74-2)

1. MEASUREMENT

a. Measurement for payment will be made for each device on an EACH DAY (ED) basis

2. PAYMENT

a. Payment shall be full compensation for each device.

b. Delivery, installation, removal and pick-up shall be included in the ED price.

H. CHANNELIZING DEVICE – PEDESTRIAN LCD (longitudinal channelizing device)

1. MEASUREMENT

a. Measurement for payment will be made on a Linear Foot (LF) basis.

2. PAYMENT

a. Delivery, installation, removal and pick-up shall be included in the (LF) payment for the LCD.

I. ARROW BOARD (102-76)

1. MEASUREMENT

a. Measurement for payment will be made for each Arrow Board on an EACH DAY (ED) basis whether use is for a CONTRACTOR contracted TTC zone setup or as a rental unit for CITY use.

2. PAYMENT

a. Payment shall be full compensation for each Arrow Board to include delivery, set-up, removal, and pickup.

J. Portable Changeable Message Sign (PCMS) (102-99)

1. MEASUREMENT

a. Measurement for payment will be made for each PCMS on an EACH DAY (ED) basis whether use is for a CONTRACTOR contracted TTC zone setup or as a rental unit for CITY use.

2. PAYMENT

a. Payment shall be full compensation for each PCMS to include delivery, programming, delivery, set-up, and pickup

K. TTC Plan Design and Produce

1. MEASUREMENT

a. Measurement for payment will be made for EACH (EA) initial TTC design, production and submittal

2. PAYMENT

a. If the TTC zone needs are covered by a plan in the FDOT Standard Index 102-600 series then the Design, production and submittal shall not be paid. CONTRACTOR will send a copy of the proposed standard index to the CITY for review.

b. Payment shall be full compensation for the initial design, production and submittal of a TTC plan

c. Any subsequent revisions to the plan required by the CITY shall be at the CONTRACTORS expense.

L. RESERVED

M. WORKSITE TRAFFIC SUPERVISOR, TTC CREW MEMBER

1. SPECIFICATIONS

a. There shall be one Worksite Traffic Supervisor required per FDOT Standard Specification section 105-8.3 and 102-3.2

b. TTC Crew Members shall possess a current intermediate TTC certification issued by a FDOT certified CONTRACTOR.

2. MEASUREMENT

a. REGULAR HOUR / HOURLY RATE (RG/HR) RG/HR hours are 8 am – 5 pm Monday – Friday excluding CITY recognized holidays

b. AFTER HOURS / HOURLY RATE (AH/HR) AH/HR hours are outside of regular hours, weekends and CITY recognized holidays.

3. PAYMENT

a. Payment shall be full compensation per employee per applicable hourly rate for TTC Crew member or Worksite Traffic Supervisor

b. Traffic Supervisor or TTC Crew Member will be paid at the applicable hourly rate only when the setup requires the crew or supervisor to remain on-site during the closure. There will be no hourly rate paid for set up and breakdown of TTC devices or rental of Arrow Boards or PCMS.

c. Payment shall not be made for more than one Traffic Worksite Supervisor.

N. FLAGGER

1. Flaggers shall possess a current flagger certification issued by a FDOT certified CONTRACTOR.

2. Flagger(s) shall be provided as needed per FDOT Standard Specification section 102-5.7

3. MEASUREMENT

a. REGULAR HOUR / HOURLY RATE (RG/HR) Regular Hours are 8 am – 5 pm Monday – Friday excluding CITY recognized holidays.

b. AFTER HOURS / HOURLY RATE (AH/HR) After Hours are outside of regular hours, weekends and CITY recognized holidays.

4. PAYMENT

a. The Payment shall be full compensation per Flagger per applicable hourly rate

***End of Scope of Services
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Exhibit B: Fee Exhibit

LINE ITEM	PAY ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT of MEASURE	UNIT PRICE	EXTENDED PRICE
1	102-4	PEDESTRIAN DETOUR SPECIAL FURNISH, INSTALL AND REMOVE (FDOT INDEX 102-660)	100	SY	\$30.00	\$3,000.00
2	102-60 P	WORK ZONE SIGN POST MOUNT ASSEMBLY	30	ED	\$8.00	\$240.00
3	102-60 S	WORK ZONE SIGN STAND MOUNT ASSEMBLY	80	ED	\$3.25	\$260.00
4	102-61	BUSINESS SIGN (FDOT INDEX 102-600 SHEET 10)	12	ED	\$8.00	\$96.00
5	102-74-1	CONES	250	ED	\$3.75	\$937.50
6	102-74-1	BARRICADE, VERTICAL	50	ED	\$0.50	\$25.00
7	102-74-1	TYPE I BARRICADE	65	ED	\$0.50	\$32.50
8	102-74-1	TYPE II BARRICADE	80	ED	\$3.00	\$240.00
9	102-74-1	DRUMS	250	ED	\$3.00	\$750.00
10	102-74-2	TYPE III BARRICADE	30	ED	\$8.00	\$240.00
11	102-74-7	LONGITUDINAL CHANNELIZING DEVICE - PEDESTRIAN LCD	50	LF	\$4.00	\$200.00
12	102-76	ARROW BOARD	4	ED	\$20.00	\$80.00
13	102-99	PORTABLE CHANGEABLE MESSAGE SIGN (PCMS)	4	ED	\$65.00	\$260.00
14		FLAGGER REGULAR HOURS (RG/HR)	20	HR	\$35.00	\$700.00

LINE ITEM	PAY ITEM #	DESCRIPTION	ESTIMATED QUANTITY	UNIT of MEASURE	UNIT PRICE	EXTENDED PRICE
15		FLAGGER AFTER HOURS (AH/HR)	20	HR	\$38.00	\$760.00
16		TTC PLAN DESIGN AND PRODUCE	6	EA	\$75.00	\$450.00
17		LINE ITEM DELETED			XXXXX	XXXXXX
18	102.3.2	WORKSITE TRAFFIC SUPERVISOR PER FDOT SPECIFICATION REGULAR HOURS (RG/HR)	20	HR	\$43.00	\$860.00
19	102.3.2	WORKSITE TRAFFIC SUPERVISOR PER FDOT SPECIFICATION AFTER HOURS (AH/HR)	20	HR	\$45.00	\$900.00
20		TTC CREW MEMBER REGULAR HOURS (RG/HR)	20	HR	\$30.00	\$600.00
21		TTC CREW MEMBER AFTER HOURS (AH/HR)	20	HR	\$39.00	\$780.00
TOTAL ESTIMATE BID AMOUNT						\$ 11,411.00

Composite Exhibit C

Composite Exhibit C is not attached. It will be kept on file with the Purchasing Agent, and will be made available upon request made to the City Clerk.