



THE CITY OF DAYTONA BEACH
OFFICE OF THE PURCHASING AGENT

Post Office Box 2451
Daytona Beach, Florida 32115-2451

Phone (386) 671-8080
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RENEWAL OF CONTRACT

September 18, 2017

Certified Mail
7015-3010-0002-1567-1230

P & S PAVING, INC.
3701 OLSEN DRIVE
DAYTONA BEACH, FL 32124

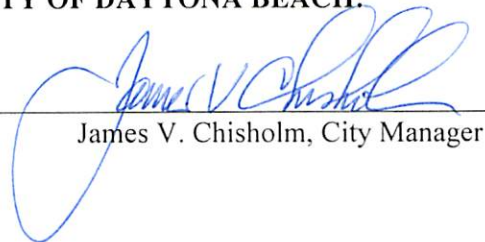
City Contract 0115-2650, as amended by Amendment No. 1 & 2 to the Contract dated 11-25-2015, providing for STREET MILLING & RESURFACING by P & S PAVING, INC. expires on 11-24-2017.

Pursuant to Section IX of the Contract, the City of Daytona Beach hereby gives notice that it desires to renew the Contract for the term of 1 year(s) beginning 11-25-2017 and ending 11-24-2018 under the same terms and conditions, including fee structure.

Article IX of the Contract states:

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 two Terms of one-year each, by providing Contractor written notice at least 60 days before the end of the current Term.

CITY OF DAYTONA BEACH:



James V. Chisholm, City Manager

9-21-17

Date

**TERM CONSTRUCTION CONTRACT
ITB 0115-2650**

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 services commonly known as "STREET MILLING AND RESURFACING TERM CONTRACT" and more fully described in the Contract Documents, hereinafter the "Work".

ARTICLE II. CONTRACT DOCUMENTS

The Contract Documents are further described in the General Conditions, and if applicable the Supplemental General Conditions.

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. AUTHORIZING SERVICES

This Contract, in and of itself, does not require the CONTRACTOR to perform any services or provide payment for services rendered by the CONTRACTOR. No services will be provided under this Contract, and no payment obligation will arise for performance of services, except when specifically authorized by CITY Work Authorization issued in accordance with the CITY's procurement policies. No Work Authorization issued 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 will specify the time to achieve Completion of the work.

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 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. 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.

The CITY and the CONTRACTOR mutually agree that time is of the essence with respect to the dates and times set forth in the Work Authorization(s). To that end, the CONTRACTOR will

commence the Work not later than the Commencement Date set forth in each Work Authorization, and will diligently and continuously prosecute the Work at such a rate, and with sufficient forces as will allow the CONTRACTOR to achieve Completion within the Completion Time specified on the Work Authorization, subject only to any adjustments in the Completion Time that may be authorized by Change Orders to the Work Authorization(s) properly issued in accordance with the Contract Documents.

ARTICLE IV. CONTRACT PRICE

The Unit Prices represents the CONTRACTOR's sole compensation from the CITY for prosecution of Work authorized by Work Authorization. The Contract Price will be paid in a series of Progress Payments and a Final Payment, and is subject to retainage, as further described in the Contract Documents.

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 Work Authorization if the Work Authorization exceeds \$100,000.

Additional requirements associated with the provision of Performance Security, including requirements to increase the amount provided, are set forth in the General Conditions and, if applicable, the Supplemental General Conditions.

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 or the Engineer/Architect.

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.

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 \$1,000,000. 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 foregoing 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.

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 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 a Project Site, or in the absence or unavailability of the Superintendent to any other person on a 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:

Brian Davidson, Project Manager
3701 Olson Dr.
Daytona Beach, FL
32124
Fax: 386-258-9313

If to the CITY:

Steven Richart, Public Works Director
Daytona Beach Public Works Department
950 Bellevue Ave.
Daytona Beach, FL 32114
Fax: 386-671-8605

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

ARTICLE IX 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 two Terms of one-year each, by providing Contractor written notice at least 60 days before the end of the current Term.

If this Contract specifically provides that some or all of Contractor's services will be required only after issuance of a City Work Authorization, any Work Authorizations previously issued by the City will remain in effect after the expiration of this Contract unless the City terminates this Contract due to Contractor's material breach after notifying Contractor to suspend such services as provided below.

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 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.

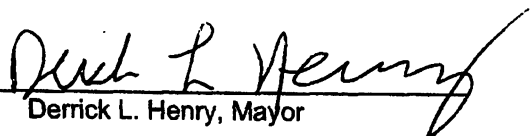
I. No CITY officer, employee, or independent consultant who is involved in the development, evaluation, or decision-making process of the performance of any solicitation will have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any violation of this provision, 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: 
Derrick L. Henry, Mayor


By: 
Printed Name: Todd Phillips
Title: Vice President

Attest: 
Letitia LaMagna, City Clerk

Date: 11-25-2015

Date: 9/25/15

Approved as to legal form:

By: 
Marie Hartman, City Attorney

SECTION 01010

SUMMARY OF WORK

PART 1 GENERAL

1.01 Location of Work

- A. The work of this Contract is located in the City of Daytona Beach as described in the list of streets incorporated in the Contract Documents.

1.02 Scope of Work

- A. Furnish all labor, materials, equipment, coordination, and incidentals required to Mill and Resurface, replace Traffic Signal Loops, Striping, Maintenance of Traffic, Valve Box and Manhole Adjustment along the list of streets incorporated in the Contract Documents in accordance with the FDOT Quality Control, Testing, Inspection, and Verification.
- B. The Work includes, but is not necessarily limited to, the following:
 - 1. Milling of asphalt roadways.
 - 2. Leveling of low spots and depressions, as needed.
 - 3. Resurface roadway with Super Pave Asphalt (SP 9.5 or SP 12.5, as determined by the City).
 - 4. As needed, Maintenance of Traffic Plan preparation, implementation, and de-mobilization. Traffic shall be maintained on all roads and streets.
 - 5. Provide the City of Daytona Beach Streets Division 200 CY of asphalt millings at no additional cost to the City. The City will provide dump trucks with operator during the milling operation.
 - 6. Upon issuance of the Contractors Purchase Order for specific streets to be milled and resurfaced, the Contractor will assess each street to be paved and determine the actual paving quantities.

1.03 Contractor's Use of Premises


- A. Contractor shall have complete use of the premises within the right of way for the performance of the Work except those areas designated on the Drawings to be protected and/or not disturbed during construction.
- B. Coordinate use of premises with Owner.
- C. Contractor will be fully responsible for security of its subcontractor's materials and equipment stored on the site.
- D. If directed by the Owner, move any stored items which interfere with operations of

BID SCHEDULE - ITB NO. 0115-2650

| ITEM NO. | DESCRIPTION | ESTIMATED QUANTITIES | UNITS | UNIT PRICE | TOTAL AMOUNT |
|----------|--|----------------------|-------|------------|--------------|
| 1 | Mobilization | 25 | EA | \$ 500.00 | \$ 12,500.00 |
| 2 | M.O.T. | 25 | EA | \$ 750.00 | \$ 18,750.00 |
| 3 | Mill Existing Pavement 1 1/2" | 15,000 | SY | \$ 2.00 | \$ 30,000.00 |
| 4 | Leveling Course | 1,000 | TN | \$ 86.50 | \$ 86,500.00 |
| 5 | Resurfacing 1 1/2" SP 9.5 | | | \$ | \$ |
| | A) 0 - 500 Ton | 500 | TN | \$ 86.50 | \$ 43,250.00 |
| | B) 501-1000 Ton | 500 | TN | \$ 86.50 | \$ 43,250.00 |
| | C) 1001-1500 Ton | 500 | TN | \$ 86.50 | \$ 43,250.00 |
| | D) 1501-2000 Ton | 500 | TN | \$ 84.50 | \$ 42,250.00 |
| | E) 2001 + Ton | 500 | TN | \$ 84.50 | \$ 42,250.00 |
| 6 | Resurfacing 1 1/2" SP 12.5 | | | \$ | \$ |
| | A) 0 - 500 Ton | 500 | TN | \$ 83.50 | \$ 41,750.00 |
| | B) 501-1000 Ton | 500 | TN | \$ 83.50 | \$ 41,750.00 |
| | C) 1001-1500 Ton | 500 | TN | \$ 83.50 | \$ 41,750.00 |
| | D) 1501-2000 Ton | 500 | TN | \$ 82.50 | \$ 41,750.00 |
| | E) 2001 + Ton | 500 | TN | \$ 82.50 | \$ 41,750.00 |
| 7 | Adjust Manhole Ring & Cover | | | \$ | \$ |
| | A) Riser Ring Insert | 50 | EA | \$ 150.00 | \$ 7,500.00 |
| | B) Manhole Adjust | 50 | EA | \$ 500.00 | \$ 20,000.00 |
| 8 | Water Valve Box Adjust | | | \$ | \$ |
| | A) Riser Ring Insert | 50 | EA | \$ 90.00 | \$ 4,500.00 |
| | B) Valve Box Adjust | 50 | EA | \$ 240.00 | \$ 12,000.00 |
| 9 | Crosswalk Marking (Temp Paint) FDOT Index 17346 | 3,000 | LF | \$ 3.30 | \$ 9,900.00 |
| 10 | Crosswalk Marking (Thermoplastic) FDOT Index 17346 | 3,000 | LF | \$ 6.60 | \$ 19,800.00 |
| 11 | Pavement Striping (Temp Paint)(6" Wide) | 25,000 | LF | \$ 0.20 | \$ 5,000.00 |
| 12 | Pavement Striping (Thermoplastic)(6" Wide) | 25,000 | LF | \$ 0.75 | \$ 18,750.00 |
| 13 | Pavement Striping (Temp Paint)(12" Wide) | 6,000 | LF | \$ 0.60 | \$ 3,600.00 |
| 14 | Pavement Striping (Thermoplastic)(12" Wide) | 6,000 | LF | \$ 1.40 | \$ 8,400.00 |
| 15 | Pavement Striping (Temp Paint)(24" Wide) | 3,000 | LF | \$ 0.95 | \$ 2,850.00 |

| ITEM NO. | DESCRIPTION | ESTIMATED QUANTITIES | UNITS | UNIT PRICE | TOTAL AMOUNT |
|----------|---|----------------------|-------|------------|--------------|
| 16 | Pavement Striping (Thermoplastic)(24" Wide) | 3,000 | LF | \$ 2.75 | \$ 8,250.00 |
| 17 | Pavement Markings Turn Arrows (Thermoplastic) | 50 | EA | \$ 31.00 | \$ 1,550.00 |
| 18 | Pavement Markings School Crossing Symbol Complete (Thermoplastic) | 50 | EA | \$ 143.00 | \$ 7,150.00 |
| 19 | Pavement Markings Railroad Crossing Symbol Complete (Thermoplastic) | 50 | EA | \$ 165.00 | \$ 8,250.00 |
| 20 | Replace Type F Traffic Signal Loop per FDOT Index 17781 | 100 | EA | \$ 600.00 | \$ 60,000.00 |

ESTIMATED ANNUAL AMOUNT (ITEMS 1 – 20) \$ 772,250.00

By: 
 (Signature)
 Name Typed: Todd Phillips
 Title: Vice President
 Bidder: P&S Paving Inc.