RESOLUTION 16-53

BE IT RESOLVED that the appropriate officers of the City are authorized but not required to accept and deliver on behalf of the City that certain Agreement between the City and Marshall Brothers, Inc., relating to the construction of the Loop Road from North Pier Park Drive to Highway 79, in the basic amount of $3.55 Million Dollars ($3,550,000), in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 22nd day of January, 2016.

CITY OF PANAMA CITY BEACH

By: ____________________________
Gayle F. Oberst, Mayor

ATTEST:

Diane Fowler, City Clerk
Memorandum

To: Mario Gisbert
CC: Holly White, Paul Casto
From: Kelly Jenkins
Date: January 22, 2016
Subject: Construction Bids – Loop Road

The Loop Road is a proposed roadway that will start at Highway 79 at the Gulf Power easement, run east approximately 3800 feet where it will then head south approximately an additional 3800 feet to tie into the existing dead end of the North Pier Park Roadway. This is the first phase in creating an alternate route or bypass that will extend from Highway 79 along the Gulf Power Easement east which will eventually tie in to Nautilus Street (see attached Exhibit A). A joint agreement was executed between St. Joe and the City of Panama City Beach to complete this project. St. Joe hired Preble-Rish Inc. (PRI) to complete the construction plans and specifications for this project.

The project was publically advertised and five (5) bidders responded with sealed bids by the required date and time. Bids were publically opened on January 19th at 2:00 PM. After reviewing the bid documents, 5 bidders were found to be fully responsive, and Marshall Brothers, Inc. was determined to be the lowest fully responsive and responsible bidder. However, because all bids submitted exceeded the City’s projected budget for the project, PRI and City staff negotiated a few value engineering items with the low bidder, Marshall Brother’s Inc. to see if the proposed bid could be brought within the City’s budget. PRI recommends that the contract be awarded to the lowest responsive and responsible bidder Marshall Brothers, Inc., with value engineering implemented, for the lump sum contract amount of $3.55 Million. The updated bid schedule and breakdown from Marshall Brother’s Inc. is included in Exhibit B. The consultant’s recommendation, original bid tabulation and a draft agreement are also attached for review. Staff concurs with the award recommendation and further recommends approval by Council. Both the general and the utility budgets have adequate funds available to cover their share of project costs. This project is included in the current fiscal year budget and is expected to be completed in November 2016.
<table>
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<tr>
<th>ITEM</th>
<th>DESCRIPTION</th>
<th>PLAN QUANTITY</th>
<th>UNIT</th>
<th>ITEM COST</th>
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<td>1</td>
<td>MOBILIZATION (≤2%)</td>
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<td><strong>GENERAL SUBTOTAL</strong></td>
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<td>CONSTRUCT ASPHALT ROADWAY INCLUDING BUT NOT LIMITED TO ASPHALT, LIMEROCK STABILIZATION, SUBGRADE, CLEARING/DEMOLITION, FILLING, REMOVE AND REPLACE UNSUITABLE MATERIAL, AND TYPE E CURB AS SHOWN IN THE CONSTRUCTION PLANS.</td>
<td>1</td>
<td>LS</td>
<td><strong>1,672,520</strong></td>
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<td>9</td>
<td><strong>ROADWAY SUBTOTAL</strong></td>
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<td></td>
<td><strong>1,672,520</strong></td>
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<td>FURNISH AND INSTALL WATER SYSTEM, INCLUDING BUT NOT LIMITED TO CLEARING/DEMOLITION, FILLING, ALL WATER MAINS WITH VALVES, FITTINGS, AND WITH ASSOCIATED APPURTENANCES AND FIRE HYDRANTS AS SHOWN IN CONSTRUCTION PLANS.</td>
<td>1</td>
<td>LS</td>
<td>195,000</td>
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<td>LS</td>
<td>305,470</td>
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<td>FURNISH AND INSTALL FORCE MAIN SYSTEM, INCLUDING BUT NOT LIMITED TO CLEARING/DEMOLITION, FILLING, ALL FORCE MAINS WITH VALVES, FITTINGS, AND WITH ASSOCIATED APPURTENANCES AND DIRECTIONAL BORES AS SHOWN IN CONSTRUCTION PLANS.</td>
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<td>PERFORM GRADING, CONSTRUCT STORMWATER FEATURES INCLUDING PONDS, DRAINAGE STRUCTURES, HEADWALLS, EXCAVATE AND HAUL OFF UNSUITABLE MATERIALS WITHIN THE STORMWATER POND AREA AS DETAILED ON CONSTRUCTION PLANS.</td>
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<td>CONSTRUCT ASPHALT MULTI-USE PATH INCLUDING BUT NOT LIMITED TO ASPHALT, LIMEROCK STABILIZATION, SUBGRADE, CLEARING/DEMOLITION, AND FILE AS SHOWN IN THE CONSTRUCTION PLANS.</td>
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<td><strong>TOTAL LUMP SUM: BID</strong></td>
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<td></td>
<td><strong>3,550,000</strong></td>
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Exhibit B
January 22, 2016

VIA E-MAIL (malsbert@pcbgov.com)

Mr. Mario Gisbert  
City Manager  
City Panama City Beach  
116 South Arnold Road  
Panama City Beach, Florida 32413

RE:  City of Panama City Beach  
Loop Road - Recommendation to Award Contract  
PRI Project No. 190.248

Dear Mr. Gisbert:

The City of Panama City Beach (PCB) received bids for the referenced project at 2:00 p.m. CST on January 19, 2016.

A detailed Engineer-Certified Bid Tabulation is attached and labeled as Exhibit A.

Marshall Brothers, Inc. (MBI) was determined to be the lowest responsible and responsive bidder with a total lump sum bid of $3,667,740.00. At the direction of the City of PCB, Preble Rish, Inc. (PRI) negotiated with MBI in an effort to reduce construction costs. PRI recommends that the City of PCB award the contract to MBI for a total lump sum of $3,550,000.00.

In addition, we are submitting two copies of the Agreement (Section 00050) and two copies of the Notice of Award (00060) for the City's review and execution by the City Council.

If you have any questions or comments, please give me a call at 850.522.0644.

Sincerely,
PREBLE-RISH, INC.

[Signature]
Jonathan Sidraski, P.E.  
Regional Manager

cc:  Clifford D Wilson III, PE – (via email wilsonc@preble-rish.com)  
Kelly Jenkins, PE – (via email kjenkins@pcbgov.com)  
Paul Casto – (via email pcasto@pcbgov.com)
<table>
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<th>Company</th>
<th>Total Lump Sum Bid</th>
<th>Bid Bond</th>
<th>Drug Free Workplace</th>
<th>Trench Safety Act</th>
<th>Public Entity Crimes Statement</th>
<th>Sales/Tax Exemption Addendum</th>
<th>Addenda No. 1 Acknowledged</th>
<th>Addenda No. 2 Acknowledged</th>
<th>Addenda No. 3 Acknowledged</th>
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SECTION 00050

AGREEMENT

THIS AGREEMENT is made this _____ day of ______________________, 20__, by and between THE CITY OF PANAMA CITY BEACH, FLORIDA, (hereinafter called "OWNER") and __ Marshall Brothers, Inc., doing business as a __ Corporation ___ (an individual), or (a partnership), or (a corporation), having a business address of 2305 Transmitter Rd., Panama City, FL 32404 (hereinafter called "CONTRACTOR"), for the performance of the Work (as that terms is defined below) in connection with the construction of Loop Road ("Project"), to be located at Panama City Beach, Florida, in accordance with the Drawings and Specifications prepared by Preble-Rish, Inc. the Engineer of Record (hereinafter called "Engineer") and all other Contract Documents hereafter specified.

OWNER and CONTRACTOR, for the consideration herein set forth, agree as follows:

1. The CONTRACTOR shall furnish, at its sole expense, all supervision, labor, equipment, tools, material, and supplies to properly and efficiently perform all of the work required under the Contract Documents and shall be solely responsible for the payment of all taxes, permits and license fees, labor fringe benefits, insurance and bond premiums, and all other expenses and costs required to complete such work in accordance with this Agreement (collectively the "Work"). CONTRACTOR'S employees and personnel shall be qualified and experienced to perform the portions of the Work to which they have been assigned. In performing the Work hereunder, CONTRACTOR shall be an independent contractor, maintaining control over

and having sole responsibility for CONTRACTOR'S employees and other

AGREEMENT

00050-1
personnel. Neither CONTRACTOR, nor any of CONTRACTOR'S sub-contractors or sub-subcontractors, if any, nor any of their respective employees or personnel, shall be deemed servants, employees, or agents of OWNER.

2. The CONTRACTOR will commence the Work required by the Contract Documents within ten (10) calendar days after the date of the NOTICE TO PROCEED to be issued by OWNER in writing within thirty (30) calendar days from the date of this Agreement and will achieve Substantial Completion of the Work within 270 days of the required commencement date, except to the extent the period for Substantial Completion is extended pursuant to the terms of the Contract Documents ("Contract Time"). Final Completion of the Work shall be achieved by CONTRACTOR within the time period set forth in Section 15.2 of Section 00100, General Conditions.

3. The CONTRACTOR agrees to pay the OWNER, as liquidated damages, the sum of $500 for each calendar day that expires after the Contract Time for Substantial Completion as more fully set forth in Section 15 of the General Conditions.

4. The CONTRACTOR agrees to perform all of the Work described in the Contract Documents and comply with the terms therein for the sum of $3,550,000.00 as shown in the BID SCHEDULE, included within the Bid Proposal Form, as said amount may be hereafter adjusted pursuant to the terms of the Contract Documents ("Contract Price").

5. The term "Contract Documents" means and includes the following documents, all of which are incorporated into this Agreement by this reference:

Section 00010 ADVERTISEMENT FOR BIDS AGREEMENT 00050-2
Section 00020 INFORMATION FOR BIDDERS
Section 00030 BID PROPOSAL FORM
Section 00040 BID BOND
Section 00050 AGREEMENT
Section 00060 PERFORMANCE BOND
Section 00070 PAYMENT BOND
Section 00080 NOTICE OF AWARD
Section 00090 NOTICE TO PROCEED
Section 00095 STATEMENT UNDER SECTION 287.087, FLORIDA STATUTES, ON PREFERENCE TO BUSINESSES WITH DRUG-FREE WORKPLACE PROGRAMS
Section 00096 TRENCH SAFETY ACT CERTIFICATE OF COMPLIANCE
Section 00097 PUBLIC ENTITY CRIMES STATEMENT
Section 00099 CERTIFICATE OF INSURANCE
Section 00100 GENERAL CONDITIONS
Section 00800 SUPPLEMENTAL CONDITIONS

DRAWINGS prepared by Preble-Rish, Inc.

numbered Cover Sheet through D6 and dated December 2015.

SPECIFICATIONS prepared or issued by Preble-Rish, Inc.
dated December 2015.

ADDENDA
No. 1, dated January 8, 2016
No. 2, dated January 13, 2016
No. 3, dated January 15, 2016
No. ___, dated __________, 20___

AGREEMENT 00050-3
The Contract Documents also includes any written amendments to any of the
above signed by the party to be bound by such amendment. The Contract
Documents are sometimes referred to herein as the "Agreement".

6. The OWNER will pay the Contract Price to the CONTRACTOR in the
manner and at such times as set forth in Contract Documents.

7. This Agreement shall be binding upon all parties hereto and their respective
heirs, executors, administrators, successors, and assigns.

8. This Agreement shall be governed by the laws of the State of Florida.

9. All notices required or made pursuant to this Agreement shall be in writing
and, unless otherwise required by the express terms of this Agreement, may
be given either (i) by mailing same by United States mail with proper postage
affixed thereto, certified, return receipt requested, or (ii) by sending same by
Federal Express, Express Mail, Airborne, Emery, Purolator or other
expedited mail or package delivery, or (iii) by hand delivery to the appropriate
address as herein provided. Notices to OWNER required hereunder shall be
directed to the following address:

If to Owner:

City of Panama City Beach
110 South Arnold Road
Panama City Beach, FL 32413

ATTENTION: Mario Gisbert, City Manager
Fax No.: (850) 233-5108

If to Contractor:

Marshall Brothers, Inc
2305 Transmitter Road
Panama City, FL 32404

ATTENTION:  
Fax No.: 850-271-0293

AGREEMENT 00050-4
Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this Section.

10. CONTRACTOR recognizes that OWNER is exempt from sales tax and may wish to generate sales tax savings for the Project. Accordingly, to the extent directed by and without additional charge to OWNER, CONTRACTOR shall comply with and fully implement the sales tax savings program as more fully described in the Sales Tax Exemption Addendum. If required by OWNER, the Sales Tax Exemption Addendum shall be made a part of the Contract Documents, the form of which is set forth in Section 00808.

11. The failure of OWNER to enforce at any time or for any period of time any one or more of the provisions of the Agreement shall not be construed to be and shall not be a continuing waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision.

12. Each of the parties hereto agrees and represents that the Agreement comprises the full and entire agreement between the parties affecting the Work contemplated, and no other agreement or understanding of any nature concerning the same has been entered into or will be recognized, and that all negotiations, acts, work performed, or payments made prior to the execution hereof shall be deemed merged in, integrated and superseded by this Agreement.

13. Should any provision of the Agreement be determined by a court with jurisdiction to be unenforceable, such a determination shall not affect the validity or enforceability of any other section or part thereof.
14. Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, references to the singular include the plural. The term "including" is not limiting, and the terms "hereof", "herein", "hereunder", and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement, unless stated otherwise. Additionally, the parties hereto acknowledge that they have carefully reviewed this Agreement and have been advised by counsel of their choosing with respect thereto, and that they understand its contents and agree that this Agreement shall not be construed more strongly against any party hereto, regardless of who is responsible for its preparation.

15. For this Project, OWNER has designated a Project Representative to assist OWNER with respect to the administration of this Agreement. The Project Representative to be utilized by OWNER for this Project, shall be Preble-Rish, Inc., Jonathan Sklarski, P.E., Regional Manager.

16. CONTRACTOR acknowledges and agrees that no interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which the OWNER, PROJECT REPRESENTATIVE, or ENGINEER may be responsible, in whole or in part, shall relieve CONTRACTOR of its duty to perform or give rise to any right to damages or additional compensation from OWNER. CONTRACTOR expressly acknowledges and agrees that it shall receive no damages for delay. CONTRACTOR's sole remedy, if any, against OWNER will be the right to seek an extension to the Contract Time; provided, however, the granting of any such time extension shall not be a condition precedent to the aforementioned "No Damage For Delay" provision. This section shall expressly apply to claims for early completion, as well as to claims based on late completion. Notwithstanding
the foregoing, if the Work is delayed due to the fault or neglect of OWNER or anyone for whom OWNER is liable, and such delays have a cumulative total of more than 90 calendar days, CONTRACTOR may make a claim for its actual and direct delay damages accruing after said 90 calendar days as provided in Section 00805 Supplemental Conditions, Contract Claims and Changes. Except as expressly set forth in this section, in no event shall OWNER be liable to CONTRACTOR whether in contract, warranty, tort (including negligence or strict liability) or otherwise for any acceleration, soft costs, lost profits, special, indirect, incidental, or consequential damages of any kind or nature whatsoever.

17. INSURANCE - BASIC COVERAGES REQUIRED

The CONTRACTOR shall procure and maintain the following described insurance on policies and with insurers acceptable to OWNER. Current Insurance Service Office (ISO) policies, forms, and endorsements or equivalents, or broader, shall be used where applicable.

These insurance requirements shall not limit the liability of the CONTRACTOR. The insurance coverages and limits required of CONTRACTOR under this Agreement are designed to meet the minimum requirements of OWNER and the OWNER does not represent these types or amounts of insurance to be sufficient or adequate to protect the CONTRACTOR'S interests or liabilities. CONTRACTOR alone shall be responsible to the sufficiency of its own insurance program.

The CONTRACTOR and the CONTRACTOR'S subcontractors and sub-subcontractors shall be solely responsible for all of their property, including but not limited to any materials, temporary facilities, equipment and vehicles, and for obtaining adequate and appropriate insurance covering any damage or loss to

AGREEMENT 00050-7
such property. The CONTRACTOR and the CONTRACTOR’S sub-contractors and sub-subcontractors expressly waive any claim against OWNER arising out of or relating to any damage or loss of such property, even if such damage or loss is due to the fault or neglect of the OWNER or anyone for whom the OWNER is responsible. The CONTRACTOR is obligated to include, or cause to be included, provisions similar to this paragraph in all of the CONTRACTOR’S subcontracts and its subcontractors’ contracts with their sub-subcontractors.

The CONTRACTOR’S deductibles/self-insured retention’s shall be disclosed to OWNER and are subject to OWNER’S approval. They may be reduced or eliminated at the option of OWNER. The CONTRACTOR is responsible for the amount of any deductible or self-insured retention. Any deductible or retention applicable to any claim or loss shall be the responsibility of CONTRACTOR and shall not be greater than $25,000, unless otherwise agreed to, in writing, by OWNER.

Insurance required of the CONTRACTOR or any other insurance of the CONTRACTOR shall be considered primary, and insurance of OWNER shall be considered excess, as may be applicable to claims or losses which arise out of the Hold Harmless, Payment on Behalf of OWNER, Insurance, Certificates of Insurance and any Additional Insurance provisions of this agreement, contract or lease.

**WORKERS’ COMPENSATION AND EMPLOYERS’ LIABILITY INSURANCE COVERAGE**

The CONTRACTOR shall purchase and maintain workers' compensation and employers' liability insurance for all employees engaged in the Work, in accordance with the laws of the State of Florida, and, if applicable to the Work, AGREEMENT 00050-8
shall purchase and maintain Federal Longshoremen's and Harbor Workers' Compensation Act Coverage. Limits of coverage shall not be less than:

| Limit Each Accident | $1,000,000 |
| Limit Disease Aggregate | $1,000,000 |
| Limit Disease Each Employee | $1,000,000 |

The CONTRACTOR shall also purchase any other coverage required by law for the benefit of employees.

The CONTRACTOR shall provide to OWNER an Affidavit stating that it meets all the requirements of Florida Statute 440.02 (15) (d).

**COMMERCIAL GENERAL LIABILITY COVERAGE**

CONTRACTOR shall purchase and maintain Commercial General Liability Insurance on a full occurrence form. Coverage shall include, but not be limited to, Premises and Operations, Personal Injury, Contractual for this Agreement, Independent Contractors, Broad Form Property Damage, Products and Completed Operation Liability Coverages and shall not exclude coverage for the "X" (Explosion), "C" (Collapse) and "U" (Underground) Property Damage Liability exposures. Limits of coverage shall not be less than:

| Bodily Injury, Property Damage & Personal Injury Liability | $1,000,000 Combined Single Limit Each Occurrence, and |
| Aggregate Limit | $2,000,000 |

The General Aggregate Limit shall be specifically applicable to this Project. The Completed Operations Liability Coverages must be maintained for a period of not AGREEMENT 00050-9
less than three (3) years following OWNER'S final acceptance of the project.

The CONTRACTOR shall add OWNER as an additional insured through the use of Insurance Service Office Endorsements No. CG 20.10.10.01 and No. CG 20.37.10.01 wording or equivalent, or broader, an executed copy of which shall be attached to or incorporated by reference on the Certificate of Insurance to be provided by CONTRACTOR pursuant to the requirements of the Contract Documents.

BUSINESS AUTOMOBILE LIABILITY COVERAGE

The CONTRACTOR shall purchase and maintain Business Automobile Liability Insurance as to ownership, maintenance, use, loading and unloading of all of CONTRACTOR'S owned, non-owned, leased, rented or hired vehicles with limits not less than:


<table>
<thead>
<tr>
<th>Bodily Injury &amp; Property Damage</th>
<th>$1,000,000 Combined Single Limit Each Accident</th>
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EXCESS OR UMBRELLA LIABILITY COVERAGE

CONTRACTOR shall purchase and maintain Excess Umbrella Liability Insurance or Excess Liability Insurance on a full occurrence form providing the same continuous coverages as required for the underlying Commercial General, Business Automobile and Employers' Liability Coverages with no gaps in continuity of coverages or limits with OWNER added by endorsement to the policy as an additional insured in the same manner as is required under the primary policies, and shall not be less than $10,000,000, each occurrence and AGREEMENT 00050-10

14078453.2
aggregate as required by OWNER.

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized officials, this Agreement in two (2) copies each of which shall be deemed an original on the date first written above.

(SEAL)

OWNER:
CITY OF PANAMA CITY BEACH, FLORIDA

ATTEST:

BY:

NAME: (Please type)

TITLE:

City Clerk

City Attorney (as to form only)

CONTRACTOR:

ATTEST:

BY:

NAME: (Please Type)

NAME (Please Type)

ADDRESS:

[END OF SECTION 00050]