



FINANCE COMMITTEE

Monday, October 12, 2020 3:30 PM

Administration Conference Room, City Hall

In light of public health orders from the Missouri Governor and Platte County related to the COVID-19 pandemic, and given the nature of the items to be considered at this particular meeting, the members of the Finance Committee will meet via telephone or video conference. Members of the public interested in this meeting are encouraged to listen in on the meeting via the following – Telephone: (312) 626-6799; Meeting ID: 830 5812 9609; Password: 990715 – rather than appear at City Hall (note: occupancy will be limited).

1. Call to Order

2. Financial Updates

A. City Administrator Approvals

3. Action Items

A. Approve the minutes of the September 28, 2020, meeting

B. Approve a construction agreement with She Digs It for ball field grading in Platte Landing Park (Public Works)

C. Approve a construction agreement and Change Order No. 1 with Kansas City Fence & Guardrail to install a fence at the pickleball courts in English Landing Park (Public Works)

4. Non-Action Items

5. Unfinished Business (postponed from prior meetings)

6. Other Business

7. Adjourn



CITY ADMINISTRATOR
PURCHASING APPROVAL

City of Parkville

Preparation date:

October 8, 2020

Department: Public Works

Low Bidder and
Contract Amount:

Infrastructure Solutions LLC
9801 Renner Blvd
Lenexa, KS 66219

\$5,310.44

General Scope of Work Description/Project:

Change Order #1 – McAfee Forcemain:

On July 7, 2020, the Board of Aldermen approved a construction agreement with Infrastructure Solutions for the McAfee Forcemain replacement within Platte Landing and English Landing Parks.

Since that time, the contractor has been working diligently on the reconstruction of the sanitary sewer forcemain. There were many opportunities for the contractor to bore the proposed forcemain, due to the unknown nature of the in-situ soil conditions. There were other sections of the line that required excavation. This area of the park was formerly a trash disposal area. This was encountered during construction, making the backfill material unusable, and therefore needed to be disposed of.

The cost of this change order represents the additional cost for hauling and disposing of the unsuitable backfill material.

There is funding available in the Sewer Fund budget to cover the additional project expense.

Competitive Purchasing Information: (List bidder, address, and price):

On July 7, 2020, the Board of Aldermen approved a construction agreement with Infrastructure Solutions for the McAfee Forcemain replacement within Platte Landing and English Landing Parks.

Project Start Date:

07/07/20

Estimated Completion Date:

11/30/20

Budget Account Code:

30-501.06-42-00

Authorization:

☐ City Administrator:

Date:

☐ Department Head:

☐ Mayor (if applicable):

☐ Submit to the Finance Committee for Authorization (if requested by the City Administrator)

Alyson Mahal

10/8/20

Change Order

PROJECT (*Name and address*):
McAfee Sewer Forcemain Replacement,
2020

CHANGE ORDER NUMBER:
DATE: September 30, 2020

TO CONTRACTOR (*Name and Address*):
Infrastructure Solutions LLC
9801 Renner Blvd.
Lenexa, KS 66219

PROJECT NO.: _____
CONTRACT DATE: July 7, 2020

THE CONTRACTOR IS CHANGED AS FOLLOWS:

The original Contract Sum was	\$ 350,083.00
The net change by previously authorized Change Orders	\$ 0.00
The Contract Sum prior to this Change Order was	\$ 350,083.00
The Contract Sum will be increased by this Change Order in the amount of	\$ 5,310.44
The new Contract Sum including this Change Order will be	\$ 355,393.44

The Contract Time will be increased by zero (0) days.
The date of Substantial Completion as of the date of this Change Order therefore is unchanged.

Change Order for disposing of trash material at a designated location by the City.

This Change Order represents a complete and final resolution of all matters concerning or arising out of the work described in the Change Order, including any impact, delay, disruption and/or acceleration of work unless specifically identified herein.

NOT VALID UNTIL SIGNED BY THE CONTRACTOR AND OWNER.

Infrastructure Solutions LLC
CONTRACTOR (*Firm name*)

9801 Renner Blvd., Lenexa, KS 66219
ADDRESS


BY (*Signature*)

Kevin L. Cooper
(Typed name)

October 2, 2020
DATE

City of Parkville
OWNER (*Firm Name*)

8880 Clark Ave., Parkville, MO 64152
ADDRESS

BY (*Signature*)

Joe Parente, City Administrator
(Typed name)

DATE

AMA

REQUEST FOR CHANGE ORDER

9/29/2020

Reason For Change Order: Change order is for disposing of trash material at a designated location by the owner.

Dirt Haul Off

Date	Description	Hours	Rate	M/U	Extended Price
9/29/2020	Mobilizing Equipment		\$		\$
	Excavator ** 135 **	14	\$ 73.66		\$ 1,031.24
	Excavator ** 88 **	14	\$ 56.70		\$ 793.80
	Dump Truck W/ Driver	14	\$ 95.00		\$ 1,330.00
	Foreman/ Operator x 2	28	\$ 70.55		\$ 1,975.40
	Project Mgmt./ Admin	2	\$ 90.00		\$ 180.00
			\$	Total	\$ 5,310.44
			\$		\$
			\$		\$
			\$		\$
			\$		\$



Finance Committee Meeting
Monday, September 28, 2020 3:30 PM
Board Room, City Hall

Minutes

1. Call to Order

Chair Sportsman called the meeting to order at 3:32 p.m. A quorum was present.

Members Present: Ward 4 Alderman Marc Sportsman, Ward 2 Alderman Dave Rittman, Mayor Nan Johnston, Ward 1 Alderman Tina Welch, Ward 3 Alderman Robert Lock

City Staff Present: City Administrator Joe Parente, Police Chief Kevin Chrisman, Public Works Director Alysén Abel, Finance/Human Resources Director Matthew Chapman, Assistant to the City Administrator Anna Mitchell, Public Works Project Manager Chris Ashley and City Clerk Melissa McChesney

2. Financial Updates

A. City Administrator Approvals

City Administrator Joe Parente provided an overview of purchases approved within his authority.

3. Action Items

A. Approve the minutes of the August 24, 2020, meeting

Dave Rittman moved to approve the minutes of the August 24, 2020, meeting. Tina Welch seconded; motion passed 5-0.

B. Approve the purchase of four replacement Motorola APX 4000 portable radios and one replacement Motorola APX 4500 in-car mobile radio

Police Chief Kevin Chrisman stated that starting in 2019 staff budgeted the purchase of a few replacement radios for police cars each year in the Capital Improvement Program. Since the original purchase of radios in 2012, enhancements had been made which increased the cost of the radios. Chrisman noted there were savings in other projects to cover the additional cost.

Police Captain Jon Jordan said that the new radios did not come with encryption software and the existing setup worked with the existing radios and the replacement radios. The department would replace four radios each year.

Rittman moved to recommend that the Board of Aldermen approve the purchase and programming of four new Motorola APX portable radios and one new Motorola APX mobile radio from Midwest Mobile Radio for the total cost of \$15,277.31. Welch seconded; motion passed 5-0.

C. Approve on-call professional services agreements with BBN Architects, Clark Enersen Partners, Garver, George Butler Associates, Kaw Valley Engineering, McClure, Renaissance, RL Buford, Shockey Consulting, TranSystems, Vireo and

VSM Engineering for various on-call engineering and architectural services

Public Works Director Alysén Abel said that various on-call agreements were approved in 2017 and would expire in October. A new request for qualifications was released in August and staff reviewed the proposals. Following Finance Committee's review and approval, staff would reach out to each firm to finalize the agreements before presenting them to the Board of Aldermen.

Rittman moved to recommend that the Board of Aldermen approve the professional services agreements with the firms recommended by the selection committee. Welch seconded; motion passed 5-0.

D. Approve on-call agreements with Urban Tree Specialists and Arbor Masters for on-call tree maintenance services

Public Works Director Alysén Abel said that on-call agreements for tree maintenance services began in 2015. A bid request was released in September and two bids were received. Staff recommended approval of agreements with both vendors.

Rittman moved to recommend that the Board of Aldermen approve on-call service agreements with Urban Tree Specialists and Arbor Masters for tree maintenance services for a two-year term with an option to renew for an additional one-year term. Welch seconded; motion passed 5-0.

E. Approve a purchase order with Dale Brothers for salt and sand material for the 2020-2021 winter season

Public Works Director Alysén Abel stated that the City purchased a 50/50 mix of salt and sand annually through the May following the winter seasons. The prices were higher than anticipated.

Discussion focused on the additional lane miles in Creekside that would be plowed during the winter season and budgeting for staff to cover the additional roads. City Administrator Joe Parente said that staff was reviewing options during the department budget discussions.

Rittman moved to recommend that the Board of Aldermen approve a purchase order with Dale Brothers for salt/sand material through May 1, 2021, subject to annual appropriations. Welch seconded; motion passed 5-0.

4. Non-Action Items

5. Unfinished Business (postponed from prior meetings)

6. Other Business

Chair Sportsman requested an update on the pickleball courts in English Landing Park, the trail connection from English Landing Park to Riverside and the dog park shade structures. Public Works Director Alysén Abel said that the pickleball contractor hired a sub-contractor to help with the work that would begin later in the week. Assistant to the City Administrator Anna Mitchell said that she had a meeting scheduled with Riverside, Platte County and the contractor for the trail connection and work was anticipated to be completed by the end of 2020. Abel said that staff identified which shade structures to use on the dog park shelters and would check on

the status of when they would be installed.

Further discussion focused on improving the look of the farmers market building.

7. Adjourn

Chair Sportsman adjourned the meeting at 4:31 p.m.

Submitted by:

Melissa McChesney
City Clerk

Approval Date

ITEM 3.B.

For 10/12/2020

Board of Aldermen - Finance Committee Meeting

CITY OF PARKVILLE
Policy Report

Date: October 7, 2020

Prepared By:

Alysen Abel, Public Works Director

Reviewed By:

Melissa McChesney, City Clerk

ISSUE:

Approve a construction agreement with She Digs It for ball field grading in Platte Landing Park (Public Works)

BACKGROUND:

The 2016 Parks Master Plan includes the installation of four baseball diamonds and six multipurpose fields in Platte Landing Park. Over the past two years, the City has been working on the proposed plan for the ballfields.

During the construction of the Corps of Engineers Section 1135 wetland project, soil was excavated in the areas of the proposed wetlands and stockpiled in the eastern portion of Platte Landing Park.

Staff developed a phased approach to the construction of the ballfields, which includes initial grading, followed by initiation of a design-build team to construct the ballfields. The phased approach for the ballfield construction was discussed with the Community Land and Recreation Board (CLARB). CLARB directed staff to pursue this course of action to start the work on the ballfields.

In an effort to start the construction of the ballfields by leveling out the stockpile area, the City has a desire to engage a contractor to perform grading operations. The City staff prepared and released bid documents based on the dimensions of the existing stockpile and the dimensions of the proposed ballfield footprint.

On October 7, 2020, the City received bids from three contractors for the grading operations in Platte Landing Park. The bid tabulation is included as Attachment 1. She Digs It provided the low bid in the amount of \$52,050. Although She Digs It has not performed work for the City of Parkville, their reputation in the industry is solid.

BUDGET IMPACT:

The Parks Sales Tax budget includes funding available for Capital Improvement Projects. There is capacity in the budget to cover this expense.

ALTERNATIVES:

1. Approve a construction agreement with She Digs It for the ballfield grading in Platte Landing Park.
2. Provide direction to staff related to the ballfield grading.

3. Postpone this item.

STAFF RECOMMENDATION:

Staff recommends approval of a construction agreement with She Digs It for the ballfield grading in Platte Landing Park.

POLICY:

The Purchasing Policy, Resolution No. 17-016, requires Board of Aldermen approval for all purchases above \$10,000 upon recommendation of the Finance Committee.

SUGGESTED MOTION:

I move to recommend that the Board of Aldermen approve a construction agreement with She Digs It for the ballfield grading in Platte Landing Park in the amount of \$52,050.

ATTACHMENTS:

1. Bid Tabulation
2. Draft Agreement

BID TABULATION

Platte Landing Park Grading

Bid Opening Wednesday, October 7, 2020
10:05 a.m., Public Works or Boardroom Conference Room

Bidder Name	BASE TOTAL
HI-G Enterprises Platte City, MO	\$58,500.00
Primetime Contracting	\$162,575.00
She Digs It Blue Springs, MO	\$52,050.00

(*) Recommended Award of Purchase

CITY OF PARKVILLE, MO
AGREEMENT BETWEEN CITY OF PARKVILLE
AND CONTRACTOR
FOR
PLATTE LANDING PARK GRADING

This agreement is made and entered into this 20th day of October, 2020, by and between the City of Parkville, Missouri, (hereinafter the "City") and **SHE DIGS IT, LLC** (hereinafter the "Contractor").

WITNESSETH:

WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined and evaluated the Bids submitted, and as a result of this process has, in accordance with the law, determined and declared the Contractor to be the lowest and best responsible bidder for the construction of the public improvements, and has duly selected the Contractor for award of a contract therefor upon the terms and conditions set forth in this Agreement for the sum or sums stated below.

WHEREAS, the City has caused to be prepared, in accordance with the law, Notice to Bidders, Instructions to Bidders, Bid, this Agreement, General and Special Conditions, Plans, Specifications and other documents as identified below and as further defined in the General Conditions(collectively referred to as "the Contract Documents"), for the work therein described, and has approved and adopted these said Contract Documents and has caused to be published, in the manner and for the time required by law, an advertisement inviting sealed Bids for furnishing construction materials, labor, tools, equipment and transportation necessary for, and in connection with, the construction of public improvements in accordance with the terms of this Agreement; and

WHEREAS, the Contractor, in response to the advertisement, has submitted to the City, in the manner and at the time specified, a sealed Bid in accordance with the terms of this Agreement; and

WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined and evaluated the Bids submitted, and as a result of this evaluation has, in accordance with the law, determined and declared the Contractor to be the lowest and best responsible bidder for the construction of the public improvements, and has duly selected the Contractor for award of a contract therefor upon the terms and conditions set forth in this Agreement for the sum or sums set forth below.

NOW, THEREFORE, in consideration of the compensation to be paid the Contractor, and of the mutual agreements herein contained, the parties hereto have agreed, and hereby agree, the City for itself and its successors and the Contractor for itself, its successors and assigns, as follows:

ARTICLE I. The Contractor will furnish at its own cost and expense all labor, tools, equipment, materials and transportation required to construct and complete the work designated, described and required by the Contract Documents, all in accordance with the Contract Documents, on file with the City Clerk of Parkville, Missouri, all of which are as fully a part hereof as if repeated verbatim herein; all work to be done in a good, substantial and workmanlike manner to the entire satisfaction of the City, and in accordance with the laws of the City, the State of Missouri and the United States of America. All terms used herein shall have the meanings ascribed to them in the General Conditions unless otherwise specified.

ARTICLE II. The City shall pay to the Contractor for the performance of the work embraced in this Contract, and the Contractor will accept in full compensation therefor, the sum of **FIFTY TWO**

THOUSAND AND FIFTY DOLLARS AND NO/DOLLARS (\$52,050.00) (subject to adjustment as provided by the Contract Documents) for all work covered by and included in the Contract award and designated in the foregoing Article I, payment thereof to be made in cash or its equivalent and in the manner provided in the Contract Documents.

ARTICLE III. The contractor shall commence work upon the date stated in the Notice to Proceed and will complete all work by this Contract by 60 days. Time is of the essence. Accordingly, liquidated damages shall be assessed against Contractor, as stipulated liquidated damages and not as a penalty, in the amount of \$100.00 for each and every calendar day the work remains incomplete over the specified completion time.

ARTICLE IV. This Agreement shall not become effective, nor shall Contractor commence any work hereunder, until the City has received, and approved, the Certificate of Insurance and Additional Insured-and Notice of Cancellation Endorsements, the fully executed Performance and Payment Bonds with Powers of Attorney, and the list of proposed Subcontractors from Contractor.

ARTICLE V. This Agreement is entered into, under and pursuant to, and is to be construed and enforceable in accordance with the laws of the State of Missouri.

ARTICLE VI: The following documents are made part of this agreement by reference:

Exhibit A	General Conditions of the Contract
Exhibit A-1	Special Conditions of the Contract
Exhibit B-1	Performance Bond
Exhibit B-2	Payment Bond
Exhibit B-3	Maintenance Bond
Exhibit C	Scope of Work
Exhibit D	Specifications – Site Plan
Exhibit E	Contractor's Affidavit Acknowledging Federal Lobbying Activities and Conflict of Interest Prohibition
Exhibit F	Sales tax exemption documentation forms
Exhibit G	Contractor's Affidavit of Compliance with Non-Discrimination and Equal Employment Opportunity Laws
Exhibit H	Affidavit of Compliance with Safety Training Requirements (§292.675 R.S. Mo.)
Exhibit I	Affidavit of Compliance with R.S. Mo §285.530.6
Exhibit J-1	Applicable Missouri Prevailing Wage Rates for project totals exceeding \$75,000
Exhibit J-2	Prevailing Wage Rate Reporting Form for project totals exceeding \$75,000
Exhibit J-3	Certification of Compliance with Prevailing Wage Requirements for project totals exceeding \$75,000
Exhibit K	Insurance Requirements
Exhibit L	Bill of Sale
Exhibit M	Bailment Agreement
Exhibit N	Conditional Partial Waiver of Lien and Release of Claims
Exhibit O	Conditional Final Waiver of Lien and Release of Claims
	Certificate of Substantial Completion
	Certificate of Final completion
	Construction Change Directive
	Change Order

WITNESS WHEREOF, the City of Parkville, Missouri, has caused this Agreement to be executed on its behalf, thereunto duly authorized, and the said Contractor has executed this contract in the prescribed form and manner, the day and year first above written.

CITY OF PARKVILLE, MISSOURI

By: _____
Nanette K. Johnston

Title: Mayor

ATTEST:

Melissa McChesney, City Clerk

SHE DIGS IT, LLC

By _____

(SEAL)

Title _____

(If the Contract is not executed by the President of the Corporation or general partner of the partnership, please provide documentation, which authorizes the signatory to bind the corporation or partnership. If a corporation, Contractor shall furnish the City a current certificate of good standing, dated within ten (10) days of the date of this Contract.)

CITY OF PARKVILLE

Policy Report

Date: October 7, 2020

Prepared By:

Alysen Abel, Public Works Director

Reviewed By:

Melissa McChesney, City Clerk

ISSUE:

Approve a construction agreement and Change Order No. 1 with Kansas City Fence & Guardrail to install a fence at the pickleball courts in English Landing Park (Public Works)

BACKGROUND:

On July 21, 2020, the Board of Aldermen approved a construction agreement with Multicon for the installation of the pickleball courts. As a cost savings measure, the fencing and lighting were not included in the base contract because they could be contracted separately with specialized contracts, saving the City money.

The City staff contacted several fencing companies to obtain quotes for the fencing around the perimeter of the pickleball courts. The fencing standards were sent to each of them. Three of the contractors responded with bid proposals.

- Broski Fence - \$29,951
- Kansas City Fence & Guardrail - \$17,400
- Anchor Fence - \$17,400

Kansas City Fence & Guardrail and Anchor Fence provided the lowest quotes for the installation of the fence. Kansas City Fence & Guardrail is located in Smithville, MO and has previously performed work for the City. They repaired several fences in the park following the 2019 flood. Furthermore, Kansas City Fence & Guardrail stated that they can start right away. Anchor Fence is located in Springfield, MO and has not done work for the City.

In an effort to coordinate the installation of the fence with the installation of the pickleball courts before the end of the construction season, staff requested separate dollar amounts for the two phases of the fence construction. The first phase (in the amount of \$7,800) includes preparation of the fence supports prior to the concrete pour of the courts. The second phase (in the amount of \$9,600) includes the remaining fence above ground. The first phase will be within the City Administrator's approval and will be signed separately, allowing the project to start immediately. Although the cost of the second phase is within the City Administrator's authority, staff is seeking Finance Committee and Board of Aldermen approval since the total project cost exceeds \$10,000.

BUDGET IMPACT:

The 2020 Parks Sales Tax budget includes funding available for capital improvements projects, such

as the pickleball courts. There is capacity in this fund to cover this expense.

ALTERNATIVES:

1. Approve a change order with Kansas City Fence & Guardrail for the installation of the fence for the pickleball courts.
2. Provide direction to staff related to the fence for the pickleball courts.
3. Do not approve the item.
4. Postpone this item.

STAFF RECOMMENDATION:

Staff recommends the approval of a change order with Kansas City Fence & Guardrail for the installation of the fence for the pickleball courts.

POLICY:

The Purchasing Policy, Resolution No. 17-016, requires Board of Aldermen approval for all purchases above \$10,000 upon recommendation of the Finance Committee.

SUGGESTED MOTION:

I move to recommend that the Board of Aldermen approve a change order with Kansas City Fence for the installation of the fence for the pickleball courts in the amount of \$9,600.

ATTACHMENTS:

1. Draft Agreement
2. Change Order 1

CONSTRUCTION SERVICES AGREEMENT

THIS SERVICE AGREEMENT, entered into on this 20th day of October, 2020 by and between the CITY OF PARKVILLE, MISSOURI ("City") and **Kansas City Fence and Guardrail Corp.** ("Contractor").

WHEREAS, the City seeks to hire Contractor to provide certain construction services as described in Exhibit "A" to this Agreement (the "Construction Services"); and

WHEREAS, the City has budgeted funds to acquire the services necessary to complete the Construction Services; and

WHEREAS, Contractor has the necessary staff and qualifications to provide the Construction Services to the City.

NOW THEREFORE, IN CONSIDERATION of the mutual covenants and agreements set forth herein, the parties mutually agree as follows:

I. SCOPE OF SERVICES

- A. The term "Construction Services" when used in this Agreement shall mean any and all labor, material, equipment, insurance, surety bonds or other thing of value that may be required by this Agreement including its exhibits.
- B. The City agrees to retain Contractor and Contractor agrees to perform and complete the Construction Services described in the **Exhibit "A"** – Scope of Work, attached hereto and incorporated by reference.
- C. Service Provider represents it has all necessary skills, personnel, financial capacity, licenses, permits, knowledge, and certifications required to perform the Services described herein.

II. COMPENSATION

- A. As consideration for providing the Construction Services, the City shall pay Contractor as set forth in **Exhibit "A"**.
- B. Contractor shall submit its invoices to the City either at completion of the Project, or on such milestone or other interim terms as set forth on **Exhibit "A"**. Contractor's final invoice shall be accompanied by Waivers and Releases of Claim on the forms attached as **Exhibit "B-2"** to this Agreement, executed by Contractor and all subcontractors with contract values of \$5,000 or more, and notarized. If partial payments are authorized on **Exhibit "A"**, then Contractor shall submit partial waivers on the form attached as **Exhibit "B-1."** The City agrees to pay the balance of an approved invoice, or undisputed portions of a disputed invoice, within 30 days of the date of receipt by the City. In the event of a dispute, and prior to the invoice's due date, City shall pay the undisputed portion of the invoice and notify Contractor of the nature of the dispute regarding the balance.
- C. Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Agreement and such other records as may be deemed necessary by the City to assure proper accounting for all funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Agreement unless permission to destroy them is granted by the City.

III. SCHEDULE

- A. Time is of the essence in performance of this Agreement.
- B. Unless otherwise directed by the City, Contractor shall commence performance of the Construction Services upon execution of this Agreement.
- C. Services shall be completed within the schedule set forth on **Exhibit "A"**.
- D. Neither the City nor the Contractor shall be in default of the Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party.
- E. If **Exhibit "A"** contains a provision for Liquidated Damages, it shall be because the parties have agreed that late Substantial Completion of the Construction Services by Contractor would cause irreparable harm to the City, which harm is difficult to quantify; and that the parties have agreed that the amount stated in **Exhibit "A"** for Liquidated Damages is a fair approximation of the daily costs that the City would incur for late Substantial Completion of the work.

IV. CHANGES

- A. The City reserves the right issue Changes, both additive and deductive, to the Scope of Work at the City's discretion. Contractor shall advise the City of additional costs and time delays, if any, resulting from such Changes, before Contractor performs the Changes. No adjustment to the Contract Time or Contract Price will be permitted unless Contractor has advised the City of the potential impact prior to commencing work on the Change, and the City either issues a Change Order which is agreed to by the parties, or the City directs the Contractor to proceed.
- B. Contractor shall provide Construction Services under this Agreement only upon written request of the City and only to the extent defined and required by the City. Any additional services or materials provided by the Contractor without the City's prior written consent shall be at the Contractor's own risk, cost, and expense, and Contractor shall not make a claim for compensation from the City for such work.

V. INDEMNIFICATION

- A. Contractor shall indemnify and hold harmless the City and its departments, elected officials, officers, employees and agents, from and against all liability, suits, actions, proceedings, judgments, claims, losses, damages, and injuries (including attorneys' fees and other expenses of litigation, arbitration, mediation or appeal), which in whole or in part arise out of or have been connected with Contractor's negligence, error, omission, recklessness, or wrongful or criminal conduct in the performance of Construction Services, including performance by Contractor's employees and agents; or arising from any claim for libel, slander, defamation, copyright infringement, invasion of privacy, piracy and/or plagiarism related to any materials related to materials furnished by Contractor in the course of performance of the work, except to the extent that such claims arise from materials created or supplied by the City.
- B. Contractor's obligation to indemnify and hold harmless shall remain in effect and shall be binding on Contractor whether such injury shall accrue, or may be discovered, before or after termination of this Agreement.

VI. INSURANCE

Contractor shall secure and maintain, at its expense, through the duration of this Agreement insurance as set forth on **Exhibit "C"**.

VII. ASSIGNMENT OF AND RESPONSIBILITY FOR PERSONNEL

- A. Contractor's assignment of personnel to perform the Services shall be subject to the City's oversight and general guidance. The City reserves the right to request qualifications and/or reject service from any and all employees of the Contractor.
- B. Unless otherwise stated in a Scope of Work Exhibit, Contractor shall be represented by a Superintendent or Foreman authorized to give and receive all instruction and notices from and to the City at all times while performing Construction Services, and shall have on site a person who is fluent in all languages necessary to communicate instructions regarding the Work and information regarding medical emergencies with Contractor's employees and subcontractors.
- C. All of the Construction Services required hereunder will be performed by the Contractor or under Contractor's supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
- D. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement including, but not limited to, indemnification, insurance and warranties.
- E. Contractor and all subcontractors with a contract value of \$5,000 or more shall execute affidavits on the form attached as **Exhibit "D"**, attesting to their compliance with § 285.530.5 R.S. Mo. concerning compliance with Missouri's Worker Eligibility requirements.
- F. Contractor and all subcontractors must require all on-site employees to complete the ten-hour construction training program required under Section 292.675 RSMo. unless they have previously completed the program and have documentation of having done so. Contractor shall execute the affidavit attached as **Exhibit "E"**, attesting that it has provided OSHA safety training for its on-site employees. Contractor will forfeit a penalty to the City of \$2,500 plus an additional \$100 for each employee employed by Contractor or any subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training. See Section 292.675 RSMo.
- G. While upon City premises, the Contractor's employees and agents shall be subject to the City's rules and regulations respecting its property and the conduct of employees thereon.

VIII. WARRANTY

- A. The Contractor warrants to the City that materials and equipment furnished under the Contract will be of good quality and new unless the Scope of Work documents require or permit otherwise. All manufacturer's warranties shall be assignable to the City. The Contractor further warrants that the work will conform to the requirements of the Scope of Work documents and will be free from defects, except for those inherent in the quality of the Work which the Scope of Work documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the work not executed by the Contractor or its subcontractors or suppliers, improper

or insufficient maintenance or improper operation. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The Contractor's warranties required by the Agreement (express and implied) shall remain in full force and effect even if a material or equipment item is required by the Owner to be manufactured by a specific entity, and no other equivalent product manufactured by any other entity is acceptable.

- B. The Contractor's warranty in Section VIII.A. shall not be construed to replace, change or otherwise limit any statutory or common law warranty rights of the Owner, or any other Contract requirements.

IX. OWNERSHIP OF WORK PRODUCT

Contractor agrees that any documents, materials and/or work products produced in whole or in part by or through it under this Agreement, any intellectual property rights of Contractor therein (collectively the "Works") are intended to be owned by the City. Accordingly, Contractor hereby assigns and agrees to assign to the City all of its right title and interest in and to such Works.

X. RELATIONSHIP OF THE PARTIES

Contractor represents that it is an independent contractor and that no personnel performing any of the Construction Services shall be employees of or have any contractual relationship with the City.

XI. NOTICES

- A. All notices required by this Agreement shall be in writing, and unless otherwise directed by this Agreement, shall be sent to the addresses as set forth in this Section:
- B. Notices sent by Contractor shall be sent to:

City of Parkville
Attn: Chris Ashley, Public Works Project Manager
8880 Clark Ave.
Parkville, MO 64152

- C. Notices sent by the City shall be sent to:

KC Fence & Guardrail Corporation
Attn: Kirk Williams
206 South Commercial Street
Smithville, MO 64089
kansascityfence@yahoo.com
816-532-8227

XII. CORRECTION OF WORK

The Contractor shall promptly correct work rejected by the City or failing to conform to the requirements of the Agreement, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for services and expenses of a designer made necessary thereby, shall be at

the Contractor's expense. If the Contractor fails to correct nonconforming Work within ten (10) days after receipt of written notice from the City, the City may correct it at Contractor's expense.

XIII. TERM AND TERMINATION

- A. The effective date of this Agreement shall be the date of execution, when the Agreement is signed by both parties.
- B. Notwithstanding anything to the contrary in this Agreement or exhibit, the City reserves the right and may elect to terminate this Agreement at any time, with or without cause, by giving at least ten (10) days' written notice to the Contractor. The City shall compensate Contractor for the Construction Services that have been completed to the City's satisfaction as of the date of termination. Contractor shall perform no activities other than reasonable wrap-up activities after receipt of notice of termination.
- C. The City may terminate the Agreement for cause if the Contractor:
 - 1. refuses or fails to supply enough properly skilled workers or proper materials;
 - 2. fails to make payment to Subcontractors for materials, equipment, services or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
 - 3. disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
 - 4. its Subcontractors or Sub-subcontractors causes a work stoppage due to any strike, picket, boycott or participates in any voluntary or involuntary cessation of Work; or
 - 5. otherwise is guilty of substantial breach of a provision of the Agreement.
- D. When any of the above reasons exist, the City may without prejudice to any other rights or remedies of the City and after giving the Contractor and the Contractor's surety, if any, seven (7) days' written notice, terminate the Agreement and may, subject to any prior rights of the surety, if any:
 - 1. Exclude the Contractor from the Project site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
 - 2. Direct the work of subcontractors; and
 - 3. Finish the Work by whatever reasonable method the City may deem expedient. Upon written request of the Contractor, the City shall furnish to the Contractor a detailed accounting of the costs incurred by the City in finishing the Work.

When the Owner terminates the Agreement for one of the reasons stated above, the Contractor shall not be entitled to receive further payment until the Work is finished.

If the unpaid balance of the Contract Price exceeds costs of finishing the Work, including compensation for the services and expenses of a designer, and legal, consultant and testing fees made necessary thereby, and other damages incurred by the City and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor or its surety, if any, shall pay the difference to the City upon demand. The obligation for payment, if any, shall survive termination of the Agreement.

XIV. RESOLUTION OF DISPUTES

- A. Should the Contractor believe that it is entitled to any relief due to errors, omissions or defects in the Plans or Specifications, or as a result of any act or omission of an independent contractor designer in connection with the Project, the City shall cooperate with the Contractor by permitting the Contractor to pursue legal action against the designer in the name of the City at Contractor's sole risk and expense as the City would otherwise have against such designer. The City shall pay to Contractor such sums as may be recovered from the designer on behalf of Contractor. Other than this duty of cooperation and remittance, the City shall have no liability or obligation to Contractor for any act, error, omission, negligence or breach of duty by a designer.
- B. City and Contractor agree that disputes relative to the Work shall first be addressed by negotiations between the parties. Such negotiations shall take place within thirty (30) days of demand by the party seeking resolution of the dispute. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute Contractor shall proceed with the Work as per the Contract Documents as if no dispute existed.
- C. In order to preserve its rights to dispute a matter hereunder, the complaining party must submit a written notice to the other party setting forth the basis for its complaint within twenty (20) calendar days following receipt of the decision of the City Public Works Director as to such matter or other action on which the dispute is based. A decision of the City Public Works Director (where appropriate) under GC-7 above; notice of dispute, and direct negotiation, shall be conditions precedent to further action.
- D. Arbitration of disputes.
 - 1. Claims, except those waived as provided for elsewhere in this Agreement, which have not been resolved by the procedures described above, shall be decided by arbitration which, unless the parties mutually agree otherwise, in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect at the time of the arbitration. The demand for arbitration shall be filed in writing with the other party to the Contract and with the American Arbitration Association.
 - 2. A demand for arbitration may be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations.
 - 3. An arbitration pursuant to this Section may be joined with an arbitration involving common issues of law or fact between the City or Contractor and any person or entity with whom the City or Contractor has a contractual obligation to arbitrate disputes which does not prohibit consolidation or joinder. No other arbitration arising out of or relating to the Contract shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to the Contract or not a party to an agreement with the City Contractor, except by written consent containing a specific reference to the Agreement signed by the City and Contractor and any other person or entities sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and

other agreements to arbitrate with an additional person or entity duly consented to by the parties to the Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

4. **Claims and Timely Assertion of Claims.** The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.
5. **Judgment on Final Award.** The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

XV. MISCELLANEOUS PROVISIONS

- A. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Missouri.
- B. **Assignability.** Contractor shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or invitation), without the prior written consent of the City thereto. Provided, however, that the claims for money by Contractor from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.
- C. **Media Announcements.** Contractor shall not be authorized to make statements to the media or otherwise on behalf of the City without express direction and consent of the City.
- D. **Compliance with Local Laws.** Contractor shall comply with all applicable laws, ordinances, and codes of the State of Missouri and local governments, and shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
- E. **Equal Employment Opportunity.** During the performance of this Agreement, Contractor agrees as follows:
 1. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, religion, or sex. Service Provider will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, religion, or sex. Such action shall include, but not be limited to, employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
 2. Contractor will, in all solicitation or advertisements for employees placed by or on behalf of Professional, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, religion, or sex.
 3. Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- F. **Interest of Members of a City.** No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of this Agreement, shall have any personal

financial interest, direct or indirect, in this Agreement, and Contractor shall take appropriate steps to assure compliance.

- G. Interest of Contractor and Employees. Contractor covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his/her services hereunder. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed.
- H. Entire Agreement. This Agreement represents the entire Agreement and understanding between the parties, and this Agreement supersedes any prior negotiations, proposals, or agreements. Unless otherwise provided in this Agreement, any amendment to this Agreement shall be in writing and shall be signed by the City and Contractor, and attached hereto.
- I. Severability. If any part, term or provision of this Agreement, or any attachments or amendments hereto, is declared invalid, void, or enforceable, all remaining parts, terms, and provisions shall remain in full force and effect.
- J. Waiver. The failure of either party to require performance of this Agreement shall not affect such party's right to enforce the same. A waiver by either party of any provision of breach of this Agreement shall be in writing. A written waiver shall not affect the waiving party's rights with respect to any other provision or breach.
- K. Third Parties. The Services to be performed by the Contractor are intended solely for the benefit for the City. Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any person or entity not a signatory to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

CITY OF PARKVILLE, MISSOURI

By: _____
Nanette K. Johnston, Mayor

ATTEST:

Melissa McChesney, City Clerk

KC FENCE & GUARDRAIL CORPORATION

By: _____

Change Order 1

PROJECT (*Name and address*):
Pickleball Court Fencing

CHANGE ORDER NUMBER: 1
DATE: October 8, 2020

TO CONTRACTOR (*Name and Address*):
KC Fence & Guardrail Corp.

PROJECT NO.: _____
CONTRACT DATE: 10/7/2020

THE CONTRACTOR IS CHANGED AS FOLLOWS:

The original Contract Sum was	\$	<u>7,800.00</u>
The net change by previously authorized Change Orders	\$	<u>0.00</u>
The Contract Sum prior to this Change Order was	\$	<u>7,800.00</u>
The Contract Sum will be increased by this Change Order in the amount of	\$	<u>9,600.00</u>
The new Contract Sum including this Change Order will be	\$	<u>17,400.00</u>

The Contract Time will be increased by zero (0) days.
The date of Substantial Completion as of the date of this Change Order therefore is unchanged.

Provide and install black powder-coated 1 5/8" dia. horizontal top and bottom rails, #9 gauge core wire chain link fabric, fuse bonded black vinyl for an 8 gauge finish, factory coated black fittings and HDPE top cap at the 4' high fencing, as indicated on Fencing Plan revised 9/28/20 and Kansas City Fence & Guardrail's proposal dated 10/1/20.

This Change Order represents a complete and final resolution of all matters concerning or arising out of the work described in the Change Order, including any impact, delay, disruption and/or acceleration of work unless specifically identified herein.

NOT VALID UNTIL SIGNED BY THE CONTRACTOR AND OWNER.

KC Fence & Guardrail Corp.
CONTRACTOR (*Firm name*)

City of Parkville
OWNER (*Firm Name*)

626 N. 47th Street, KCKS 66102
ADDRESS

8880 Clark Ave., Parkville, MO 64152
ADDRESS

BY (*Signature*)

BY (*Signature*)

Kirk Williams
(*Typed name*)

Joe Parente, City Administrator
(*Typed name*)

DATE

DATE

