



Issue: Pool Basin Painting Contract

Date: February 21, 2023

Submitted By: Matt Crouse, Director of Parks and Recreation

Background

Every three to four pool seasons the pool basin requires painting to ensure the basin remains protected from water damage. During this painting process all cracks and seams are checked for any weakness and integrity. This process ensures the longevity of the pool for years to come.

Analysis

It is apparent after last season the current paint covering is looking worn in several areas and additional paint is needed to ensure the basin is protected. The scope of work calls for a cleaning and two coats of paint to be applied to the entire pool basin to once again ensure the basin is protected. The RFP was sent to 6 companies and we received 4 responses to the RFP. Mongan Painting LLC, was the low bid at \$35,000. The high bid was just over \$115,000. We have not worked with Mongan before, however the project lead has worked with us through a different company in the past and is familiar with our pool.

Recommendation

It is staff recommendation to move forward with the low bidder Mongan Painting, LLC for the pool basin painting for this year. This project will move forward once temperatures rise and be completed by May 5th 2023 to allow for adequate cure time before filling the pool for the season.

Thank you for your consideration and I would be happy to answer any questions you may have.

Respectfully,

Matt Crouse
Director, Parks and Recreation

Event Number	RFB-002-2023/Parks	Organization	City of Nixa
Event Title	Pool Basin Painting	Workgroup	Purchasing
Event Description	The City of Nixa is issuing a Request for Bid f	Event Owner	Stephanie Ewing
Event Type	RFB	Email	sewing@nixa.com
Issue Date	1/17/2023 02:30:01 PM (CT)	Phone	
Close Date	2/3/2023 10:00:00 AM (CT)	Fax	

Responding Supplier	City	State	Response Submitted	Lines Responded	Response Total
Mongan Painting, LLC (Mongan Cherokee		IA	2/3/2023 08:59:59 AM (CT)	1	\$35,000.00
TMI Coatings, Inc.	St. Paul	MN	2/3/2023 09:24:52 AM (CT)	1	\$92,000.00
RIO CONTRACTING LLC.	Springfield	MO	2/1/2023 08:42:50 AM (CT)	1	\$103,500.00
Amusement Restoration Compa Burnet		TX	1/30/2023 11:35:38 AM (CT)	1	\$115,268.50

Please note: Lines Responded and Response Total only includes responses to specification. No alternate response data is included.

Line #	Description	QTY	UOM	Mongan Painting, LLC (Mongan Painting, Co., Inc.)		TMI Coatings, Inc.		RIO CONTRACTING LLC.		Amusement Restoration Companies LLC	
				Total Price	\$35,000.00	Total Price	\$92,000.00	Total Price	\$103,500.00	Total Price	\$115,268.50
				Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended
1	Please indicate your total cost to complete this project, which shall include: * Repair cracks and caulking seams in pool basin. * Two (2) coats of Tnemec Paint must be applied at 200 sq. ft. per gallon, including gutter trough. * Shallow Play Area (0- 3'6) 5,624 sq. ft Swimming Area (3'6 5') 3,377 sq. ft Plunge Area (3'6 4') 576 sq. ft Diving Area (5' 13') 1,484 sq. ft Total Sq. Ft.: 11,061 / Total Volume: 320,157 gallons	1	Total cost of Service	\$35,000.00	\$35,000.00	\$92,000.00	\$92,000.00	\$103,500.00	\$103,500.00	\$115,268.50	\$115,268.50

Line	Responding Supplier	Supplier Notes
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Att #	Attribute Name	Attribute Note	Mongan Painting, LLC (Mongan Painting, Co., Inc.)	TMI Coatings, Inc.	RIO CONTRACTING LLC.	Amusement Restoration Companies LLC
1	Introduction	There are attributes, including this one, associated with				
2	General Terms and Conditions	Download the General Terms and Conditions, located at	I have downloaded, read and	I have downloaded, read and	I have downloaded, read and	I have downloaded, read and
3	Bid Bond Requirements	Download the Bid and Performance Bond requirements	I have downloaded, read and	I have downloaded, read and	I have downloaded, read and	I have downloaded, read and
4	On-site Visit	If you are wanting to schedule an on-site visit to the project	I acknowledge.	I acknowledge.	I acknowledge.	I acknowledge.
5	RFB Submission Response	The City of Nixa prefers responses to be submitted on				
6	Bid Opening	Any bid received later than the specified time shall be				
7	Attachments Required	Be sure to upload all required documents and forms to				
8	Scope of Work	Download the Scope of Work, located on the "Attachments	I acknowledge.	I acknowledge.	I acknowledge.	I acknowledge.
9	Prevailing Wage Order	Download the Prevailing Wage Order, located on the "Attachments	I have downloaded, read and	I have downloaded, read and	I have downloaded, read and	I have downloaded, read and
10	Bid Bond Requirements	Download the Bid and Performance Bond requirements	I acknowledge.	I acknowledge.	I acknowledge.	I acknowledge.
11	Contract for Services	Download the Contract for Services, located on the "Attachments	I have downloaded, read and	I have downloaded, read and	I have downloaded, read and	I have downloaded, read and
12	No Deviations or Exceptions	I certify that there are NO deviations or exceptions from	Agree - No Deviations	Agree - No Deviations	Agree - No Deviations	Agree - No Deviations
13	Deviations and Exceptions	If your company intends to deviate from the Specifications	N/A	N/A	None taken	N/A
14	Anti-Collusion Statement	By offering a submission to this Bid, the bidder certifies	I agree.	I agree.	I agree.	I agree.
15	Vendor Application/W-9	If you have never done business with the City of Nixa, I	I acknowledge.	I acknowledge.	I acknowledge.	I acknowledge.
1	Project Completion	The project must be completed no later than May 5, 2023. I	I understand and agree to comply with	I understand and agree to comply with	I understand and agree to comply with	I understand and agree to comply with

Responding Supplier	Signature Full Name	Signature Email	Supplier Notes
			<p>Thank you for the opportunity.</p> <p>Sincerely,</p> <p>James Brooks Mongan Painting, LLC Regional Office Manager 12660 SW Maple Street Hume, MO 64752</p>
Mongan Painting, LLC (Mongan	James Brooks	james@monganpainting.net	
TMI Coatings, Inc.	Tracy Gliori	tmi@tmicoatings.com	
RIO CONTRACTING LLC.	TOM WOOD	tom@riocontractors.com	
Amusement Restoration Compa	Matthew Gardiner	matt@arcparcs.com	

RESOLUTION NO. 2023-10

1 **A RESOLUTION OF THE COUNCIL OF THE CITY OF NIXA ACCEPTING THE BID OF**
2 **MONGAN PAINTING COMPANY, INC. FOR THE POOL BASIN PAINTING PROJECT**
3 **AND AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT FOR**
4 **SAME.**

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6
7 **WHEREAS** City Council, by passage of Resolution No. 2022-123, adopted the
8 2023-2027 Capital Improvement Program (“CIP”); and

9
10 **WHEREAS** included in the CIP is a project known as the “Pool Basin Painting
11 Project” (“Project”); and

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13 **WHEREAS** City staff, pursuant to the City’s adopted purchasing procedures
14 (Resolution 2019-113), as amended, have solicited bids from qualified firms for the
15 Project; and

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17 **WHEREAS** after reviewing all submitted bids, City staff has determined that
18 Mongan Painting Company, Inc. (“Contractor”) provided the best bid for the Project; and

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20 **WHEREAS** City Council desires to award the Contract for the Project to the
21 Contractor and to authorize the City Administrator to execute the Contract attached hereto
22 as “Resolution Exhibit A.”

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24 **NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF**
25 **NIXA, AS FOLLOWS, THAT:**

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27 **SECTION 1:** City Council hereby accepts the bid of the Contractor for the Project
28 at the price and sum of \$35,000.00. The City Administrator, or designee, is hereby
29 authorized to enter into a contract with the Contractor. Said contract to be in substantially
30 similar form as the document attached hereto, and incorporated herein by this reference,
31 as “Resolution Exhibit A.”

32
33 **SECTION 2:** The City Administrator and the officers of the City are hereby
34 authorized to do all things necessary or convenient to carry out the terms and intent of
35 this Resolution.

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37 **SECTION 3:** If applicable, all workers performing work under the contract
38 authorized by this Resolution shall be paid a wage of no less than the prevailing hourly
39 rate of wages for work of a similar character in this locality or the public works contracting
40 minimum wage, whichever is applicable. The Contractor shall fully comply with the
41 provisions and requirements of the Missouri State Prevailing Wage Law, if applicable. If
42 applicable, contractors and any subcontractor performing work under this contract must
43 provide a 10-hour OSHA construction safety training program, or similar program
44 approved by the Department of Labor, for on-site employees, unless employees
45 demonstrate they previously completed the program.

RESOLUTION NO. 2023-10

47 **SECTION 4:** This Resolution shall be in full force and effect from and after its final
48 passage by the City Council and after its approval by the Mayor, subject to the provisions
49 of section 3.11(g) of the City Charter.
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ADOPTED BY THE COUNCIL THIS 27th DAY OF February, 2023.

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ATTEST:

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PRESIDING OFFICER

CITY CLERK

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APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2023.

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ATTEST:

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MAYOR

CITY CLERK

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APPROVED AS TO FORM:

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CITY ATTORNEY

ROUTE ORDER: Contractor signs, route to City Clerk, City Admin signs two originals, Clerk adds date, City Attorney signs, return one original by mail to Organization and City Clerk retains one original.

EFFECTIVE DATE:	TERMINATION DATE:	CONTRACT NUMBER:
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() **NEW CONTRACT** () **RENEWAL OF CONTRACT NO.** () **Addendum No.** __

CITY	CONTRACTOR
Name: City of Nixa, Missouri Address: 715 W. Mt. Vernon St., PO Box 395 Nixa, MO 65714 Phone: 417.725.3785 Attn: Matt Crouse Dept: Parks Email: mcrouse@nixa.com	Name: Mongan Painting Company, Inc. Address: 720 Sleezer Road, PO Box 515 Cherokee, IA 51012 Phone: 712-225-0626 Attn: James Brooks Email: james@monganpainting.net

CONTRACT FOR SERVICES

THIS CONTRACT ("Contract") is made and entered into upon its execution by the parties identified above.

WHEREAS the City, after conducting a Request for Bid solicitation process, referenced as RFB-002-2023/Parks desires to engage Contractor to perform certain construction work; and

WHEREAS the City desires to engage Contractor to perform such work under the terms and conditions of this Contract; and

WHEREAS contractor desires to perform such work under the terms and conditions of this Contract.

NOW, THEREFORE, for the considerations herein expressed, it is mutually agreed by and between the City and the Contractor as follows:

1. Manner and Time for Completion. The City agrees to engage the services of the Contractor and the Contractor agrees to perform said Construction Services in accordance with the standard of care, skill, and expertise ordinarily used by members of the Contractor's profession in the performance of similar services. The Construction Services are more specifically described in Exhibit A, which is attached hereto and incorporated herein by this reference. Contractor shall furnish all supervision, labor, tools, equipment, materials, and supplies necessary to perform the Services at Contractor's own expense in accordance with the contract documents, any applicable City ordinances, and any applicable state or federal laws within 120 calendar days from the date Contractor is ordered to proceed, which order shall be issued by the City Administrator within 30 days after the date of execution of this Contract.

2. Insurance Requirements. Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City against all hazards or risks of loss as hereunder specified or which may arise out of the performance of this Contract. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City. Regardless of such approval, it shall be the responsibility of the

Contractor to maintain adequate insurance coverage at all times during the term of this Contract. Failure of the Contractor to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability in general or under this Contract.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City within 10 days after the date of the receipt of Notice of Award of the Contract to the Contractor and prior to the start of work. All insurance policies shall require that the insurance company in question provide 30 days written notice prior to modification or cancellation of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to the address for the City listed at the top of this Contract.

As of January 1, 2022, the minimum coverage for the insurance referred to herein shall be as set out below:

- a. **Workers' Compensation** – Statutory coverage per RSMo. 287.010 et seq.
Employer's Liability – \$1,000,000.00
- b. **Commercial General Liability Insurance**, including coverage for Premises, Operations, Products and Completed Operations, Contractual Liability, Broad Form Property Damage, Independent Contractors, Explosion, Collapse, and Underground Property Damage and blasting if blasting is required. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Three Million Two Hundred Fifty-Eight Thousand Three Hundred Sixty-Eight and no/100 Dollars (\$3,258,368.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Eighty-Eight Thousand Seven Hundred Fifty-Five and no/100 Dollars (\$488,755.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least \$1,000,000 for all claims to property arising out of a single occurrence and at least \$100,000 to any one owner with respect to damages to property. Contractor agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorney's fees of Contractor, its employees, officers or agents. Contractor agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.
- c. **Automobile Liability Insurance** covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at Three Million Two Hundred Fifty-Eight Thousand Three Hundred Sixty-Eight and no/100 Dollars (\$3,258,368.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Eighty-Eight Thousand Seven Hundred Fifty-Five and no/100 Dollars (\$488,755.00) with respect to injuries and/or death of any one person in a single accident or occurrence.
- d. **Owner's and Contractor's Protective Liability Insurance.** To protect the City, its agents, servants, and employees from claims which may arise from the performance of this Contract, with limits of at least Three Million Two Hundred Fifty-Eight Thousand Three Hundred Sixty-Eight and no/100 Dollars (\$3,258,368.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Eighty-Eight Thousand Seven Hundred Fifty-Five and no/100 Dollars (\$488,755.00) with respect to injuries and/or death of any one person in a single accident or occurrence. The Owner's and Contractor's Protective Liability Insurance must:
 1. Be a separate policy with the named insured being: The City of Nixa, Missouri; and

2. Be with the same insurance company with which the Contractor carries its Commercial General Liability Insurance and Automotive Liability Insurance; and
3. Contain an endorsement that disclaims coverage for any claim barred by the doctrines of sovereign immunity or official immunity, except attorney's fees and other litigation costs incurred in defending a claim. Nothing contained in this policy (or this endorsement thereto) shall constitute any waiver of whatever kind of these defenses or sovereign immunity or official immunity for any monetary amount whatsoever.

e. Subcontracts. In case any or all of the performance of this Contract is sublet, the Contractor shall require the subcontractor to procure and maintain all insurance required in subparagraphs (a), (b) and (c) hereof and in like amounts. Contractor shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

f. Notice. The Contractor and/or subcontractor shall furnish to the City prior to beginning the work contemplated by this Contract, the policy as specified in subparagraph (d), and satisfactory proof of bearing all the insurance required by this Contract, with the provision that policies shall not be canceled, modified or non-renewed without 30 days written notice to the City.

g. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this Contract by legislative or judicial action, the City may require Contractor, upon 10 days written notice, to execute a contract addendum whereby the Contractor agrees to provide, at a price not exceeding Contractor's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

3. Performance and Payment Bonds. The Contractor shall furnish a Performance Bond and a Labor and Materials Payment Bond with surety approved by the City and on the forms approved by the City, each bond shall be in the amount of \$35,000.00 (full amount of contract) conditioned upon the full and faithful performance of all major terms and conditions of this Contract and payment of all labor and material suppliers. It is further mutually agreed between the parties that if at any time after the execution of this Contract the City deems the surety or sureties upon such bond(s) to be unsatisfactory, or if, for any reason, such bond(s) ceases to be adequate to cover the performance of the work, the Contractor shall, at its expense, within 5 days after the receipt of notice from the City to do so, furnish an additional bond or bonds, in such form and amount, and with such surety or sureties as shall be satisfactory to the City. In such event no further payment to the Contractor shall be deemed to be due under this Contract until such new or additional security for the faithful performance of the work and the payment of labor and material suppliers shall be furnished in a manner and form satisfactory to the City. The corporate surety on any performance or payment bond must be licensed by the State of Missouri and if the required bond exceeds \$25,000.00 must be listed in United States Treasury Circular 570.

4. Contractor's responsibility for subcontractors. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. Contractor

shall cause appropriate provisions to be inserted in all subcontracts relating to this Contract, to bind all subcontractors to Contractor by all the terms herein set forth, and insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as the City may exercise over Contractor under any provisions of this contract. Nothing contained in this contract shall create any contractual relation between the subcontractor and the City.

5. General Independent Contractor Clause. This Contract does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor shall be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act, minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation, and unemployment insurance laws. The Contractor shall retain sole and absolute discretion as to the judgment and manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Contract shall not be construed as creating any joint employment relationship between the Contractor and the City, and the City shall not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

6. Liquidated Damages. The parties mutually and expressly agree that time of completion of work by the Contractor is of the essence. Should Contractor, or in the case of default, the surety, fail to substantially complete the work within the time specified in this Contract, or within such extra time as may be allowed, Contractor (or surety) shall be liable to the City in the amount of \$500 per day for each and every calendar day that the performance of this Contract remains uncompleted after the time allowed for substantial completion, as liquidated damages, and not as a penalty, it being stipulated that actual damages to the City and the public arising from Contractor's failure to timely complete the work would be difficult, if not impossible, to ascertain. The amount assessed as liquidated damages may be withheld from any moneys otherwise due to Contractor from the City. The project is not considered complete until final acceptance by the City.

7. Termination.

a. For Cause. The City reserves the right to terminate this Contract by giving at least five days prior written notice to the Contractor, without prejudice to any other rights or remedies of the City should the Contractor be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for Contractor or for any of its property, or if Contractor should persistently or repeatedly refuse or fail to supply enough properly skilled workmen or proper material, or if Contractor should refuse or fail to make prompt payment to any person supplying labor or materials for the work under the contract, or persistently disregard instructions of the City or fail to observe or perform any provisions of the contract.

b. For Convenience. The City shall have the right at any time by written notice to Contractor to terminate and cancel this Contract, without cause, for the convenience of the City, and Contractor shall immediately stop work. In such event City shall not be liable to Contractor except for payment for actual work performed prior to such notice in an amount proportionate to the completed contract price and for the actual costs of preparations made by Contractor for the performance of the cancelled portions of the Contract, including a reasonable allowance of profit applicable to the actual work performed and such preparations. Anticipatory profits and

consequential damages shall not be recoverable by Contractor.

8. City's Right to Proceed. In the event this Contract is terminated, the City may take over the work and prosecute the same to completion, by contract or otherwise, and Contractor and its sureties shall be liable to the City for any costs over the amount of this Contract thereby occasioned by the City. In any such case, the City may take possession of, and utilize in completing the work, such materials, appliances and structures as may be on the work site and are necessary for completion of the work. The foregoing provisions are in addition to, and not in limitation of, the rights of the City under any other provisions of the contract, city ordinances, and state and federal laws.

9. Liability and Indemnity.

a. In no event shall the City be liable to the Contractor for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the Contractor under this contract.

b. The Contractor shall defend, indemnify and save harmless the City, its elected or appointed officials, agents and employees from and against any and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims in any manner caused by, or allegedly caused by, or arising out of, or connected with, this contract, or the work or any subcontract thereunder (the Contractor hereby assuming full responsibility for relations with subcontractors), including, but not limited to, claims for personal injuries, death, property damage, or for damages from the award of this contract to Contractor, notwithstanding any possible negligence, whether sole or concurrent, on the part of the City, its officials, agents and employees.

c. The Contractor shall indemnify and hold the City harmless from all wages or overtime compensation due any employees in rendering services pursuant to this Contract or any subcontract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, the Missouri Prevailing Wage Law or any other federal or state law.

d. The indemnification obligations of Contractor hereunder shall not be limited by any limitations as to the amount or type of damages, compensation or benefits payable by or for the Contractor, under any federal or state law, to any person asserting the claim against City, its elected or appointed officials, agents, and employees, for which indemnification is sought.

e. The indemnification obligations herein shall not negate, abridge or reduce in any way any additional indemnification rights of the City, its elected or appointed officials, agents and employees, which are otherwise available under statute, or in law or equity.

f. Contractor affirms that it has had the opportunity to recover the costs of the liability insurance required in this Contract in its contract price. Contractor's obligation under this Contract to defend, indemnify, and hold harmless any person from that person's own negligence or wrongdoing is limited to the coverage and limits of the applicable insurance required of the Contractor under this Contract.

g. The Contractor shall indemnify and hold the City harmless for any penalties, fines, fees or costs, including costs of defense, which are charged or assessed by any Federal, state or

local agency including, but not limited to, Environmental Protection Agency or Department of Natural Resources.

10. Payment for Labor and Materials. The Contractor agrees and binds itself to pay for all labor done, and for all the materials used in the construction of the work to be completed pursuant to this contract.

11. Payment. Provided that Contractor performs the services in the manner set forth herein, the City shall pay the Contractor in accordance with the rate set forth in Exhibit B, which shall constitute full and complete compensation for the Contractor's work provided hereunder. No partial payment to the Contractor shall operate as approval of acceptance of work done or materials furnished hereunder. Such compensation will be paid in progress payments, as established by the City, subject to receipt of a requisition for payment and a statement of work provided by the Contractor and Contract by both the City and the Contractor that the Contractor has fully performed the work to be paid for in such progress payments in conformance with the contract. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Contractor under the terms of this Contract exceed the sum of **Thirty-Five Thousand Dollars and No Cents (\$35,000.00)** unless specifically and mutually agreed to in writing by both the City and the Contractor.

12. Contract Documents. The entire Contract of the parties shall consist of the following documents:

- a. This Contract
- b. **Exhibit A- Scope of Work**
- c. **Exhibit B- Bid/Rate Sheet**

The above listed documents are attached hereto and incorporated by their reference herein as though fully set forth herein. No modification, amendment, or waiver of any of the provisions of this Contract shall be effective unless in writing specifically referring hereto and signed by both parties. This Contract shall also include any Exhibits incorporated by reference in the above-described documents. When any provisions of the Contract Documents conflict, the provisions contained in the Contract shall control followed by Exhibit A, and then Exhibit B.

13. Conflict of Interest. Contractor certifies that no member or officer of its firm or corporation is an officer or employee of the City of Nixa, Missouri, or any of its boards or agencies, and further that no officer or employee of the City has any financial interest in this contract which would violate any applicable federal regulations or the provisions of RSMo Section 105.450 et seq.

14. Assignment. The Contractor shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City, provided, however, that claims for money due or to become due to the Contractor from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City and the bond surety. Any such assignment is expressly subject to all rights and remedies of the City under this Contract, including the right to change or delete activities from the Contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this Contract.

15. Nondiscrimination. The Contractor agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, status as a protected veteran or status as a qualified individual with a disability, or

political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder. The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a) and 41 C.F.R. § 60-741.5(a), if applicable.

a. This Contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-300.5(a). This regulation prohibits discriminations against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

b. This Contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime Contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

16. Nonresident/Foreign Contractors. The Contractor shall procure and maintain during the life of this Contract:

a. If the Contractor is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.570 RSMo.

b. A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

17. Notices. All notices required or permitted hereinunder and required to be in writing may be given by electronic transmission or by first class mail addressed to City and Contractor at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the second full day after the day of its mailing. The date of delivery of notice by electronic transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

18. Right to Audit. Contractor agrees to furnish sufficient supporting details as may be required by the City to support any charges or invoices submitted to the City for payment under this Contract. Contractor shall make available for the City's inspection all records covering or relating charges submitted to the City for payment. Contractor shall make appropriate adjustments in the event that discrepancies are found. The City shall have the right to audit the Offeror's records pertaining to the work/product for a period of three (3) years after final payment.

19. Occupational License. The Contractor shall obtain and maintain an occupational license or business registration with the City of Nixa, Missouri, if required by city code and any required state or federal requirement. The cost for this occupational license shall be borne by the Contractor. No contract will be executed by the City until this occupational license has been obtained.

20. Safety Training. Pursuant to Missouri Revised Statute Section 292.675, Contractors and subcontractors who sign a contract to work on public works projects must provide a 10-hour OSHA construction safety program, or similar program approved by the Department of Labor and Industrial Relations, to be completed by their on-site employees within sixty (60) days of beginning work on the construction project. The Contractor shall provide an acceptable notarized affidavit stating that

Contractor has verified the completion of a 10-hour constructions safety program with respect to the employees working in connection with the contracted services. Contractors and subcontractors in violation of this provision will forfeit to the public body \$2,500.00 plus \$100 a day for each employee who is employed without training. Public bodies and contractors may withhold assessed penalties from the payment due to those Contractors and subcontractors. The penalties shall not begin to accrue until the time periods in the statute have elapsed (60 days after notice to proceed and 20 days to produce documentation for employee found in violation).

21. Affidavit for Contracts Over \$5,000.00. That pursuant to Missouri Revised Statute Sections 285.525 through 285.550, if this contract exceeds the amount of \$5,000.00 and Contractor is associated with a business entity, Contractor shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Contractor must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

22. Affidavit for Compliance with Anti-Discrimination against Israel Act. Pursuant to Missouri Revised Statute Section 34.600, if this Contract exceeds the amount of \$100,000 for Contractors with ten or more employees, Contractor shall provide an acceptable notarized affidavit stating that the associated business is not currently engaged in and shall not for the duration of the contract, engage in a boycott of goods or services from the State of Israel; is not currently engaged in and shall not, for the duration of the contract, engage in a boycott of goods or services from companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or is not currently engaged in and shall not for the duration of this contract, engage in a boycott of goods or services from persons or entities doing business in the state of Israel.

23. Compliance with Laws. Contractor agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Contractor affirmatively states that payment of all local, state, and federal taxes and assessments owed by Contractor is current.

24. City Benefits. The Contractor shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Worker's Compensation Program of the City.

25. Jurisdiction. This Contract and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this Contract be litigated, venue shall be proper only in the Circuit Court of Christian County, Missouri.

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IN WITNESS WHEREOF, the Parties have set their hands on the day and year stated herein.

THE CITY OF NIXA, MISSOURI

Jimmy Liles, City Administrator

Date: _____

ATTEST:

Rebekka Coffey, City Clerk

Approved as to form:

Nick Woodman, City Attorney

Director of Finance Certification:

I certify that this contract is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefore, and that the appropriate accounting entries have been made.

Jennifer Evans, Director of Finance

CONTRACTOR



James Brooks
Printed Name

Regional Manager
Title

Date: 2/10/2023

ATTEST:



Denise Kraft
Printed Name

Office Manager
Title

Scope of Work Pool Basin Painting

The Scope of Work for this project is to clean and paint the pool basin at the Nixa Community Center, which is located at 701 North Taylor Way, Nixa, MO.

Specifications and guidelines for the project are provided below. The awarded vendor must follow the guidelines.

City staff will monitor and inspect the progress and completion of the project. If any changes or modifications need to be made, the contractor will be required to do so upon request. Payment will not be issued until the project has been approved by City staff.

REFERENCES:

- A. ASTM D 16 - Terminology Relating to Paint, Varnish, Lacquer, and Related Products.
- B. ASTM D 4263 - Indicating Moisture in Concrete by the Plastic Sheet Method.
- C. ASTM F 1869 - Measuring Moisture Vapor Emission Rate of Concrete Subfloor Using Anhydrous Calcium Chloride.
- D. International Concrete Repair Institute (ICRI) Guideline No. 03732 - Selecting and Specifying Concrete Surface Preparation for Sealers, Coatings, and Polymer Overlays.
- E. SSPC-SP 1 - Solvent Cleaning.
- F. SSPC-SP 6/NACE 3 - Commercial Water Blast Cleaning.
- G. SSPC-SP 13/NACE 6 - Surface Preparation of Concrete.

DEFINITIONS:

- A. Definitions of Painting Terms: ASTM D 16, unless otherwise specified.
- B. Dry Film Thickness (DFT): Thickness of a coat of paint in fully cured state measured in mils (1/1000 inch).

ENVIRONMENTAL REQUIREMENTS:

- A. Weather:
 - 1. Air and Surface Temperatures: Prepare surfaces and apply and cure coatings within air and surface temperature range in accordance with manufacturer's instructions.
 - 2. Surface Temperature: Minimum of 5 degrees F (3 degrees C) above dew point.
 - 3. Relative Humidity: Prepare surfaces and apply and cure coatings within relative humidity range in accordance with manufacturer's instructions.
 - 4. Precipitation: Do not prepare surfaces or apply coatings in rain, snow, fog, or mist.
- B. Dust and Contaminants:
 - 1. Schedule coating work to avoid excessive dust and airborne contaminants.
 - 2. Protect work areas from excessive dust and airborne contaminants during coating application and curing.

MANUFACTURER:

- A. Tnemec Company Incorporated, 6800 Corporate Drive, Kansas City, Missouri 64120-1372. Toll Free (800) 863-6321. Phone (816) 483-3400. Fax (816) 483-3969. Web Site www.tnemec.com.

COATING SYSTEM FOR POOL:

- A. Swimming Pool Walls and Floor
 - 1. System Type: Epoxy.
 - 2. Surface Preparation: SSPC-SP13 in accordance with a minimum of CSP-3 Filler and Surfacer: Series 215 Surfacing Epoxy as required.
 - 3. Primer: Series 161-15BL Tank White Hi-Build Epoxoline II. @ 200 sq. ft. per gallon
 - 4. Intermediate: Series 161-15BL Tank White Hi-Build Epoxoline II. @ 200 sq. ft. per gallon
 - 5. Finish: Series 161-15BL Tank White Hi-Build Epoxoline II. @ 200 sq. ft. per gallon
 - 6. Finish Color: 15BL Tank White
 - *Add to both coats 5lbs of 50 mesh white Ottawa silica sand to designated areas.
 - 7. Test blast area is required and approved by owner.

- B All Pool Gutters:
 - 1. System Type: Epoxy.
 - 2. Surface Preparation: SSPC-SP13 in accordance with a minimum of CSP-3
 - 3 *Primer: Series 161-25BL Fountainbleu Hi-Build Epoxoline II. @ 200 sq. ft. per gallon
 - 4. *Finish: Series 161-25BL Fountainbleu Hi-Build Epoxoline II. @ 200 sq. ft. per gallon
 - 5. Finish Color: 25BL True Blue/Safety-Pool
 - *Add to both coats 5lbs of 50 mesh white Ottawa silica sand to all horizontal gutter surface

- C. Lane Markers and Targets:
 - 1. System Type: Epoxy.
 - 2. Surface Preparation: SSPC-SP13 in accordance with a minimum of CSP-3
 - 3. Primer: Series 161-35GR Black Hi-Build Epoxoline II. @ 200 sq. ft. per gallon
 - 4. Finish: Series 161-35GR Black Hi-Build Epoxoline II. @ 200 sq. ft. per gallon
 - 5. Finish Color: 15BL Tank White

ACCESSORIES:

- A. Coating Application Accessories:
 - 1. Accessories required for application of specified coatings in accordance with manufacturer's instructions, including thinners.
 - 2. Products of coating manufacturer.

EXAMINATION:

- A. Examine areas and conditions under which coating systems are to be applied. Notify Owner of areas or conditions not acceptable. Do not begin surface preparation or application until unacceptable areas or conditions have been corrected.

PROTECTION OF SURFACES NOT SCHEDULED TO BE COATED:

- A. Protect surrounding areas and surfaces not scheduled to be coated from damage during surface preparation and application of coatings.
- B. Immediately remove coatings that fall on surrounding areas and surfaces not scheduled to be coated.

SURFACE PREPARATION:

- A. Power wash clean with hot water to sound surface.
- B. All surfaces must be clean, dry and free from contaminants.

APPLICATION:

- A. Apply coatings in accordance with manufacturer's instructions.
- B. Mix and thin coatings, including multi-component materials, in accordance with manufacturer's instructions.
- C. Keep containers closed when not in use to avoid contamination.
- D. Do not use mixed coatings beyond pot life limits.
- E. Use application equipment, tools, pressure settings, and techniques in accordance with manufacturer's instructions.
- F. Uniformly apply coatings at spreading rate required to achieve specified DFT.
- G. Apply coatings to be free of film characteristics or defects that would adversely affect performance or appearance of coating systems.
- H. Stripe paint with brush critical locations on steel such as welds, corners, and edges using specified primer.

REPAIR:

- A. Materials and Surfaces Not Scheduled to Be Coated: Repair or replace damaged materials and surfaces not scheduled to be coated.
- B. Damaged Coatings: Touch-up or repair damaged coatings. Touch-up of minor damage shall be acceptable where result is not visibly different from adjacent surfaces. Recoat entire surface where touch-up result is visibly different, either in sheen, texture, or color.
- C. Coating Defects: Repair in accordance with manufacturer's instructions coatings that exhibit film characteristics or defects that would adversely affect performance or appearance of coating systems.

CLEANING:

- A. Remove temporary coverings and protection of surrounding areas and surfaces.

SCHEDULE:

Awarded Contractor shall work with Parks and Recreation for on site preparation prior to scheduled events.

All work must be performed between the hours of 7:00 am and 6:00 pm.

COMPLETION OF PROJECT:

All work must be completed by: May 5, 2022.

Awarded Contractor is required to perform, provide, and furnish all labor, materials, tools and equipment necessary to complete the work.

Awarded Contractor shall be responsible for prompt removal and clean-up of all debris resulting from the work performed under this contract.



Supplier Award
RFB-002-2023/Parks
Pool Basin Painting
Award Date: 2/3/23
Mongan Painting, LLC

Contact Information

Contact: Stephanie Ewing
Address: Purchasing
715 W. Mt. Vernon Street
PO Box 395
Nixa, MO 65714
Phone: (417) 449-0555
Email: sewing@nixa.com

Ship To Information

Contact: Matt Crouse
Address: Parks and Recreation
701 N. Taylor Way
Nixa, MO 65714
Phone: (417) 725-5486

Mongan Painting, LLC

Mongan Painting, Co., Inc.

Contact: James Brooks

Address: 720 Sleezer Road

PO Box 515

Cherokee, IA 51012

Phone: (712) 225-0626

Email: james@monganpainting.net

Supplier Note

Thank you for the opportunity. Sincerely, James Brooks | Mongan Painting, LLC Regional Office | Manager
12660 SW Maple Street Hume, MO 64752

Award Lines

1 Please indicate your total cost to complete this project, which shall include:

- Repair cracks and caulking seams in pool basin.
- Two (2) coats of Tnemec Paint must be applied at 200 sq. ft. per gallon, including gutter trough.
- Shallow Play Area (0" - 3'6") 5,624 sq. ft
Swimming Area (3'6" - 5') 3,377 sq. ft
Plunge Area (3'6" - 4') 576 sq. ft
Diving Area (5' - 13') 1,484 sq. ft

Total Sq. Ft.: 11,061 / Total Volume: 320,157 gallons

Quantity: 1 UOM: Total cost of Service Unit price: Total:

Item Note: **Awarded contractor is required to perform, provide and furnish all labor, materials, tools and equipment necessary to complete the work.**
Contractor shall be responsible for prompt removal and clean-up of all debris resulting from the work performed under this contract.

Award Total: \$35,000.00