

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JULY 17, 2018 AGENDA**

Subject:	Type:	Submitted By:
AWARD CONTRACT CIVIC CENTER PARK PHASE 2 IMPROVEMENTS	◆ RESOLUTION ORDINANCE RECEIVE/FILE	JOHN KOTTMANN CITY ENGINEER

SYNOPSIS

A resolution has been prepared approving a negotiated contract with Blade Masters Grounds Maintenance, Inc. to construct the proposed Civic Center Park Phase 2 Improvements in an amount not to exceed \$1,744,777.34. due to inadequate public bidding results.

FISCAL IMPACT

The FY17/18 Biennial Budget includes funding in the Capital Improvement Program for this project.

RECOMMENDATION

Approval

BACKGROUND

Bids were to be received on May 24, 2018 for Civic Center Park Phase 2 Improvements and Sanitary Sewer Relocation. The projects were published in the newspaper, in an on-line plan room, and notifications were sent to contractors by the design consultants. Four general contractors were plan holders but only one bid was received in the amount of \$2,028,961.00. The initial estimate was \$1,717,525.00. Communications with the contractors that did not submit a bid and other contractors indicated that there is simply too much work in the market and they cannot commit to additional work this year. In this circumstance, State Statutes give the City the option to negotiate a contract.

A meeting took place on June 15 with the bidder, Blade Masters Grounds Maintenance, Inc., to discuss modifications to the specifications and reductions in scope of work to obtain the proposed contract amount of \$1,744,777.34.

There is a need to construct the fire access lane, water quality devices in the lake, and a backbone trail system to provide some public access and establish permanent vegetation in the current construction season. Staff recommends proceeding with the negotiated contract with Blade Masters Grounds Maintenance, Inc. This is the contractor that performed the Phase 1 Lake Excavation and is well familiar with the conditions of the project.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AWARDING A CONTRACT TO BLADE MASTERS GROUNDS MNTC., INC. OF BENNINGTON, NEBRASKA FOR CIVIC CENTER PARK PHASE 2 IMPROVEMENTS IN AN AMOUNT NOT TO EXCEED \$1,744,777.34.

WHEREAS, the City Council of the City of La Vista has determined Civic Center Park Phase 2 Improvements are necessary; and

WHEREAS, the FY17 and FY18 budgets include funding for this project in the Capital Improvement Program; and

WHEREAS Subsection (C) (9) of Section 31.23 of the La Vista Municipal Code requires that the City Administrator secures Council approval prior to authorizing any purchase over \$5,000.00;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska award a contract to Blade Masters Grounds Mntc. Inc., Bennington, Nebraska for Civic Center Park Phase 2 Improvements in an amount not to exceed \$1,744,777.34.

PASSED AND APPROVED THIS 17TH DAY OF JULY, 2018.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

AIA Document A101™ – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

For the purpose of this agreement, wherever the term “Architect” is used, it shall mean “Landscape Architect”.

AGREEMENT made as of the ____ day of July in the year Two Thousand Eighteen.
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

City of La Vista, NE
8116 Park View Blvd
La Vista, NE 68128
Phone Number: 402-593-6404

and the Contractor:
(Name, legal status, address and other information)

Blade Masters Grounds Maintenance, Inc.
PO Box 167
Bennington, NE 68007
Phone Number: 402-510-6306

For the following Project:
(Name, location and detailed description)

Civic Center Park Phase 2
La Vista, NE

The Architect:
(Name, legal status, address and other information)

RDG IA Inc
d/b/a RDG Planning & Design
301 Grand Avenue
Des Moines, IA 50309-1718
Phone Number: 515-288-3414
Fax Number: 515-288-8631

The Owner and Contractor agree as follows.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

- ☐ The date of this Agreement.
- ☒ A date set forth in a notice to proceed issued by the Owner.
- ☐ Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check the appropriate box and complete the necessary information.)

- ☐ Not later than ??? (???) calendar days from the date of commencement of the Work.
- ☒ By the following dates:

December 1, 2018

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
<u>Fire Lane and Bioretention Basins</u>	<u>October 19, 2018</u>
<u>Remaining Site Work</u>	<u>December 1, 2018</u>
<u>Dormant Seeding</u>	<u>February 1, 2019</u>

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one million, seven hundred and forty-four thousand, seven hundred and seventy-seven dollars and thirty-four cents (\$ 1,744,777.34), subject to additions and deductions as provided in the Contract Documents.

~~§ 4.2 Alternates~~

~~§ 4.2.1 Alternates, if any, included in the Contract Sum:~~

Item	Price
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~~§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)~~

Item	Price	Conditions for Acceptance
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~~§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)~~

Item	Price
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§ 4.4 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
<u>1</u>	<u>Cost to add and install 4-inch concrete sidewalk including applicable sub-base</u>	<u>\$36.00 per square yard</u>
<u>2</u>	<u>Cost to add and install 6-inch concrete sidewalk including applicable sub-base</u>	<u>\$40.05 per square yard</u>
<u>3</u>	<u>Cost to add and install porous flexible paving system as defined in section 32 12 43</u>	<u>\$84.00 per square yard</u>
<u>4</u>	<u>Cost to add and install one Judd Viburnum shrub</u>	<u>\$42.00 each</u>
<u>5</u>	<u>Cost to add and install turf seed</u>	<u>\$3,600.00 per acre</u>
<u>6</u>	<u>Cost to add and install one acre of native grass seed</u>	<u>\$3,800.00 per acre</u>

<u>7</u>	<u>Cost to cut and place soil</u>	<u>\$10.00 per cubic yard</u>
<u>8</u>	<u>Removal of unsatisfactory soil and replacement with satisfactory soil</u> <u>(see definitions in section 31 20 00 Earth Moving</u>	<u>\$14.00 per cubic yard</u>

§ 4.5 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

The Owner and Contractor recognize that time is of the essence of this Agreement and that if the Contractor does not achieve Substantial Completion within the time specified in Section 3.3 of this document, plus any extensions thereof allowed in accordance with the Contract Documents, the Contractor shall be liable for and shall pay the Owner the sums hereinafter stipulated as liquidated damages for delay, but not as a penalty, for each and every calendar day that expires following the time specified in Article 3:

Two-hundred and fifty dollars (\$250) per day for each and every calendar day between October 19, 2018 and December 1, 2018.

Five hundred dollars (\$500) per day for each and every calendar day after December 1, 2018.

~~§ 4.6 Other:~~

~~(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)~~

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

Provided that an Application for Payment is received by the Architect not later than fourteen (14) calendar days prior to the first Tuesday of the month and the Architect certifies to the Owner not less than ten (10) calendar days prior to the first Tuesday of the month, then the Owner shall make payment of the certified amount to the Contractor not later than the second Tuesday of the month. If an Application for Payment is received by the Architect after the date fixed above, payment shall be made by the Owner not later than twenty-eight (28) calendar days after the Architect receives the Application for Payment.

~~§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the ??? day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the ??? day of the ??? month. If an Application for Payment is received by the Architect after the date fixed above, payment shall be made by the Owner not later than ??? (???) days after the Architect receives the Application for Payment.~~

~~(Federal, state or local laws may require payment within a certain period of time.)~~

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Ten percent (10%)

~~§ 5.1.7.1.1 The following items are not subject to retainage:~~

~~*(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)*~~

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

After fifty percent (50%) substantial completion is approved by the Owner, at the request of the Contractor, the retainage shall be reduced to five percent (5%).

~~§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:~~

~~*(Insert any other conditions for release of retainage upon Substantial Completion.)*~~

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and

.2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

Add the following at the end of Subparagraph 9.10.1: "Notwithstanding anything in the Contract Documents to the contrary, final completion shall not be certified nor final payment made until the Contract has been fully performed, including, but not limited to, final testing and the training of Owner's employees in the use of all materials, equipment and systems furnished under the Contract, Contractor's submission of the items listed below, and completion of such other items required by any Contract Documents, Owner or Architect in form and content to the satisfaction of Owner and Architect:

- .1 Consent of Surety
- .2 Contractor's Affidavit of Payment of Debts and Claims
- .3 Certification of Unemployment Compensation Contributions
- .4 Contractor's Affidavit of release Liens
- .5 Individual Releases of Waiver of Liens from Subcontractors
- .6 Special Warranties on the Work or any component or portion thereof
- .7 Certificates or receipts, if any, for inspecting or testing the Work or any part thereof
- .8 Any operation, maintenance, instruction or parts list, information or manual, or other data or information regarding the Work or any component or portion thereof

"9.10.6 Final payment will be made not earlier than 31 days following approval by the Mayor and City Council, receipt of all Lien Waivers and Sales Tax information, and required closeout documents."

§ 5.3 Interest

~~Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~

~~(Insert rate of interest agreed upon, if any.)~~

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

☐ Arbitration pursuant to Section 15.4 of AIA Document A201-2017

☒ Litigation in a court of competent jurisdiction

☐ Other (Specify)

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201-2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

N/A

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

John M. Kottmann, City Engineer
City of La Vista
9900 Portal Road
La Vista, NE 68128
Phone Number: 402-331-8927

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

Larry Goertz
Blade Masters Grounds Maintenance, Inc.
PO Box 167
Bennington, NE 68007
Phone Number: 402-510-6306

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

~~§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:~~

~~*(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)*~~

~~§ 8.7 Other provisions:~~

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction

- ~~.4 AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)~~

- .5 Drawings
As supplied to the contractor on June 22, 2018

Number	Title	Date
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- .6 Specifications
As set forth in original Bid Set dated May 1, 2018

Section	Title	Date	Pages
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- ~~.7 Addenda, if any:~~

Number	Date	Pages
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Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

- ~~.8 Other Exhibits:
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)~~

~~[] AIA Document E204™ 2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)~~

~~[] The Sustainability Plan:~~

Title	Date	Pages
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~~[] Supplementary and other Conditions of the Contract:~~

Document	Title	Date	Pages
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- ~~.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™ 2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)~~

This Agreement entered into as of the day and year first written above.

OWNER

CONTRACTOR

(Signature)
Douglas Kindig
Mayor

(Printed name and title)

(Signature)
Larry Goertz
President

(Printed name and title)