

GENERAL ORMSBY MITCHEL PARK PLAYGROUND IMPROVEMENTS

CONTRACT DOCUMENTS & SPECIFICATIONS

for

CITY OF FORT MITCHELL

AUGUST 2021

*Includes this 40 page document (8x11) and
accompanying 8 sheet plan set (24"x36")*

LEGAL NOTICE

INVITATION TO BID

The City of Fort Mitchell, Kentucky (“City”) will accept sealed bids for **PLAYGROUND IMPROVEMENTS AT GENERAL ORMSBY MITCHEL PARK**. The improvements will be located at 261 Grandview Drive, Fort Mitchell, Kentucky 41017 and consists of the following work:

The work includes the design and installation of a new playground within a specified boundary within the park. This includes but is not limited to play equipment, safety surfacing, walks, minor grading and drainage. Plants are to be installed along the perimeter of the playground per Alternate #1 in the drawings.

Bids will be accepted by the City Clerk, 2355 Dixie Highway, Fort Mitchell, Kentucky, 41017 until **11:00 a.m.** (local time) on **Thursday, September 2, 2021**. The bids received will be opened and publicly read aloud at that time. Said bids shall be received in a sealed envelope marked “Park Playground”.

Two (2) bidders will be selected as finalists and will be invited to present their designs at the regularly scheduled Park Board Meeting to be held on **Tuesday, September 7th, 2021 (7pm-9pm)**. Following the presentations, the project will be awarded and the successful bidder contacted by **Wednesday, September 22, 2021**.

Contract Documents may be examined at the following locations between 9:00 a.m. and 4:00 p.m. (local time), Monday through Friday: at Bayer-Becker Inc. 209 Grandview Drive, Fort Mitchell, Kentucky, 41017 or the City Municipal Offices at 2355 Dixie Highway, Fort Mitchell, Kentucky, 41017. Copies thereof may be obtained at the office of Bayer-Becker upon payment of a non-refundable fee of \$40.00 for each set. An additional \$10 per set will be charged for mailing plans.

The City reserves the right to reject any and all bids, the right to waive any informality or irregularity in any bids and the right to negotiate with the bidder submitting the apparent lowest and best bid. It is the intent and requirements of the City, that this project is completed no later than **July 1, 2022**.

Preference for Kentucky resident bidders will be applied in accordance with Kentucky law.

By order of Mayor Jude Hehman

“This advertisement was paid for by the City of Fort Mitchell using taxpayer dollars in the amount of \$238.92.

INSTRUCTIONS TO BIDDERS

1. PROJECT DESCRIPTION

The Fort Mitchell Park Board, on behalf of the City of Fort Mitchell, is issuing an RFP to develop a design for a Playground at General Ormsby Mitchel Park, located at 261 Grandview Drive, Fort Mitchell, Kentucky. The park's master plan describes renovations that include replacement of the existing playground equipment, which is approximately 15-20 years-old and at the end of its lifecycle.

Already underway and being handled as part of a separate contract are demolition and removal of the existing play equipment, safety surface mulch chips, and wooden retaining wall. Mass grading and a proposed seat wall will be implemented as part of that contract and are excluded from this scope of work.

The purpose of the project is to replace an outdated playground with a new accessible playground. A conceptual design layout is provided as part of the Plans (Drawings). That design does not need to be followed by the bidder. Bidders are encouraged to provide designs that meet safety and accessibility standards while providing a variety of play options. The following design elements should be met and addressed in the proposal and design:

1. Playground Design (Mixing Accessibility, Inclusivity and Challenge)
 - a. Provide accessible route, transfer systems and play components compliant with The Americans with Disabilities Act (ADA) regulations, in particular, reference Chapter 10 Recreation Facilities, Section 1008 Play Areas.
 - b. Follow U.S. Access Board Summary of Accessibility Guidelines for Play areas guidelines (supplemental to ADA requirements), including but are not limited to:
 1. Provide separate play areas for different age groups (2-5 years vs. 5-12 years)
 2. Selected components to provide differing types of play experiences (swinging, climbing, sliding, rocking, spinning and single vs. group play).
 3. Provide ground-level and more challenging elevated play experiences. Reference Table 240.2.1.2 for number of ground-level vs. elevated play requirements.
 4. Accessible Ground surfaces along accessible routes and within use zones.
 - c. Provide inclusive play experiences that encourage and support children with sensory, cognitive functioning, social/emotional and communication issues (consider multi-sensory equipment offering tactile, auditory, vocalizing and visual play qualities, variable challenge levels, quiet spaces, problem-solving, hands-on learning, creative play etc.)
 - d. Play space area may contain both hardscape and safety surfacing.
 - e. Provide planted buffer. This is listed as Alternate #1 on the drawings.
2. Safety Surface: A unitary safety surface material that meets accessibility and impact standards and promotes inclusive play.
 - a. Safety surfacing can either be poured-in-place (PIP) or synthetic turf.
 - b. Safety surfacing to meet impact requirements based on selected play structures.
 - c. Include a durable border to contain the surfacing (concrete curb, walk or other).
 - d. Consider providing undulating surfaces to create a variety of slopes.
3. Age Specific Zones: Prepare a design that provides zones for play equipment targeting two age groups (2-5 year old's and 5-12 year old's).
4. Structures: Include two (2) play structures
 - a. Provide one (1) structure (appropriate for 2-5 years age group).
 - b. Provide one (1) structure (appropriate for 5-12 years age group).
5. Swings: Include swing set(s) appropriate for ages 2-5 years and 5-12 years.
 - a. Provide a swing structure for the 2-5 year age group. At least one of these swings should be ADA accessible. 4-6 swings or swinging structure seating 4-6 children is desired.
 - b. Provide a swing structure for the 5-12 year age group. 4-6 swings or swinging structure seating 4-6 children is desired.

6. **Topography:** consider providing undulating surfaces to create a variety of slopes and level changes i.e., mounds, inverted mounds (depressions), hillside or “in-grade” slide, running hills, ramps etc. if appropriate.
7. **Components:** Component play structures may be included as the budget permits.

2. **PROJECT SCOPE**

The following items are to be included in the project bid:

1. **Site Design:** Provide site evaluation and 2-3 design options that include:
 - a. Site visit
 - b. Drainage
 - c. Fine grading and re-seeding as needed
 - d. Safety surfacing
 - e. Play equipment
 - f. Hardscape items (if applicable)
 - g. Plants
2. **Meetings:** Attend and present design option(s) with key decision makers, City staff and/or board members to provide information about the design and equipment. Anticipate up to two (2) meetings. These meetings may be open to the public.
3. **Deliverable:** Complete “Turnkey” installation of a new playground
4. **Testing:** HIC and G-MAX testing after installation and yearly through the warranty period.
5. **Project Budget: Total project budget - \$275,000**

The Park Board will choose two (2) finalists from the proposals received. The two finalists will be invited to present their designs at the Park Board meeting. The company with the selected proposal will work with the Park Board members, and City staff to further develop and refine plans and specifications for a challenging playground that meets accessible regulations for playgrounds.

3. **PROJECT SUBMITTAL REQUIREMENTS**

The following items must be submitted as part of the response to be considered for the award of the project:

1. Description of previous experience with comparable project (minimum of three).
2. Timeline for completion of the project both for commencing work and duration of installation.
3. Key Personnel who will be involved with this project, their previous experience, and qualifications. This information should include any sub-contractors.
4. Project estimate with a unit cost breakdown of playground equipment, safety surface, and hardscape elements including sidewalks, curbs, ledge rocks, boulders and/or other items that are included in the design. Also include unit cost breakdown for Alternate ‘A’ Buffer Planting.
5. Warranty information for each proposed playground component.
6. Three references including address, phone number, and e-mail address.

4. **EVAUATION CRITERIA**

The following criteria will be used to evaluate proposals:

1. Proposal Suitability: proposal must include all requirement stated above.
2. Creativity of Playground Design: The Park District’s goal is to update this community park with a unique and challenging playground.
3. Experience and knowledge of product and scope of work.
4. Ability to meet the established timeline and schedule.
5. Cost Estimate based upon the details and scope found above and the proposed design.

5. **GENERAL**

The Bidder is expected to carefully examine the site of the proposed work, the proposal, plans, contract forms, general conditions, addenda, and contract before submitting a bid. The submission of a bid shall be considered evidence that the Bidder has made such examination and is satisfied as to the conditions to be encountered in performing the work and as to the requirements of the plans, special provisions, general conditions, addenda, and contract.

Subject to public safety and convenience, prospective Bidders will be permitted to explore the site of the work by boring or test pits, permits for which will be issued by the City. Explorations shall be at the sole risk and expense to the Bidder and under conditions of maintaining and restoring safety.

The Owner does not make any representation of soil or foundation conditions or materials, nor does it represent that drawings may not be modified to meet changes in soil conditions encountered as the work progresses. The Contractor must inspect the site of the proposed work and must assume all risk as to the nature and behavior of the material, which may be encountered in excavation, whether apparent on the surface or disclosed only in the course of the work.

The Proposal shall be enclosed in a sealed envelope and clearly labeled with the name of the project, name and address of the bidder, and the date and time of opening, to guard against the premature opening of any bid. The Proposal shall be signed by an authorized representative of Bidder.

The Bidder should notify the Engineer promptly of any discrepancies in, or omissions from the Contract Documents. The Engineer will issue a clarifying addendum to each person on record as having received a set of Contract Documents. The Owner will not be responsible for oral instruction or information. Questions received less than **seven (7) days** prior to bid date cannot be answered. Any addenda issued during the bidding period are to be included in the Proposal and shall become a part thereof.

The Proposal contained in the Specifications and Contract Documents is to be executed and completed in full and is not to be detached from the bound set of documents.

6. **REJECTION OF PROPOSALS**

Proposals that contain any omission, condition, or limitation or that show any other irregularity of any kind may be rejected in the sole discretion of the Owner.

7. **DISCREPANCY (BID PRICE)**

In the case of discrepancy between the bid price in words and in figures in the Proposal, the price words will control.

8. **CONSENT OF SURETY**

When specifically required hereinafter, Consent of Surety should be executed and accompany the Proposal.

9. **BID GUARANTY**

The Bidder shall be required to furnish a bid guarantee bond in the amount of not less than 5% of the bid with good and sufficient surety acceptable to the Owner or with a certified check payable to the Owner in the amount of not less than 5% of the bid. This bond must be executed in the form provided as a part of these Contract Documents.

10. EXTRA WORK

Any departures from the original contract will be made as provided in the General Conditions under "Extra Work".

11. SECOND HAND AND SALVAGED MATERIALS

The use of second hand and/or salvaged materials will not be permitted unless specifically provided for in the specifications.

12. AWARD OF CONTRACTS

The award of the Contract, if it is to be awarded, will be made to the best overall Bidder whose bid complies with all the requirements prescribed. In no case will an award be made until all necessary investigations are made as to the responsibility of the Bidder to whom it is proposed to award the Contract.

The Owner reserves the right to require the Bidder to present satisfactory evidence that it has been regularly engaged, as either principal or superintendent in the business of construction work similar to that proposed herein; to require the Bidder to present satisfactory evidence that it is fully prepared with the necessary capital, material, machinery and equipment to conduct the work to be contracted for to the satisfaction of the Owner; and to begin promptly when so ordered.

Notwithstanding the foregoing, the Owner reserves the right to reject any and all bids, the right to waive any informality or irregularity in any bids and the right to negotiate with the Bidder submitting the apparent lowest and best bid.

13. EXECUTION OF CONTRACT

The Contract shall be signed by the successful Bidder and returned to Owner together with the Bonds, insurance certificates, and other Contract Documents required hereunder within ten (10) days after the Bidder has received notice that the Contract has been awarded. Failure to do so will constitute grounds for the Owner to consider another bidder. No bid shall be considered binding upon the Owner until the execution of the Contract by both parties. Provided that the successful Bidder has complied with the terms of the Contract Documents, if the Owner does not execute the Contract within sixty (60) days following receipt from the Bidder of the required Contract Documents, the Bidder will have the right to withdraw his bid without prejudice.

If the successful Bidder is a corporation, the officer who signs the Contract shall furnish copies of a resolution of the Directors of the Corporation bearing the seal of the corporation, authorizing him to sign the Contract.

14. INTERPRETATION OF CONTRACT DOCUMENTS

If any person contemplating the submission of a bid for the proposed contract is in doubt as to the true meaning of any part of the plans, specifications, or other proposed contract documents, he should submit a written request for an interpretation thereof to Bayer Becker, 209 Grandview Drive, Fort Mitchell, Kentucky 41017 or to john Cody@bayerbecker.com. The person making the request will be responsible for its prompt delivery. Any interpretation of the Contract Documents will be made only by addenda duly issued and mailed or delivered to each person receiving a set of such documents. The Owner will not be responsible for explanations or interpretations of the proposed documents except as issued in accordance herewith.

15. QUALIFICATIONS OF BIDDERS

The contractors bidding on the work must give evidence of their experience in the class of work involved, comparable in size and type performed by them as general contractors.

Proposals submitted by contractors who have not, in the opinion of the Engineer and/or Owner, had sufficient experience in the size and type of work involved, may not be considered.

16. ALTERNATES

Bid alternates are provide within the bid form. The Owner shall accept or reject the proposal or alternate bids.

17. MODIFICATION AND/OR WITHDRAWAL OF BIDS

"Telegraphic" modification of bids is prohibited. Any bidder may withdraw his bid in person or by telegraphic or written request at any time prior to the scheduled time for closing the receipt of bids.

18. DISQUALIFIED BIDDERS

Any bidder who has defaulted on any contract within the past three years shall not be qualified for any portion of the work.

19. MATERIALS AND EQUIPMENT REQUIREMENTS IN PROPOSAL

It is the intention of these specifications to specify standard materials and equipment. When space is provided in the bid form the bidders shall specify the equipment and materials which they propose to use in the contemplated project, and the Owner may declare a bid irregular wherein the equipment and materials are not specifically named by the bidder.

20. "OR EQUAL" CLAUSE

Whenever the words "or equal" appear in the specifications, they shall be interpreted to mean an item of material or equipment that in the opinion of the Engineer is similar to that named, suited to the same use, and capable of performing the same function as that named.

21. SPECIFIC BRANDS, MAKES, OR MANUFACTURE

Wherever in the specifications a certain brand, make, or manufacturer is set out, it is intended to denote the quality standard of the article desired, but unless otherwise noted does not restrict bidders to the specific brand, make or manufacture; it is to set forth and convey to the prospective bidder the general style, type, character, and quality of the article desired.

22. PAYMENT FOR MATERIALS STORED AT SITE OF PROJECT

Payment for materials or equipment stored at the site of the project may be allowed by the Owner to the extent of 90% of the cost of such materials or equipment upon specific recommendation of the Engineer.

Materials or equipment eligible for advance payment prior to being incorporated in the work or prior to installation are items agreed upon by the Engineer, the contractor, and/or the City.

23. CONTRACT SECURITY OR PERFORMANCE BOND

The Contractor will be required to furnish a Payment Bond and a Performance Bond executed by a good and sufficient surety acceptable to Owner, duly authorized to do business in the Commonwealth of Kentucky, in an amount not less than 100% of the contract price, as security for the faithful performance of the Contract and as security for the payment of all persons performing labor and furnishing materials in connection with the Contract. These bonds must be executed in the form provided as a part of these Contract Documents. If this is a Prevailing Wage Project such bonds shall include provisions that will guarantee the faithful payment and performance of the prevailing hourly wage.

24. CONTRACTOR'S INSURANCE COVERAGE & CANCELLATION PROVISIONS

The Contractor will not be permitted to commence work until he has obtained all insurance required by these documents and such insurance has been approved by the Engineer, nor shall the Contractor allow any subcontractor to commence work, on his subcontract until all insurance required has been so obtained and approved.

Such insurance shall be secured from an insurance company authorized to write casualty insurance in the State of Kentucky and shall protect the Contractor, his subcontractors, the Engineer, and the Owner from claims for bodily injury, death, property damages, fire and the other risks set out herein.

Each policy of insurance covering the Contractor's operations under the Contract shall provide either in the body of the policy, or by appropriate endorsement (rider) to the policy, that such policy cannot be altered or cancelled in less than thirty (30) days after the mailing of written notice of such alteration or cancellation to the Owner (insured) and Engineer.

Certificates of insurance coverage shall include a statement of alteration or cancellation provisions of the policy, sufficient to show that such provisions comply with the requirements stated herein.

25. INDEMNITY - COMPREHENSIVE GENERAL LIABILITY INSURANCE

A. Indemnity. Contractor shall keep, hold, and defend the Owner, including all officers, councilmembers, agents, and employees thereof, harmless from any and all costs, liabilities, damages, expenses (including costs of suit and reasonable expenses of legal services), claims, demands and causes of action whatsoever claimed by anyone by reason of injury or damage to persons or property sustained as a result of the acts or omissions of Contractor, its agents, servants, employees, subcontractors, suppliers, or invitees, or arising out of the operations of Contractor, excepting such liability resulting from the sole negligence of the Owner; provided however, that upon the filing of any claim with the Owner for damages arising out of the incidents for which Contractor agrees to hold the Owner harmless, then and in that event, the Owner shall notify Contractor of such claim and Contractor shall have the right to settle, compromise, or defend the same. The Owner shall have the right to reasonably approve any settlement or compromise prior to its offer to any third party or prior to its acceptance by the Contractor. The Owner shall have the right to defend its interests in any action at the Owner's sole cost and expense. Any final judgment rendered against the Owner for any cause for which Contractor is liable hereunder shall be conclusive against Contractor as to liability and amount when the time for appeal therefrom has expired. The provisions of this paragraph shall survive the expiration or earlier termination of this Contract.

B. Commercial General Liability and Umbrella Liability Insurance.

1. Contractor shall maintain commercial General Liability (CGL) and if necessary, commercial umbrella insurance covering against bodily injury, personal injury, and property damage liability with a limit of not less than \$1,000,000.00 each occurrence. Such insurance shall include coverage relating to exposures of (a) premises and operations, (b) the explosion, collapse, and

underground hazards, (c) broad form property damage liability, (d) products/completed operations liability hazards, (e) contingent liability and (f) contractual liability, as assumed by Contractor hereunder. If such CGL insurance contains a general aggregate limit, it shall apply separately to operations under this Contract. Further, the insurance shall include coverage for the hazards commonly referred to as XCU (explosion, collapse, and underground). This coverage should be obtained if the contract involves blasting, excavating, tunneling, or other underground work. The products and completed operations coverage shall extend for two (2) years past acceptance, cancellation, or termination of the work.

2. The CGL insurance shall be written on ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage) and shall include coverage arising from, but not limited to: premises, operations, contractors, subcontractors, consultants, products, completed operations, property damage, personal injury and advertising injury and liability assumed under an insured contract. Said insurance shall contain a severability of interests' provision.

26. COMPREHENSIVE AUTOMOTIVE LIABILITY COVERAGE

The Contractor and any subcontractors shall maintain Business Automobile Liability Insurance with a combined single limit for bodily injury and property damage of no less than \$1,000,000.00 per occurrence, with respect to all vehicles used in the performance of the work, whether owned, non-owned, leased, hired, or assigned. Such insurance shall include coverage for uninsured and underinsured motorists. Contractor shall furnish the Owner with proper Certificates of Insurance.

27. WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE

Each Contractor and/or subcontractor shall procure his own Workmen's Compensation and Employer's Liability Insurance as provided under the rules and regulations of the Commonwealth of Kentucky. Minimum levels of Employer's Liability shall be Five Hundred Thousand Dollars (\$500,000).

An affidavit regarding Worker's Compensation and Unemployment Insurance is provided at the end of this Section. The successful Bidder must execute this affidavit and submit it to the Owner.

28. BUILDERS RISK, FIRE, AND EXTENDED COVERAGE

The Contractor shall purchase and maintain Property Insurance upon the entire work at the site to the full insurable value thereof, including stockpiled material at the construction site intended for incorporation into the Project. This insurance shall also include the interest of the Contractors and subcontractors in the work and shall be written on "all risk" or special causes of loss policy form that shall at least include and insure against the following perils: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse and water damage". The policy will cover the interest of the Owner and the Contractor and a certificate of insurance evidencing such coverage shall be secured and presented to the Owner prior to the start of construction.

29. GENERAL INFORMATION RELATING TO INSURANCE

The policies required by this Contract shall include the Owner as additional insured or loss payee as applicable and shall stipulate that the insurance shall be primary insurance and that any insurance carried by the Owner, its directors, officers, public officials, or employees shall not be contributory insurance. *Additional insured status shall be provided by ISO form CG201185 (or substitute form providing equivalent coverage) or the combination of ISO forms CG20100704 and CG20370704 (or substitute forms providing equivalent coverage).* Contractor and its insurers providing the required coverage shall waive all rights of recovery against the Owner and its directors, officers, public officials, employees, and agents. The Contractor and/or subcontractors shall provide the indicated minimum levels of coverage.

Prior to commencing any work under this Contract, Contractor will furnish the Owner with certificates of insurance issued by Contractor's insurer(s) as necessary, in a form acceptable to the Owner, as evidence that the insurance policies, including all applicable endorsements, providing the required coverage, conditions, and limits required by the section are in full force and effect. The Owner also reserves the right to request and receive certified copies of any and all such insurance policies and/or endorsements. The Owner shall not be obligated to review such insurance certificates, policies, and endorsements, or to advise the Contractor of any deficiencies in such documents, and such receipt shall not relieve the Contractor from, or be deemed a waiver of the Owner's right to insist on strict fulfillment of Contractor's obligations herein. Such certificates shall state that the coverage shall not be amended so as to decrease the protection below the limits specified herein or be subject to cancellation without at least thirty (30) calendar days advance written notice to the Owner. A renewal policy or renewal certificate shall be delivered to the Owner at least thirty (30) calendar days prior to any policy's expiration date, except for any policy expiring on the expiration date of the Contract or thereafter.

In the event Contractor shall at any time fail to have in effect the insurance required under the provisions of this Contract, upon written notice to the Contractor of its intention to do so, the Owner shall have the right, but not the obligation, to secure the insurance required hereunder at the cost and expense of the Contractor. In the event the Contractor shall at any time fail to furnish the Owner with the certificate or certificates required hereunder, the Owner may, at any time, after fifteen (15) calendar days written notice to Contractor of its intention to do so, secure the required certificate or certificates at the cost and expense of the Contractor. Contractor agrees to reimburse the Owner for the costs thereof, plus fifteen percent (15%) for administrative overhead. This shall be without prejudice to any other right the Owner may have in law or equity, including the right to terminate the Contract.

The extent of coverage or the limits of liability provided under the policies procured by the Contractor and/or subcontractors shall not be construed to be a limitation on the nature or extent of the Contractor's obligations or to relieve the Contractor of any such obligations or representation by the City of Fort Mitchell, Kentucky as to the adequacy of the insurance to protect the Contractor against the obligations imposed on him by law or by this or any other Contract.

The Contractor and his subcontractors agree to limit the liability of the Engineer and Owner due to the errors or omissions of the Engineer and/or the Owner, such that the total aggregate liability shall not exceed the lesser of the Contract bid amount or \$50,000.00(the amount of liability insurance agreed to by Owner).

The provisions hereunder shall be applicable to any subcontractor utilized by Contractor in the performance of any service under this Agreement, and Contractor shall ensure that any such subcontractor is compliant with the terms herein.

31. INSURANCE, PROOF OF CARRIAGE

The Contractor shall furnish the Engineer with satisfactory proof of coverage of the insurance required in the form of appropriate certificates or copies of the policies.

The Contractor shall furnish to the Engineer the name, address, phone number, FAX number, and name of the contact person for each Insurance Company to enable ease of contact if necessary.

32. PAYMENT OF EMPLOYEES

The Contractor and each of his sub-contractors shall pay each of his employees engaged in work on the project in full (less deductions made mandatory by law) in cash and not less often than once each week.

33. WAGES & HOURS

The Contractor shall conform in every respect to applicable rules, regulations, and statutes pertaining to wages and hours of work, including any applicable prevailing wage requirements.

34. CONSTRUCTION RECORDS & REPORTS

The Contractor shall furnish the Owner with substantial proof that all payrolls for services rendered and invoices for materials supplied have been duly paid as herein required, and such other data as the Owner may require.

In connection with all lump sum contracts, the Contractor shall furnish the Engineer a suitable detailed breakdown on which to base partial payment estimates.

When so required, the Contractor shall furnish and keep current a suitable progress chart or schedule showing the estimated and actual progress on the work. The progress chart or schedule shall be subject to the approval of the Engineer.

The Contractor shall furnish all the necessary information for, and assist in the preparation of, and/or prepare the partial payment estimates on forms approved by the Engineer.

The Engineer or his authorized representatives and agents shall be permitted to inspect all payrolls, records of personnel, invoices of materials, and other relevant data and records.

35. CONTRACTOR'S ACCOUNTS

The Contractor shall pay: (1) for all transportation and utility services not later than the 20th day of the calendar month following that in which such services are rendered; (2) for all materials, tools, and other expendable equipment to the extent of 90 percent (90%) of the cost thereof, not later than the 20th day of the calendar month following that in which such materials, tools, and equipment are delivered at the site of the project, and the balance of the cost thereof not later than the 30th day following the completion of that part of the work in or on which such materials, tools, and equipment are incorporated or used; and (3) to each of his sub-contractors, no later than the 5th day following each payment to the Contractor, the respective amounts allowed the Contractor on account of the work performed by his sub-contractors, to the extent of each such sub-contractor's interest therein.

36. COMMENCEMENT AND COMPLETION OF WORK

The Contractor shall commence work on a date to be specified in a written order of the Engineer or owner and shall fully complete all work under the contract within the number of days set out in the Proposal and/or Contract, from and including said date.

37. COMPLETION DATE

The work under the terms of the Contract shall be completed and ready for use no later than **July 1, 2022.**

GENERAL CONDITIONS

1. DEFINITIONS AND MEANING OF TERMS

Whenever in these specifications and Contract Documents the following terms or pronouns referring to them are used, the intent and meaning shall be interpreted as follows:

- (a) The Contract or Agreement shall mean the contract executed by the Owner and the Contractor, of which these General Conditions form a part.
- (b) The terms Owner or City, and Contractor shall mean the respective parties to the Contract.
- (c) The term Engineer or Landscape Architect shall mean Bayer-Becker, 209 Grandview Drive, Fort Mitchell, Kentucky, their successors or duly authorized representatives.
- (d) The Contract Documents shall mean and include the Notice of Invitation to Bid, Instruction to Bidders, General Conditions, Bid/Proposal Form, Schedules A to E, Vendor Insurance Requirements, Bid Guaranty/Contract Bond, Certificate of Interest, Guarantee, Final Release of Lean, Addenda, Exhibits, and Plans (Drawings).

2. NOTICE AND SERVICE THEREOF ON CONTRACTORS

For purposes herein, any notices, letters, and other communications to be given to the Contractor hereunder may be given at the address set forth in the Bid/Proposal upon which this Contract is founded or at the Contractor's office at or near the site of the work. Any notices, letters, and other communications to be given to the Owner hereunder shall be given to the Engineer and the City Clerk at the addresses set forth herein. Any such notices, letters, and other communications shall be delivered to the Contractor or Engineer and Owner by delivering same in person, or by mailing same by certified mail, with postage prepaid. Such notices, letters, and other communications shall be deemed received as of the date of such personal delivery or the date of deposit in the mail. The place for any notice required hereunder may be changed by either party by given notice to the other respective party(ies) of such change.

3. CONTRACTOR

It is understood and agreed that the Contractor has satisfied himself as to the nature and location of the work, the topography of the ground, the character of equipment or other facilities needed for the proper prosecution of the work, the general and local conditions, and all other matters which in any way affect the work under the Contract.

Only one Contractor is to sign this Contract. For convenience, the specifications may be divided into separate headings or divisions to cover the various trades represented in the work, and wherein "Contractors" such as "Playground Contractor", "Landscape Contractor", and other "Contractors" as referred to, it has been for convenience only. No verbal statement of any officer, agent or employee of the Owner or the Engineer, either before or after the execution of this Contract, shall affect or modify any of the terms or obligations contained herein, except as otherwise allowed in these specifications.

4. SUBCONTRACTORS

The Contractor shall furnish to the Engineer, the names of all of the subcontractors proposed to work on and supply materials to the project and shall not employ any subcontractor that the Engineer objects to as incompetent or unfit. The Contractor shall be responsible to the Owner for his subcontractors.

5. ASSIGNMENT AND SUBLETTING OF CONTRACT

The Contractor will not sell, transfer, assign or otherwise dispose of all or any portion of this Contract without the prior written consent of the Owner. Nor shall Contractor sublet all or any portion of this Contract without the prior written consent of the Owner. However, in no case shall the Contractor be permitted to sublet more than fifty percent (50%), of the total Contract cost.

6. CONTRACT DOCUMENTS

The Notice of Invitation to Bid, Instruction to Bidders, General Conditions, Bid/Proposal Form, Schedules A to E, Vendor Insurance Requirements, Bid Guaranty/Contract Bond, Certificate of Interest, Guarantee, Final Release of Lien, and Plans (Drawings), Addenda and Exhibits to the forgoing shall all be binding on the Contractor and shall be incorporated fully as a part of the Contract as if thereto attached.

7. FAILURE TO COMPLETE WORK ON TIME

Should the Contractor fail to complete the work within the time specified in his Proposal and/or Contract, there will be deducted by the Owner "Liquidated Damages in the amount of Five Hundred Dollars (\$500.00) per day. The amount of "Liquidated Damages" shall in no event be considered as a penalty or otherwise than an agreed "Liquidated and adjustment damage" to reimburse by reason of the Contractor's failure to complete the work within the specified time.

8. PROGRESS - CONTRACT TIME - DELAYS AND EXTENSIONS

Before the Contractor begins construction, it shall submit to the Engineer a schedule showing the method and manner which the Contractor proposes to pursue the work so as to complete the proposed construction in such a manner that it will be ready for final acceptance within the time stated in the Proposal and/or Instruction to Bidders. Said schedule will show location, sequence, equipment, manpower and estimated calendar days to complete each segment of work required. Upon approval of the Engineer as to the starting point of the various phases of the construction, the method and manner of performing the work and the sequence of operations shall not be altered except with the approval of the Engineer. At no time shall more than one block of any street be closed to traffic.

The Contractor shall use all practical means to make the progress of the work conform to that shown on the progress schedule which is in effect. No payment will be made to the Contractor while he is delinquent in the submission of a progress schedule. Should the prosecution of the work, for any reason, be discontinued, the Contractor shall notify the Engineer at least twenty-four (24) hours in advance of resuming operations.

The number of days in which the Contractor shall fully perform the proposed improvement has been set out in the Proposal and/or Instructions to Bidders. In arriving at any credit due the Contractor for an extension of time on the Contract, the Owner, upon recommendation of the Engineer, will allow such credit as in its judgment is deemed equitable and just for all delays occasioned by any act or failure to act on its part or caused by forces beyond the Contractor's control. Additional time will also be allowed to the Contractor to cover approved overruns or additions to Contract in the same proportion that the said overrun or addition in monetary value bears to the original Contract amount.

9. PROSECUTION OF THE WORK

The Contractor shall give his personal superintendence to the work or have a competent superintendent, satisfactory to the Owner and the Engineer, on the work at all times during the progress, with full authority to act for him. The Contractor shall also provide an adequate staff for the proper coordination and expediting of his work. The Contractor shall be prepared to start work as stipulated in the Proposal but shall not start work until he has received official notice from the Engineer to do so. The work shall be prosecuted in a manner and with sufficient materials, equipment, and labor as is considered necessary to ensure completion within the time set forth in the Contract. The Contractor shall not suspend the work or any portion of it without the written consent of the Owner.

10. CHARACTER OF WORKMEN AND EQUIPMENT

The Contractor shall employ only workmen skilled in their various duties and shall dismiss, at the request of the Engineer, any person employed in, about or upon the work, who misconducts himself or is incompetent or negligent in the performance of duties assigned to him. The Contractor shall furnish such equipment and employ such labor as is considered necessary by the Engineer for the proper performance of the work.

11. DEFECTIVE MATERIALS AND WORKMANSHIP

Materials brought on the work which are not in accordance with the specifications shall be removed from the site of the work by the Contractor at his own expense, and so disposed of that there will be no probability of their being used on the work or in the construction.

Upon notice from the Engineer or Owner, all defective workmanship shall be immediately remedied by the Contractor, at his own expense.

If the Contractor fails to remove defective materials or to correct defective workmanship within a reasonable time, fixed in the notice from the Engineer, the Owner may remove them and/or correct the work and charge all the expense in the connection therewith to the Contractor.

12. GUARANTEE

All machinery and equipment and fittings of every kind furnished under this Contract shall be free from defects in manufacture, materials and/or workmanship, and the Contractor hereby guarantees that all workmanship and all materials furnished under the Contract comply fully with the requirements of the Plans and Specifications. If, at any time within one year after the date of the Final Payment, any defect should appear, which, in the opinion of the Owner or the Engineer, is due to inferior materials or workmanship, the Contractor guarantees that it will do immediately, without cost to the Owner, whatever is necessary to remedy the defects. The Owner or Engineer shall notify the Contractor in writing of the defects and the repairs to be made, and the Contractor agrees to begin the repairs within ten (10) days from the date of notice. If the Contractor fails to begin repairs within such ten days, the Owner may forthwith cause the defects to be remedied and charge the cost and expense thereof to the Contractor or to its Surety.

13. ENGINEER'S STATUS

The Engineer shall have general supervision and direction of the work. He shall have authority to stop the work whenever such action may be necessary, to ensure the proper execution of the contract. He shall also have authority to reject work and materials which do not conform to the Contract, to direct

the place or places where work shall be prosecuted, and to have the Contractor's force increased or decreased as in his judgment is required. He will decide all engineering questions, which arise in the execution of the work.

The Engineer shall make decisions on all claims of the Owner or the Contractor, and on all other matters relating to the progress of the work in the interpretation of the Contract. All such decisions of the Engineer shall be final.

In the event of the termination of the employment of the Engineer for any reason, the Owner may appoint another capable and reputable Engineer, whose status under the Contract shall be the same as the former Engineer.

14. LINES & GRADES

The Engineer will set a benchmark near the site of all structures and furnish the Contractor with the elevation of same. The Contractor shall be responsible for all other lines and grades required for construction of the curbs, pavement, and structures. Where benchmark and property line monuments are encountered in the Work, they shall remain undisturbed except upon express direction of the Engineer. The Contractor shall furnish material and labor required to remove, store, reset or replace such marks or monuments under the supervision of the Engineer. Any disturbed benchmark or property line monument must be restored by a registered professional land surveyor.

When sewer lines are involved, the Contractor will mark the locations of all manholes on the ground, will establish a system of bench levels to be used in construction of the sewer lines, and shall set line and grade stakes for all gravity sewers, offset from the center line of the trench or the axes of the pipe lines, as agreed upon between the Engineer and Contractor.

The Contractor shall use a Laser Beam instrument to set the grades on sewer lines. The contractor shall be responsible for maintaining grades and elevations as called for on the plans. Any variances found shall be corrected by the Contractor at his expense.

Any location or grade stakes and benchmarks that are set by the Engineer shall be the responsibility of the Contractor, after being set, as to damage or destruction of the same. Any location or grade stakes and benchmarks that are destroyed after being set originally shall be reset by the Engineer at the Contractor's expense.

15. OBSERVATION AND INSPECTION OF WORK

The Engineer or the Owner, their representatives, and representatives of regulatory or sponsoring state or federal agencies shall at all times have full access to the work and to all materials intended for use in the work, as well as to plants where such materials are produced, and the Contractor shall provide facilities for such access and observation.

All materials and each part or detail of the work shall be subject to inspection by the Engineer. The Engineer or his representative shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.

Upon the request of the Engineer, the Contractor, at any time before acceptance of the work, shall remove and uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standard required by the specification. Should the work thus exposed or examined prove acceptable, the uncovering, removing, and the replacing of

the covering or making good of the parts removed will be paid for as extra work; but should the work so exposed or examined prove unacceptable, the uncovering or removing and the replacing of the covering or making good of the parts removed will be at the Contractor's expense.

Any work done or materials used without inspection by an authorized representative may be ordered removed and replaced at the Contractor's expense. Failure to reject any defective work or material shall not in any way prevent later rejection when such defects are discovered or obligate the Owner to final acceptance.

The Contractor shall notify the Engineer at least twenty-four (24) hours in advance of operations requiring plant or field inspection. The Contractor will pay the cost of all inspection unless specifically stated otherwise.

At the discretion of the Engineer, the Owner may charge the Contractor with inspection costs when it incurs additional expense for such because of:

1. Re-inspection due to rejection;
2. Use of inspected materials on other than the Owner's work;
3. When inspection is requested and cannot be performed;
4. For any other cause over which the Owner has no control.

These charges for unnecessary inspection or inspection costs due to causes within the Contractor's control will be deducted from amounts due to the Contractor at the completion of the work.

16. **PLANS & SPECIFICATIONS**

The Engineer, without charge, will furnish to the Contractor a sufficient number of copies of the plans and specifications for the proper handling of the work.

The Contractor shall keep one (1) set of plans and specifications on the site of the work. This set shall be kept current by the addition of all approved changes, addenda, and amendments thereto.

The plans and specifications are intended to be explanatory to each other; but should any discrepancy appear or any misunderstanding arise as to the import of anything contained in either, the decision of the Engineer shall be final and binding on the Contractor.

Any corrections of errors or omissions in the drawings and specifications may be made by the Engineer when such corrections are necessary for the proper fulfillment of their intention as construed by him.

All work or materials shown on the plans and not mentioned in the Bid Sheets, or any work mentioned in the Bid Sheets and not shown on the plans, shall be furnished, performed and done by the Contractor as if the same were both mentioned in the specifications and shown on the plans.

Should the Contractor in preparing his bid find anything necessary for the construction of the project that is not mentioned in the specifications or shown on the plans, or any discrepancy, he shall notify the Engineer so that such items may be included. Should the Contractor fail to notify the Engineer of

such items, it will be assumed that his bid included everything necessary for the complete construction in the spirit and intent of the designs shown.

In the case of any discrepancy, figure dimensions shall govern over scale dimensions, large scale details shall govern over small-scale drawings, plans shall govern over specifications, and detailed technical specifications shall govern over general specifications.

17. SHOP DRAWINGS

The Contractor shall furnish shop drawings to the Owner and Engineer in the form and manner required by the Engineer. Unless otherwise set out, all shop drawings shall be furnished in three (3) copies. It shall be clearly understood by the Contractor, that the Engineer will examine the shop drawings for general design only, and that his approval stamped on such drawings shall be approval only for general design and the Contractor shall in all cases be held responsible for detailed dimensions.

In the case of discrepancy between shop drawings and the requirements of the plans, specifications, and contract documents, the provisions of the plans, specifications and contract documents still prevail even though the shop drawings have been approved by the Engineer, unless the conflict therein has been specifically waived in writing by the Engineer.

18. OBSERVATION AND TESTS

The extent of and requirements for the observation and testing of materials, workmanship, machinery and equipment, is set out in the specifications. The Engineer shall approve bureaus, laboratories and/or agencies selected by the Contractor for observation and testing service.

The cost of such observation and testing service in connection with materials, workmanship, machinery and equipment furnished by the Contractor shall be borne by the Contractor. The Owner will pay for any observation and testing service required in connection with materials, workmanship, machinery or equipment furnished by the Owner.

The Contractor shall furnish at his own expense, including packing and delivery charges, all samples of materials furnished by him that are necessary for testing purposes.

When questions arise as to whether the requirements of the Contract have been fulfilled, the Owner shall engage an independent testing laboratory to perform any tests necessary to establish the acceptability of the work.

Should such additional tests show in the judgment of the Engineer, the work or materials to be defective or otherwise not meeting the requirements of the Contract, the Contractor shall, immediately upon notification by the Engineer, remove, replace or reconstruct same, as the case may require and shall if directed by the Engineer, make such further tests as may be necessary to determine fulfillment of the Contract requirements. The cost of all re-tests shall be deducted from the Contractor's fee for said work.

All tests shall be made under the supervision and direction of the Engineer except that those required by a public authority shall be under the supervision and direction of such authority. A testing laboratory approved by Engineer shall perform any such testing, and one copy of the test shall be sent directly to Engineer.

19. PERMITS AND CODES

Unless otherwise set out in the specifications, the Contractor shall make application for, obtain and pay all fees and charges in connection with all necessary licenses, permits, and similar authorizations. All such licenses, permits, and other authorizations shall be subject to review, inspection, and approval of the Engineer. The Contractor shall be required to comply with all federal, state and/or local and municipal ordinances, laws, statutes, regulations, and/or codes insofar as the same are binding upon the Owner and Contractor.

The intent of this Contract is the Contractor shall base its bid upon the plans and the specifications, but that all work installed shall comply with all applicable laws, statutes, codes and regulations as amended by any waivers.

Before installing the work, the Contractor shall examine all plans and specifications for compliance with applicable laws, statutes, codes and regulations bearing on the work, and shall immediately report any discrepancy to the Engineer. Where the requirements of the plans and specifications fail to comply with the applicable code or regulation, the Owner will adjust by change order the Contract to conform to the code or regulation (unless waivers in writing covering the differences have been granted by the governing authority) and shall make appropriate adjustment in the Contract price. Should the Contractor fail to observe the foregoing provisions and install work at variance with any applicable code or regulation as may be amended by waivers (notwithstanding the fact that such installation is in compliance with the plans and specifications), the Contractor shall remove such work without cost to the Owner, but a change order will be issued to cover only the excess cost to the Contractor would have been entitled to receive if the change had been made before the Contractor commences work on the items involved.

20. STANDARD SPECIFICATIONS

Where standard specifications, such as those of the American Society for Testing and Materials, the American Standards Association, The American Association of State Highway Transportation Officials, the Civil Aeronautics Administration, The Federal Specifications, etc., are referred to in the specifications and contract documents and on the plans, said references shall be construed to mean the latest amended and/or revised versions of the said standard or tentative specifications.

21. ALTERATION IN PLANS AND SPECIFICATIONS

The Owner reserves the right to make such alteration in the plans and specifications or in the character of the work as may be considered by the Engineer necessary or desirable from time to time to complete the project in an acceptable manner; provided that, if alterations are made, the general character of the work as a whole is not changed. Thereby such alterations shall not be considered as a waiver of any condition of the contract nor to invalidate any of the provisions nor to release the bond thereof.

22. CHANGES IN THE WORK

The Owner may make changes in the work of the Contractor by making alterations therein, or by making additions thereto, or by omitting work therefrom, without invalidating the Contract and without relieving or releasing the Contractor from any guarantee given by him pursuant to the Contract provisions, and without affecting the validity of the guaranty bonds, and without relieving or releasing the surety or sureties of said bonds. All such changes shall be approved and ordered by the Engineer and executed by the Contractor, under the conditions of the original Contract.

Except in an emergency endangering life or property, no change shall be made by the Contractor unless in pursuance of a written order from the Owner, countersigned by the Engineer, authorizing the change and no claim for an adjustment of the Contract Price or Time shall be valid unless so ordered.

Should the Contractor encounter or discover during the progress of the work sub-surface or latent conditions at the site materially differing from those shown on the plans or indicated in the specifications, the attention of the Engineer shall immediately be called to such conditions before they are disturbed. If the Engineer finds that they so materially differ, he shall at once make changes in the plans or specifications as he may find necessary, and any adjustment in the Contract Price or Time as may be justifiable shall be made by means of a written order as provided herein.

23. CLAIMS FOR EXTRA COST

If the Contractor claims that any changes in the work by drawings or otherwise involve extra cost or extension of time, he shall, within **ten (10) days** after the receipt of such change orders, and in any event before proceeding to execute the work, submit his protest thereto in writing to the Engineer, stating clearly and in detail the basis of his objections. No such claim shall be valid unless so made.

Claims for additional compensation for extra work, due to alleged errors in spot elevations, contour lines, or benchmarks, will not be recognized unless accompanied by certified survey data, made prior to the time the original ground was disturbed, clearly showing that errors exist which resulted or would result in handling more material or performing more work, that would be reasonably estimated from the plans and topographical maps issued.

Any discrepancies which may be discovered between actual conditions and those represented by the topographical maps and plans shall at once be reported to the Engineer, and work shall not proceed except at the Contractor's risk until written instructions have been received by him from the Engineer.

If on the basis of the available evidence, the Engineer determines that an adjustment of the contract price or time is justifiable, the procedure shall then be as provided herein for "Changes in Work".

By execution of this Contract the Contractor warrants that he has visited the site of the proposed work and fully acquainted himself with the conditions existing there relating to construction and labor, and that he fully understands the facilities, difficulties, and restrictions attending the execution of the work under the Contract. The Contractor further warrants that he has thoroughly examined and is familiar with the drawings, specifications, and all other documents comprising the Contract. The Contractor further warrants that by execution of this Contract his failure when he was bidding on the Contract to receive or examine any form, instrument or document or to visit the site and acquaint himself with conditions existing there, in no way relieves him from any obligation under the Contract and the Contractor agrees that the Owner shall be justified in rejecting any claim based on facts regarding which he should have been on notice as a result thereof.

24. DETERMINATION OF THE VALUE OF EXTRA (Additional) WORK or OMITTED WORK

The Contractor shall perform all extra work ordered in writing by the Engineer and the value of such extra (additional) work shall be determined by the Engineer in one or more of the following ways:

- a. On the basis of the actual cost of all the items of labor (including on-the-job supervision), materials and use of equipment, plus fifteen percent (15%) which shall cover the Contractor's general supervision, overhead, and profit. In the case of subcontracts, the 15 percent is interpreted to mean the subcontractor's supervision, overhead and profit, and an additional 5 percent (5%) may then be added to such costs to cover the General Contractor's supervision

and overhead and profit. The cost of labor may include required insurance and taxes. Equipment costs shall be based on current rental rates in the area where work is being performed but, in no case, greater than the current rates published by the Associated Equipment Distributors, Chicago, Illinois.

- b. By estimate and acceptance in lump sum.
- c. By unit prices named in the Contract or subsequently agreed upon.

Provided, however, that the cost or estimated cost of all extra (additional) work shall be determined in advance of authorization by the Engineer and approved by the Owner. All extra (additional) work shall be executed under the conditions of the original Contract.

No extra (additional) work shall be done except upon a written order from the Engineer; and no claim on the part of the Contractor for pay for extra (additional) work shall be recognized unless so ordered in writing by the Engineer.

25. LANDS FOR WORK

The Owner shall provide the lands upon which the work under this Contract is to be done or the necessary easements over said lands (private property) to include sufficient space for the proper execution of the work, together with right of access to same, except that the Contractor shall provide land required for storage of his materials and shall provide land for erection of any temporary construction facilities for the storage of his equipment. The Contractor will construct at his own expense any temporary roads or bridges necessary for his own use; he will also furnish his own power and water supply unless otherwise specifically set out herein.

26. SEPARATE CONTRACTS

The Owner reserves the right to let other contracts in connection with the work. The Contractor shall afford other Contractors reasonable opportunity for ingress and egress and storage of their materials and the execution of their work and shall properly connect and coordinate his work with theirs. The respective right of various interests involved shall be established by the Engineer to secure proper completion of the various portions of the work.

27. OWNER'S RIGHT TO DO WORK

If the Contractor should neglect or fail to prosecute the work properly or refuse to perform any provision of the Contract, the Owner after **five (5) days** written notice to the Contractor, may, without prejudice to any other remedy he may have, make good such deficiencies, and may deduct the cost thereof from any monies due or which may thereafter become due to the Contractor.

28. SUSPENSION OF WORK

The Owner shall have the authority to suspend the work in whole or in part by giving **five (5) days** notice to the Contractor in writing. The Owner shall reimburse the Contractor for the expenses incurred by him in connection with the work under this contract as a result of such suspension if the suspension of the work is caused through no fault of the Contractor himself.

29. RIGHT OF OWNER TO TERMINATE CONTRACT

In addition to the termination rights of the Owner set forth in the Contract, if the Contractor fails to begin the work under the Contract within the specified time or fails to perform the work with sufficient workmen and equipment of with sufficient materials to ensure the prompt completion of said work within the specified time, or shall perform the work improperly or shall neglect or refuse to remove materials or perform anew such work as shall be rejected as defective or unsuitable or shall be stopped by a Court Order resulting from injunctive action or shall discontinue the prosecution of the work, or if the Contractor shall become insolvent or be declared bankrupt or commit any act of bankruptcy or insolvency or allow any final judgment to stand against it unsatisfied for a period of five (5) days or shall fail to refuse to remove within forty-eight (48) hours after receipt of proper notice, any employee or person engaged in work under the Contract, or shall make any assignment for the benefit of creditors, or shall fail to carry out the work in an acceptable manner, or fails to otherwise abide by all of the terms of the Contract, the Owner shall give notice in writing to the Contractor and its Surety of such delay, neglect or default, specifying the same, and if the Contractor within a period of ten (10) days after such notice shall not proceed in accordance therewith, then the Owner shall upon written certification from the Engineer of the fact of such delay, neglect or default, and the Contractor's failure to comply with such notice, have full power and authority without violating the Contract to terminate the Contractor's right to proceed with the work, to take over the prosecution of the work of said Contractor, to appropriate or use any and all materials and equipment on the ground as may be suitable and acceptable and may enter into an agreement for the completion of said Contract according to the terms and provisions thereof, and use other methods as in the Owner's opinion shall be required for the completion of said Contract in an acceptable manner.

All costs and charges incurred by the Owner, together with the costs of completing the work under Contract shall be deducted from any monies due or which may become due to said Contractor. In case the expense so incurred by the Owner shall be less than the sum which would have been payable under the Contract, if it had been completed by said Contractor, then the Contractor shall be entitled to receive the difference and in case such expense shall exceed the sum which would have been payable under the Contract, then the Contractor and the Surety shall be liable and shall pay to the Owner the amount of said excess.

30. USING COMPLETED PORTION OF WORK

The Owner shall have the right to take possession of and use any completed portion or portions of the work even though the time for completing the entire work or such portions may not have expired. The possession and use by the Owner shall not be deemed an acceptance of any work not completed in accordance with the Contract. If such prior use increases the cost of or delays the work, the Contractor shall be entitled to such extra compensation or extension of time or both as the Engineer may determine. The use by the Owner of any portion of the work shall release the Contractor from his Builder's Risk insurance covering such portion used.

31. OWNER'S RIGHT TO WITHHOLD PAYMENTS

In order to protect itself from loss, the Owner may withhold payment, which would otherwise be due the Contractor on account of:

- a. Failure to remedy defective work or remove defective materials from the job.
- b. Third party claims filed or reasonable evidence indicating probable filing of such claims against Contractor.

- c. Expiration of contract time.
- d. For other causes which in the opinion of the Engineer would justify the Owner in withholding such payment or payments.
- e. Failure of the Contractor to make payments properly to subcontractors or for labor, materials or equipment.
- f. Reasonable evidence that the work cannot be completed for the unpaid balance of the contract sum.
- g. Persistent failure to carry out the work in accordance with the Contract Documents.

32. DEDUCTIONS FOR UNCORRECTED WORK

If the Engineer and Owner deem it inexpedient to correct work injured or not done in accordance with the Contract, an equitable deduction from the contract price shall be made thereof.

33. ACCIDENT PREVENTION

The Contractor shall exercise proper precaution at all times for the protection of persons and property. The safety provisions of applicable laws, building and construction codes shall be observed and the Contractor shall take or cause to be taken such additional safety measures as the Engineer may determine to be reasonably necessary. Machinery equipment and all hazards shall be guarded in accordance with the safety provisions of the Manual of Accident Prevention in Construction published by the Associated General Contractors of America, to the extent that such provisions are not in contravention of applicable law.

34. SANITARY FACILITIES

The Contractor shall furnish, install and maintain ample sanitary facilities for the workmen. As the needs arise, enclosed temporary toilets in sufficient number shall be placed as directed by the Engineer. Permanent toilets, installed under this Contract shall not be used during construction. Drinking water shall be provided from a proved safe source so piped or transported as to be kept clean and fresh and served from single service containers or satisfactory types.

35. PROTECTION OF WORK & PROPERTY

The Contractor shall comply with all laws, ordinances, rules and regulations bearing on the conduct of the work. He shall maintain adequate protection for all the work from damage and shall protect the Owner's property from injury or loss in connection with the performance of this Contract. He shall make good to the Owner any such damage, injury or loss.

The Contractor shall provide Builder's Risk Insurance against fire, explosion, flood and storm in all cases where there is any considerable risk from such causes, and all work shall be at this risk until final acceptance or use of same by the Owner.

36. RESPONSIBILITY FOR DAMAGE, CLAIMS, ETC.

The Contractor shall provide indemnity to the Owner, its council members, directors, officers, agents and employees consistent with terms set forth in the Contract. This indemnity provision shall survive the expiration or early termination of the Contract.

37. ROYALTIES & PATENTS

The Contractor shall pay all royalties and license fees and shall defend all suits or claims for infringements of any patent rights and shall save the Owner harmless from loss on account thereof, except when the Owner shall specify a particular process or the product of a particular manufacturer or manufacturers; then the Owner shall be responsible for such infringements of patents and license fees on such processes or products as he may specify.

38. NON-REBATE OF WAGES

The Contractor shall comply with the regulations, ruling and interpretations of the Secretary of Labor of the United States pursuant to the Anti-Kickback Act (Title 18, U.S.C. Sec. 874 and Title 40, U.S.C., Sec. 276c) which makes it unlawful to induce any person employed in the construction or repair of public buildings or public works to give up any part of the compensation to which he is entitled under his Contract of employment; and the Contractor agrees to insert a like provision in all subcontracts hereunder.

39. CONTRACTOR'S FINAL RELEASE

Before the Owner pays to the Contractor his final payment on the work, the Contractor will be required to sign a final release. This final release shall be notarized and shall state that all claims against the Owner on the Contractor's part have been met in full; it shall further state that all accounts for labor performed, accounts for materials, liens, judgment, and claims of every nature against the Contractor have been satisfied by him. It shall further state any obligation whatsoever in connection with work which may be presented or suits arising therefrom after the settlement are to be borne by the Contractor. In case the Contractor is unable to settle any claim that may be in dispute or litigation, the Owner may allow him to furnish a proper bond to indemnify the Owner against the lien and release the final estimate to him.

It is understood that the Contractor is to guarantee to the Owner all machinery and/or equipment that he furnishes twelve (12) months from the date of final release and will replace such defective parts without cost to Owner.

40. FINAL CLEANING-UP

The work will not be considered as completed, nor final payment made until all final cleaning up has been done by the Contractor in a manner satisfactory to the Engineer.

41. BID PRICES TO INCLUDE INCIDENTAL WORK

The bid prices will cover and include the cost and expense of all contingents, accessories and incidental work and material required to complete the improvement. This included replacement of services, pavement, fences or any other objects, which are molested in the process of construction on this work. It shall also include where necessary, watchmen, flagmen, barricades, temporary fencing, red lights, construction joints, finishing and curing concrete, laying dust, maintaining existing sewage flow, providing access to property, and many other incidents which occur on a normal construction job.

42. TERMINATION BY THE OWNER FOR CONVENIENCE

The Owner may, at any time, terminate the Contract for the Owner's convenience without cause by giving ten (10) days prior written notice to the Contractor. In such case the Contractor shall:

1. Cease operations as directed by the Owner;
2. Take actions necessary, or that the Owner may direct, for the protection and preservation of the work.

In the case of such termination for the Owner's convenience, the Contractor shall be entitled, as his sole remedy and recovery, to receive payment for all work executed by the Contractor.

43. CONTRACTOR'S RIGHT TO TERMINATE CONTRACT

The Contractor may terminate the Contract, upon ten days written notice to the Owner, if any public authority should stop, or cause to be stopped, the work for a period of six (6) months. The Contractor may terminate this Contract for any material breach of the Contract by the Owner, provided that the Contractor shall have first provided the Owner with written notice of such breach and the Owner fails to remedy such breach within 30 days of such notice.**44. UTILITY OWNERSHIP**

The following utilities and owners are located within or near the work limits of the Ormsby Mitchel Park Playground project:

- | | |
|----------------------------|--|
| Gas & Electric: | Ed Pamer – Duke Energy / Gas
Patty Memering – Duke Energy / Electric
139 East Fourth Street, Cincinnati, OH 45201
513-287-2594 / 513-287-3498 |
| Water: | Northern Kentucky Water District
2835 Crescent Springs Rd., Erlanger, KY 41018-0640
859-578-9898 |
| Telephone: | Mark Conner / Tony Niehaus
Cincinnati Bell Telephone Company
201 East 4th Street, Cincinnati, Ohio 45201
513-565-7043 / 513-566-8059 |
| | Cable TV: Brian Kells
Time Warner Cable
7906 Dixie Highway, Florence, KY 41042
859-431-7766 |
| Sanitary
Sewer: | Andy Aman
Sanitation District No. 1
1045 Eaton Drive, Ft. Wright, Kentucky 41017
859-578-7467 |
| Storm
Sewer: | Sean Blake
Sanitation District No. 1
1045 Eaton Drive, Ft. Wright, Kentucky 41017 |
- 859-578-7468

PROPOSAL

DATE: _____

Note: All forms contained herein shall be completed in full, be properly executed by a duly authorized representative of the bidder and shall be kept together and submitted with this bound bid packet.

1. Preamble

TO THE MAYOR AND COUNCIL
OF THE CITY OF FORT MITCHELL

MAYOR & COUNCIL:

I	_____	An Individual
We	_____	A Partnership
	Name of Bidder	A Corporation

	Address of Bidder	

	Phone	

the undersigned, as bidder, proposes to furnish all necessary labor, machinery, tools, apparatus, materials, equipment, service and other necessary supplies, in strict accordance with the terms and conditions of the specifications and Contract Documents hereto attached and the plans for the construction of the following:

**GENERAL ORMSBY MITCHEL PARK
PLAYGROUND IMPROVEMENTS
FORT MITCHELL, KENTUCKY**

2. Examination of Site

The Bidder declares that he has examined the site of the work and informed himself fully in regards to all conditions pertaining to the place where work is to be done; that he has examined the plans, specifications and contract documents for the work, and has read all special provisions furnished prior to opening of the bid; and that he has satisfied himself relative to the work to be performed.

The Bidder further declares that his bid is based solely on his own appraisal of the conditions under which the work is to be performed based on his investigations of the site of work, and on the plans, including any addenda or other special provisions that may be issued prior to opening of the bid, and that no statements have been verified by the City of Fort Mitchell except through a properly issued addendum.

Bidder acknowledges receipt of the following Addenda and have included their provisions in this Bid:

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

3. Time of Commencement and Completion

The Bidder agrees that prior to beginning any work they will schedule the pre-construction meeting with the owner and the awarded demolition and site and building contractor. The Owner would like to substantially complete this project by June 15, 2022. The Bidder agrees to substantially complete the project on or before this date and only site restoration, final cleanup, and punch-list items will be the remaining work to be completed after June 15, 2022. All work must be completed no later than July 1, 2022.

4. Liquidated Damages

The Bidder further understands that if the work is not completed within the specified time, liquidated damages will be deducted from the compensation otherwise due him at a rate of Five Hundred (\$500.00) per day for each day thereafter, holidays included, that work remains uncompleted.

5. Time Limit for Execution of Documents

The undersigned further agrees that, in case of failure on his part to execute the said contract and bond and deliver same to the Owner within ten (10) consecutive calendar days after written notice being given of the award of the contract, the check or bid bond accompanying this bid and the monies payable thereon shall be paid to the funds of the Owner, as liquidated damages for such failure; otherwise, the check or bid bond accompanying this Proposal shall be returned to the undersigned. In such case, the Owner shall be under no further obligation to enter into such Contract, and at the option of the Owner may be declared null and void.

6. Bid period

Contractor shall hold this bid open for a period of sixty (60) days from the date the bids were opened.

7. Bid Guaranty

Attached hereto is a certified check on _____
Bank of _____ or a bid bond for the
sum of _____ (\$ _____),
made payable to the City of Fort Mitchell. Such amount represents 5% of the Base Bid.

8. Declaration of Interest in Proposal

The undersigned, as Bidder, hereby declares that the only person or persons interested in the Proposal as principal or principals is or are named herein and that no other person than herein mentioned has any interest in this Proposal or in the Contract to be entered into; that his Proposal is made without connection with any other person, company or parties making a bid or without collusion or fraud.

9. Schedules

The following Schedules are attached hereto and incorporated herein by reference, and shall be completed by Bidder:

- A. List of Subcontractors;
- B. Current Projects which Contractor and/or Subcontractors are currently Engaged;
- C. Projects of a Similar Size and Scope that have been Completed by Contractor and/or Subcontractors within the Last Five Years;
- D. Key Personnel, Foreman, Project Manager and Supervisors of Contractor and/or Subcontractors.
- E. Anticipated Construction Schedule

SIGNED _____

BY: _____

Name & Title (Please Type or Print)

BID SCHEDULE
GENERAL ORMSBY MITCHEL PARK PLAYGROUND IMPROVEMENTS
FT MITCHELL, KY.

8/17/2021

PAY ITEM	PAY SPEC	PAY DESCRIPTION	APPROX. QUANTITY		UNIT PRICE	TOTAL AMOUNT
GENERAL CONSTRUCTION ITEMS						
1.	110	MOBILIZATION	1	LS		
EARTHWORK						
2.	204	FINISH GRADING		SF		
SITE PAVING ITEMS						
3.	SPECIAL	SAFETY SURFACE (Includes Safety Surface, Drainage including tie into storm system)		SF		
4.	506	FLUSH CONC. CURB SAFETY SURFACE EDGING (At a minimum, provide flush conc. curb cost; may also provide deduct with other edge option)		LF		
5.	505	CONCRETE SIDEWALK (4" Concrete Pavement, 4" Aggregate Base)		SF		
MAIN PLAYGROUND ACCESSORIES						
6.	SPECIAL	PLAY STRUCTURE (2-5) YEARS	1	EA		
7.	SPECIAL	PLAY STRUCTURE (5-12 YEARS)	1	EA		
8.	SPECIAL	SWING STRUCTURE (2-5 YEARS)	1	EA		
9.	SPECIAL	SWING STRUCTURE (5-12 YEARS)	1	EA		
ALTERNATE 'A' - LANDSCAPE BUFFER (Includes soil, amendmets, mulch, installantion and warranty)						
10.	SPECIAL	DECIDUOUS TREES	5	EA		
11.	SPECIAL	EVERGREEN TREES	3	EA		
12.	SPECIAL	DECIDUOUS SHRUBS	31	EA		
13.	SPECIAL	EVERGREEN SHRUBS	39	EA		
14.	SPECIAL	ORNAMENTAL GRASSES	21	EA		

BID SCHEDULE
GENERAL ORMSBY MITCHEL PARK PLAYGROUND IMPROVEMENTS
FT MITCHELL, KY.

8/17/2021

MISCELLANEOUS STRUCTURES & MATERIALS					
15.	SPECIAL		1	LS	
16.	SPECIAL		1	LS	
17.	SPECIAL		1	LS	
18.	SPECIAL		1	LS	
19.	SPECIAL		1	LS	
20.	SPECIAL		1	LS	
TOTAL				PROJECT TOTAL IN NUMBERS:	

NAME SIGNED _____

S _____ **DOLLARS**

NAME PRINTED _____

S _____ **CENTS**

COMPANY _____

PROJECT TOTAL IN WORDS:

DATE _____

PHONE NUMBER _____

EMAIL _____

FAX NUMBER _____

SCHEDULE A
LIST OF SUBCONTRACTORS

<u>Subcontractor Name</u>	<u>Subcontractor Address</u>	<u>Subcontractor Phone</u>	<u>Subcontractor Primary Contact</u>

**SCHEDULE B
CURRENT PROJECTS IN WHICH CONTRACTOR AND/OR SUBCONTRACTOR
ARE CURRENTLY ENGAGED**

Current Projects of Contractor

Current Projects of Subcontractors

SCHEDULE C
PROJECTS OF A SIMILAR SIZE AND SCOPE THAT HAVE BEEN COMPLETED BY
CONTRACTOR AND/OR SUBCONTRACTORS WITHIN THE LAST FIVE YEARS

Projects of Similar Size & Scope -- CONTRACTOR

Projects of Similar Size & Scope -- SUBCONTRACTORS

**SCHEDULE D
KEY PERSONNEL, FOREMAN, PROJECT MANAGER AND SUPERVISORS
OF
CONTRACTOR AND/OR SUBCONTRACTORS**

Key Personnel, Foreman, Project Manager and Supervisors of CONTRACTOR for this Project:

Key Personnel, Foreman, Project Manager and Supervisors of SUB-CONTRACTORS for this Project:

Name of Subcontractors: _____

SCHEDULE E
ANTICIPATED CONSTRUCTION SCHEDULE

<u>Phase</u>	<u>Anticipated Start Date</u>	<u>Anticipated Completion Date</u>	<u>Duration (days)</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

City of Ft. Mitchell

Vendor Insurance Requirements

Prior to commencement of your services, you must provide the City with a Certificate of Insurance evidencing the following insurance coverage:

1. Commercial General Liability insurance on ISO form CG00011001 (or a substitute providing equivalent coverage). The limit shall not be less than \$1,000,000 per occurrence. ***The City of Ft. Mitchell must be named as an Additional Insured; the certificate shall specify that the coverage afforded is Primary and Non-contributory with respect to any other coverage available to the City of Ft. Mitchell.*** If you are providing construction services, you must use additional insured endorsements CG20100704 AND CG20370704.
2. Comprehensive owned and non-owned automobile liability insurance with a minimum combined single limit of \$1,000,000.
3. Workers Compensation Coverage specific to the State of Kentucky.
4. Professional Liability / Errors or Omissions coverage in the amount of \$1,000,000 per occurrence if your services are professional in nature (legal, architectural, etc.).

If your services involve pyrotechnics, mechanical amusement devices, inflatable amusement devices, animals of any type (including petting zoo or pony rides) or any other services that the City of Ft. Mitchell deems applicable, you must also provide the following:

1. Commercial Umbrella Liability policy with a minimum limit of \$1,000,000.

If your services include the sale of alcohol, you must also provide the following (in addition to above requirements):

1. Liquor liability coverage with a minimum limit of \$1,000,000.

Any and all liability coverage shall name the City of Ft. Mitchell as Additional Insured on a primary and non-contributory basis. A satisfactory certificate of insurance evidencing the coverage outlined above shall be provided before any services are rendered.

BID GUARANTY AND CONTRACT BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____

(Here insert full name or legal title of Contractor and address)

as Principal and _____
(Here insert full name or legal title of Surety)

as Surety, are hereby held and firmly bound unto _____
City of Fort Mitchell, Kentucky
(Here insert full name or legal title of Owner)

hereinafter called the Obligee, in the penal sum of the dollar amount of the bid submitted by the Principal to the Obligee on _____ to undertake the project known as:

GENERAL ORMSBY MITCHEL PARK IMPROVEMENTS PLAYGROUND

The penal sum referred to herein shall be the dollar amount of the Principal's bid to the Obligee, incorporating any additive or deductive alternate proposals made by the Principal on the date referred to above to the Obligee, which are accepted by the Obligee. In no case shall the penal sum exceed the amount of

_____ dollars

(\$ _____). If this item is left blank, the penal sum will be the full amount of the Principal's bid, including alternates. Alternatively, if completed, the amount stated must not be less than the full amount of the bid, including alternatives in dollars and cents. A percentage is not acceptable.

For the payment of the penal sum well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas the above named Principal has submitted a bid on the above referred to project;

NOW, THEREFORE, if the Obligee accepts the bid of the Principal and the Principal fails to enter into a proper contract in accordance with the bid, plans, details, specifications, and bills of material; and in the event the Principal pays to the Obligee the difference not to exceed ten percent of the penalty hereto between the amount specified in the bid and such larger amount for which the Obligee may in good faith contract with the next lower bidder to perform the work covered by the bid; or in the event the Obligee does not award the contract to the next lower bidder and resubmits the project for bidding, the Principal will pay the Obligee the difference, not to exceed ten percent of the penalty hereof between the amount specified in the bid, or the costs, in connection with the resubmission, of printing new contract documents, required advertising and printing and mailing notices to prospective bidders, whichever is less, then this obligation shall be null and void, otherwise to remain in full force and effect. If the obligee accepts the bid

of the Principal and the Principal within ten days after the awarding of the contract, enters into a proper contract in accordance with the bid, plans, details, specifications, and bills of material, which said contract is made a part of this bond the same as though set forth herein; and IF THE SAID Principal shall well and faithfully perform each and every condition of such contract; and indemnify the Obligee against all damage suffered by failure to perform such contract according to the provisions thereof and in accordance with the plans, details, specifications, and bills of material therefore; and shall pay all lawful claims of subcontractors, materialmen, and laborers, for labor performed and materials furnished in the carrying forward, performing, or completing of said contract: we agreeing and assenting that this undertaking shall be for the benefit of any materialman or laborer having a just claim, as well as for the Obligee herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

THE SAID Surety hereby stipulates and agrees that no modifications, omissions, or additions, in or to the terms of said contract or in or to the plans and specifications therefore shall in any way affect the obligations of said Surety on this bond, and it does hereby waive notice of any such modifications, omissions or additions to the terms of the contract or to the work or to the specifications.

SIGNED AND SEALED This _____ day of _____, 20____.

Principal

By: _____

Title: _____

Surety

By: _____

Attorney-in-Fact

Surety Company Address

Surety Agent's Name and Address

CERTIFICATE AS TO INTEREST

_____, being the _____
(Name) (Position)

of _____, the bidder which submitted the foregoing
(Company Name)

proposal for the improvement, repair and, construction of:

GENERAL ORMSBY MITCHEL PARK PLAYGROUND IMPROVEMENTS

in the City of Ft. Mitchell, deposes and says that _____ is
(Company Name)

a Kentucky corporation, that it is the only entity or person interested in the herein contract for said work, and the profits thereof; that the said contract is made without any connection or interest in the profits thereof with any other person making any bid or proposal for said work; that the said contract is, on its part, in all respects fair and without collusion or fraud and that no member of the City Council, head of any department or any employee therein or any office of the City is directly or indirectly interested in said contract.

Company Name

By: _____

Sworn to before me and subscribed in my presence this _____ day of _____, 20____.

Notary Public

GUARANTEE

TO: CITY OF FORT MITCHELL
2355 DIXIE HIGHWAY
FORT MITCHELL, KENTUCKY 41017

DATE: _____

The undersigned, _____, having heretofore entered into a contract with the City of Fort Mitchell, Kentucky, dated _____, for the Improvement, Repair, and Construction of:

GENERAL ORMSBY MITCHEL PARK PLAYGROUND IMPROVEMENTS

and in accordance with the terms of said contract do hereby guarantee that all labor and material furnished and work performed by us under said contract is in conformity with such plans and specifications and authorized alterations thereto and that such Improvement, Repair and Construction installed pursuant to said contract is free from imperfect workmanship and materials, and we agree to repair at our own cost and expense all of the work covered under said contract and change orders which may prove to be defective for a period of one year after the date of Final Payment as set forth in the Contract Documents. Furthermore, we agree to repair at our sole cost any work, which we may affect or disturb in making the repairs herein contemplated.

STATE OF KENTUCKY :

SS

KENTON COUNTY :

The foregoing instrument was acknowledged before me this _____ day of _____, 20____.

By _____, _____, of
(Name) (Title)
_____, a/an _____ corporation on behalf of the corporation.
(Company) (State)

By _____

Title _____

Guarantee Period Begins _____
(Date)

Sworn to and subscribed in my presence this _____ day of _____, 20____.

