



CITY of NOVI CITY COUNCIL

www.cityofnovi.org

Agenda Item 1
June 18, 2007

SUBJECT: Approval of final payment to Motor City Fence Company for the Ella Mae Power Park outfield fencing system in the amount of \$5,000.

SUBMITTING DEPARTMENT: Parks, Recreation & Forestry

CITY MANAGER APPROVAL

EXPENDITURE REQUIRED	\$177,339.00
AMOUNT BUDGETED	\$342,000.00
APPROPRIATION REQUIRED	N/A
LINE ITEM NUMBER	208-691.00-974.000

BACKGROUND INFORMATION:

On November 13, 2006 City Council awarded a contract to Motor City Fence Company in the amount of \$175,105 for the removal and installation of fencing at Ella Mae Power Park. The project included: removal and disposal of an existing fence system, installation of a PVC coated fencing system, foul poles, fence top protection, and outfield distance markers. On December 6, 2006 the city accepted a change order totaling \$2,234 for enhancement of four backstops. The total balance for fencing materials and labor provided by Motor City Fence Company totaled \$177,339.

Upon submission of three invoices, the city executed payment of \$172,339 to Motor City Fence Company for materials and services rendered. A final project balance of \$5000.00 was held to insure all remaining fence ties were placed, and site clean-up was performed upon seasonal snow melt.

Upon inspection, the project has been completed to our satisfaction and the contractor has furnished the city with a maintenance and guarantee bond to cover workmanship and materials for one year from the date of formal acceptance from City Council.

RECOMMENDED ACTION: Approval of final payment to Motor City Fence Company for the Ella Mae Power Park outfield fencing system in the amount of \$5,000.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Capello				
Council Member Gatt				
Council Member Margolis				

	1	2	Y	N
Council Member Mutch				
Council Member Nagy				
Council Member Paul				

**CONTRACT FOR ELLA MAE POWER PARK
OUTFIELD FENCING SYSTEM**

This Contract shall be effective as of the date of the last signature and is between the City of Novi, 45175 West Ten Mile Road, Novi, MI 48375-3024, ("City"), and Motor City Fence Company whose address is 3661 Delaware, Troy MI 48084 ("Contractor").

Project. This Contract is for a project to be referred to as the Power Park Fencing Bid #2.

RECITALS:

This Contract is entered into between the City and Contractor for work described in the attached Exhibit A.

In consideration of the foregoing, the parties agree:

Work. For and in consideration of payment by the City as provided under the Payment Section of this Contract, Contractor shall perform the work described in Exhibit A hereto, made a part of this Contract, in a competent, efficient, timely, good, and workmanlike manner and in compliance with the following terms and conditions.

Contract Price and Payment. The Contract Price is \$175,105, which is based upon the unit prices set forth in Exhibit B.

Permits. The work to be performed includes applying and paying for, obtaining issuance of, and complying with and satisfying all required City and other governmental permits and all conditions of such permits.

Bonds This Contract is conditioned on the Contractor furnishing at its own cost, a Performance Bond for the protection of the City and a Payment Bond for the protection and payment of claimants, without the use or necessity of construction liens, each in the amount of one hundred percent (100%) of Contractor's Bid amount.

Insurance. This Contract is conditioned on the Insurance Requirements set forth in Exhibit C, which is a part of this Contract,, being satisfied which shall be confirmed by Certificate(s) of Insurance, with said coverages to be maintained for the life of this Contract and the City entitled to thirty (30) days written notice of any cancellations or changes.

Time of Work. The work will be commenced, diligently prosecuted and completed by April 15, 2007.

Liability. Contractor shall be liable for any injury or damage occurring on account of the performance of its work under this Contract. Consistent with this liability, the Contractor agrees to defend, pay on behalf of, and hold harmless the City, its agents, and others working on the City's behalf against any and all claims, demands, suits, losses, and settlements, including actual

attorney fees incurred and all costs connected therewith, for any damages which may be asserted, claimed, or recovered against the City by reason of personal injury and/or property damages which arises out of or is in any way connected or associated with this Contract, including claims arising under the worker's compensation laws of the State of Michigan.

Inspections, Notices and Remedies Regarding Work. During the performance of the work by Contractor, City shall have the right to inspect the work and its progress to assure that it complies with this Contract. If such inspections reveal a defect in the work performed or other default in this Contract, City shall provide Contractor with written notice to correct the defect or default within a specified number of days of the notice. Upon receiving such a notice, Contractor shall correct the defects or defaults within the time specified. Upon a failure to do so, the City may terminate this Contract by written notice and finish the work through whatever method it deems appropriate, with the cost in doing so a valid claim and charge against Contractor, or, preserve the claims of defects or defaults without termination by written notice to Contractor.

Disposal Requirements. The Contractor shall perform all work and dispose of all scrap, unused, discarded, waste or demolition debris and materials resulting from the work in compliance with all provisions of applicable federal, state, county and City environmental laws. This obligation includes lawful disposal of all material, with a condition of the City's payment obligation being Contractor delivering to City copies of written documents from the licensed landfill or disposal site, confirming the lawful disposal of all such materials, the disposal costs and that those costs have been paid in full by Contractor.

Warranty. Contractor guarantees and warrants that the work will be free from defects in workmanship and materials, and that for a period of one (1) year(s) from the date of the City's payment to Contractor, any such defects that are discovered within that time and that are reported by the City to the Contractor in writing within 60 days of discovery, will be immediately corrected by repair or replacement by Contractor as directed by and at no additional cost or expense to the City.

Independent Contractor. Contractor is and shall perform under this Contract as an Independent Contractor with complete control over its employees, agents, subcontractors and operations. No employee, agent or representative of Contractor shall represent, act or be considered as an agent, representative or employee of the City and nothing in this Contract shall create any contractual relationship between the City and any subcontractor of the Contractor.

Compliance with Laws. This Contract and all of Contractor's work and practices shall be subject to all applicable state, federal and local laws, rules or regulations, including without limitation, those which apply because City is a public governmental agency or body. Contractor represents that it is in compliance with all such laws and eligible and qualified to enter into this Contract.

Governing Law. This Contract shall be governed by the laws of the State of Michigan.

Assignment. Contractor shall not assign this Contract or any part thereof without the written consent of the City. This Contract shall be binding on the parties, their successors, assigns and legal representatives.

Notices. Written notices under this Contract shall be given to the parties at their addresses contained in this Contract by personal or registered mail delivery to the attention of the following persons:

City: Carol Kalinovik, Purchasing Director.

Contractor: Brian Lepp, Motor City Fence Company.

Changes. Any changes in the provisions of this Contract must be in writing and signed by the City and Contractor.

Waivers. No waiver of any term or condition of this Contract shall be binding and effective unless in writing and signed by all parties, with any such waiver being limited to that circumstance only and not applicable to subsequent actions or events.

Contract Documents Incorporated by Reference. In addition to the terms and conditions stated herein, the following documents are incorporated herein to the extent not inconsistent with this Contract:

Signed in the presence of:

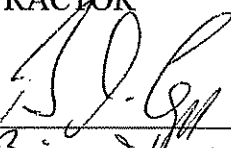
Margaret Coneluis

CITY OF NOVI
A Michigan municipal corporation


By: **David B. Landry - Mayor**
Its:

Dated: 11/27/06

CONTRACTOR


By: **Brian D. Lepp**
Its: **President**

Dated: 11-21-06

PO # 90051

TO OWNER: City of Novi PROJECT: Power Park Ball Fields Distribution to:
 FROM CONTRACTOR: Mor City Fence Co. #7023 VIA ARCHITECT: APPLICATION NO.: 1
 CONTRACT FOR: Fence & Gates PERIOD TO: 12-11-06 OWNER
 PROJECT NOS.: ARCHITECT
 CONTRACTOR
 CONTRACT DATE:

Payment #1

CONTRACTOR'S APPLICATION FOR PAYMENT
 Application is made for payment, as shown below, in connection with the Contract Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM \$ 175,105. ✓
2. Net change by Change Orders \$ 2,234.
3. CONTRACT SUM TO DATE (Line 1 + 2) \$ 177,339.
4. TOTAL COMPLETED & STORED TO DATE \$ 111,434.
 (Column G on G703)
5. RETAINAGE:
 - a. _____% of Completed Work \$ _____
 (Columns D + E on G703)
 - b. _____% of Stored Material \$ _____
 (Column F on G703)
 Total Retainage (Line 5a + 5b or Total in Column I of G703) \$ 0
6. TOTAL EARNED LESS RETAINAGE \$ 111,434.
 (Line 4 less Line 5 Total)

7. LESS PREVIOUS CERTIFICATES FOR PAYMENT
 (Line 6 from prior Certificate) \$ 0
8. CURRENT PAYMENT DUE \$ 111,434. ✓
9. BALANCE TO FINISH, INCLUDING RETAINAGE \$ 65,905.00
 (Line 3 less Line 6) 7-D. 12/11/06

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	<u>0</u>	<u>P.O. 90051</u>
Total approved this Month	<u>2,234.</u>	
TOTALS	<u>2,234.</u>	
NET CHANGES by Change Order	<u>+ 2,234.</u>	

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DATE REC'D: 12/14/06 DATE: 12-8-06
 ACCT #: 288-691.00 - 974.000
 APPROVED FOR PAYMENT BY: [Signature]
 COMMENTS:

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$ 111,434.00
 (Attach explanation if amount certified differs from the amount applied for. Initial all figures in this Application and on the Continuation Sheet that are changed to conform to the amount certified.)

ARCHITECT: [Signature] By: [Signature] Date: 12-11-06.
 This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CONTINUATION SHEET

AIA DOCUMENT G703 (Instructions on reverse side)

PAGE OF PAGES

AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing Contractor's signed Certification, is attached.

In tabulations below, amounts are stated to the nearest dollar. Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO.:
 APPLICATION DATE:
 PERIOD TO:
 ARCHITECT'S PROJECT NO.:

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D + E + F)	H BALANCE TO FINISH (C - G)	I RETAINAGE (IF VARIABLE) RATE
			E THIS PERIOD	F FROM PREVIOUS APPLICATION (D + E)				
1	Bonds	\$3,000.	3,000.	ϕ	ϕ	3,000.	ϕ	ϕ
2	Backstop Fence Removal	12,000.	10,000.	ϕ	ϕ	10,000.	2,000.	ϕ
3	Backstops, New	42,000.	20,000.	ϕ	10,000.	30,000.	12,000.	ϕ
4	8" - 12' H. Fences	87,201.	15,000.	ϕ	40,000.	55,000.	32,201.	ϕ
5	Foul Poles	15,000.	ϕ	ϕ	2,000.	2,000.	13,000.	ϕ
6	Poly Safety Caps	5,104.	ϕ	ϕ	2,200.	2,200.	2,904.	ϕ
7	Double Drive Gates	9,600.	3,000.	ϕ	4,000.	7,000.	2,600.	ϕ
8	Distance Banners	1,200.	ϕ	ϕ	ϕ	ϕ	1,200.	ϕ
9	Change Order #1	2,234.	2,234.	ϕ	ϕ	2,234.	ϕ	ϕ
		\$177,339. ⁰⁰	\$53,234.		\$58,200.	\$111,434.	\$65,905. ⁰⁰	ϕ

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APPLICATION AND CERTIFICATE FOR PAYMENT

TO OWNER: City of Novi
 PROJECT: Power Park Ball Fields
 APPLICATION NO.:
 PERIOD TO:
 PROJECT NOS.:
 DISTRIBUTION TO:
 OWNER
 ARCHITECT
 CONTRACTOR

FROM CONTRACTOR: Motor City Fence Co.
 VIA ARCHITECT:
 CONTRACT FOR: Fence & Gates

Payment # 2

CONTRACT DATE:

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM \$ 175,105.00
2. Net change by Change Orders \$ 2,234.00
3. CONTRACT SUM TO DATE (Line 1 ± 2) \$ 177,339.00
4. TOTAL COMPLETED & STORED TO DATE \$ 130,534.00
 (Column G on G703)
5. RETAINAGE:
 - a. _____ % of Completed Work \$ _____
 (Columns D + E on G703)
 - b. _____ % of Stored Material \$ _____
 (Column F on G703)
 Total Retainage (Line 5a + 5b or Total in Column I of G703) \$ 0
6. TOTAL EARNED LESS RETAINAGE \$ 130,534.00
 (Line 4 less Line 5 Total)
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT \$ 111,434.00
 (Line 6 from prior Certificate)
8. CURRENT PAYMENT DUE \$ 19,100.00
9. BALANCE TO FINISH, INCLUDING RETAINAGE \$ 46,905.00
 (Line 3 less Line 6)

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	2,234.	
Total approved this Month	0	
TOTALS	2,234.	
NET CHANGES by Change Order	+ 2,234	

CONTRACTOR: [Signature]

Date: 1-13-07

By: Brian J. Lepp, President
 State of: _____
 County of: _____
 Subscribed and sworn to before me this _____ day of _____

DATE RECD: 1/24/07
 ACCT #: 202-691.00-974.000
 APPROVED FOR PAYMENT BY: _____
 COMMENTS: P.O. # 90057

Notary Public:
 My Commission expires:

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$ _____
 (Attach explanation if amount certified differs from the amount applied for. Initial all figures on this Application and on the Continuation Sheet that are changed to conform to the amount certified.)

ARCHITECT: _____
 By: _____ Date: _____
 This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

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CONTINUATION SHEET

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APPLICATION NO.: 2
 APPLICATION DATE: 12-29-06
 PERIOD TO: 12-29-06
 ARCHITECT'S PROJECT NO.:

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D + E + F)	H BALANCE TO FINISH (C - G)	I RETAINAGE (IF VARIABLE RATE)
			P FROM PREVIOUS APPLICATION (D + E)	E THIS PERIOD				
1	Bonds	\$3,000.	3,000.	φ	φ	3,000	φ	
2	Backstop Fence Removal	12,000.	10,000.	1,000.	φ	11,000.	1,000.	
3	Backstops, New	42,000.	20,000.	φ	10,000.	30,000.	12,000.	
4	8'H. - 12'H. Fence	87,201.	15,000.	30,000.	20,000.	65,000.	22,201.	
5	Foul Poles	15,000.	φ	8,000.	φ	8,000.	7,000.	
6	Poly Safety Cap	5,104.	φ	φ	2,200.	2,200.	2,904.	
7	Double Drive Gates	9,600.	3,000.	5,100.	1,000.	9,100.	500.	
8	Distance Banners	1,200.	φ	φ	φ	φ	1,200.	
9	Change Order #1	2,234.	2,234.	φ	φ	2,234.	φ	
		\$177,339.	\$53,234.	\$44,100.	\$33,200.	\$130,534.	\$46,805.	

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APPLICATION AND CERTIFICATE FOR PAYMENT

AIA DOCUMENT G702 (Instructions on reverse side) PAGE ONE OF PAGES

TO OWNER: **City of Novi**

FROM CONTRACTOR: **Motor City Fence Co. #7023**

CONTRACT FOR: **Fences & Gates**

PROJECT: **Power Park Ballfields**

VIA ARCHITECT: **07023**

APPLICATION NO.: **3**

PERIOD TO: **1-27-07**

PROJECT NOS.:

Distribution to:

- OWNER
- ARCHITECT
- CONTRACTOR
-
-

CONTRACT DATE:

Payment #3

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM \$ 175,105.00 ✓
2. Net change by Change Orders \$ 2,234.00 ✓
3. CONTRACT SUM TO DATE (Line 1 + 2) \$ 177,339.00 ✓
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) \$ 177,339.00 ✓
5. RETAINAGE:
 - a. _____ % of Completed Work (Columns D + E on G703) \$ _____
 - b. _____ % of Stored Material (Column F on G703) \$ _____

Total in Column I of G703) \$ 0
6. TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total) \$ 177,339. ✓
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate) \$ 130,534.00 ✓
8. CURRENT PAYMENT DUE \$ 46,805.00 ✓
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6) \$ Hold 5000.00 to finish ✓

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	2,234.	
Total approved this Month	0	
TOTALS	2,234.	
NET CHANGES by Change Order	2,234.	7,2234

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By: *[Signature]*
State of: **Michigan**
County of: **Wayne**
Subscribed and sworn to before me this _____ day of _____

Date: **1-26-07**

DATE RECEIVED: **2/1/07**

ACCT #: **208-691.00-974.000**

APPROVED FOR PAYMENT BY: *[Signature]*

COMMENTS: **Payment #3 \$41,805.00**

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED

(Attach explanation if amount certified differs from the amount applied for. Initial all figures on this Application and on the Continuation Sheet that are changed to conform to the amount certified.)

ARCHITECT:

Date:

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

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CONTINUATION SHEET

AIA DOCUMENT G703 (Instructions on reverse side)

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Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO.:

APPLICATION DATE:

PERIOD TO:

ARCHITECT'S PROJECT NO.:

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	E WORK COMPLETED		F MATERIALS STORED PRESENTLY (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D + E + F)	H BALANCE TO FINISH (G - G)	I RETAINAGE (IF VARIABLE) RATE
			P FROM PREVIOUS APPLICATION (D + E)	R THIS PERIOD				
1	Bonds	\$3,000.	3,000.	0	0	3,000.	0	0
2	Backstop Fence Removal	12,000.	11,000.	1,000.	0	12,000.	0	0
3	Backstop, New	42,000.	20,000.	22,000.	0	42,000.	0	0
4	8" x 12" H. Fencer	87,201.	45,000.	42,201.	0	87,201.	0	0
5	Fowl Poles	15,000.	8,000.	7,000.	0	15,000.	0	0
6	Poly Safety Caps	5,104.	0	5,104.	0	5,104.	0	0
7	Double Drive Gates	9,600.	8,100.	1,500.	0	9,600.	0	0
8	Distance Barriers	1,200.	0	1,200.	0	1,200.	0	0
9	Change Order #1	2,234.	2,234.	0	0	2,234.	0	0
	*Terry: site of removal to be cleared still needed 5/5/07		46,805 - 5,000 <u>41,805</u>	Amount Due to be held to be paid				
		\$177,339.	\$97,334.	\$80,005.		\$177,339.		

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