

BILL NO. 1742
INTRODUCED BY: Alderwoman Pfyl

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF WARSON WOODS,
MISSOURI, AUTHORIZING THE MAYOR TO ACCEPT A
PROPOSAL BY AND BETWEEN THE CITY OF WARSON
WOODS, MISSOURI, AND McCONNELL & ASSOCIATES FOR
PICKLEBALL STRIPING AND PORTABLE NETS ON AN
EXISTING TENNIS COURT IN ROYAL OAK PARK**

WHEREAS, the Board of Aldermen has determined that it is to the benefit of the City of Warson Woods to accept a Proposal from McConnell & Associates for pickleball striping and portable nets on an existing tennis court in Royal Oak Park;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF
THE CITY OF WARSON WOODS, MISSOURI, AS FOLLOWS:**

SECTION 1. That the form, terms, and provisions of the Proposal attached hereto, marked as **Exhibit "A"**, and incorporated by reference herein, be and they hereby are approved and the Mayor shall be and is hereby authorized, empowered and directed to further negotiate, execute, acknowledge, deliver and administer, on behalf of the City, a Contract to incorporate the terms and provisions of such Job Proposal. The City Clerk is hereby authorized and directed to attest to the Job Proposal and other contracts, documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of the Job Proposal and this Ordinance.

SECTION 2. Savings Clause: Except as expressly set forth herein, nothing contained in this Ordinance shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof.

SECTION 3. Severability Clause: If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

SECTION 4. Effective Date: This Ordinance shall be in full force and take effect from and after its final passage and approval.

THIS BILL PASSED AFTER HAVING BEEN READ IN FULL TWO TIMES PRIOR TO
PASSAGE BY THE BOARD OF ALDERMEN OF THE CITY OF WARSON WOODS,
MISSOURI, THIS 21st DAY OF MARCH, 2023.

Sean Fitzgerald, Mayor

ATTEST:

Kathy Mahany, City Clerk

APPROVED AS TO FORM:

Drew Weber, City Attorney

EXHIBIT A



PROPOSAL

Bid ID Number:12673
Date:2/7/2023

9241 Manchester Road - Saint Louis, Missouri 63144 - Office (314) 962-1920 - Fax (314) 962-6831

Bid Submitted To: City of Warson Woods 10057 Manchester Warson Woods, MO 63122 PHONE: (314) 781-4660 FAX: CONTACT: Bruce Frazier	Job Proposed: Royal Oak Park 900 Warson Woods Dr St Louis, MO 63122
---	---

Description	Quantity	Units	Net Price
PICKLEBALL STRIPING ON TENNIS COURT Layout and install pickleball lines on an existing tennis court. Color of the lines to be determined.	2	EA	\$1,000.00
EQUIPMENT SET Supply portable picklenet deluxe.	2	EA	\$800.00

COURT COLOR SELECTION:

Playing area: _____

Border: _____

Kitchen (Pickleball Only): _____

Line Color (Pickleball): _____

Note: Please see our color chart for options.

Prices based on the project being tax exempt.
A Project Exemption Certificate must be furnished before the start of work.

EXCLUSIONS:

- *Bonds, Permits and Testing.
- *Court accessories unless listed above.
- *Seeding or sodding.
- *Fencing unless stated above.
- *Concrete or Asphalt work unless stated above.
- *Any items not listed above.

Total \$1,800.00



PROPOSAL

Bid ID Number:12673
Date:2/7/2023

9241 Manchester Road - Saint Louis, Missouri 63144 - Office (314) 962-1920 - Fax (314) 962-6831

<p>Bid Submitted To: City of Warson Woods 10057 Manchester Warson Woods, MO 63122</p> <p>PHONE: (314) 781-4660 FAX:</p> <p>CONTACT: Bruce Frazier</p>	<p>Job Proposed: Royal Oak Park 900 Warson Woods Dr St Louis, MO 63122</p>
--	---

<p style="text-align: center;">NOTICE TO OWNER</p> <p>FAILURE OF THIS CONTRACTOR TO PAY THOSE PERSONS SUPPLYING MATERIAL OR SERVICES TO COMPLETE THIS CONTRACT CAN RESULT IN THE FILING OF A MECHANIC'S LIEN ON THE PROPERTY WHICH IS THE SUBJECT OF THIS CONTRACT PURSUANT TO CHAPTER 429, RSMO. TO AVOID THIS RESULT YOU MAY ASK THIS CONTRACTOR FOR "LIEN WAIVERS" FROM ALL PERSONS SUPPLYING MATERIAL OR SERVICES FOR THE WORK DESCRIBED IN THIS CONTRACT. FAILURE TO SECURE LIEN WAIVERS MAY RESULT IN YOUR PAYING FOR LABOR AND MATERIAL TWICE.</p>	<p style="text-align: center;">PAYMENT AND COLLECTION</p> <p>PAYMENT IS DUE UPON RECEIPT OF COMPANY'S INVOICE. IF COMPANY PROVIDES THIS AGREEMENT/PROPOSAL/BID TO AN ATTORNEY FOR ENFORCEMENT OF ITS TERMS, INCLUDING BUT NOT LIMITED TO COLLECTION OF AMOUNTS DUE, YOU AGREE TO PAY ALL EXPENSES AND COSTS, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES, EXPERT FEES, COURT COSTS, SERVICE FEES, AND ANY OTHER EXPENSE ASSOCIATED WITH COLLECTION. IN THE EVENT ALL SUMS ARE NOT PAID WHEN DUE, ALL UNPAID SUMS SHALL BEAR INTEREST AT THE (18%) PER ANNUM UNTIL PAID IN FULL.</p>
<p style="text-align: center;"><i>Aidan Delgado</i></p> <p>_____</p> <p>Aidan Delgado</p>	<p style="text-align: center;">Acceptance of Proposal</p> <p style="text-align: center;"><i>The above prices, specifications and conditions are satisfactory, and are hereby accepted.</i></p> <p>Signature: _____</p> <p>Name & Title (Please Print): _____</p> <p>Date Accepted: _____</p>

NOTES: THIS PROPOSAL MAY BE WITHDRAWN BY US IF NOT ACCEPTED WITHIN 30 DAYS.

Terms & Conditions

1. General. The following Terms and Conditions, together with such terms as are set forth in the Proposal to which these Terms and Conditions are attached (“Proposal”), shall constitute the entire contract (the “Contract”) between the City of Warson Woods, Missouri (“City”), and McConnell & Associates Corp. (“Contractor”), a Missouri corporation. This Contract shall be deemed to have been accepted by the Contractor by any of the following: (i) upon receipt by City of any writing, including a writing transmitted by facsimile or other means of electronic transmission, indicating acceptance; or (ii) the performance of the scope of work pursuant thereto.

2. Electronic/Facsimile Transmission. If this Contract is transmitted by facsimile or by other means of electronic transmission, such transmission shall have the legal significance of a duly executed original.

3. Payment. Payment shall be made upon acceptance of the work performed under the Proposal.

4. Delivery and Time. All work shall be performed at the location specified in the Contract, or as otherwise instructed by City in writing. The work shall be completed within sixty (60) days from the date that the Proposal is signed by both parties. If Contractor cannot meet the completion date, Contractor shall inform City immediately. Such notice shall not, however, constitute a change to the completion terms of this Contract unless City modifies this Contract in writing. If any service is not completed by the date specified, City, at City’s option and without prior notice to Contractor, may either approve a revised date or may cancel this Contract and may obtain such services elsewhere, and in either event the Contractor shall be liable to City for any resulting loss incurred by City. **TIMING AND PERFORMANCE OF SERVICES IS OF THE ESSENCE OF THIS CONTRACT.**

5. Warranties. The warranties set forth in this Section are cumulative and in addition to any other warranty provided by law or equity. These warranties shall not be waived by reason of acceptance or payment by City. Contractor expressly warrants to City that:

- a. all services performed under this Contract shall conform to all plans, specifications and other data incorporated as part of this Contract;
- b. Contractor shall perform any services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services; and

6. Improper Performance and Remedies. City has the right to inspect the work after completion. If City rejects the work, City has the right, effective upon written notice to Contractor, to: (a) rescind this Contract in its entirety; (b) accept the work at a reasonably reduced price; or (c) reject the work and require replacement of the rejected work. If City requires replacement of the work, Contractor shall, at its expense, within fifteen (15) days after receiving notice from City requesting replacement, replace the nonconforming work and pay for all related expenses. City also reserves the right to revoke any previous acceptance and to cancel all or any part of the Contract if Contractor fails to perform any of the services in accordance with the terms and conditions of this Contract. Any inspection or other action by City under this Section shall not reduce or otherwise affect Contractor’s obligations under the Contract, and City shall have the right to conduct further inspections after Contractor has carried out its remedial actions. Without prejudice to any other right or remedy it may have, City reserves the right to set off at any time any amount owing to it by Contractor against any amount payable by City to Contractor. All rights and remedies set out in this Contract are cumulative and are in addition to other rights and remedies available at law or in equity.

7. Indemnity and Hold Harmless. From and after the date of this Contract, the Contractor agrees to indemnify, defend and hold harmless City and its subsidiaries, affiliates, successors, assigns, directors, officers, shareholders and employees (collectively, “Indemnified Parties”) from any and all claims and liabilities (hereinafter, any “Claim”), regardless of by whom such claim or liability may be asserted, for personal injury (including death), or loss or damage to property, or otherwise that may result directly or indirectly from the services provided by Contractor.

8. Insurance. In connection with the Contract, Contractor, at its own cost and expense, shall obtain and maintain in force during the term of this Contract, a policy of commercial general liability insurance with broad form property damage endorsement, personal injury and products completed operations coverage, affording protection in an amount of not less than Five Hundred Thousand Dollars (\$500,000.00) per incident and One Million Dollars (\$1,000,000.00) in the aggregate, with respect to personal injury, death, or damage to property. The insurance policy shall be issued by insurance companies with an AM Best rating of “A” or higher and a financial strength rating of VII or higher, or equivalent ratings provided by a disinterested, generally recognized rating agency, which companies shall be licensed or permitted to conduct business in the State of Missouri. The policy shall name City as an additional insured, and shall be written as primary coverage and not

contributing with or in excess of any coverage that City may carry. Upon request, Contractor shall furnish to City a current certificate of insurance for the policy. Contractor cannot cancel or terminate such insurance without providing ten (10) days prior written notice to City of such cancellation or termination.

9. Governing Law. This Contract shall be governed and construed in accordance with the laws of the State of Missouri, excluding that State's choice-of-law principles, and all claims relating to or arising out of this Contract, or the breach thereof, whether sounding in contract, tort or otherwise, shall likewise be governed by the laws of the State of Missouri, excluding that State's choice-of-law principles.

10. Compliance with Laws and Regulations. The Contractor agrees to comply with all applicable federal, state, and local laws and regulations. Contractor shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Contract. Contractor shall ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of the Contractor, are properly licensed, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to perform any services under this Contract.

11. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Contract shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties and neither party shall have authority to contract for or bind the other party in any manner.

12. No Third-Party Beneficiaries. This Contract is for the sole benefit of the parties hereto and their respective successors and permitted assigns. Nothing herein is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Contract.

13. Severability. If any term or provision of this Contract is invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Contract or invalidate or render unenforceable.

14. Survival. Except as otherwise provided herein, provisions of this Contract which survive the termination or expiration of this Contract include, but are not limited to, the following Sections: "7. Indemnity and Hold Harmless", "8. Insurance", "9. Governing Law", "10. Compliance with Laws and Regulations", and "14. Survival".