City of Birmingham
A Walkable Community

MEMORANDUM

Department of Public Services

DATE: **October 12, 2016**

TO: **Joseph A. Valentine, City Manager**

FROM: **Lauren A. Wood, Director of Public Services**

SUBJECT: **Pembroke Park Lawn Repair**

Sealed bids were opened on Tuesday, September 27, 2016 for the cost to laser grade, top dress, re-seed and apply fertilizer to the lawn area at Pembroke Park. This lawn area is an open space area, commonly used by groups participating in organized sports such as soccer. One (1) bidder responded. The result of the sealed bids follows in the table below.

Company	Bid Amount
Homefield Turf and Athletic, Inc.	**$12,500.00**

This work is upkeep in nature and is necessary to ensure safety of all users and enjoyable play. The scope of work entails providing a topography survey and grading plan, balancing the site with a bulldozer to + or -.75 inches of prescribed grade, importing 125 tons of topsoil (provided by the City), laser grading to promote proper drainage, seeding with 90% turf type tall fescue and 10% bluegrass, and applying starter fertilizer and mulch.

The Parks and Recreation Board, while not typically involved in the approval of lawn repair projects, are aware of this project and endorse the Department of Public Services (DPS) maintaining and providing safe open space areas.

Homefield Turf and Athletic, Inc. provided a complete bid and they are able to meet the completion date. This firm has experience and working knowledge of the project scope needed. This contractor specializes in this type of work and was the only bidder. Athletic fields are their only business, not a sideline and they have over 40 years of experience. This company travels all over the State and even Country to perform athletic field work for Little League, High School, College and Minor and Major League Baseball and has an impressive portfolio of completed projects. A few recent projects include: Troy Athens High School, Everest Academy, University of Michigan, Western Michigan University, Alliance Bank Stadium Syracuse Chiefs Minor League, among many others. Homefield Turf and Athletic has performed work for the City of Birmingham as well, completing projects such as Kenning Park Ballfield Maintenance Project in 2013, Pembroke Park and Poppleton Park Infield Improvements in 2014, and Crestview Lawn Repair in 2015.

The Crestview Lawn Repair Project was done in 2015 for $9,400. The area of the Crestview project was approximately 35,000 square feet or .8 acres. The area for this project at Pembroke Park is approximately 66,000 square feet or 1.5 acres.

The Department of Public Services recommends awarding the Pembroke Park Lawn Repair project to Homefield Turf and Athletic, Inc. DPS is confident in their ability to provide the scope of work as specified.

Funds are budgeted and will come from the Capital Projects Fund account #401-751.001-981.0100, for this project.

SUGGESTED RESOLUTION:
To approve the contract for Pembroke Park Lawn Repair project to Homefield Turf and Athletic, Inc. in the amount not to exceed $12,500.00 from the Capital Projects Fund, account #401-751.001-981.0100. Further, to authorize the Mayor and City Clerk to sign the agreement on behalf of the City.

ATTACHMENT A - AGREEMENT

For Pembroke Park Lawn Repair

This AGREEMENT, made this _____day of _____, 2016, by and between CITY OF BIRMINGHAM, having its principal municipal office at 151 Martin Street, Birmingham, MI (hereinafter sometimes called "City"), and Homefield Turf & Athletic, Inc., having its principal office at 4790 Pelton Rd, Clarkston, MI 48346 (hereinafter called "Contractor"), provides as follows:

WITNESSETH:

WHEREAS, the City of Birmingham, through its Department of Public Services, is desirous of having refurbish the lawn area at Pembroke Park, which includes adding material, laser grading to promote proper drainage.

WHEREAS, the City has heretofore advertised for bids for the procurement and performance of services required to perform these improvements at Pembroke Park lawn area, and in connection therewith has prepared a request for sealed proposals ("RFP"), which includes certain instructions to bidders, specifications, terms and conditions.

WHEREAS, the Contractor has professional qualifications that meet the project requirements and has made a bid in accordance with such request for cost proposals to perform laser grading to promote proper drainage, seeding and fertilizing.

NOW, THEREFORE, for and in consideration of the respective agreements and undertakings herein contained, the parties agree as follows:

1. It is mutually agreed by and between the parties that the documents consisting of the Request for Proposal to perform laser grading to promote proper drainage, seeding and fertilizing and the Contractor's cost proposal dated September 27, 2016 shall be incorporated herein by reference and shall become a part of this Agreement, and shall be binding upon both parties hereto. If any of the documents are in conflict with one another, this Agreement shall take precedence, then the RFP.

2. The City shall pay the Contractor for the performance of this Agreement in an amount not to exceed $12,500.00, as set forth in the Contractor's September 27, 2016 cost proposal.

3. This Agreement shall commence upon execution by both parties, unless the City exercises its option to terminate the Agreement in accordance with the Request for Proposals.

4. The Contractor shall employ personnel of good moral character and fitness in performing all services under this Agreement.

5. The Contractor and the City agree that the Contractor is acting as an independent Contractor with respect to the Contractor 's role in providing services to the City pursuant to this Agreement, and as such, shall be liable for its own actions and neither the Contractor nor its employees shall be construed as employees of the City. Nothing contained in this Agreement shall be construed to imply a joint venture or partnership and neither party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party, except as specifically outlined herein. Neither the City nor the Contractor shall be considered or construed to be the agent of the other, nor shall either have the right to bind the other in any manner whatsoever, except as specifically provided in this Agreement, and this Agreement shall not be construed as a contract of agency. The Contractor shall not be entitled or eligible to participate in any benefits or privileges given or extended by the City, or be deemed an employee of the City for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation or any other employer contributions on behalf of the City.

6. The Contractor acknowledges that in performing services pursuant to this Agreement, certain confidential and/or proprietary information (including, but not limited to, internal organization, methodology, personnel and financial information, etc.) may become involved. The Contractor recognizes that unauthorized exposure of such confidential or proprietary information could irreparably damage the City. Therefore, the Contractor agrees to use reasonable care to safeguard the confidential and proprietary information and to prevent the unauthorized use or disclosure thereof. The Contractor shall inform its employees of the confidential or proprietary nature of such information and shall limit access thereto to employees rendering services pursuant to this Agreement. The Contractor further agrees to use such confidential or proprietary information only for the purpose of performing services pursuant to this Agreement.

7. This Agreement shall be governed by and performed, interpreted and enforced in accordance with the laws of the State of Michigan. The Contractor agrees to perform all services provided for in this Agreement in accordance with and in full compliance with all local, state and federal laws and regulations.

8. If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in full force and effect.

9. This Agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by the Contractor without the prior written consent of the City. Any attempt at assignment without prior written consent shall be void and of no effect.

10. The Contractor agrees that neither it nor its subcontractors will discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight or marital status. The Contractor shall inform the City of all claims or suits asserted against it by the Contractor's employees who work pursuant to this Agreement. The Contractor shall provide the City with periodic status reports concerning all such claims or suits, at intervals established by the City.

11. The Contractor shall not commence work under this Agreement until it has, at its sole expense, obtained the insurance required under this paragraph. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with carriers acceptable to the City of Birmingham.

12. The Contractor shall maintain during the life of this Agreement the types of insurance coverage and minimum limits as set forth below:

A. Workers' Compensation Insurance: Contractor shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

B. Commercial General Liability Insurance: Contractor shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than **$1,000,000** per occurrence combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

C. Motor Vehicle Liability: Contractor shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including all applicable no-fault coverages, with limits of liability of not less than $1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

D. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be *Additional Insureds*: The City of Birmingham, including all elected and appointed officials, all employee and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. This coverage shall be primary to any other coverage that may be available to the additional insured, whether any other available coverage by primary, contributing or excess.

E. Professional Liability: Professional liability insurance with limits of not less than $1,000,000 per claim if Contractor will provide service that are customarily subject to this type of coverage.

F. Pollution Liability Insurance: Contractor shall procure and maintain during the life of this Agreement Pollution Liability Insurance, with limits of liability of not less than $1,000,000, per occurrence preferred, but claims made accepted.

G. Owners Contractors Protective Liability: The Contractor shall procure and maintain during the life of this contract, an Owners Contractors Protective Liability Policy with limits of liability not less than $3,000,000 per occurrence, combined single limit, Personal Injury, Bodily Injury and Property Damage. The City of Birmingham shall be "Name Insured" on said coverage. Thirty (30) days Notice of Cancellation shall apply to this policy.

H. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance (and Professional Liability Insurance, if applicable), as described above, shall include an endorsement stating the following: "Thirty (30) days Advance Written Notice of Cancellation or Non-Renewal, shall be sent to: Finance Director, City of Birmingham, PO Box 3001, 151 Martin Street, Birmingham, MI 48012-3001.

I. Proof of Insurance Coverage: Contractor shall provide the City of Birmingham at the time the Agreement is returned for execution, Certificates of Insurance and/or policies, acceptable to the City of Birmingham, as listed below.

1) Three (3) copies of Certificate of Insurance for Workers' Compensation Insurance;
2) Three (3) copies of Certificate of Insurance for Commercial General Liability Insurance;
3) Three (3) copies of Certificate of Insurance for Vehicle Liability Insurance;
4) Three (3) copies of Certificate of Insurance for Professional Liability Insurance;
5) If so requested, Certified Copies of all policies mentioned above will be furnished.

J. Coverage Expiration: If any of the above coverages expire during the term of this Agreement, Contractor shall deliver renewal certificates and/or policies to the City of Birmingham at least (10) days prior to the expiration date.

K. Maintaining Insurance: Upon failure of the Contractor to obtain or maintain such insurance coverage for the term of the Agreement, the City of Birmingham may, at its option, purchase such coverage and subtract the cost of obtaining such coverage from the Agreement amount. In obtaining such coverage, the City of Birmingham shall have no obligation to procure the most cost-effective coverage but may contract with any insurer for such coverage.

13. To the fullest extent permitted by law, the Contractor and any entity or person for whom the Contractor is legally liable, agrees to be responsible for any liability, defend, pay on behalf of, indemnify, and hold harmless the City of Birmingham, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Birmingham against any and all claims, demands, suits, or loss, including all costs and reasonable attorney fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from and the City of Birmingham, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Birmingham, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this Agreement. Such responsibility shall not be construed as liability for damage caused by or resulting from the sole act or omission of its elected or appointed officials, employees, volunteers or others working on behalf of the City of Birmingham.

14. If, after the effective date of this Agreement, any official of the City, or spouse, child, parent or in-law of such official or employee shall become directly or indirectly interested in this Agreement or the affairs of the Contractor, the City shall have the right to terminate this Agreement without further liability to the Contractor if the disqualification has not been removed within thirty (30) days after the City has given the Contractor notice of the disqualifying interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or partnership shall not be a disqualifying interest. Employment shall be a disqualifying interest.

15. If Contractor fails to perform its obligations hereunder, the City may take any and all remedial actions provided by the general specifications or otherwise permitted by law.

16. All notices required to be sent pursuant to this Agreement shall be mailed to the following addresses:

City of Birmingham
Attn: Lauren Wood
851 South Eton
Birmingham, MI 48009
248-530-1702

17. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled either by commencement of a suit in Oakland County Circuit Court, the 48th District Court or by arbitration. If both parties elect to have the dispute resolved by arbitration, it shall be settled pursuant to Chapter 50 of the Revised Judicature Act for the State of Michigan and administered by the American Arbitration Association with one arbitrator being used, or three arbitrators in the event any party's claim exceeds $1,000,000. Each party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Such arbitration shall qualify as statutory arbitration pursuant to MCL§600.5001 et. seq., and the Oakland County Circuit Court or any court having jurisdiction shall render judgment upon the award of the arbitrator made pursuant to this Agreement. The laws of the State of Michigan shall govern this Agreement, and the arbitration shall take place in Oakland County, Michigan. In the event that the parties elect not to have the matter in dispute arbitrated, any dispute between the parties may be resolved by the filing of a suit in the Oakland County Circuit Court or the 48th District Court.

18. FAIR PROCUREMENT OPPORTUNITY: Procurement for the City of Birmingham will be handled in a manner providing fair opportunity for all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the City of Birmingham.

IN WITNESS WHEREOF, the said parties have caused this Agreement to be executed as of the date and year above written.

WITNESSES:

Keith M. Clement

CONTRACTOR

By: Michael J. Robinson

Its: Vice President

CITY OF BIRMINGHAM

By: _____
Rackeline J. Hoff
Its: Mayor

By: _____
Laura Pierce
Its: City Clerk

Approved:

Lauren A. Wood
(Approved as to substance)

Timothy J. Currier, City Attorney
(Approved as to form)

Mark Gerber, Director of Finance
(Approved as to financial obligation)

Joseph A. Valentine, City Manager
(Approved as to substance)

ATTACHMENT B - BIDDER'S AGREEMENT
For Pembroke Park Lawn Repair

In submitting this proposal, as herein described, the Contractor agrees that:

1. They have carefully examined the specifications, terms and Agreement of the Request for Proposal and all other provisions of this document and understand the meaning, intent, and requirement of it.

2. They will enter into a written contract and furnish the item or items in the time specified in conformance with the specifications and conditions contained therein for the price quoted by the proponent on this proposal.

Michele F. Robinson — 9-27-16
BID PREPARED BY (Print Name) — **DATE**

Vice President — 9-27-16
TITLE — **DATE**

Michele Robinson — homefield athletic@sbcglobal.net
AUTHORIZED SIGNATURE — **E-MAIL ADDRESS**

Homefield Turf + Athletic, Inc
COMPANY

4790 Pelton Rd, Clarkston 48346 — 248-431-4593
ADDRESS — **PHONE**

N/A — N/A
NAME OF PARENT COMPANY — **PHONE**

N/A
ADDRESS

ATTACHMENT C - COST PROPOSAL

For Pembroke Park Lawn Repair

In order for the bid to be considered valid, this form must be completed in its entirety. The cost for the Scope of Work as stated in the Request for Proposal documents shall be a lump sum, as follows:

Attach technical specifications for all proposed materials as outlined in the Contractor's Responsibilities section of the RFP (p. 6)

COST PROPOSAL	
Pembroke Park Lawn Repair	
ITEM	**BID AMOUNT**
Renovation per Specs at Pembroke Park	$ 12,500.00
Hydro seed/Fertilize per Specs at Kenning Park	$
Other Miscellaneous (Attach Detailed Description)	$
GRAND TOTAL	$ 12,500.00

Firm Name Homefield Turf + Athletic, Inc

Authorized signature Michael Robinson Date 9-27-16

ATTACHMENT D – SITE VISIT
For Pembroke Park Lawn Repair

In order to the bid to be considered valid, a site visit to Pembroke Park and Kenning Park must be completed by the contractor. Please contact Devin DeRoeck at 248-752-6015 or dderoeck@bhamgov.org to set up a site visit.

SITE VISIT

- [x] Our company visited both job sites: Pembroke Park and Kenning Park
- [ ] Our company visited one job site: List site:_____
- [ ] Our company did not visit the job sites.

Reason: _____

_____

_____

_____

ATTACHMENT E - IRAN SANCTIONS ACT VENDOR CERTIFICATION FORM

Pursuant to Michigan Law and the Iran Economic Sanction Act, 2012 PA 517 ("Act"), prior to the City accepting any bid or proposal, or entering into any contract for goods or services with any prospective Vendor, the Vendor must certify that it is not an "Iran Linked Business", as defined by the Act.

By completing this form, the Vendor certifies that it is not an "Iran Linked Business", as defined by the Act and is in full compliance with all provisions of the Act and is legally eligible to submit a bid for consideration by the City.

Michele F. Robinson — 9-27-16
PREPARED BY (Print Name) — **DATE**

VP — 9-27-16
TITLE — **DATE**

Michele F. Robinson — homefieldathletic@sbcglobal.net
AUTHORIZED SIGNATURE — **E-MAIL ADDRESS**

Homefield Turf & Athletic, Inc
COMPANY

4790 Pelton Rd, Clarkston 48346 — 248-431-4593
ADDRESS — **PHONE**

N/A
NAME OF PARENT COMPANY — **PHONE**

N/A
ADDRESS

20-0655412
TAXPAYER I.D.#

HOMEF-1 OP ID: AK

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/17/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Szura Insurance Services
109 E. Fourth St.
Rochester, MI 48307-2021
Matthew T. Szura

CONTACT NAME:
PHONE (A/C, No, Ext):
FAX (A/C, No):
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : EMC Insurance Companies	21415
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Homefield Turf & Athletic, Inc
P.O. Box 1028
Clarkston, MI 48347

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
	GENERAL LIABILITY								
A	X COMMERCIAL GENERAL LIABILITY	X		4D8-94-09-17	02/10/2016	02/10/2017	EACH OCCURRENCE	$	1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$	300,000
A	X CONTRACTUAL						MED EXP (Any one person)	$	5,000
A	X X, C, U INCL						PERSONAL & ADV INJURY	$	1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$	2,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$	2,000,000
								$	
	AUTOMOBILE LIABILITY								
A	X ANY AUTO	X		4E8-94-09-17	02/10/2016	02/10/2017	COMBINED SINGLE LIMIT (Ea accident)	$	1,000,000
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per person)	$	
	X HIRED AUTOS / X NON-OWNED AUTOS						BODILY INJURY (Per accident)	$	
							PROPERTY DAMAGE (PER ACCIDENT)	$	
								$	
	X UMBRELLA LIAB / X OCCUR						EACH OCCURRENCE	$	2,000,000
A	EXCESS LIAB / CLAIMS-MADE			4J8-94-09-17	02/10/2016	02/10/2017	AGGREGATE	$	2,000,000
	DED X RETENTION $							$	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X WC STATU-TORY LIMITS / OTH-ER		
A	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH)	N / A		4H8-94-09-17	02/10/2016	02/10/2017	E.L. EACH ACCIDENT	$	500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$	500,000
							E.L. DISEASE - POLICY LIMIT	$	500,000
A	LEASED/RENTED			4C8-94-09-17	02/10/2016	02/10/2017	EQUIPMENT		55,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

City of Birmingham including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof, are additional insureds in regard to general and auto liability as respects operations of the named insured. Such insurance is primary and non-contributory.

CERTIFICATE HOLDER

CITYBIR

City of Birmingham
claird@bhamgov.org
151 Martin Street
Birmingham, MI 48012

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Matthew T. Szura

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