

DATE August 6, 2018

**COMMUNICATION FROM CONTRACTORS  
REQUESTING PERMISSION TO SUBLET  
CERTAIN ITEMS ON PUBLIC IMPROVEMENT PROJECTS**

BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA: That the attached communication from each contractor requesting permission to sublet designated items and the attached Permission to Sublet form, for each project listed below, be and are hereby approved; and each subcontractor is hereby granted permission to work on said improvement.

<b>Activity ID</b>	<b>Project Title</b>	<b>Contractor</b>
06-2017-002	31st Street Reconstruction from I-235 to University Avenue	MPS Engineers, P.C. dba Kingston Services, P.C. Umesh G.Shetye, President 1444 Illinois Street Des Moines, IA 50314
06-2018-005	2018-2019 HMA Pavement Scarification and Resurfacing	Grimes Asphalt and Paving Corporation Kurt Rasmussen, President 5550 NE 22nd Street Des Moines, IA 50313
07-2017-003	Lower Oak and Highland Park Sewer Separation Phase 2	Rognes Corp. dba Rognes Corporation Warren Rognes, President 720 SW Goodwin Ankeny, IA 50023
09-2018-005	2018 Neighborhood Sidewalk Program	Ti-Zack Concrete, Inc. Steve J. Rutt, President 39352 221st Avenue Le Center, MN 56057

★ **Roll Call Number**

**Agenda Item Number**

14

DATE August 6, 2018

Moved by \_\_\_\_\_ to adopt.

FORM APPROVED:

*Kathleen Vanderpool by AD*

Kathleen Vanderpool  
Deputy City Attorney

SLN

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

I, Diane Rauh, City Clerk of said City Council, hereby certify that at a meeting of the City Council, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
City Clerk

14 Copy

**PERMISSION TO SUBLET**

Project 31st Street Reconstruction from I-235 to University Avenue  
 Contractor MPS Engineers, P.C. dba Kingston Services, P.C.  
 Federal Tax ID \_\_\_\_\_ Contract No. 15135 Sublet Request No. 4

ITEM TO BE SUBLET	ORGANIZATION TO PERFORM WORK	DBE Y/N	COST OF SPECIALTY ITEMS	TOTAL COST OF WORK SUBLET
Storm Sewer Intakes	Eslinger Contracting, Inc. 4506 SE Powers Drive Runnells, IA 50237 (515) 202-3605 Federal Tax ID 20-4272250	No		\$26,860.00

	Previous Request	This Request	Total To Date
Cost of Items Sublet	\$421,219.00	\$26,860.00	\$448,079.00 (a)
Cost of Specialty Items Sublet			(b)
Cost of Sublet Items Less Speciality Items	\$421,219.00	\$26,860.00	\$448,079.00 (c)
Contract Amount			\$686,171.60 (d)
Contract Amount Less Total Specialty Items (d-b)			\$686,171.60 (e)
Percentage of Contract Sublet to Date (c/e)			65.30%

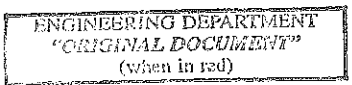
The prime contractor's request for Permission to Sublet the above items of work is approved with the understanding that the prime contractor shall be held responsible for the subcontractors' full compliance of all terms of the contract.

Attachment: Contractor's Letter  
Requesting Subletting

Form Routing: Project Engr. - City Engr. -  
Engr. Admin. - City Clerk/City Manager -  
Engr. Admin. - Distribution

Form Distribution Original - Project File  
Copy - Project Engineer  
Copy - Prime Contractor

Roll Call No. \_\_\_\_\_ Date 8/6/18



14

**Brady, Timothy B.**

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**From:** Umesh Shetye <umesh@kingston-ia.com>  
**Sent:** Wednesday, July 18, 2018 10:48 PM  
**To:** Brady, Timothy B.  
**Cc:** Project Manager  
**Subject:** Re: Subcontractor Request email.

Tim:

Eslinger Contracting - \$26,860 Add  
Central Iowa Dirt Works - (\$26,860) Deduct  
Grimes Asphalt - I will get back soon.

Umesh

On Wed, Jul 18, 2018 at 10:22 AM, Brady, Timothy B. <[TBBBrady@dmgov.org](mailto:TBBBrady@dmgov.org)> wrote:

Umesh,

Please send me a subcontractor request email with the changes that are happening on your project for approval.

Such as: Central Iowa Dirtworks. Deduct intakes, etc.

Add Eslinger contracting. Intakes

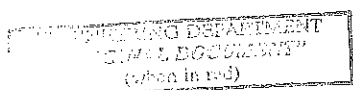
Add Fly ash to Grimes costs.

Timothy B. Brady, P.E.

Civil Engineer II

515-283-4025

Cell: 515-208-4025



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**PERMISSION TO SUBLET**

**Project** 2018-2019 HMA Pavement Scarification and Resurfacing  
**Contractor** Grimes Asphalt and Paving Corporation  
**Federal Tax ID** 27-1831755      **Contract No.** 15167      **Sublet Request No.** 2

ITEM TO BE SUBLET	ORGANIZATION TO PERFORM WORK	DBE Y/N	COST OF SPECIALTY ITEMS	TOTAL COST OF WORK SUBLET
Asphalt Milling	American Milling Services, LLC 463 Northland Avenue NE, Suite 203 P.O. Box 10047 Cedar Rapids, IA 52410 Federal Tax ID 46-2295180	No		\$8,000.00

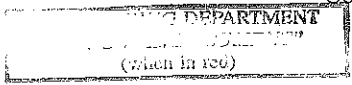
	Previous Request	This Request	Total To Date
Cost of Items Sublet	\$120,602.00	\$8,000.00	\$128,602.00 (a)
Cost of Specialty Items Sublet			(b)
Cost of Sublet Items Less Speciality Items	\$120,602.00	\$8,000.00	\$128,602.00 (c)
Contract Amount			\$885,168.00 (d)
Contract Amount Less Total Specialty Items (d-b)			\$885,168.00 (e)
Percentage of Contract Sublet to Date (c/e)			14.53%

The prime contractor's request for Permission to Sublet the above items of work is approved with the understanding that the prime contractor shall be held responsible for the subcontractors' full compliance of all terms of the contract.

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                                 Copy - Project Engineer  
                                 Copy - Prime Contractor



Roll Call No. \_\_\_\_\_ Date 8/6/18

06-2018-005 14

**Fenstermann, Matt C.**

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**From:** Matt Yonker <mdyonker@grimesasphalt.com>  
**Sent:** Wednesday, July 25, 2018 1:34 PM  
**To:** Fenstermann, Matt C.  
**Subject:** RE: Milling Sub

\$8,000

**From:** Fenstermann, Matt C. [mailto:MCFenstermann@dmgov.org]  
**Sent:** Wednesday, July 25, 2018 11:29 AM  
**To:** Matt Yonker <mdyonker@grimesasphalt.com>  
**Subject:** Re: Milling Sub

I'll need an estimated \$ amount of the work they will do.

Matt

Sent from my iPhone

On Jul 25, 2018, at 10:54 AM, Matt Yonker <mdyonker@grimesasphalt.com> wrote:

Hi Matt,

We are going to hire American Milling Services to help mill next Saturday.

P.O. Box 10047, Cedar Rapids, IA 52410 (319) 331-7757

Let me know if you need additional information

Thanks  
Matt

SEARCHED  
SERIALIZED  
INDEXED  
FILED

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**PERMISSION TO SUBLET**

**Project** Lower Oak and Highland Park Sewer Separation Phase 2  
**Contractor** Rognes Corp. dba Rognes Corporation  
**Federal Tax ID** 42-1423842      **Contract No.** 15141      **Sublet Request No.** 3

<u>ITEM TO BE SUBLET</u>	<u>ORGANIZATION TO PERFORM WORK</u>	<u>DBE Y/N</u>	<u>COST OF SPECIALTY ITEMS</u>	<u>TOTAL COST OF WORK SUBLET</u>
Concrete work	Paco Construction, LLC 9560 SE 56th Avenue Runnells, IA 50237 (515) 240-0625 Federal Tax ID 20-4493861	Yes		\$50,000.00

	<u>Previous Request</u>	<u>This Request</u>	<u>Total To Date</u>
Cost of Items Sublet	<u>\$805,516.00</u>	<u>\$50,000.00</u>	<u>\$855,516.00 (a)</u>
Cost of Specialty Items Sublet			<u>(b)</u>
Cost of Sublet Items Less Speciality Items	<u>\$805,516.00</u>	<u>\$50,000.00</u>	<u>\$855,516.00 (c)</u>
Contract Amount			<u>\$3,742,750.00 (d)</u>
Contract Amount Less Total Specialty Items (d-b)			<u>\$3,742,750.00 (e)</u>
Percentage of Contract Sublet to Date (c/e)			<u>22.86%</u>

The prime contractor's request for Permission to Sublet the above items of work is approved with the understanding that the prime contractor shall be held responsible for the subcontractors' full compliance of all terms of the contract.

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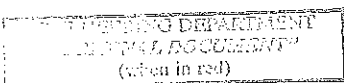
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Form Distribution    Original - Project File  
                             Copy - Project Engineer  
                             Copy - Prime Contractor

Roll Call No.

Date

8/6/18



14

**Becker, Matthew D.**

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**From:** Kyle Rohlk <krohlik@rognescorp.com>  
**Sent:** Monday, July 30, 2018 10:20 AM  
**To:** Becker, Matthew D.  
**Subject:** Re: Request for Sub Contractor approval

I estimate 50K

On Mon, Jul 30, 2018 at 7:44 AM, Becker, Matthew D. <MDBecker@dmgov.org> wrote:

What is the \$ amount to Subcontract?

Matt

**From:** Kyle Rohlk [mailto:krohlik@rognescorp.com]  
**Sent:** Thursday, July 26, 2018 1:18 PM  
**To:** Becker, Matthew D. <MDBecker@dmgov.org>  
**Subject:** Request for Sub Contractor approval

Hi Matt,

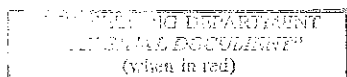
We would like to request Paco Construction be added to the approved Contractor list for the Lower Oak and Highland Park Sewer Separation Phase 2 Project.

Paco Construction will be performing concrete Flat work.

**Have a great rest of your day!**

**Kyle Rohlk**

Estimator/Project Manager





14

**Rognes Corp**

Cell 515-421-2799

[krohik@rognescorp.com](mailto:krohik@rognescorp.com)

**Have a great rest of your day!**

**Kyle Rohik**

Estimator/Project Manager

**Rognes Corp**

Cell 515-421-2799

[krohik@rognescorp.com](mailto:krohik@rognescorp.com)

ENGINEERING DEPARTMENT  
"ALL DOCUMENTS"  
(10/1/10)

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**PERMISSION TO SUBLET**

Project 2018 Neighborhood Sidewalk Program  
 Contractor Ti-Zack Concrete, Inc.  
 Federal Tax ID 41-1961752 Contract No. 15164 Sublet Request No. 2

ITEM TO BE SUBLET	ORGANIZATION TO PERFORM WORK	DBE Y/N	COST OF SPECIALTY ITEMS	TOTAL COST OF WORK SUBLET
Black vinyl chain link fence	American Fence Co. of Iowa, Inc. 6300 NW Beaver Drive Johnston, IA 50131 (515) 265-6100 Federal Tax ID 42-1196320	No		\$9,336.00

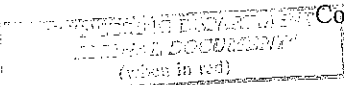
	Previous Request	This Request	Total To Date	
Cost of Items Sublet	\$14,500.00	\$9,336.00	\$23,836.00	(a)
Cost of Specialty Items Sublet				(b)
Cost of Sublet Items Less Specialty Items	\$14,500.00	\$9,336.00	\$23,836.00	(c)
Contract Amount			\$284,290.00	(d)
Contract Amount Less Total Specialty Items (d-b)			\$284,290.00	(e)
Percentage of Contract Sublet to Date (c/e)			8.38%	

The prime contractor's request for Permission to Sublet the above items of work is approved with the understanding that the prime contractor shall be held responsible for the subcontractors' full compliance of all terms of the contract.

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Roll Call No. \_\_\_\_\_ Date 8/6/18



3. (Subcontractor's Payment Responsibility) Pay for all materials, labor, services and equipment used in or in connection with the performance of the Work, when and as bills or claims become due, and save and protect the Project, Owner, Contractor and Contractor's surety from all claims and mechanics' liens arising from Subcontractor's legally unjustified non-payment, and furnish satisfactory evidence to Contractor when requested, that it has complied with these requirements. To the extent Subcontractor receives payment from Contractor for amounts owed to lower-tier subcontractors and suppliers on the Project, Subcontractor shall hold those funds in trust for payment to those lower-tier subcontractors and suppliers; provided however, that Subcontractor shall not be required to establish separate trust accounts, nor shall this trust obligation impose on Subcontractor any duty other than to deliver funds Subcontractor receives for the benefit of lower-tier subcontractors and of suppliers to these entities. This provision does not waive Subcontractor's right to file and enforce a lien claim against the Project if Contractor fails to pay Subcontractor.

4.1 (Notice to Proceed) Keep informed of the actual progress of Contractor's operations and begin the Work when Contractor reasonably directs or, in any event, within ( 3 ) working days after being notified in writing by Contractor.

4.2 (Coordination & Scheduling) Prosecute the Work at the times, in the order, and in the places as Contractor reasonably directs, and coordinate its work with Contractor and other subcontractors so that all scheduled operations on the Project may proceed in an orderly and efficient manner and be completed within the time specified in the General Contract, (check one)

or \_\_\_\_\_ working days,  
 or (date) August 31, 2018

4.3 (Liquidated Damages) Accept the assessment of liquidated damages for delays occasioned by Subcontractor's failure to carry out the provisions of this Subcontract on the same basis as liquidated damages are assessed against Contractor by Owner under the terms of the General Contract. This section does not exclude Contractor's recovery of actual damages, if any, not otherwise covered by liquidated damages, occasioned by Subcontractor's failure to perform the provisions of the Subcontract.

4.4 (Time Extension) Timely notify Contractor of all delays in the performance or completion of the Work by events for which Subcontractor is not responsible. No extension of time of performance of this Subcontract shall be allowed without the written consent of Contractor. The time of the performance or completion of the Work shall be extended provided the cause of the delay is of a type set forth in the General Contract that justifies an extension of time for completion of the General Contract or is caused by Contractor's legally unjustified conduct.

5. (Notice) Give written notice to Contractor of all claims for extras, for extensions of time and for damages for delay or otherwise in accordance with the General Contract, allowing Contractor to give timely notice to Owner. Timely notice shall mean three (3) working days before the expiration of the relevant notice period in the General Contract.

6.1 (Insurance) Obtain, maintain and pay for the insurance that may be required by the General Contract or by law, to include without limitation, workers' compensation, commercial general liability insurance, comprehensive automobile liability insurance and, if specified below, builders' risk insurance, protecting Subcontractor against claims for bodily injury or death or for property damage occurring upon, in or about the Project arising out of the Work, with limits in amounts at least equal to those specified below or, if none is specified below, those specified in the General Contract:

**TYPE OF INSURANCE/LIMITS OF LIABILITY**

a. Commercial General Liability; to include, without limitation, comprehensive form; premises-operations; underground, explosion & collapse hazard; products-completed operations; contractual liability; independent contractors; broad form property damage; and personal injury. For the purposes of obtaining additional insured coverage, Subcontractor shall name Contractor as an additional insured on Subcontractor's CGL policy providing coverage to Contractor for acts to the extent caused by Subcontractor's negligence and for Contractor's vicarious liability or liability imposed by warranty arising out of the acts or omissions of the Subcontractor. The additional insured coverage provided to Contractor shall cover ongoing and completed operations and be primary and non-contributory.

	Each Occurrence	Aggregate
Bodily Injury & Property Damage combined	\$ <u>1,000,000.00</u>	\$ <u>2,000,000.00</u>
Personal Injury/Advertising Injury	XXXXXXXXXXXXXXXXXXXXXXXXXXXX	\$ _____

b. Automobile Liability; to include all owned autos (private passenger & other than private passenger), hired & non-owned auto.

	Each Occurrence	Aggregate
Bodily Injury & Property Damage combined	\$ <u>1,000,000.00</u>	XXXXXXXXXXXXXXXXXXXXXXXXXXXX

c. Excess Liability

	Each Occurrence	Aggregate
Bodily Injury & Property Damage combined	\$ <u>1,000,000.00</u>	\$ <u>2,000,000.00</u>

d. Workers' Compensation to include:

Part I - statutory (which may be satisfied by self-insurance program meeting the requirements of State law); and

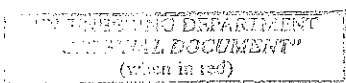
Part II	\$ <u>500,000.00</u>	Each Accident
	\$ <u>500,000.00</u>	Disease-Policy Limit
	\$ <u>500,000.00</u>	Disease-Each Employee

e. Builders' Risk: per the general and supplementary conditions, to be provided by (check one):

Owner  Contractor  Subcontractor  None to be provided. If one of the three entities in the previous sentence provides Builders' Risk insurance, the other two entities shall be named as an additional insured under that policy. The entity providing Builders' Risk insurance shall obtain and give to the other two entities insurance certificates showing compliance with these insurance requirements and indicating the coverages and limits cannot be materially changed or canceled without at least thirty (30) days prior written notice to the additional insureds.

f. Other \_\_\_\_\_

The insurance shall be issued by a financially responsible company or companies having an A. M. Best Rating of A- or better. Contractor may waive this requirement in writing if Subcontractor is self-insured. Before beginning any Work, Subcontractor will provide insurance certificates showing compliance with these insurance requirements and indicating that the coverages and limits cannot be materially changed or canceled without at least thirty (30) days prior written notice to Contractor.



6.2. **(Indemnity for Personal Injury/Property Damage)** Assume entire responsibility and liability, to the fullest extent permitted by law, for all damages or injury to all persons, whether employees or otherwise, and to all property, arising out of, resulting from or in any manner connected with, the execution of the Work and including, without limitation, those damages or injuries occurring or resulting from the use by Subcontractor, its agents or employees, of materials, services, equipment, instrumentalities or other property, whether the same be owned by Contractor, Subcontractor, or others. Further, Subcontractor, to the fullest extent permitted by law, agrees to indemnify and save harmless Contractor, its agents and employees from all claims caused by Subcontractor's negligence and for Contractor's vicarious liability or liability imposed by warranty arising out of the acts or omissions of the subcontractor. Further, Subcontractor agrees to defend Contractor, its agents and employees from all claims including, without limitation, claims for which Contractor may be or may be claimed to be liable and to pay all legal fees and disbursements paid or incurred in defense of claims or to enforce the provisions of this paragraph. Subcontractor further agrees to obtain, maintain and pay for such Commercial General Liability insurance coverage that will insure the provisions of this paragraph, to the extent coverage is provided by the types and limits of insurance specified in Paragraph 6.1.

6.3. **(Indemnity for Breach)** Defend, indemnify and save harmless Contractor from any and all losses or damage occasioned by Subcontractor's failure to carry out the provisions of this Subcontract, unless such failure results from causes not the responsibility of Subcontractor. Loss or damage shall include, without limitation, legal fees and disbursements paid or incurred by Contractor as part of the loss or damage or to enforce the provisions of this paragraph, unless that failure results from causes that are not Subcontractor's responsibility.

7. **(Bond)** Obtain and furnish to Contractor and maintain in effect during the life of this Subcontract, if requested in the space provided below, a surety bond in form and with sureties acceptable to Contractor, in an amount equal to the Subcontract price, conditioned upon and covering the payment of Subcontractor's subcontractors and suppliers and the faithful performance of and compliance with all the terms, provisions and conditions of this Subcontract. (Check only one).

- Bond requested,
- no bond required, or
- no Bond required, Subcontractor to pay a proportional share of Contractor's bond premium, 1 % of contract amount.

Unless the General Contract requires it, nothing in this paragraph shall give Contractor the right to designate that the bond be executed by a specific surety or procured from a specific agent.

8. **(Protection of Work)** Accept responsibility for all damage caused by Subcontractor, clean all surfaces soiled by Subcontractor, and protect the Work, it being understood that the standards of protection shall not be less than those specified in the General Contract or required by law. A dispute between Subcontractor and another subcontractor regarding their respective responsibility for any item of damage shall be submitted to Contractor for its determination of responsibility.

9. **(Safety)** Take all safety precautions with respect to the Work; comply with all safety measures required by the General Contract and with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority for the safety of persons and property; and require all lower-tier subcontractors to do the same.

10. **(Assignment)** Not assign or sub-let all or part of this Subcontract, and not assign any money due or to become due under this Subcontract without first obtaining Contractor's written consent. In the event of a valid assignment, any assignment of funds by Subcontractor will not be due the assignee to the extent Subcontractor is in breach of this Subcontract.

11. **(Personnel Replacement)** Provide supervision and workers of a quality and experience commensurate with the Work to be performed. If Contractor believes that Subcontractor's supervisors or personnel are not of an acceptable quality, or that they have violated federal, state, or local statutes, regulations or provisions of the General Contract, Subcontractor shall replace them with qualified personnel at Contractor's request.

12. **(Notice)** Perform all changes to the Work that are ordered in writing by Contractor, or its authorized representative. If additive or deductive changes are made, equitable adjustments shall be made to the Subcontract price. No change shall be allowed, or made by Subcontractor, or paid for by Contractor unless and until authorized by Contractor or its authorized representative in writing.

13. **(Guarantee)** Guarantee the Work to the same extent that Contractor guarantees its work under the General Contract.

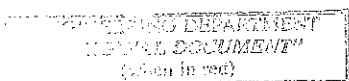
14. **(Compliance with Laws)** Comply with all Federal and State laws, codes, and regulations and all municipal ordinances and regulations effective where the Work is to be performed; pay all costs and expenses connected with that compliance; pay all fees and taxes, including sales and use taxes; pay all taxes imposed by any State or Federal law for any employment insurance, pensions, retirement funds or any similar purpose; furnish all necessary reports and information to the appropriate federal, state and municipal agencies, with respect to all of the foregoing the same as though Subcontractor was in fact Contractor.

15. **(Patent Rights)** Pay all royalties and license fees; defend all suits or claims for infringement of any patent rights involved in the Work; and save Contractor harmless from loss, cost or expense on account of Subcontractor's use or infringement.

16. **(Employment Practices)** Comply with all applicable equal employment opportunity laws and ordinances.

17. **(Default)** Upon written notice from Contractor, cure any (i) failure to correct, replace and/or re-execute faulty or defective Work when and if required by Contractor, (ii) repeated and persistent failure to complete or proceed with the Work within the schedule agreed to by the parties or the time otherwise provided, (iii) failure to make payment when due to Subcontractor's subcontractors or suppliers for labor, services, equipment, or materials in accordance with the respective agreements between Subcontractor and its subcontractors and suppliers, or (iv) failure to comply with any other substantial term of this Subcontract. If Subcontractor fails within three (3) working days after receiving the notice of default to commence and continue satisfactory correction of the default with diligence and promptness, then Subcontractor shall be in default of this Subcontract and Contractor, upon an additional three (3) calendar days notice in writing to Subcontractor, shall have among its other legal rights the right to terminate this Subcontract and finish the Work, replace and/or re-execute such faulty or defective Work, either through its own employees or through a subcontractor of its choice, and to charge the excess completion costs to Subcontractor, together with any liquidated or actual damages caused by a delay in the performance of the Work. If Subcontractor defaults under the terms of this Subcontract, the material and supplies of Subcontractor to be incorporated into the Project shall be left on the job for Contractor's use in completing the Work.

18. **(Inspection)** Inspect and promptly report in writing to Contractor all discrepancies or defects in the work of Contractor or others that render conditions unsuitable for Subcontractor to perform the Work as specified. Subcontractor's failure to so inspect and promptly report in writing shall constitute an acceptance of the work of Contractor, other subcontractors or other separate contractors as fit to receive the Work.



THE CONTRACTOR AGREES TO:

A.1. (Payment) Pay the Subcontractor for the full and prompt performance of this Subcontract, subject to the terms and conditions hereof, the sum of \*\*\*\*\*Nine Thousand three hundred thirty six Dollars and No/100\*\*\*\*\* Dollars (\$ 9,336.00 ). Contractor shall include in Contractor's periodic pay estimate to Owner the value of all Work properly incorporated into or delivered and stored on the Project site, for which estimates have been furnished by Subcontractor to Contractor. Upon learning that the amount approved due for the Work is different from the amount requested by Subcontractor, Contractor shall immediately so advise Subcontractor and shall furnish the information Contractor may have for the difference. So long as Subcontractor is not in default of this Subcontract, Contractor shall pay Subcontractor within 10 days (not more than ten (10) calendar days), upon receipt of payment from Owner, the amount received by Contractor on account of the Work to the extent of Subcontractor's interest, but in any event shall pay Subcontractor within sixty (60) calendar days of submittal of certified periodic estimate to Contractor, to the extent certified by Architect/Engineer for payment. The timing and frequency of Contractor's periodic and final payments to Subcontractor shall be the same as the timing and frequency of Owner's periodic and final payments to Contractor pursuant to the terms of the General Contract.

A.2. If and to the extent allowed by the General Contract, make payment for inventory, materials or equipment not incorporated into the Project, but delivered and suitably stored at the Project site, or at some other location agreed upon in writing.

A.3. Include Subcontractor's estimate in Contractor's estimate to Owner for each month so long as Subcontractor's estimate is received by Contractor at least five (5) calendar days before the date Contractor's estimate to Owner is due as specified in the General Contract, or if no date is specified, by the 15th of each month.

A.4. (Retainage) Withhold retainage on periodic payments due Subcontractor in the same percentage as Owner withholds retainage from Contractor, or in the following percentage of payment due: 5 %.

A.5. (Reservation of Rights) Provide Subcontractor with written notice of the amount of the final payment to be made under this Subcontract and the manner in which that amount is calculated. Within fifteen (15) calendar days after receipt of that notice, Subcontractor shall notify Contractor in writing of any objection to the amount of final payment or Subcontractor's acceptance of that amount. If no written objections are received by Contractor within the time specified, Subcontractor shall have no claim for compensation in excess of the amount of the final payment in the written notice furnished by Contractor, except as may be reserved in writing.

B. (Final Payment) Make final payment to Subcontractor within ten (10) calendar days after Contractor's receipt of final payment from Owner. If final payment from Owner is not received by Contractor through no fault of Subcontractor, Contractor will pay Subcontractor within a reasonable time, but not to exceed sixty (60) calendar days after certification by Architects/Engineer of final payment for Work.

C. (Payment Withholding) Withhold at its discretion from amounts otherwise due or to become due if any claims have been made in writing against Subcontractor or Contractor arising out of labor, equipment, services or materials furnished the Project, or otherwise on account of any actions or failures to act by Subcontractor in the performance of the Work. The amount of the withholding may be a sum adequate to cover the claims and any costs, expenses or attorneys' fees arising or to arise in connection with the claims, but shall not exceed one hundred fifty (150) percent of the sum of the claims, costs, expenses or attorneys' fees pending their resolution. This right of the Contractor shall not be exclusive of any other rights of the Contractor herein or otherwise provided by law.

D. (Contractor's Default) Subcontractor's suspension of all Work and shipments and a corresponding extension of time for Subcontractor to perform the Work, upon three (3) working days written notice, if Contractor fails to make undisputed payments as and when required. Subcontractor's right to suspend the Work shall be in addition to all other rights under the Subcontract or otherwise provided by law.

E. (Safety) Except in an emergency or to enforce safety requirements, not give any directions to any employee or worker of Subcontractor, other than the people Subcontractor has designated as having supervisory responsibility for the Work. However, neither this authority of Contractor nor a decision made in good faith either to exercise or not to exercise that authority shall give rise to a duty of Contractor to Subcontractor, its material and equipment suppliers, its agents or employees, or other persons performing portions of the Work.

F. (Notice) Give written notice to Subcontractor of all known claims that may affect Subcontractor within a reasonable period, but not more than thirty (30) calendar days, after knowledge of the claim.

MISCELLANEOUS:

(Subcontract Documents) This Subcontract, together with riders \_\_\_\_\_,

(attached or enclosed) and made a part of the Subcontract, is the entire understanding of Contractor and Subcontractor and supersedes any prior quotations, proposals or agreements.

(Dispute Resolution) If the General Contract requires arbitration, mediation, or other alternative dispute resolution procedure, then Contractor and Subcontractor shall resolve all disputes between them arising under this Subcontract, including without limitation the Subcontract's formation and breach, pursuant to those dispute resolution procedures. Contractor may, in its sole discretion, join Subcontractor in any dispute resolution proceeding to which Contractor is or becomes a party.

(Headings) Article and Section headings used in this Subcontract are for convenience only and shall not affect the construction of this Subcontract.

Contractor and Subcontractor have executed this Subcontract on the day and year first written above.

SUBCONTRACTOR

CONTRACTOR

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

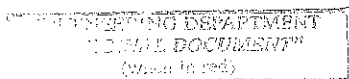
Title Vice President

Federal Tax # \_\_\_\_\_

Federal Tax # 41-1961752

State Tax # \_\_\_\_\_

State Tax # 4540607



# AMERICAN FENCE COMPANY

**Omaha Lincoln Des Moines Sioux Falls Grand Island Kansas City Rochester**  
6300 NW Beaver Drive Johnston Iowa 50131 Ph: 515-265-6100 Fax: 515-265-6108

## FENCING & GATE PROPOSAL

Date: July 16, 2018
Attn: Tom Farley
Project: Des Moines Bike Trail
Scope: Fence and Gates <i>Note: This scope of work is specific and limited to the following:</i>
Addendum Received: 0
Specifications Section: 0 Plan Sheets: 0

Project Scope Information: 415 LF of Black Vinyl Chain Link Fence, including 1 each 12' drive gate.

*If not listed herein, it is not included. Advise, prior to acceptance of required additional items.*

### Project Specific Notes:

1. No delegated design. No engineering or stamped engineered drawings.
2. Dirt spoils from post excavation to be spread at grade.
3. All posts to be set before sod.

*Notes are specific to the scope and directly impact project pricing. If not agreeable, advise prior to acceptance.*

Project Pricing: \$9,336.00

*Unless otherwise stated, pricing does not include sales tax, subject to change after 10 days of date of proposal. This proposal is not binding unless signature is affixed to page two. We impose a surcharge of 3% on all credit cards that are not greater than our cost of acceptance. Do not sign and return this sheet without signed second page.*

Contact Information: Tony Van de Krol t.vandekrol@americanfence.com 515-850-8001

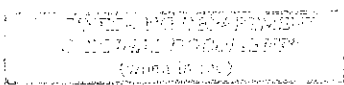
### Standard Notes & Exclusions: Unless otherwise noted:

1. One mobilization is included for the installation of the fence.
2. Block-out(s) in concrete / masonry for fence by others. No core drilling included. Sleeves required but not provided by AFC.
3. No surveying and/or staking included. Fence line to be staked by others.
4. Private utilities to be located by others in accordance with State's One Call System standards. In the event these utilities are damaged as a result of improper locating, AFC will not be responsible for damages and associated costs.
5. Fence line to be staked clear of utilities. No excavation included for digging within 18" of utilities but at additional expense. Hand excavation due to interference with utilities at \$35.00 per post hole.
6. No permits, bonds, dues, completed operations, or primary-none contributory included.
7. No project specific employee background, drug screen or DMV history included. Add \$65.00 per employee if required.
8. No removals, grading, grubbing, and/or demolition are included.
9. No electrical wire, wiring, grounding, conduit, connections, and/or initial electrical/controls set-up. Only after electrician has confirmed connections and operations, AFC will review installation.
10. AFC will not be subject to liquidated damages or back charges as a result of delays.
11. Material fabricated per plans. No field verification, engineering, delegated design included.
12. Accounts not paid within thirty days will be charged eighteen percent (18%) per annum. No retention to be withheld.
13. No prevailing, union or Davis - Bacon wages included.
14. No participation in billing processing programs, Textura. Participation fee to be added to contract if required.

REV 08-23-16

## Terms and Conditions

By signing this proposal, the customer has completely reviewed and agreed with the prices, specifications and conditions as stated herein. Furthermore, the customer is authorizing American Fence Company / AmeriFence Corporation to complete the work. Unless stated, the fence does not include a warranty. Customer is financially responsible for cancellation fees and



SEE TI-ZACK SUBCONTRACT

costs of special order materials if the customer elects to cancel the contract. ~~TERMS: 60% Down. Balance due on date of completion. No retention to be withheld. If withheld without approval, the contract amount will be 5% more than what is shown on the proposal. Service and handling charge of 1.5% per month 18% per annum applies to delinquent accounts not paid within 5 days of completion.~~ Customer assumes full responsibility for location of property pins, staking of fence, and inaccurately placed pins and stakes. Customer understands that American Fence Co. may stake the fence based on the proposal and/or in consideration of existing utilities that do not reflect the actual location of customer's property. Customer agrees to defend, hold harmless and indemnify American Fence Co. against claims, liabilities and expenses for trespass and damage arising out of location of said fence. Customer assumes full responsibility for damage to marked and unmarked underground utility, telephone, T.V., cable or sprinkler systems. Customer requests, agrees or allows American Fence Co. to locate the fence within 18 inches of any buried utilities; customer agrees to defend, hold harmless and indemnify American Fence Co. against all claims, liabilities and expenses as a result of damage to these utilities and property. If the contract price is not paid when due, customer agrees to allow American Fence Co. to trespass on to their property and remove fence at the company's discretion. Furthermore, customer agrees to indemnify and hold harmless American Fence Co. for any damage done to the property as a result of removal of the fence. All modifications shall be in writing and shall be affixed to the original bid. This agreement and subsequent modifications shall be contingent upon strikes, accidents, shortages or delays beyond the control of American Fence Co. Time stated for installation is purely estimated. Customer agrees and accepts that AFC will not extend discounts or credits for any delays or be held responsible for interest charges on any payments made by customer. Changes to the fence due to varying ground conditions are not the responsibility of American Fence Co. Customer to carry fire, tornado and other necessary insurance. This proposal cannot be withdrawn by customer after acceptance of proposal. American Fence Co. has the right to reject any bid. Legal and related fees accrued in an effort to collect on this account for whatever reason will be the responsibility of the customer. By signing this proposal, customer has completely reviewed and agreed with the prices, specifications and conditions as stated herein. Furthermore, customer is authorizing American Fence Co. to complete the work. The customer is financially responsible for cancellation fees and costs of special order materials in the event the customer elects to cancel the contract. ~~TERMS: 60% Down. Balance due on substantial completion. Service and handling charge of 5% per month 60% per annum will apply to delinquent accounts past 10 days. We impose a surcharge of 3% on all credit cards that is not greater than our cost of acceptance. Do not sign and return this document. Customer acknowledges that this is page two of two and has received page one.~~

By signing below, I acknowledge and agree with all stated herein inclusive of both pages one and two of this proposal.

Customer signature: *Jim Leary* Date: 7/23/2018  
 Customer printed name: JIM LEARY Date: 7/23/2018

REV 02-03-16

