

City of Columbia

701 East Broadway, Columbia, Missouri 65201



Agenda Item Number: R 173-14

Department Source: Parks and Recreation

To: City Council

From: City Manager & Staff

Council Meeting Date: September 15, 2014

Re: Circular Productions Agreement for Strawn Park

Documents Included With This Agenda Item

Council memo, Resolution/Ordinance, Exhibits to Resolution/Ordinance

Supporting documentation includes: None

Executive Summary

The Parks and Recreation Department is requesting Council authorization to enter into an agreement with Circular Productions, Inc. for the design of an 18-hole championship level disc golf course at Strawn Park. The agreement will authorize the City to pay Circular Productions, Inc. \$40,000 for the completed design services.

Discussion

At the March 17, 2014 City Council meeting, an ordinance was passed by the Council to approve the master plan for Strawn Park and construction of phase I improvements at the park property. As part of the park master plan and phase I improvements, the design and construction of a championship level disc golf course was identified as an amenity at the park. The Parks and Recreation Department and City's Purchasing Department issued a "Request for Proposal" to potential design firms for the design of the first 18-hole championship level disc golf course, and Circular Productions, Inc. was selected as the design firm for the project. Circular Productions and designer John Houck met the necessary qualifications related to championship level disc golf design and overall design portfolio requirements.

The agreement with Circular Productions, Inc. and the City of Columbia will provide the City with an initial conceptual design of the 18-hole championship level disc golf course, final approved master plan for the disc golf course, and necessary construction documents for implementation of the design at the park.

The department has applied for a Convention & Visitor's Bureau Attraction Development grant that will provide funding for the tee baskets, tee pads and small bridges. If the department does not receive this grant, staff will have the following options: (1) return to Council with a request for Council to award the requested Attraction Development funds for this project, (2) transfer funds from another project, (3) request funds from another source, or (4) terminate the agreement.

Fiscal Impact

Short-Term Impact: The design of the 18-hole disc golf course at Strawn Park will cost \$40,000 and is included in the Park Sales Tax funding of \$125,000 for phase I improvements.

Long-Term Impact: None

City of Columbia

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Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Economic Development, Parks, Recreation and Greenways

Strategic Plan Impact: Economic Development

Comprehensive Plan Impact: Economic Development, Livable & Sustainable Communities

Suggested Council Action

Approve the Council legislation authorizing the City Manager to sign the agreement with Circular Productions, Inc. for the disc golf design work at Strawn Park.

Legislative History

Ordinance 22004, 3/17/2014. Naming Strawn Park; approving the Strawn Park Master Plan; determining it is in the public interest to construct improvements at Strawn Park - Phase I

http://gocolumbiamo.com/Council/Final_Ordinances/Series_115/111;.html

A handwritten signature in black ink, appearing to read "Mike Sriggs".

Department Approved

A handwritten signature in black ink, appearing to read "Mike Matt".

City Manager Approved

Introduced by _____ Council Bill No. R 173-14

A RESOLUTION

authorizing an agreement with Circular Productions, LLC for design of a disc golf course at Strawn Park.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager is hereby authorized to execute an agreement with Circular Productions, LLC for design of a disc golf course at Strawn Park. The form and content of the agreement shall be substantially as set forth in "Exhibit A" attached hereto and made a part hereof.

ADOPTED this _____ day of _____, 2014.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

AGREEMENT
For
PROFESSIONAL DISC GOLF COURSE DESIGN SERVICES
Between
THE CITY OF COLUMBIA, MISSOURI
And
CIRCULAR PRODUCTIONS, LLC,
DBA HOUCKDESIGN

THIS AGREEMENT (hereinafter "Agreement") by and between the City of Columbia, Missouri, a municipal corporation, hereinafter called the "CITY", and Circular Productions, LLC, a limited liability corporation organized in the state of Texas with authority to transact business within the state of Missouri, and located at P.O. Box 792, Austin, Texas 78767, hereinafter called the "DESIGNER" is entered into on the date of the last signatory noted below. DESIGNER and CITY are each individually referred to herein as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, CITY desires to engage DESIGNER to render certain technical and professional disc golf course design as described more fully in Attachment A; and

WHEREAS, CITY has selected DESIGNER to perform the services due to DESIGNER's prior experience, skills, education and unique knowledge.

NOW, THEREFORE, the Parties hereto, for good and sufficient consideration, the receipt of which is hereby acknowledged, intending to be legally bound, do hereby agree as follows.

1. SERVICES.

a. Strawn Park Project. CITY agrees to engage the professional and technical disc golf course design services of the DESIGNER as more fully described in Attachment A, which are incorporated herein by reference, and referred to hereinafter as the "Strawn Park Project". DESIGNER agrees to perform the design services for the Strawn Park Project as required by this Agreement. DESIGNER further agrees to provide the additional services for the marketing and promotion of the course as specified in Attachment B.

b. Addition or Deletion of Services for Strawn Park Project. CITY may add to the DESIGNER services or delete therefrom, provided that the total cost of such work

does not exceed the total cost allowance as specified in Section 6 hereof. The DESIGNER shall undertake such changed activities only upon the written direction of the CITY. All such directives and changes shall be in written form and prepared and approved by the Parties. Any amendment or change to the scope of services which increases the total cost allowance as specified in Section 6 requires a contract amendment.

c. Optional Additional Design Services for Albert-Oakland Park and Indian Hills Park. Should CITY's designated project manager authorize in writing the additional, optional projects in Attachment C, DESIGNER agrees to perform the design services for the optional project or projects so specified by CITY's project manager in writing.

d. Redesign of Strawn Park Project. DESIGNER shall offer redesign services related to the Strawn Park Project for a period of five (5) years after CITY's acceptance of DESIGNER's completion of the Strawn Park Project at no additional cost. Subject to CITY's pre-approval of onsite travel, CITY shall reimburse DESIGNER for travel, lodging, and car rental expenses.

2. EXCHANGE OF DATA. All information, data, and reports in the CITY's possession and necessary for the carrying out of the work, shall be furnished to the DESIGNER without charge, and the Parties shall cooperate with each other in every way possible in carrying out the scope of services.

3. DESIGNATED PERSONNEL.

a. By DESIGNER. DESIGNER shall designate John Houck as the individual to perform the services set forth in this Agreement. DESIGNER shall dedicate whatever additional resources are necessary to accomplish the PROJECT within the specified time frame but will not remove this individual from the assigned tasks for any reason within the control of the DESIGNER without the written approval of the CITY.

Unless CITY consents in writing otherwise, all of the services required hereunder will be performed by John Houck or under his supervision and all personnel engaged in the work shall be fully qualified and authorized or permitted under state and local law to perform such services.

None of the work or services covered by this Agreement shall be subcontracted or reassigned without the prior written approval of the CITY and any work or services so subcontracted shall be subject to the provisions of this Agreement.

b. By CITY. CITY shall designate Ryan Atkinson, as the project manager and the CITY's representative with respect to the services to be performed under this

Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define CITY's policies and decisions with respect to materials, equipment, elements and systems to be used in the PROJECT, and other matters pertinent to the services covered by this Agreement.

4. PERIODS OF SERVICE.

a. Period of Service for Design of Strawn Park Project. This Agreement shall be applicable to all work assignments authorized by CITY in writing subsequent to the date of its execution and shall be effective as to all assignments authorized. CITY's designated Project Manager shall issue a written notice to proceed with the design of the Strawn Park Project. Unless otherwise agreed to in writing by the Parties, design services for the Strawn Park Project shall be started within thirty (30) calendar days of Notice to Proceed. CITY and DESIGNER shall mutually agree on performance times for individual phases or elements of the design of Strawn Park Project, which will be set out in a written schedule. Unless the Parties otherwise agree to in writing, the Strawn Park Project shall be and completed within one (1) year from the issuance of the Notice to Proceed. CITY shall have the right to establish performance times for individual phases or elements of the design of the Strawn Park Project by delivering a written schedule setting out the performance times to the ~~CONTRACTOR~~. DESIGNER JH

b. Period of Service for Optional Design Services. Should CITY and DESIGNER authorize additional optional design services for Albert-Oakland Park and Indian Hills Park as outlined in Attachment C, CITY shall issue a written Notice to Proceed and shall specify the optional design work so authorized. The CITY's Notice to Proceed for any optional design work shall also specify a schedule mutually agreed upon by the CITY and DESIGNER for performance.

5. PRICING FOR OPTIONAL DESIGN SERVICES. Pricing for optional design services contained in Attachment C shall be valid for nine (9) months from the Effective Date.

6. PAYMENTS TO DESIGNER

a. Costs Not To Exceed. The total payment for design and marketing services for the Strawn Park Project, and the granting of the irrevocable license shall not exceed Forty Thousand Dollars (\$40,000.00).

b. Invoices and Payments. DESIGNER shall submit an invoice for services rendered to the CITY. Upon receipt of the invoice, the CITY will, within thirty (30) days, pay the DESIGNER for the services rendered, provided the CITY does not contest the invoice. For the Strawn Park Project, DESIGNER shall invoice CITY on the following schedule:

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- \$25,000.00 Completion of Concept Plan
- \$10,000.00 Completion of Master Plan
- \$3,000.00 Completion of Construction Plan
- \$2,000.00 Upon City's Acceptance of DESIGNER's completion of work on the Strawn Park Project

c. Right to Audit. Invoices are subject to audit for a period of five (5) years after the expiration or termination of the Agreement. If the audit reveals that DESIGNER overcharged the CITY, DESIGNER shall reimburse CITY the amount of the overcharge.

7. TERMINATION OF THE AGREEMENT.

a. Termination for breach. Failure of the DESIGNER to fulfill DESIGNER's obligations under this contract in a timely and satisfactory manner in accordance with the schedule and description of services for an assignment or project agreed to by both Parties shall constitute a breach of the contract, and CITY shall thereupon have the right to immediately terminate the contract. CITY shall give ten (10) days written notice of termination to the DESIGNER by one of three different means: Facsimile Transmission ("FAX") if DESIGNER has a FAX number; U.S. Postal Service Mails; or by hand delivering a copy of the same to the DESIGNER; or may give notice by any combination of the above methods. The date of termination shall be the date upon which notice of termination is hand delivered to DESIGNER or given by FAX, or the third day following mailing of the notice of termination, whichever first occurs.

b. Termination for Convenience. CITY shall have the right at any time by written notice to DESIGNER to terminate and cancel this contract, without cause, for the convenience of the CITY, and DESIGNER shall immediately stop work. In such event, CITY shall not be liable to DESIGNER except for payment for actual work performed prior to such notice. In the event of termination for convenience, CITY, at its sole option, may purchase, for just and equitable compensation any and all finished or unfinished documents, data, studies, and reports or other materials prepared by the DESIGNER under this contract. Any reuse of any satisfactory work completed prior to the termination for convenience shall be at CITY's own risk and without any liability to DESIGNER. Anticipatory profits and consequential damages shall not be recoverable by DESIGNER.

c. Termination by Mutual Agreement. This Agreement may be terminated at any time during its Term upon mutual agreement by both Parties.

d. Effect of Termination. In the event of termination for breach or convenience or by mutual agreement, CITY, at its sole option, may purchase, for just and equitable compensation for any satisfactory work provided, any and all finished or unfinished documents, data, studies, and reports or other materials prepared by the DESIGNER under this contract. Any reuse of any satisfactory work completed prior to the termination for breach shall be at CITY's own risk and without any liability to DESIGNER. DESIGNER shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any such breach of the contract by the DESIGNER.

8. NO ASSIGNMENT. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party.

9. COMPLIANCE WITH LAWS. DESIGNER agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services hereunder.

10. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED. DESIGNER agrees to comply with Missouri State Statute Section 285.530 in that DESIGNER shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. As a condition for the award of this contract the DESIGNER shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. DESIGNER shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

11. INDEPENDENT DESIGNER. This Agreement does not create an employee/employer relationship between the Parties. It is the Parties' intention that the DESIGNER will be an independent ~~DESIGNER~~ ^{CONTRACTOR} and not the CITY's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation and unemployment insurance laws. DESIGNER will retain sole and absolute discretion in the judgment of the manner and means of carrying out the DESIGNER's activities and responsibilities hereunder. DESIGNER agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between DESIGNER and

CITY, and CITY will not be liable for any obligation incurred by the DESIGNER, including but not limited to unpaid minimum wages and/or overtime premiums.

12. INSURANCE. DESIGNER shall maintain, on a primary basis and at its sole expense, at all times during the life of this contract the following insurance coverages, limits, including endorsements described herein. In no case shall DESIGNER'S liability exceed the maximum limits of the insurance required herein.

Commercial General Liability. DESIGNER agrees to maintain Commercial General Liability at a maximum limit of liability of \$1,000,000.00 combined single limit for any one occurrence covering both bodily injury and property damage, including accidental death. Coverage shall not contain any endorsement(s) excluding or limiting Contractual Liability or Cross Liability. If the contract involves any underground/digging operations, the general liability certificate shall include X, C and U (Explosion, Collapse and Underground) coverage.

Any and all self insured retention (SIR) or deductible amounts are the sole responsibility and discretion of DESIGNER. When a self-insured retention (SIR) or deductible exceeds \$10,000.00, the CITY reserves the right, but not the obligation, to review and request a copy of DESIGNER's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, DESIGNER agrees to maintain a Retroactive Date prior to or equal to the effective date of this contract. In the event the policy is canceled, non-renewed, or switched to an Occurrence Form, retroactive date advanced; or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract, DESIGNER agrees to purchase a SERP with a minimum reporting period not less than two (2) years. The requirement to purchase a SERP shall not relieve DESIGNER of the obligation to provide replacement coverage.

Worker's Compensation Insurance and Employers' Liability. If DESIGNER employs any employees, DESIGNER agrees to take out and maintain during the life of this contract, Employers' Liability and Workers' Compensation Insurance for all of their employees employed at the site of the work, and in case any work is sublet, the DESIGNER shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by DESIGNER. Workers' Compensation coverages shall meet Missouri statutory limits. Employers' Liability minimum limits shall be \$500,000.00 each employee, \$500,000.00 each accident and \$500,000.00 policy limit. In case any class of employees is engaged in hazardous work under this contract and is not protected under the Workers' Compensation Statute, the DESIGNER shall provide and shall cause each subcontractor to provide Employers' Liability Insurance for the protection of their employees not otherwise protected.

Excess/Umbrella Liability. The above liability limits may be satisfied by any combination of primary and excess/umbrella liability policies.

Additional Insured. DESIGNER agrees to endorse CITY as an Additional Insured with a CG 2026 Additional Insured – Designated Person or Organization endorsement, or similar endorsement, to the Commercial General Liability, but only to the extent necessary to provide CITY with coverage for the indemnity obligations expressly assumed by DESIGNER under the Contract, it being the express intent and understanding of the Parties that the insurance and indemnity obligations under this contract are dependent upon one another and are not separate and distinct. The Additional Insured shall read “City of Columbia.”

Waiver of Subrogation. DESIGNER agrees by entering into this contract to a Waiver of Subrogation for each required policy herein except Professional Liability. When required by the insurer, or should a policy condition not permit DESIGNER to enter into a pre-loss agreement to waive subrogation without an endorsement, then DESIGNER agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should DESIGNER enter into such an agreement on a pre-loss basis.

Certificate of Insurance. DESIGNER agrees to provide CITY with Certificate(s) of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect. Said Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. The Certificate(s) of Insurance shall name the CITY as an additional insured in an amount as required in this contract and contain a description of the project or work to be performed.

Right to Revise or Reject. The CITY reserves the right, but not the obligation, to review and revise any insurance requirement, not limited to limits, coverages, and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work/specifications affecting the applicability of coverage. Additionally, the CITY reserves the right, but not the obligation, to review Certificates of Insurance and to review and reject any insurance policies failing to meet the criteria stated herein or any insurer providing coverage due to its poor financial condition or failure to operate legally.

13. HOLD HARMLESS AGREEMENT. To the fullest extent not prohibited by law, DESIGNER shall indemnify and hold harmless the CITY, its directors, officers, agents and employees from and against all claims, damages, losses and expenses (including

but not limited to attorney's fees) arising by reason of any act or failure to act, negligent or otherwise, of DESIGNER, any subcontractor or person employed by DESIGNER or any one for whose acts the DESIGNER may be liable, in connection with providing services to the CITY. The loss must occur during and arise out of the performance of the work under the purchase or work order. DESIGNER shall not be held liable unless CITY actually incurs a loss, and their liability shall be limited to the amount of that loss.

This provision does not require DESIGNER to indemnify or hold harmless or defend the CITY from its CITY's own negligence, except DESIGNER agrees to defend, indemnify and hold CITY harmless from any and all claims, settlements and judgments whatsoever arising out of CITY's alleged negligence in hiring or failing to properly supervise the DESIGNER.

14. PROFESSIONAL RESPONSIBILITY. DESIGNER shall exercise reasonable skill, care, and diligence in the performance of its services and will carry out its responsibilities in accordance with customarily accepted good professional industry design practices. If the DESIGNER fails to meet the foregoing standard, DESIGNER shall perform at its own cost, and without reimbursement from CITY, the professional services necessary to correct the errors and omissions which are caused by DESIGNER's failure to comply with above standard, and which are reported to DESIGNER within one (1) year from the completion of DESIGNER'S services for the Project.

15. PROFESSIONAL OVERSIGHT INDEMNIFICATION. The DESIGNER understands and agrees that CITY has contracted with DESIGNER based upon DESIGNER's representations that DESIGNER is a skilled professional and fully able to provide the services set out in this Agreement. In addition to any other indemnification set out in this Agreement, DESIGNER agrees to defend, indemnify and hold and save harmless the CITY from any and all claims, settlements, and judgments whatsoever arising out of the CITY's alleged negligence in hiring or failing to properly supervise the DESIGNER.

The insurance required by this Agreement shall include coverage which shall meet DESIGNER'S obligations to indemnify the CITY as set out above and the CITY shall be named as an additional insured for such insurance.

16. NO WAIVER OF SOVEREIGN IMMUNITY. Nothing in this agreement shall be interpreted or construed as a waiver of sovereign immunity by the CITY.

17. GOVERNING LAW AND VENUE. This contract shall be governed, interpreted, and enforced in accordance with the laws of the state of Missouri and/or the laws of the United States, as applicable. The venue for all litigation arising out of, or relating to this contract document, shall be in Boone County, Missouri, or the United States Western

Handwritten signature or initials in the bottom right corner of the page.

District of Missouri. The Parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the state of Missouri. The Parties agree to waive any defense of forum non conveniens.

18. NO THIRD PARTY BENEFICIARY. No provision of the Agreement is intended to nor shall it in any way inure to the benefit of any customer, property owner or any other third party, so as to constitute any such Person a third-party beneficiary under the Agreement.

19. NOTICES. Any notice, demand, request, or communication required or authorized by the Agreement shall be delivered either by hand, facsimile, overnight courier or mailed by certified mail, return receipt requested, with postage prepaid, to:

If to CITY:

Will Hobart, Purchasing Agent
City of Columbia
701 E. Broadway
P.O. Box 6015
Columbia, MO 65205-6015
Telephone: 573-874-7687
Fax: 573-874-7762

If to DESIGNER:

Circular Productions, LLC
DBA HouckDesign
P.O. Box 792
Austin, Texas 78767
Telephone: 512-970-9001
Fax: 512-328-3282

With a copy to: Ryan Atkinson, Parks and Recreation Department, P.O. Box 6015, Columbia MO 65205-6015; 573-874-7709; 573-875-3159.

The designation and titles of the person to be notified or the address of such person may be changed at any time by written notice. Any such notice, demand, request, or communication shall be deemed delivered on receipt if delivered by hand or facsimile and on deposit by the sending party if delivered by courier or U.S. mail.

20. EXHIBITS AND ATTACHMENTS INCORPORATED BY REFERENCE. This Agreement includes the following exhibits and attachments, which are hereby incorporated by reference as if fully set out herein. Should there be a conflict or inconsistency between the terms of this Agreement and any exhibit or attachment incorporated herein by this section, the terms and conditions of the main body of this Agreement shall control.

Attachment:

- A Strawn Park Disc Golf Course Design Work
- B Services Related to the Marketing and Promotion

C Optional Disc Golf Course Redesign Work

D Pricing for Optional Additional Items available for purchase from DESIGNER

21. **MARKETING AND PROMOTIONAL WORK.**

a. Marketing and Promotional Work by DESIGNER for City. DESIGNER shall provide marketing and promotional work as specified in Attachment B.

b. Marketing and Promotions by DESIGNER for DESIGNER.

Recognizing the importance of professional development on the part of DESIGNER's employees and the importance of DESIGNER's public relations, DESIGNER may prepare marketing and promotional material, including publications, articles for periodicals, and press releases, etc., pertaining to DESIGNER's services for the PROJECT. Any such use of the CITY's name and courses in DESIGNER's marketing and promotional material will be provided to CITY in draft form for CITY's advance review. CITY will review such drafts promptly and will provide comments to DESIGNER. CITY may require deletion of proprietary data or confidential information from such marketing and promotional material but otherwise will not unreasonably withhold its approval. The cost of DESIGNER's activities pertaining to any such publication, marketing or promotion shall be paid entirely by the DESIGNER.

22. **GRANT OF LICENSE TO USE DESIGNER'S NAMES.** Subject to the terms and conditions of this Agreement, DESIGNER hereby grants to the CITY a personal, non-exclusive, non-transferable and limited right and license to use the name of John Houck and the HouckDesign name at no additional cost, charge or royalty for the promotion and marketing of the course(s) designed or redesigned by DESIGNER. The license commences on the effective date of this Agreement. The license is perpetual and of indefinite duration.

The Parties acknowledge that changes may occur after the design or redesign of the course(s). Should changes be needed, CITY agrees to consult DESIGNER. For the first five years after CITY's acceptance of the completed design, DESIGNER shall provide consultation at no additional cost for design consultation. Thereafter, DESIGNER shall provide design consultation at DESIGNER's then current rate for design consultation. Under no circumstance, shall DESIGNER charge CITY a higher rate than DESIGNER charges any other customer. If any of the course(s) are materially changed by the CITY after completion of DESIGNER's work and without consultation by the DESIGNER, DESIGNER may notify CITY in writing that the course no longer meets DESIGNER's standards and that CITY's license to use the name of John Houck and the HouckDesign name are limited for maintenance and historic purposes only.

23. PRICING FOR OPTIONAL ADDITIONAL ITEMS AVAILABLE FOR PURCHASE FROM DESIGNER. At CITY's sole option, CITY may purchase optional additional items at the prices set forth in Attachment D. DESIGNER shall offer the additional items at the prices set forth in Attachment D through June 30, 2015.

23. DESIGNER'S REPRESENTATIONS AND WARRANTIES. DESIGNER represents and warrants the following:

a. DESIGNER is a limited liability corporation organized in the state of Texas, with authority to transact business within the state of Missouri.

b. DESIGNER has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement.

c. DESIGNER has taken all action required by applicable law in order to approve, execute and deliver this Agreement.

d. The execution and delivery of this Agreement, the consummation of the transactions contemplated herein and the fulfillment of and compliance by DESIGNER with the provisions of this Agreement will not conflict with or constitute a breach of or a default under or require any consent, license or approval that has not been obtained pursuant to any of the terms, conditions or provisions of any law, rule or regulation, any order, judgment, writ, injunction, decree, determination, award or other instrument or legal requirement of any court or other agency of government, the documents of formation of DESIGNER or any contractual limitation, restriction or outstanding trust indenture, deed of trust, mortgage, loan agreement, lease, other evidence of indebtedness or any other agreement or instrument to which DESIGNER is a party or by which it or any of its property is bound and will not result in a breach of or a default under any of the foregoing.

e. The DESIGNER has taken all such action as may be necessary or advisable and proper to authorize this Agreement, the execution and delivery hereof, and the consummation of transactions contemplated hereby.

f. To the DESIGNER's knowledge, there are no actions, proceedings, judgments, rulings or orders issued by, or pending before any court or other governmental body that would materially adversely affect DESIGNER's ability to perform its obligations under this Agreement.

g. This Agreement is a legal, valid and binding obligation of DESIGNER enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditor's rights or by the exercise of judicial discretion in accordance with general principles of equity.

24. SURVIVAL. All duties and responsibilities of any Party that, either expressly or by their nature, extend into the future, shall extend beyond and survive the end of the contract term or termination of this Agreement.

25. SUBJECT TO APPROPRIATIONS. All obligations of City under this Agreement, which require the expenditure of funds, are conditional upon the availability of funds appropriated for that purpose.

25. ENTIRE AGREEMENT. This agreement contains the entire agreement of the Parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both Parties.

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals on the day and year written below.

[SIGNATURES ON FOLLOWING PAGES]



CITY OF COLUMBIA, MISSOURI

By: _____
Mike Matthes, City Manager
Date: _____

ATTEST:

Sheela Amin, City Clerk


APPROVED AS TO FORM:

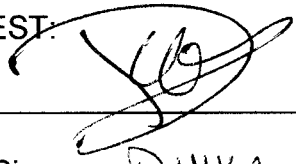
Nancy Thompson, City Counselor
Date: _____

CERTIFICATION: I hereby certify that the above expenditure is within the purpose of the appropriation to which it is charged, Account No. s 440-8800-548.49-90 Project #C00560, and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefor not to exceed the amount of forty thousand (\$40,000.00) dollars (as stated in Section 6) for the Strawn Park Project.

John Blattel, Finance Director
Date: _____

CIRCULAR PRODUCTIONS, LLC

By: 
Name: John Houck
Title: President
Date: 8-27-13

ATTEST: 
By: _____
Name: DIVYA LEEKHA
Title: Co-owner - Circular Productions
Date: 8-27-13

The Strawn Park Project consists of the design of an eighteen (18) hole Disc Golf Course, with practice pins, at Strawn Park in Columbia, Missouri. The disc golf course shall be designed for championship play capable of hosting state and national level tournaments (comparable to the WR Jackson Memorial Disc Golf Course in Appling, Georgia). The DESIGNER shall design the championship course in the designated sixty-six acre portion of the Strawn Park property located in Columbia, Missouri. The CITY shall design all non-disc golf related park amenities. The property is bordered by the Perche Creek on the western side of the property and Strawn Road on the eastern side. Access to Strawn Park will be from Strawn Road on the eastern edge of the property. The disc golf course shall utilize the planned entrance, which is 100' north of the existing entrance, for parking. Development of the property for disc golf will coincide with the addition of a twenty car parking lot and a basic small shelter at the entrance location. All planned disc golf development will be coordinated with future park amenities in mind. The DESIGNER shall design the disc golf course to allow for safe access to the park property from the subdivision. The design of the disc golf course shall not conflict with or cause safety issues with the areas designated for parking, shelters, playgrounds, and restrooms. The CITY will provide a conceptual park master plan showing the aforementioned park amenities. The exact locations of the amenities are negotiable between the CITY and DESIGNER to allow for the best possible use for disc golf and safety of non-disc golf users. DESIGNER is not responsible for design or construction of non-disc golf related amenities.

DESIGNER shall provide the following design services during the design phase:

1. DESIGNER shall meet with the CITY to discuss CITY'S needs.
2. DESIGNER shall complete a minimum of one (1) site visit and gather all data necessary for the design of the disc golf course.
3. DESIGNER shall prepare and submit a conceptual level set of plans to the CITY for review. This submittal shall include an itemized cost estimate.
4. DESIGNER shall develop a disc golf course master plan. Upon approval of conceptual plan by the CITY, the DESIGNER shall provide course master plan and construction plan that includes:
 - a. tee-pad locations;
 - b. pin locations;
 - c. hole characteristics;
 - d. demolition plans;
 - e. grading plans;
 - f. planting and landscaping plans. The landscape plan includes existing and proposed vegetation, tree planting, etc. and should minimize the amount of disturbance as much as possible;

- g. bridge or creek crossing improvement locations; and
 - h. plan for maintenance access (mowing and upkeep) after completion of construction of the course.
5. DESIGNER shall design the course layout. Each hole shall contain a minimum of two (2) tee pad locations per hole and up to three (3) where the designer sees fit. Each hole shall include a minimum of two (2) pin placements. Tee pad and pin location combinations shall reflect different skill levels of play.
 6. DESIGNER shall provide a disc golf course master plan graphic. DESIGNER shall provide a course layout in digital form (600 DPI, PDF at 36" x 48") to be used as an onsite course map.

DESIGNER shall provide the following design services during the construction phase:

After CITY has approved the conceptual plan and begun the construction phase of the Strawn Park Disc Golf Course project, DESIGNER shall be present in Columbia, Missouri, for at least two (2) site visits. During these site visits, DESIGNER shall be responsible for ground marking for the layout of the disc golf holes including tee pad locations, pin locations, and grading; tree marking for tree removal as specified in the approved plans; and marking/locating planned tree planting, revegetation and landscaping.

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Attachment B Services Related to the Marketing and Promotion

Designer shall provide the following items and services to help City promote the courses to the disc golf community nationally and to the disc golfers in the Missouri area and neighboring states.

1. A listing on our website, HouckDesign.com, in the list of courses designed by John Houck and on the Current Projects page during design and construction of the course.
2. An opportunity to promote the courses as part of John Houck's series of articles on course design in the PDGA magazine, *Disc Golfer* which is distributed internationally.
3. Inclusion in a HouckDesign ad in the PDGA's *Disc Golfer Magazine*.
4. On the HouckDesign Facebook page, through updates and photos during design, construction and after completion and the Grand Opening.
5. Through HouckDesign Tweets on Twitter, updating players on the progress and completion of the course, and any subsequent notable developments, such as Grand Opening, etc.
6. A free small graphic file of the course overview map for the Client's website.
7. Attendance at the Grand Opening where the Designer be available to sign autographs for players and attendees or participate in the Grand Opening by giving a brief speech at the event .

DESIGNER *OH*

Attachment C

Optional Disc Golf Course Redesign Work

CONTRACTOR shall not perform redesign services unless CITY specifically authorizes the work in writing pursuant to the requirements of Sections 1(a) and 4(b). The redesign work should result in holes that do not conflict other uses of the parks.

Evaluation and redesign work at Albert Oakland Park Disc Golf Course in Columbia, Missouri

Total Design Cost: \$5,000
Travel, Car Rental and Lodging: \$1,000

Evaluation and redesign work at Indian Hills Park Disc Golf Course at in Columbia, Missouri

Total Design Cost: \$5,000
Travel, Car Rental and Lodging: \$1,000

OH

Attachment D

Pricing for Optional Additional Items available for purchase from DESIGNER:

1 Course Overview sign @ \$365.00	\$365.00
10 Next Tee 12" x 18" metal signs @ \$100.00	\$1,000.00
19 baskets @ \$375.00	\$7,125.00
Shipping on signs and baskets	\$1,110.00

Optional items for city to consider for purchase for a superior Championship "look:"

1 Large Overview sign to print 5' x 3' instead of the 2' x 3'	\$695.00
36 Platinum Tee signs (two per hole) @150.00	\$5,400.00 + shipping
36 TERRECON "green" tee pads	\$14,520.00 to \$20,000.00 + shipping (depends on

sizes)