

**RESOLUTION APPROVING AWARD OF THIRD AMENDMENT TO CONTRACT
FOR NEW RECREATION CENTER AND INFRASTRUCTURE CONSTRUCTION
SERVICES (WORK PACKAGE 2)**

NO. 2016-119

WHEREAS, the City of Commerce City (“City”) desires to construct a new recreation center and related infrastructure improvements in the northern part of the City near 112th Avenue and Potomac Street (“Project”);

WHEREAS, the City has engaged in a two-stage formal competitive procurement process to select a qualified firm to provide Construction Manager/General Contractor (“CM/GC”) services for the Project;

WHEREAS, the City’s formal competitive procurement process contemplated the selection of a CM/GC contractor to provide services in two phases, beginning with the selection of a CM/GC contractor to provide pre-construction services for the Project, which services include cost estimating, value engineering, scheduling, logistical planning, constructability analysis, bid package administration, bidding of trade contracts, and the submittal of a guaranteed maximum price proposal for the construction work, and including a second stage of establishing a contract with the CM/GC contractor to provide construction services under a separate contract without further competition, which services include construction management, administration, field supervision, coordinating subcontractors, maintaining quality, meeting schedules and providing the general conditions work for the Project;

WHEREAS, the City Council selected and contracted with Pinkard Construction Co. (“Contractor”) to perform the pre-construction services for the Project in accordance with the terms and conditions of an Agreement for Professional Services, including negotiation of a guaranteed maximum price for construction services;

WHEREAS, on August 22, 2016, by Resolution 2016-100, the City Council approved the award of the contract for construction of the Project to the Contractor, on a phased basis, subject to a Guaranteed Maximum Price, commencing with “Work Package A,” which contract was executed on September 1, 2016 and on October 3, 2016, by Resolution 2016-106, the City Council approved the first amendment to the contract including Work Package 1, and on November 7, 2016, by Resolution 2016-128, the City Council approved the second amendment to the contract including Change Order No. 2;

WHEREAS, the City desires to proceed with the third phase of construction and award the contract for construction of the “Package 2” of Project to the Contractor, which phase generally includes full building construction for the new recreation center;

WHEREAS, the Contractor has proposed an increase to Guaranteed Maximum Price in the amount of \$21,649,690 the performance of Package 2, which will increase the Guaranteed Maximum Price for the Project to \$48,266,156;

WHEREAS, the City and the Contractor are negotiating the terms and conditions of the third amendment to the construction agreement;

WHEREAS, the cost to the City of the Contractor's construction services will exceed \$250,000.00, and, pursuant to the City's procurement policies and the City Manager's commitment to the City Council, the City Council must approve any procurement in excess of \$250,000.00; and

WHEREAS, the City Council hereby finds and determines that the award of the third amendment to the contract for construction services for the Project (Package 2) to the Contractor is and shall be in the best interest of the residents of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO, AS FOLLOWS:

1. The award of the third amendment to the contract for construction services for the Project (Package 2) to the Contractor is hereby approved, subject to the successful finalization of the third amendment to the construction services agreement on terms acceptable to the City Manager and not to exceed the proposed guaranteed maximum price;
2. The City Manager is hereby authorized to negotiate and finalize the details of the third amendment to the construction services agreement with the Contractor for the inclusion of construction services for the Project (Package 2) for an increase in the Guaranteed Maximum Price not to exceed \$21,649,690;
3. Upon successful finalization of the third amendment to the construction services agreement and approval as to form by the City Attorney, the City Manager is hereby authorized to execute, and the City Clerk to attest, the amendment on behalf of the City of Commerce City;
4. The City Manager is authorized to negotiate and execute amendments to the construction services agreement using a contingency of 5% of the total guaranteed maximum price established in this resolution, without further approval of the City Council, upon approval as to form by the City Attorney; and
5. The City Manager remains authorized to negotiate with the Contractor to perform construction services for Project Work Package B without further competition, subject to the approval by the City Council of award to Contractor of such services.

RESOLVED AND PASSED THIS 19TH DAY OF DECEMBER 2016.

CITY OF COMMERCE CITY

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, MMC, City Clerk