

1. 10/28/2021 Special Meeting Of The Board Of Aldermen Packet (PDF)

Documents:

[10 28 21 SPECIAL MEETING AGENDA.PDF](#)

[BILL 21-90 - STL GALLAGHER AGREEMENT.PDF](#)

**CITY OF FENTON, MISSOURI
AGENDA
SPECIAL MEETING OF THE BOARD OF ALDERMEN
VIA VIDEO/TELECONFERENCE
THURSDAY, OCTOBER 28, 2021
TO IMMEDIATELY FOLLOW THE BOARD OF ALDERMEN MEETING
AT 7:00 P.M.**

Posted at Fenton City Hall on Tuesday, October 26, 2021

Notice is hereby given that the City of Fenton will hold a Special Meeting of the Board of Aldermen on Thursday, October 28, 2021, immediately following the Board of Aldermen Meeting at 7:00 p.m. at Fenton City Hall, 625 New Smizer Mill Road, Fenton, Missouri via video/teleconference.

In light of the current public health crisis, including specifically the high community transmission in St. Louis County, and related CDC health guidelines, the Board recognizes that it would be dangerous and impractical to have public indoor group gatherings and recognizes that some members of the public may not feel comfortable attending such in-person meetings. The Board also recognizes the need for the public's business to be attended to in order to protect the public health, safety, and welfare. To balance both, and in accordance with Sec. 610.020, RSMo. and R-20-01, this meeting will not be open to in-person public attendance but rather accessible by the public in real time ONLY by a video/teleconference call via "Zoom", instruction to join below:

To join the meeting via website:

- (1) Go to Zoom at <https://zoom.us>
- (2) Select Join a Meeting
- (3) **Enter Meeting ID: 868 1948 1790**
- (4) **Enter Password: 338559**

To join the meeting by phone call (audio):

- (1) Call 1-312-626-6799
- (2) When prompted, enter the **Meeting ID** and **Password** provided above.

This Special Meeting is being called for:

- **Consideration of Bill 21-90: An Ordinance of the City of Fenton, Missouri, authorizing the Mayor to execute an agreement with St. Louis Scott Gallagher, LLC for coaching and instruction for the City of Fenton Youth Soccer Program.**
- **Executive Session, pursuant to Section 610.021(1) Legal Actions, Causes of Action or Litigation... Section 610.021(2) Lease, Purchase or Sale of Real Estate... and Section 610.021(3) Hiring, Firing, Disciplining or Promoting Employees...**

Representatives of the news media may obtain copies of this notice by contacting:

Jane Hungler
City Clerk
City of Fenton
625 New Smizer Mill Road
636-343-2080

1st Reading:
2nd Reading:

SPONSOR:

ORDINANCE NO. ____

BILL NO. 21-90

**AN ORDINANCE OF THE CITY OF FENTON, MISSOURI,
AUTHORIZING THE MAYOR TO EXECUTE AN
AGREEMENT WITH ST. LOUIS SCOTT GALLAGHER,
LLC FOR COACHING AND INSTRUCTION FOR THE
CITY OF FENTON YOUTH SOCCER PROGRAM.**

WHEREAS, St. Louis Gallagher, LLC worked with the former Parks and Recreational Director to provide instruction and coaching for the City of Fenton Youth Soccer Program due to shortage of Staff; and

WHEREAS, St. Louis Gallagher, LLC has provided such instruction and coaching for the City before and the City would like St. Louis Gallagher, LLC to provide the instruction and coaching to 95 participants in the City of Fenton Youth Soccer Program on Tuesday, November 2, 2021; and

WHEREAS, the Board of Aldermen finds that it is in the best interest of the City to waive its bidding procedures and to enter into a services agreement for such instruction and coaching.

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

Section 1. The Board of Aldermen hereby finds good cause to, and hereby does, waive its bidding procedures and authorizes the Mayor to execute on behalf of the City a contract with St. Louis Gallagher, LLC to provide instruction and coaching for the City of Fenton Youth Soccer Program in substantially the form of Exhibit 1 attached hereto and incorporated herein by reference.

Section 2. This ordinance shall be in full force and effect from and after the date of its passage and approval.

ORD. NO. ____

ORD. NO. _____

PASSED this 28th day of October, 2021.

BOB BRASSES, MAYOR

APPROVED this 28th day of October, 2021.

BOB BRASSES, MAYOR

ATTEST:

Jane Hungler, City Clerk

Motion to approve. Roll Call vote:

Ayes:

Nays:

Absent:

ORD. NO. _____

EXHIBIT 1

**CITY OF FENTON, MISSOURI
CONSULTANT/SERVICES CONTRACT**

THIS AGREEMENT by and between the **City of Fenton**, a Missouri municipal corporation, hereinafter referred to as City, and **St. Louis Gallagher, LLC** with principal office at 1 Soccer Park Rd. Fenton, MO 63026, hereinafter referred to as "Consultant."

WITNESSETH: That the parties hereto, for the considerations hereinafter set forth, agree as follows:

I. SCOPE OF SERVICES

Consultant services are necessary for the following Project of the City: **Instruction and coaching for the City of Fenton Youth Soccer Program.**

Except as expressly specified herein, Consultant hereby agrees to provide all of the supervision, labor, technical services, facilities, materials, tools, equipment, and apparatus, and to perform all the services and do all the things necessary for the proper completion of the consultant services which are particularly described as providing instruction and coaching services to approximately 95 participants of the City of Fenton Youth Soccer Program on November 2, 2021.

Consultant shall provide the services to the highest standard of the industry. The above services (hereinafter referred to as the Work) shall be provided by the Consultant in accordance with all the provisions of this Contract and attached **City of Fenton General Conditions** for the Work that are incorporated herein by reference, and which terms shall prevail over any conflicting terms that may otherwise be adopted herein as part of any attachment or exhibit.

II. COMPENSATION

A. Basic Compensation. The City hereby agrees to pay the Consultant, as full compensation for the complete and satisfactory performance of the contract, and all expenses and costs related thereto:

a sum not to exceed \$1,425.00.

or (if above box is not checked):

such amount as is set forth on an attached Exhibit A that is incorporated herein and subject to any such limits as established therein and in approving authorization.

B. Additional Compensation. Any cost not specifically allowed the Consultant pursuant to this paragraph B dealing with additional compensation is included in Basic Compensation. If City directs in writing additional services not included in this Agreement, Consultant shall be paid only as agreed to in writing.

III. TIME AND MANNER OF PAYMENTS

All invoices complete with necessary support documentation shall be submitted to the City and payment shall be made by City in a lump sum within thirty (30) days of receipt of an invoice received after satisfactory performance of the Work for the fees, prices, rates, or schedule of values set forth above.

IV. CONTRACT SCHEDULE

The Work under this Agreement shall occur and be completed on November 2, 2021.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the Effective Date.

CONSULTANT

CITY OF FENTON, MISSOURI

By: _____

By: _____

BOB BRASSES, MAYOR

Title: _____

DATED: _____

DATED: _____

ATTEST:

CITY OF FENTON
CITY CONSULTANT/PROFESSIONAL SERVICES AGREEMENT GENERAL CONDITIONS

Independent Consultant. The Consultant shall be and operate as an independent Consultant in the performance of this Contract. The Consultant shall have complete charge of the personnel engaged in the performance of the Work, and all persons employed by the Consultant shall be employees of said Consultant and not employees of the City in any respect.

Compliance with Laws. The Consultant shall comply with all applicable City ordinances and other laws and regulations, Federal, State, and any political subdivision thereof, including but not limited to, environmental laws, Title VI, unemployment and workers' compensation, occupational safety, equal employment and affirmative action and wage and price laws insofar as applicable to the performance of the Contract. In the event of a conflict between laws, codes, and regulations of various governmental entities having jurisdiction over the Work, the Consultant shall notify the City of the nature and impact of such conflict. The City agrees to cooperate with the Consultant in an effort to resolve any such conflict.

Subcontracts. The Consultant shall not subcontract any of the Work to be performed by it hereunder without the express written consent of the City. In addition, this Contract shall not be assigned by the Consultant.

Taxes. The City is exempt from federal excise tax and Missouri sales tax and the Consultant shall not charge the same to the City.

Indemnification. To the fullest extent permitted by law, and notwithstanding anything contrary within this Agreement, the Consultant agrees to defend with counsel selected by the City, and indemnify and hold harmless the City, its officers, engineers, representatives, agents and employees from and against any and all liabilities, damages, losses, claims or suits, including costs and attorneys' fees, for or on account of any kind of injury to person, bodily or otherwise, or death, or damage to or destruction of property, or any other circumstances, sustained by the City or others, arising from breach of the Contract or out of services and operations negligently performed hereunder by the Consultant, or claims relating thereto, and including but not limited to the City's reliance on or use of the services or products provided by the Consultant under the terms of this Agreement. The Consultant shall not be liable for any loss or damage attributable solely to the negligence of the City. Nothing in this Agreement shall require or permit the City to indemnify Consultant nor waive the City's sovereign immunity. Consultant shall be responsible for all damages to property caused by Consultant. To the extent required by law to enforce this provision, Consultant agrees that this indemnification requires Consultant to obtain insurance.

Insurance. The Consultant shall obtain and maintain for itself during the term of the Project and the Contract liability insurance coverage of at least \$3,000,000 aggregate and \$450,000 per occurrence. Insurance policies providing required coverages shall be with companies licensed to do business in the State of Missouri and rated no less than AA by Best or equivalent. All costs of obtaining and maintaining insurance coverages are included in the compensation amount and no additional payment will be made therefor by the City. In addition, the Consultant shall provide Worker's Compensation Insurance in at least statutory amounts for all workers employed for the Services.

Before commencing any Work, the Consultant shall provide to the City certificates of insurance evidencing the issuance and maintenance in force of the coverages required by this paragraph and bearing an endorsement precluding cancellation of or change in coverage without at least thirty (30) days written notice to the City. Any self-insurance or deductible above \$50,000.00 is not permitted. The City may waive any insurance coverages or amounts required to be carried by the Consultant under this paragraph when the City deems such waiver to be in the interest of the public health, safety, and general welfare.

NOTHING HEREIN SHALL BE CONSTRUED AS A WAIVER OF THE CITY'S SOVEREIGN IMMUNITY UNDER SECTION 537.610.1 OR OTHERWISE. The purpose of the insurance required under this paragraph is to confirm that the Consultant has adequate insurance to cover the Consultant for tort claims that may arise out of the Work. It is not for the purchase of insurance for the City EXCEPT FOR AND ONLY TO THE LIMITED EXTENT OF any claims against the City arising out of the Consultant's Work and based upon one of the two statutory exceptions to sovereign immunity as expressly set forth in Section 537.600.1(1) and (2). To that limited extent, the City shall be named as an additional insured on the policy bearing an endorsement that: "The Insurer shall not be liable to make any payment for Loss in connection with any Claim made against the City of Fenton as an additional Insured that is barred by sovereign immunity, and nothing contained in this Policy shall constitute a waiver of the City's sovereign immunity." Nothing in this requirement shall be deemed a waiver of the City's sovereign immunity.

Attorney Fees' and Costs. The Consultant shall reimburse to the City any costs and attorneys' fees that the City may reasonably incur in pursuit of any remedies at law or equity or enforcement of any rights established in this Agreement, which may result from the Consultant's breach of the Agreement, the Consultant's failure to perform any obligation or requirement contained herein, or the City's enforcement of this Agreement.

Changes. No work or change shall be undertaken or compensated for without prior written authorization from the City.

Termination. The City shall have the right to terminate the Contract at any time for any reason by giving the Consultant written notice to such effect. The City shall pay to the Consultant in full satisfaction and discharge of all amounts owing to the Consultant under the Contract an amount equal to the cost of all Work performed by the Consultant up to such termination date, less all amounts previously paid to the Consultant on account of the Contract Price. The Consultant shall submit to the City its statement for the aforesaid amount, in such reasonable detail as the City shall request, within thirty (30) days after such date of termination. The City shall not be liable to the Consultant for any damages on account of such termination for loss of anticipated future profits with respect to the remainder of the Work.

Nondisclosure. Notwithstanding anything to the contrary, the Consultant agrees that it will not divulge to third parties without the written consent of the City any information obtained from or through the City in connection with the performance of this Contract. Nothing herein shall preclude disclosure of information by the City.

Other Consultants. The City reserves the right to employ other consultants in connection with the Work.

Personnel. The Work shall be performed exclusively by the personnel of the Consultant.

Project Records and Work Product. Notwithstanding anything to the contrary, the Consultant shall provide the City with copies of all documents pertinent to the Work which shall include, without limitation, reports, correspondence, meeting minutes, and originals of all deliverables.

Site Operations. Where appropriate, the City will arrange for right of entry to any property at the request of the Consultant for the purpose of performing studies, tests and evaluations in connection with the Work.

Compliance with State Immigration Statutes. As a condition for the award of this Agreement, the Consultant 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 Work. The Consultant shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the Work. Such affidavits shall be in substantially the form provided in **Exhibit B**. The Consultant shall not be required to provide these affidavits to the City if such affidavits have been previously provided to the City within the past year. All words in this paragraph shall have the definitions as provided in Section 285.525 R.S.Mo.

Pursuant to Section 208.009 R.S.Mo., the Consultant shall provide at the earlier of submission of any bid or execution of any agreement affirmative proof that the Applicant for the Consultant is a citizen or a permanent resident of the United States or is lawfully present in the United States. The Applicant for the Consultant (or "Applicant") shall be the person authorized to prepare, submit and sign contract documents on behalf of the Consultant and shall be eighteen years of age or older. Such affirmative proof shall include documentary evidence recognized by the Missouri Department of Revenue when processing an application for a driver's license, a Missouri driver's license, as well as any document issued by the federal government that confirms an alien's lawful presence in the United States.

Representations. Consultant agrees that it has not relied on any representations or warranties of the City, oral or written, other than expressly identified in this Contract. The parties agree the Contract represents the entire agreement between the parties.

Governing/Choice of Law. This Agreement shall be governed by and construed and interpreted in accordance with the internal laws of the State of Missouri, without regard to its principles of conflict of laws, with venue in St. Louis County, Missouri. As a prerequisite to the Consultant filing any claim against the City in any court of law or equity (including mediation) pursuant to this Contract, the Consultant agrees that its shall be bound to first file such claim with the City's Board of Administrative Review, pursuant to and in accordance with Chapter 160 of the City Code. This Agreement is not intended to and shall not create any rights enforceable by any third-party beneficiary.

Counterparts. This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall constitute one and the same agreement.

EXHIBIT A

[Intentionally Blank]

