

Jan 08, 2025

Proposal: A - 12101

Village of Orland Park

Attn: Mike Mazza

14700 S. Ravina Ave

Orland Park, Illinois 60462

Site Location: Centennial Park Aquatic Center

15600 West Ave, Orland Park, IL 60462

Proposal: CPAC Slide PM and Light Pole Painting

Hello Mike,

We hereby propose to complete the above referenced project, according to the following specifications.

Scope of Work:

1.01 High-pressure water clean up to 5,000 p.s.i. using biodegradable degreasing agent and steam/hot water blast where necessary, in order to remove any grease, oil, loose paint, dirt and oxidation as per SSPC-SP1 Standard.

1.02 Hand prepare necessary areas by hand scraping, sanding and wire brush as per SSPC-SP2 Standard.

1.03 Power tool prepare all applicable surfaces with dual action sanders, grinders and wire wheel as per SSPC-SP3 Standard.

1.04 Pre-prime corroded surfaces with Benjamin Moore Corotech Rust Arrestor V180. (Film forming primer that chemically transforms rust, halting the corrosion process and enabling the surface to accept a topcoat).

1.05 Spot prime all necessary areas including bare steel, corroded areas, rigging scrapes, burnishes and welds, including fasteners with (1) coat of: Sherwin Williams Macropoxy 646 Epoxy Primer

1.06 Finish paint all structural steel with (1) coat of: Sherwin Williams Sherloxane 800 Urethane hybrid top coat

1.07 Clean, buff and wax slide interiors

1.08 Prepare joints and crevices for proper adhesion of caulk

Proposal is valid for 30 days

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1.09 Caulk slide joints as needed using Sikaflex Adhesion Pre-Prime and Sika Flex 291 White Urethane Adhesive/Seal

1.10 Bid estimated as using existing structural steel color scheme with coating to be applied by brush and roll application only.

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Total Cost Labor and Material Equipment:

80 Hour Maintenance package

\$46,640.00

Includes: Labor, material and equipment required for 2 Baynum employees to perform 40 hours each. Any additional time and material would be performed on a time and material basis.

Project estimated to be completed in 3 Weeks

SubTotal: \$46,640.00
Contingency: \$5,000.00
Grand Total: \$51,640.00

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Please sign below using your respective fields to acknowledge you accept the proposed items and have read the terms and conditions below:

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Jan 08, 2025

Baynum Amusement Solutions Agent

Client

Name: _____

Name: _____

Title: _____

Title: _____

Signature: _____

Signature: _____

Date: _____

Date: _____

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TERMS AND CONDITIONS

These terms and conditions (these "Terms") are made part of the proposal to which they are attached (the "Proposal") and any subsequent written agreement between the customer (the "Customer") and Baynum Painting, Inc., d/b/a Baynum Amusement Solutions, a Kentucky corporation ("Baynum Solutions"). The Proposal and any subsequent agreement are collectively referred to herein as the "Agreement."

Objective:

1. Baynum Solutions proposes to provide services (the "Services") and goods and products (collectively, the "Products") to complete the project referenced in the Agreement.

Exclusions:

1. The Agreement excludes the following:
 - a. any work to adjacent structures, equipment, and areas not named in the Agreement (i.e., station house, queue line, railings, fences, etc.) unless otherwise noted;
 - b. removal and replacement of signage, canopies, awnings, fencing, light fixtures, bulbs, and ancillary fixtures;
 - c. clearing of vegetation that hinders access to the work area;
 - d. expenses related to hazardous conditions, including, without limitation, lead paint testing, environmental monitoring, chip and debris disposal, and water containment; and
 - e. waste disposal, if required.
2. Unless otherwise agreed upon, taxes, duties, and import fees shall be the Customer's responsibility, which includes, but are not limited to, customs clearance, import taxes, and any withholding tax. All taxes, duties, and other applicable fees shall be billed as a separate line item on invoices.

Schedule:

1. Services require unrestricted access to the project's work area. If necessary, Baynum Solutions is permitted to utilize a seven-day work week (allowing for lost days due to inclement weather) with no premium charges, regardless of available working days.
2. Any schedule provided by Baynum Solutions is subject to change due to a Force Majeure Event, and Baynum Solutions shall be afforded a reasonable additional amount of time for performance for any delay caused by a Force Majeure Event.

Compliance:

1. All of Baynum Solutions' employees are trained under the safety rules and regulations of the Occupational Safety and Health Administration and Hazard Communication Standard.
2. All of Baynum Solutions' employees are covered by liability and Workers' Compensation Insurance against damage or injury while providing Products and Services.
3. All completed work adheres to the following standard practices and procedures to maximize coating performance and ensure satisfactory results:
 - a. Existing surface condition assessment to determine the best approach (Standards defined in ASTM D5065-95);
 - b. coating compatibility testing to ensure maximum adhesion and visual performance (Standards defined in ASTM D5064-95);
 - c. monitoring and documentation of all phases of Services for the duration of the project by NACE Level 3 Coatings Inspector; and

Warranty:

1. For one year from substantial completion of the Services, or providing of the Products, as applicable, Baynum Solutions will warrant and repair defective workmanship that falls below the applicable standard of care. This warranty expressly excludes rust bleed from joints, fasteners, and crevasses (steel on steel) that are inaccessible.
2. When applicable, the warranty is contingent on existing coating passing ASTM D4541's pull-off strength test at 400 p.s.i. To obtain the manufacturer's approval for the warranty, Baynum Solutions will coordinate an industrial representative's presence for testing.
3. Any and all warranties do not apply to damage or failure to perform arising from any acts of God, abuse, misuse, abnormal use, or use in violation of any applicable standard, code, or instructions for use.
4. Warranty excludes coverage of caulk or caulking Baynum performs on any waterslide seams and joints that may leak after project sign-off, as caulk or caulking condition is considered a routine maintenance item to be handled by owner.
5. EXCEPT FOR THE EXPRESS WARRANTY IN THIS SECTION, BAYNUM SOLUTIONS MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES, AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NONINFRINGEMENT, OR OTHERWISE.

Price Terms:

1. The cost set forth in the Agreement includes all labor, supplies, and equipment. However, if the cost is based upon information or photos provided by the Customer, the cost is subject to change upon an inspection of the actual surface condition of the project.
2. Payments for Baynum Solutions' Products and Services, periodically billed, shall be due within 30 calendar days of the date of Baynum Solutions' invoice, and payment shall neither be contingent upon interim or final construction financing nor tenant or governmental approvals. Baynum Solutions reserves the right to modify or withdraw credit terms at any time without notice. Disputes or questions regarding a portion of an invoice shall not be cause for withholding payment for the remaining portion not in question. Baynum Solutions reserves the right to suspend or terminate its Services if payment in full is not received within 60 calendar days after the invoice date. In the event of such suspension or termination, Baynum Solutions shall have no liability to the Customer, the project owner, the real property owner, or any other party for any delay or damages. Should an attorney or collection agency be used to obtain payment from the Customer, the Customer shall be responsible for the cost of the collection agency along with any attorney fees, court costs, and other costs and expenses associated with efforts to obtain payment.

Miscellaneous:

1. **Assignment.** The Customer shall not assign or transfer, in whole or in part, the Agreement, or any of its rights within these Terms, without the prior written consent of Baynum Solutions. Without Baynum Solutions' prior written consent, any attempt to assign or transfer, including a change in control of the Customer, shall be a material breach under these Terms and the Agreement.
2. **Unenforceability.** If any of the provisions of these Terms or the Agreement are found to be illegal or otherwise unenforceable, such provisions will be stricken. The enforceability of the remaining provisions shall not be affected by illegal or unenforceable provisions that are stricken. All remaining provisions shall continue in full force and effect as if the unenforceable provision was never included in these Terms or the Agreement.
3. **Force Majeure.** Baynum Solutions shall not be liable for any failure to perform or delay in performing its obligations resulting directly or indirectly from or contributed to by any acts of God, acts of the Customer or those under the Customer's control, acts of government, or other civil or military authorities, strikes, or other labor disputes, fires, accidents, floods, epidemics, pandemics, wars, riots, embargoes, delays in transportation, lack of or inability to obtain materials, components, labor, fuel or supplies, or other circumstances beyond Baynum Solutions' reasonable control ("Force Majeure Event"). If Baynum Solutions elects, the time for performance shall be extended by a period of time equal to the time lost from delays caused by a Force Majeure Event. If Baynum Solutions is prevented from completing or delivering any Products or Services, in whole or in part, to the Customer because of any Force Majeure Event, then the Customer agrees to promptly pay Baynum Solutions for any Products and Services then completed after the Customer receives an applicable invoice.
4. **Waiver.** No waiver of any provision of these Terms or the Agreement (or any right or default hereunder) shall be effective unless in writing and signed by an authorized representative of Baynum Solutions. Any such waiver shall be effective only for the instance given, and shall not operate as a waiver for any other rights or obligations under these Terms or the Agreement or applicable law in connection with any other instances or circumstances.
5. **Third Parties.** Nothing contained in these Terms or the Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Customer or Baynum Solutions. The Products and Services are for the sole benefit of the Customer, and no other entity shall have any claim against Baynum Solutions because of these Terms, the Agreement, or Baynum Solutions' performance of Services or provision of Products hereunder.
6. **Limitation of Liability.** To the fullest extent permitted by applicable law, in no event will Baynum Solutions, its affiliates, agents, officers, directors, subcontractors, or suppliers, be liable for any special damages, consequential damages, indirect damages, incidental damages, statutory damages, exemplary or punitive damages, loss of profits, loss of revenue, liquidated damages, or loss of use, even if informed of the possibility of such damages. Baynum Solutions' liability for damages arising out of or related to Products or Services shall in no case exceed the purchase price of the Products or Services from which the claim arises. To the fullest extent permitted by applicable law, these limitations and exclusions shall apply to all of Baynum Solutions' liability arising or resulting from all claims and causes of actions, which includes, but is not limited to, breach of contract, breach of warranty, tort (including but is not limited to negligence, gross negligence, malice, or intentional conduct), strict liability, by operation of law, or otherwise.
7. **Hazardous Material.** Except in compliance with applicable law and as required to complete the Services or Products, Baynum Solutions shall not cause the project's site to be used to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials. Except for Baynum Solutions' grossly negligent acts or omissions, the Customer, on behalf of itself, its successors and assigns, releases Baynum Solutions and its subcontractors, and their successors and assigns, from and against all claims known or unknown, arising out of, related in any way to the presence, misuse, use, disposal, release or threatened release of any Hazardous Substances, including disturbance of pre-existing Hazardous Materials, and any liability or claim related to the project arising under any environmental laws. "Hazardous Materials" shall mean: (1) any "hazardous waste" as defined by the Resource, Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, etc.), as amended, and regulations promulgated thereunder; (2) any "hazardous, toxic or dangerous waste, substance or material" specifically defined as such in (or for the purposes of) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601, etc.), as amended, and regulations promulgated thereunder, including asbestos, mold, and lead paint; (3) any "hazardous waste" or "hazardous substance" as defined by applicable state laws and regulations, as amended, and regulations promulgated thereunder; and (4) any hazardous, toxic or dangerous waste, substance, or material as defined in any so-called "superfund" or "superlien" law or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning such waste, substance or material.
8. **Applicable Law/Forum.** These Terms and the Agreement shall be governed by the laws of the state where the project is located. Baynum Solutions and the Customer consent to the exclusive jurisdiction of the state and federal courts of the state where the project is located. Baynum Solutions and the Customer each waive any objection based on *forum non conveniens* or any objection to venue of any such action.
9. **Default.** If the Customer (a) fails to make a payment when due, (b) becomes insolvent, (c) undergoes a change in ownership, (d) files a voluntary bankruptcy proceeding, or has an involuntary bankruptcy petition filed against it without obtaining a discharge of that petition within sixty (60) days, (e) has a receiver appointed over all or any of its assets, or (f) takes any other action that Baynum Solutions determines in its sole discretion adversely impacts the conditions under which the Agreement was entered, then the Customer is in material breach of these Terms and the Agreement and: (i) all amounts outstanding to

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- Baynum Solutions will become due immediately; (ii) Baynum Solutions may suspend or cancel any pending orders of Products and/or Services; and (iii) the Customer shall pay a finance charge on all amounts outstanding at a rate equal to amount currently charged by Baynum Solutions, not to exceed the lesser of two percent (2%) per month or the highest rate permitted by applicable law, all without prejudice to any other rights or remedies at law or in equity that Baynum Solutions may have, including any right to claim actual damages. The Customer will pay all costs of collection of any amounts due to Baynum Solutions, including court costs, attorney fees, expert fees, and other expenses. In the event of the Customer's default, Baynum Solutions may, in its sole discretion, apply any payments made first to attorney fees and any costs and expenses, then to any accrued and unpaid interest, and then to any remaining balance due and owing under any outstanding invoices.
10. **Indemnity.** To the fullest extent permitted by law, the Customer shall indemnify, defend, and hold Baynum Solutions harmless from all claims, losses, liabilities, causes of actions, violations of law, damages, costs, and expenses (including attorneys' fees) arising out of: (a) the Customer's breach of this Agreement; (b) the Customer's possession, use, handling, storage, sale, processing, or any disposition of the Products provided; (c) errors, omissions, negligence or other wrongful conduct of the Customer and its customers, employees, users, carriers, agents, officers, members, director, or subcontractors; and (d) Hazardous Materials at the project's site, except to the extent of Baynum Solution's breach of these Terms or the Agreement as determined under Section 13. If this Section applies to any matter, Baynum Solutions shall have the right to select and retain counsel of its choosing, all at the Customer's expense, and to participate in the defense. The Customer shall not enter into a settlement agreement without Baynum Solutions' prior written consent.
 11. **Review.** The Customer represents and warrants that it has had an opportunity to fully review the provisions of these Terms and the Agreement with attorneys of its choice as a result of which the Customer acknowledges and agrees (a) that any rule of law that provides that ambiguities are to be construed against the drafting party shall not be employed in the interpretation of these Terms or the Agreement; and (b) that the Customer is entering into these Terms and the Agreement knowingly, voluntarily, and of its own free will.
 12. **Entire Agreement.** These Terms and the Agreement constitute the complete and exclusive statement of the agreement between Baynum Solutions and the Customer and shall exclusively govern the sale of the Products and Services by Baynum Solutions to the Customer in connection with or as contemplated by the following: (a) Baynum Solutions' written or oral proposals, quotations and sales to the Customer (collectively, "Quotation"); and (b) the Customer's written or oral purchase orders or other communication to Baynum Solutions related to the Products or Services (collectively, "Purchase Order"). In the event of a conflict between the terms and conditions contained in a Quotation, Purchase Order, invoice, or final order acknowledgment and those contained in these Terms, the terms contained in these Terms shall govern. Notwithstanding any different or additional terms or conditions contained in a Purchase Order, Baynum Solutions accepts the Customer's order only on the condition that the Customer expressly accepts and assents to these Terms. The Customer's order shall not be binding upon Baynum Solutions unless and until such order is accepted by Baynum Solutions in writing. In the absence of the Customer's acceptance of these Terms, Baynum Solutions' commencement of performance or acknowledgment of a Purchase Order shall be for the Customer's convenience only and shall not be construed as Baynum Solutions' acceptance of any different or additional terms. In addition, the Customer's acceptance of any Products or Services shall be deemed to be an acceptance of all of these Terms. Baynum Solutions objects to any additional, contradictory, or different terms contained in any initial or subsequent Purchase Order from the Customer for any Products or Services provided by Baynum Solutions, including, but not limited to, any indemnification, remedy, or warranty provisions. Baynum Solutions' failure to object to specific provisions contained in any Purchase Order shall not be deemed a waiver of the provisions contained in these Terms. Without limiting the generality of the foregoing, Baynum Solutions' rights and obligations under the Agreement or these Terms will not be qualified by or subject to any vendor credentialing, code of conduct, or similar requirements imposed by or on the Customer, including its vendors or suppliers.
 13. **Dispute Resolution.** The law of the state where the project is located governs the application and interpretation of the Agreement and these Terms regardless of any applicable conflict of law principles. Any legal action or proceeding arising out of the Agreement and these Terms will be brought exclusively in the state or federal courts where the project is located. The Customer irrevocably submits to personal jurisdiction in such courts and consents to service of process by U.S. mail or by any other service method permitted by those courts. A certified, final judgment in any such action or proceeding will be conclusive and may be enforced in any court by suit on the judgment. The Customer will follow notice, administrative, or claims procedures contained in the Agreement and these Terms before instituting any legal action or proceeding in connection with this Agreement. If the Customer fails to do so, then it shall be responsible for Baynum Solutions' reasonable attorney fees and costs associated with enforcing those notice, administrative, or claim procedures. The prevailing party in any legal action or proceeding arising out of this Agreement or these Terms shall be entitled to recover its reasonable attorney fees, expert fees, and other fees and costs from the non-prevailing party.
 14. **Confidentiality.** The Customer agrees to maintain in strict confidence and will not, directly or indirectly (including through its principals, employees, agents, or affiliates), divulge, transmit, publish, release, or otherwise use or cause to be used in any manner to compete with or contrary to the interests of Baynum Solutions or its affiliates, any confidential or proprietary information relating to Baynum Solutions' Products, Services, pricing, technology, business relationships, or customers, or otherwise relating to Baynum Solutions' business operations. The Customer shall use the same level of care (but in any event will not use less than commercially reasonable care), to prevent disclosure of Baynum Solutions' confidential and proprietary information as the Customer uses with its own information of similar sensitivity or importance. The Customer acknowledges that all of Baynum Solutions' confidential and proprietary information compiled, obtained by, or furnished to Baynum Solutions in connection with all Products, Services, or Purchase Orders, is confidential information and Baynum Solutions' exclusive property. The Customer shall be responsible for any disclosure of confidential or other information in violation of this Section by any of its principals, employees, affiliates, or agents.
 15. **Counterparts and E-signature.** The Agreement and subsequent amendments, if any, may be executed in several counterparts and all so executed shall constitute one agreement binding upon all parties. The Agreement and subsequent amendments, if any, may be signed manually, by facsimile, or electronically, all of which shall constitute a valid, original signature and shall be fully binding and enforceable against all parties.
 16. **Property Insurance.** The Customer and the applicable real property's owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the project is located, property insurance written on a builder's risk "all-risk" completed value or equivalent policy form, which shall be sufficient to cover the total value of the project on a replacement cost basis. The Customer's property insurance coverage shall be no less than the amount of the Products and Services furnished to the Customer for the project, plus the value of subsequent modifications, labor performed, and materials or equipment supplied by others. The property insurance shall be maintained until substantial completion and shall include the interests of the property owner, the Customer, and Baynum Solutions and its subcontractors, if any.
 17. **Conflicts.** In the event of any conflict, inconsistency, or ambiguity in these Terms and the Agreement, these Terms shall control and have priority.
 18. **Modifications.** These Terms and the Agreement shall not be modified or amended except by written agreement executed by both parties.
 19. **Notice.** Every notice, demand, request, consent, approval, or other communication that either party is required or desires to give or make to the other party shall, notwithstanding any other provisions of these Terms or the Agreement, be effective only if given in writing at the following applicable address and (1) delivered by hand and receipted for; (2) by registered or certified mail, postage-prepaid, return receipt requested; or (3) by overnight mail as follows: If to Baynum Solutions, 942 Saratoga St., Newport, Kentucky 41071, Attn: Daniel Adams; The Customer's address shall be the address set forth in the Proposal or its applicable statutory agent's address unless otherwise provided in writing.