# Staff Summary Report

Tempe

**Council Meeting Date:** 04/03/08 **Agenda Item Number:** _____

**SUBJECT:** Request approval of a professional services contract with Vollmer & Associates for landscape design at the City Hall Parking Garage.

**DOCUMENT NAME:** 20080403PWDR05 **PARKING (0503-19) PROJECT NO. 6702971**

**SUPPORTING DOCS:** Yes

**COMMENTS:** Total cost for this contract shall not to exceed $138,135.

**PREPARED BY:** Donna Rygiel, Engineering Contract Administrator (x8520)

**REVIEWED BY:** Andy Goh, Deputy PW Manager/City Engineer (x8896)

**APPROVED BY:** Glenn Kephart, Public Works Manager (x8205)

**LEGAL REVIEW AS TO FORM:** Teresa Voss, Assistant City Attorney (x8814)

**FISCAL NOTE:** Sufficient funds are available in Capital Improvement Fund No. 6702971.

**RECOMMENDATION:** Approve contract and authorize the Mayor to sign all necessary documents for the contract.

**ADDITIONAL INFO:** The scope of work for this contract is to provide landscape design for the City Hall Parking Garage project. The design will incorporate, among other things, the 6th Street Park and create a pedestrian connection between 5th Street and 6th Street.

The fee was negotiated by staff and is considered reasonable for the scope of services. Vollmer & Associates was selected from our consultant on-call list consistent with Title 41 Arizona Revised Statutes.

COPY

CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
DIVISION OF ENGINEERING

# CONTRACT FOR PROFESSIONAL SERVICES

THIS CONTRACT is made and entered into on the 3rd day of April, 2008, by and between the City of Tempe, hereinafter called CITY, and VOLLMER & ASSOCIATES, hereinafter called the CONSULTANT.

The CITY engages the CONSULTANT to perform professional services for a project known and described as CITY HALL PARKING GARAGE LANDSCAPE DESIGN, Project No. 6702971, hereinafter called the "Project".

## SECTION I - SERVICES OF THE CONSULTANT

The CONSULTANT shall perform the following professional services to CITY standards and in accordance with the degree of care and skill that a registered professional in Arizona would exercise under similar conditions:

A. The CONSULTANT shall provide landscape design services as described in Exhibit "A" attached.

B. The CONSULTANT has assigned Jim Smith as the Project Manager for this Contract. Prior written approval is required in the event the CONSULTANT needs to change the Project Manager. The CONSULTANT shall submit the qualifications of the proposed substituted personnel to the City for approval.

C. The CONSULTANT shall prepare and submit a detailed opinion of probable cost of the project.

D. The CONSULTANT shall follow and comply with the Public Improvement Project Guide as directed by the CITY.

E. The CONSULTANT shall prepare plans and technical specifications per the requirements of the applicable chapters of the City's Engineering Design Criteria Manual, latest revision, and the Maricopa Association of Governments (MAG) Standard Specification and Details as amended by the CITY. All plans shall be prepared on CAD as required by the CITY. Final plans shall be submitted on 3 ml double matte black line mylar and shall be 24" x 36" in size.

F. The CONSULTANT shall submit all final construction documents in both hard copy and electronic format. Plans shall be MicroStation or AutoCAD compatible and all other documents shall be Microsoft Office compatible. The software version used shall be compatible to current City standards. Other support documents, for example, structural calculations, drainage reports and geotechnical reports, shall be submitted in hard copy only.

## SECTION II - PERIOD OF SERVICE

The CONSULTANT shall complete all services within 540 calendar days of the "Notice to Proceed" date. In the event delays are experienced beyond the control of the CONSULTANT, the schedule may be revised as mutually agreed upon by the CITY and the CONSULTANT.

## SECTION III - CONSULTANT'S COMPENSATION

A. The method of payment for this CONTRACT is payment by installments. Total compensation for the services performed shall not exceed $138,135.00, unless otherwise authorized by the CITY. This fee includes the sum of $125,885.00 for design services; an amount not to exceed $8,750.00 for post-design services based on hourly rates established in the attached Exhibit "A"; and an allowance of $3,500.00 for reimbursable expenses, which in no event will ever be more than actual cost.

B. The CITY shall pay the CONSULTANT in installments based upon monthly progress reports and detailed invoices submitted by the CONSULTANT subject to the following limitations:

1. Prior to approval of the preliminary design (60% plans), payments to the CONSULTANTS shall not exceed 60 % of the total CONTRACT amount.

2. Prior to approval of the final design documents, payments to the CONSULTANTS shall not exceed 90 % of the total CONTRACT amount. The final approval and payment will be made within a reasonable period of time regardless of the project construction schedule.

3. Payment for reimbursable expenses shall be made during all phases based on actual expenses.

C. The CITY at its discretion may, by written notification, waive the above limitations.

D. The CITY shall make payments to the CONSULTANT within thirty (30) days after receipt of the progress report and detailed invoice.

## SECTION IV - THE CITY'S RESPONSIBILITIES

A. The CITY shall designate a project manager during the term of this CONTRACT. The project manager has the authority to administer this CONTRACT and shall monitor compliance with all terms and conditions stated herein. All requests for information from or a decision by the CITY on any aspect of the work shall be directed to the project manager.

B. The CITY shall review submittals by the CONSULTANT and provide prompt response to questions and rendering of decisions pertaining thereto, to minimize delay in the progress of the CONSULTANT'S work. The CITY will keep the CONSULTANT advised concerning the progress of the CITY'S review of the work. The CONSULTANT agrees that the CITY'S inspection, review, acceptance or approval of CONSULTANT'S work shall not relieve CONSULTANT'S responsibility for errors or omissions of the CONSULTANT or it's sub-consultant(s).

C. Unless included in the CONSULTANT'S Services as identified in Section I, the CITY shall furnish the CONSULTANT gratis, the following information or services for this Project:

1. One copy of its maps, records, laboratory tests, survey ties, and benchmarks, or other data pertinent to the services. However, the CONSULTANT shall be responsible for searching the records and requesting specific drawings or information and independently verifying said information.

2. Available CITY data relative to policies, regulations, standards, criteria, studies, etc., relevant to the Project.

3. When required, title searches, legal descriptions, detailed ALTA Surveys, and environmental assessments to the end that the CITY may proceed with the right of way acquisition.

## SECTION V - TERMINATION

The CITY, at its sole discretion, may terminate this CONTRACT for convenience or abandon any portion of the Project for which services have not been performed by the CONSULTANT, upon fourteen (14) days written notice delivered to CONSULTANT personally or by certified mail at 426 N. 44th Street, Suite 350, Phoenix, AZ 85008. This CONTRACT may be terminated pursuant to ARS Sec. 38-511.

Immediately after receiving such notice, the CONSULTANT shall discontinue advancing the services under this CONTRACT and proceed to close said operations under this CONTRACT. The CONSULTANT shall appraise the services it has completed and submit an appraisal to the CITY for evaluation. The CITY shall have the right to inspect the CONSULTANT's work to appraise the services completed.

CONSULTANT shall deliver to the CITY all drawings, special provisions, field survey notes, reports, estimates and any and all other documents or work product generated by the CONSULTANT under the CONTRACT, entirely or partially completed, together with all unused materials supplied by the CITY.

In the event of such termination or abandonment, the CONSULTANT shall be paid for services performed prior to receipt of said notice of termination including reimbursable expenses then incurred.

If the remuneration scheduled hereunder is based upon a fixed fee or definitely ascertainable sum, the portion of such sum payable shall be proportionate to the percentage of services completed by the CONSULTANT based upon the scope of work set forth in Exhibit A, and shall be agreed upon mutually by the CONSULTANT and the CITY. However, in no event shall the fee exceed that set forth in Section III of the attached CONTRACT.

The CITY shall make final payment within sixty (60) days after the CONSULTANT has delivered the last of the partially completed items and the final fee has been agreed upon.

In the event this CONTRACT is terminated, the CITY shall have the option of completing the work, or entering into a CONTRACT with another party for the completion of the work according to the provisions and agreements herein.

## SECTION VI - SUPPLEMENTAL CONTRACT PROVISIONS

The supplemental contract provisions to this CONTRACT are attached hereto and incorporated herein by reference as if fully set forth.

City Hall Parking Garage Landscape Design
Project No. 6702971

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT this _____ day of _____, 2008.

CITY OF TEMPE, ARIZONA

By _____
Mayor

By _____
Public Works Manager

ATTEST:

Recommended By:

_____
City Clerk

_____
Deputy PW Manager/City Engineer

APPROVED AS TO FORM:

_____
City Attorney

**The CONSULTANT warrants that the person who is signing this CONTRACT on behalf of the CONSULTANT is authorized to do so and to execute all other documents necessary to carry out the terms of this CONTRACT.**

CONSULTANT
Vollmer & Associates

_____
Name

_____
Title

_____
Federal I.D. No. /Social Security No.

Certified to be a true and exact copy.

_____
Karen M. Fillmore
Records Specialist

**CITY OF TEMPE**
**TEMPE, ARIZONA**
**DEPARTMENT OF PUBLIC WORKS**

**AFFIDAVIT OF GENERAL CONTRACTOR / PRIME CONSULTANT**
**REGARDING**
**HEALTH INSURANCE**

_____,
Arizona

Date_____

**CITY HALL PARKING GARAGE LANDSCAPE DESIGN**
**Project No. 6702971**

I hereby certify that _____ (name of company) currently has, and all of its major subcontractors/subconsultants, defined as doing work in excess of $30,000.00, will have, during the course of this contract, health insurance for all employees working on this project and will offer health insurance coverage to eligible dependents of such employees, as defined in the accompanying Guidelines. The company's health insurance is as follows:

Name of Insurance Company:_____

Type of Insurance (PPO, HMO, POS, INDEMNITY): _____

Policy No.: _____

Policy Effective Date (MM/DD/YY): _____

Policy Expiration Date (MM/DD/YY): _____

Signed and dated at _____, this _____ day of _____, 2008.

_____
General Contractor/Prime Consultant

By:_____

STATE OF ARIZONA )
) ss
COUNTY OF MARICOPA )

SUBCRIBED AND SWORN to before me this _____ day of _____, 2008.

_____
Notary Public

My commission expires:

_____

# City of Tempe
# Guidelines for Implementation of Health Insurance

These Guidelines are provided for purposes of implementing Resolution No. 2000.73, which requires all employees of prime consultants, general contractors and major subconsultants and subcontractors to have health insurance and to offer health insurance to their eligible dependants, as determined at the start of each project. Questions regarding these guidelines should be directed to the City of Tempe Engineering Division at (480) 350-8200.

1. All Prime Consultants who enter into a Public Works contract or General Contractors who bid on Public Works projects that are advertised for bid and enter into a contract in excess of $30,000 with the City of Tempe after January 1, 2001, are required to sign an affidavit in the form attached hereto. The prime consultant or general contractor shall require that all major subconsultants or subcontractors, defined as entities doing work in excess of $30,000, comply with the health insurance requirements. In signing the affidavit, prime consultants and general contractors may refer to and rely upon these Guidelines for interpretation.

2. Health insurance is required for permanent employees who work for the consultant/contractor more than one hundred and twenty (120) days in any calendar year. A "work day" consists of any time within a twenty-four hour period, regardless of number of hours, that the individual is paid. This requirement excludes students working part-time who are enrolled in a recognized educational institution. Many companies have a grace period or a qualifying period prior to commencement of insurance coverage, which is acceptable so long as the employee coverage begins by the 120$^{th}$ day of contract signing. Temporary employees will be covered to the same extent as the City of Tempe covers temporary employees as determined at the start of each project.

3. If a contractor is a "Union" shop and withholds union dues from employees for health insurance coverage that is also offered to their eligible dependents and meets all City requirements, the Contractor may so note on the required affidavit.

4. The health insurance requirements herein apply to all employees that are directly involved with the City of Tempe project including support and administrative personnel.

5. Health insurance coverage must be maintained during the entire time of the contract, including any warranty periods, with the City.

6. All complaints concerning violations of the health insurance requirements shall be filed by an employee, in writing, with the Public Works Department, within thirty (30) days from discovery of the violation. An administrative hearing will be held before the Public Works Manager, and a written decision of findings will be provided to the parties to the hearing within ten (10) days thereafter. Appeal from the decision

of the Public Works Manager may be made within ten (10) days of the date of the decision by filing a notice of appeal in writing with the Public Works Department. If an appeal is timely filed, an administrative hearing will be held before an administrative hearing officer appointed by the City Manager. The decision of the administrative hearing officer shall be final.

7. In the event of a finding by the City of a violation of the insurance provisions, the company in violation of the provision shall be barred from bidding on, or entering into, any public works contract with the City for a minimum period of three (3) years.

8. All consultants and contractors subject to the health insurance requirements shall post, in English and Spanish, notice of the health insurance requirements at their office and at the job site. Signs for posting will be provided by the City.

These "Guidelines for Implementation of Health Insurance", issued and dated this 21st day of August, 2002, hereby amend all guidelines previously issued.

Glenn Kephart, P.E.
Public Works Manager

CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
DIVISION OF ENGINEERING

# SUPPLEMENTAL CONTRACT PROVISIONS

## SECTION I - INSURANCE

Without limiting any of their obligations or liabilities, the CONSULTANT, at its own expense, shall purchase and maintain the minimum insurance specified below with companies duly licensed or otherwise approved by the State of Arizona, Department of Insurance, and with forms reasonably satisfactory to the CITY. Each insurer shall have a current A.M. Best Company, Inc. rating of not less than A-VII. Use of alternative insurers requires prior approval from the CITY.

### A. General Clauses

1. **Additional Insured.** The insurance coverage, except Workers' Compensation and Professional Liability, required by this CONTRACT, shall name the CITY, its agents, representatives, directors, officials, and employees, as additional insured, and shall specify that insurance afforded the CONSULTANT shall be primary insurance, and that any self insured retention and/or insurance coverage carried by the CITY or its employees shall be excess coverage, and not contributory coverage to that provided by the CONSULTANT.

2. **Coverage Term.** All insurance required herein shall be maintained in full force and effect until Services required to be performed under the terms of this CONTRACT are satisfactorily completed and formally accepted; failure to do so may constitute a material breach of this CONTRACT, at the sole discretion of the CITY.

3. **Primary Coverage.** The CONSULTANT's insurance shall be primary insurance as respects the CITY and any insurance or self insurance maintained by the CITY shall be in excess of the CONSULTANT'S insurance and shall not contribute to it.

4. **Claim Reporting.** CONSULTANT shall not fail to comply with the claim reporting provisions of the policies or cause any breach of a policy warranty that would affect coverage afforded under the policy to protect the CITY.

5. **Waiver.** The policies for Workers' Compensation and General Liability shall contain a waiver of transfer rights of recovery (subrogation) against the CITY, its agents, representatives, directors, officers, and employees for any claims arising out of the work of the CONSULTANT.

6. **Deductible/Retention.** The policies may provide coverage, which contains deductibles or self-insured retentions. Such deductible or self-insured retentions shall not be applicable with respect to the coverage provided to the CITY under such policies. The CONSULTANT shall be solely responsible for deductible or self-insured retentions and the CITY may require the CONSULTANT to secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

7. **Policies and Endorsements.** The CITY reserves the right to request and to receive, within 10 working days, information on any or all of the above policies or endorsements.

8. **Certificates of Insurance.** Prior to commencing services under this CONTRACT, CONSULTANT shall furnish the CITY with Certificates of Insurance, or formal endorsements as required by the CONTRACT, issued by CONSULTANT'S insurer(s), as evidence that policies providing the required coverages, conditions, and limits required by this CONTRACT are in full force and effect. Such certificates shall identify this CONTRACT by referencing the project number and/or project name and shall provide for not less than thirty (30) days advance written notice by Certified Mail of cancellation or termination of insurance.

9. **Sub-Consultants/Contractors.** CONSULTANT shall include all sub-consultants and sub-contractors as insured under its policies or shall furnish separate certificates and endorsements for each sub-consultant and sub-contractor.

B. **Workers' Compensation**

The CONSULTANT shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of CONSULTANT employees engaged in the performance of the Services; and Employer's Liability insurance of not less than $100,000 for each accident, $100,000 disease for each employee, and $500,000 disease policy limit.

In case Services are sub-contracted, the CONSULTANT shall require the sub-consultant to provide Workers' Compensation and Employer's Liability to at least the same extent as provided by the CONSULTANT.

C. **Automobile Liability**

The CONSULTANT shall carry Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damages of not less than $1,000,000 each occurrence regarding any owned, hired, and non-owned vehicles assigned to or used in performance of the CONSULTANT Services. Coverage will be at least as broad as coverage Code 1 "any auto" (Insurance Service Office policy form CA 0001 1/87 or any replacements thereof). Such coverage shall include coverage for loading and unloading hazards.

D. **Commercial General Liability**

The CONSULTANT shall carry Commercial General Liability insurance with a combined single limit of not less than $1,000,000. The policy shall be primary and include coverage for bodily injury, property damage, personal injury, products, completed operations, and blanket contractual covering, but not limited to, the liability assumed under the indemnification provisions of this CONTRACT, which coverage will be at least as broad as Insurance Service Office policy form CG 0002 1-11-88 or any replacement thereof.

In the event the general liability insurance policy is written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the Services as evidenced by annual Certificates of Insurance.

Such policy shall contain a "severability of interests" provision (also known as "cross liability" and "separation of insured").

E. **Professional Liability**

The CONSULTANT retained by the CITY to provide the engineering services required by the CONTRACT will maintain Professional Liability insurance covering errors and omissions arising out of the Services performed by the CONSULTANT or any person employed by him, with an unimpaired limit of not less than $1,000,000 each claim and $1,000,000 all claims, or 10% of the construction budget, whichever is larger. In the event the insurance policy is written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of Services as evidenced by annual Certificates of Insurance.

F. **Property Coverage – Valuable Papers**

The CONSULTANT shall carry Property coverage on all-risk, replacement cost, agreed amount form with Valuable Papers insurance sufficient to assure the restoration of any documents, memoranda, reports, or other similar data relating to the services of the CONSULTANT used in the completion of this CONTRACT.

## HEALTH INSURANCE REQUIREMENTS

All Consultants who enter into a Public Works contract in excess of $30,000.00 with the City of Tempe, after January 1, 2001, must certify that they have, and all of their major sub-consultants will have, health insurance for all employees. Health insurance must be offered to eligible dependents of all such employees. An affidavit must be signed in the form included herein (Page AFF-1). Major sub-consultants are defined as entities doing work in excess of $30,000.00 as determined at the start of each project. All required health insurance must be maintained during the entire time of the contract with the City.

Health insurance is required for all consultant and major sub-consultant employees who work more than one hundred and twenty (120) days in any calendar year. A "work day" consists of any time within a twenty-four hour period, regardless of number of hours, that the individual is paid. At this time, health insurance is not required for temporary employees or students working part-time who are enrolled in a recognized educational institution.

The health insurance requirements shall apply to all employees directly involved with this City project including support and administrative personnel.

All complaints concerning violations of the health insurance requirements shall be filed, in writing, with the Public Works Department, within thirty (30) days from discovery of the violation. An administrative hearing will be held before the Public Works Manager, and a written decision of findings will be provided to the parties to the hearing within ten (10) days thereafter. Appeal from the decision of the Public Works Manager may be made within ten (10) days of the date of the decision by filing a notice of appeal in writing with the Public Works Department. If an appeal is timely filed, an administrative hearing will be held before an administrative hearing officer appointed by the City Manager. The decision of the administrative hearing officer shall be final.

In the event of a finding of violation of the insurance provisions, the company in violation of the provision shall be barred from bidding on, or entering into, any Public Works contract with the City for a period of three (3) years from the execution of the contract.

All Consultants subject to the health insurance requirements shall post, in English and Spanish, notice of the health insurance requirements at their office and at the job site. Signs for posting will be provided by the City at the Pre-construction Conference for Contractors and sent with the executed contract for Consultants.

## SECTION II – WORK FOR HIRE AND OWNERSHIP OF DELIVERABLES

CONSULTANT shall ensure that all the results and proceeds of CONSULTANT'S work on any projects (and that of its agents, employees, officers, and contractors) shall be owned by the CITY, including the copyright thereto, as work for hire. In the event, for any reason, such results and proceeds are not deemed work for hire, CONSULTANT shall be deemed hereby to have assigned to CITY all of its right, title and interest in such results and proceeds and content to CITY.

All work products (electronically or manually generated), including plans, specifications, cost estimates, tracings, studies, design analyses, original mylar drawings, computer aided drafting and design (CADD) file diskettes which reflect all final drawings, and other related products which are prepared in the performance of this Contract, are the property of the CITY and are to be delivered to the CITY on the particular type of storage media on which they are stored (e.g. CD, thumb drive, etc.) before the final payment is made to the CONSULTANT. The CITY shall retain ownership of these original works. If approved in writing by the CITY, the CONSULTANT may retain the originals and supply the CITY with reproducible mylar copies of the work.

## SECTION III - CONFLICT OF INTEREST

The CONSULTANT agrees to promptly disclose any financial or economic interest in the Project property, or any property affected by the Project, existing prior to the execution of this CONTRACT. Further, the CONSULTANT agrees to promptly disclose any financial or economic interest with the Project property, or any property affected by the Project, if the CONSULTANT gains such interest during the course of this CONTRACT.

If the CONSULTANT gains any financial or economic interest in the Project during the course of this CONTRACT, this may be grounds for terminating this CONTRACT at the sole discretion of the CITY.

The CONSULTANT shall not engage the services on this CONTRACT of any present or former CITY employee who was involved as a decision maker in the selection or approval processes, or who negotiated or approved billings or contract modifications for this CONTRACT.

The CONSULTANT agrees that it shall not perform services on this Project for the contractor, sub-contractor, or any supplier.

The CONSULTANT shall not negotiate, contract, or make any agreement with the contractor, sub-contractor, or any supplier with regard to any of the work under this Project, or any services, equipment or facilities to be used on this Project.

## SECTION IV - COVENANT AGAINST CONTINGENT FEES

The CONSULTANT affirms that he has not employed or retained any company or person, other than a bona fide employee working for the CONSULTANT to solicit or secure this CONTRACT, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the CONTRACT. For breach or violation of this clause, the CITY may terminate this CONTRACT without liability, or in its discretion may deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage brokerage fee, gift, or contingent fee.

## SECTION V - INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT shall defend, indemnify and hold harmless the CITY, its agents, officers, officials, and employees from and against all claims, damages, losses, and expenses (including but not limited to attorney's fees, court costs, and the costs of appellate proceedings), relating to, arising out of, or alleged to have resulted from the negligent acts, errors, mistakes or omissions in the work, services, or professional services of the CONSULTANT, its agents, employees, or any other person (not the CITY) for whose negligent acts, errors, mistakes or omissions in the work, services, or professional services the CONSULTANT may be legally liable in the performance of this contract. CONSULTANT'S duty to defend, hold harmless and indemnify the CITY, its agents, officers, officials, and employees shall arise in connection with any claim for damage, loss, or expenses that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of any person or property, including loss of use resulting therefrom, caused by any negligent acts, errors, mistakes, omissions, work, services, or professional services in the performance of this contract by CONSULTANT or any employee of the CONSULTANT, or any other person (not the CITY) for whose negligent acts, errors, mistakes, omissions, work, or services the CONSULTANT may be legally liable. The amount and type of insurance coverage requirement set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

## SECTION VI - DISPUTE RESOLUTION

In the event of a dispute concerning questions of fact that arise during the course of the CONTRACT, the parties will meet in good faith to attempt to resolve such questions.

## SECTION VII - ADDITIONAL SERVICES

Additional services which are outside the scope of basic services contained in this CONTRACT shall not be performed by the CONSULTANT without prior written authorization from the CITY. Additional services, when authorized by an executed contract or an Amendment to this CONTRACT shall be compensated for by a fee mutually agreed upon between the CITY and the CONSULTANT.

## SECTION VIII - SUCCESSORS AND ASSIGNS

This CONTRACT shall not be assignable except at the written consent of the parties hereto and it shall extend to and be binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto.

## SECTION IX- SPECIAL PROVISIONS

The CONSULTANT shall comply with all applicable Federal, State, and local laws and ordinances at the time the plans are sealed, and will not discriminate against any person on the basis of race, color, or national origin in the performance of this CONTRACT, and shall comply with the terms and intent of Title VII of the Civil Rights Act of 1964, P.L. 88-354.

The CONSULTANT further agrees to insert the foregoing provisions in all sub-contracts hereunder, except sub-contracts for standard commercial supplies or raw materials. Any violation of such provisions shall constitute a material breach of this CONTRACT.

This CONTRACT shall be in full force and effect only when it has been approved by the City Council of the City of Tempe, Arizona, and when executed by the duly authorized CITY officials and the duly authorized agent of the CONSULTANT.

vollmer & ASSOCIATES

One Gateway Center
426 North 44th Street
Suite 350
Phoenix, Arizona 85008
*telephone* (602) 358-7711
*facsimile* (602) 358-7712

# EXHIBIT A

Tuesday, 4 March 2008

Mr. Mark Weber
City of Tempe
Public Works/Engineering Dept.
31 East Fifth Street
Tempe, AZ. 85281

RE: 6TH STREET PARK PROJECT - 6702971
LANDSCAPE ARCHITECTURAL SERVICES

Dear Mark,

Vollmer & Associates is pleased to submit the following proposal for landscape architectural services on the 6th Street Park.

SCOPE OF SERVICES

This proposal provides an outline of services based on our initial meeting with you, Mark Vinsen and Samuel Thompson, the conceptual landscape plan dated September 10, 2007, engineering plans for the City parking garage dated 1/25/08 and architectural parking garage plans dated 1/15/08. The following estimate of professional fees includes schematic design, design development 30%, 60%, 90% permit construction documents and post design services.

I. PRELIMINARY SERVICES
   A. Review Budget and Verify Program – Review existing program and budget with staff.
   B. Vollmer & Associates will collect and review available data and print information from the adjacent improvements as provided by the City of Tempe.
      1. Existing approved parking garage to the west.
      2. Existing park plan dated September 10, 2007.
      3. Existing civil engineering plans of the park site dated January 8, 2008.
      4. Existing approved hotel development plans north of the proposed parking garage.
      5. Proposed architectural, structural plans and M.P.E. plans of rooftop garden.
   C. Utility Investigation – This will include contacting all of the utility companies with existing or planned utilities in the limit of work. Drawings will be obtained and incorporated into the construction drawings for this project.
   D. Parking Garage Rooftop Garden Investigation – Review existing architectural, structural, M.P.E. plans to determine the constraints on the green roof area. A meeting with the appropriate city staff will review the findings and determine the roof top garden feasibility. A design direction will be confirmed with staff at the point.

MAW

II. SCHEMATIC DESIGN 10%

Initial design phase to gain a thorough understanding of the influences that will affect the final design. The design dated September 10, 2007 will be used as the base point for design services. Services include the following:

A. Design investigation, develop vision/illustrated site plan 22" x 34".
B. Illustrative roof top garden plan.
C. Illustrative conceptual rooftop garden plan and landscape design.
D. Meeting with staff to review concept plan (2 anticipated).
E. Develop hardscape program materials circulation patterns and lighting locations.
F. Develop conceptual plant palette.
G. Develop specialty features and site lighting.
H. Incorporate staff comments.
I. Submit black and white plans to planning department.
J. Council meeting and presentation (if required).
K. Prepare preliminary estimate of probable cost with McCarthy review.

III. DESIGN DEVELOPMENT 30% plans

Further design and development based on staff comments, council approval, available date site investigation, city's standard details and approval of the schematic site plan, Vollmer & Associates will prepare 30% plans.

A. Further refine hardscape materials and site plan i.e. (pavers, concrete finishes and colors).
B. Preliminary planting plan.
C. Preliminary irrigation plan.
D. Conceptual grading plan.
E. Conceptual lighting plans and proposed fixtures.
F. Lighting and electrical coordination.
G. Civil engineering coordination.
H. Prepare preliminary estimate of probable cost – reviewed by McCarthy.
I. Coordinate revisions to garage plans based on garden design.
J. Finalize site utility locations.
K. Preliminary value engineering.
L. CSI format specification outline.
M. Three (3) 22" x 34" (reduced to 11x17) plan set will be submitted to City of Tempe.

IV. DESIGN DEVELOPMENT / CONSTRUCTION DOCUMENTS 60%

Prepare 60% design documents for submittal to the City of Tempe based on comments received on the 30% submittal. Three (3) 22" x 34" (reduced to 11x17) plan set will be submitted.

A. CONSTRUCTION DOCUMENTS 90% (Agency Review Set)

Based on 60% comments Vollmer & Associates will prepare 90% construction documents and specifications. Tasks and services provided include:

1. Site Development Plans and Details – Design, layout detailing and specifications for hardscape elements including walls, columns, steps, ramps, decorative pavement, tree grates and pots. Walls taller that 3' will be designed by Vollmer & Associates but shown on plans by others. Note: Vollmer & Associates will review all shop drawings for design compliance. Vollmer & Associates will coordinate with the civil, architectural and structural team to ensure the design intent is met where any portion of the landscape scope overlaps other disciplines.
2. Planting Plans – Prepare planting plans for all landscape areas defined within this project. Plans shall indicate the placement, size, quantity, names of all plant material, and other supplies used for landscape purposes. Also included will be special notes and related details that specifically address project requirements.

3. Irrigation Plans – Plans shall indicate all piping, valves, clocks, heads, points of connection, appropriate details and notes required to complete an operational automatic irrigation system. All new water services will be cross coordinated to the civil engineer plans.
4. Landscape Irrigation Details – Plans shall show specific methods of installation and detailed methods of construction.
5. 8 ½ x 11 CSI format specifications from all sub-consultants, except civil.
6. Assembly and coordination of sub-consultant plans and specification including, landscape, irrigation, structural, civil and electrical engineering.

B. Special rooftop details and coordination with original design team.
C. Prepare estimate of probable cost. Cost to be reviewed by McCarthy for current construction rates.
D. Preparation of 100% plans and specifications. The final 100% plans and specifications will be prepared incorporating all comments received from the City. One (1) reproducible set of 24" x 36" Mylar plans and 8 ½ x 11 CSI specifications prepared to produce the construction sets.
E. Finalize value engineering based on budget constraints.
F. Modify plans to match project budget realized in estimate and value engineering.
G. Permitting Services – It is not anticipated that this project will need to be reviewed and permitted by Maricopa County. City of Tempe Building Permit – The landscape architect will complete and submit for the required City permit applications for approval. The City will pay for all permits and required review fees.

V. POST DESIGN SERVICES (HOURLY)
A. Submittals – The engineer will review Shop Drawings submittals on the equipment to be furnished.
B. Site visits – The landscape architect will make periodic site visits during the construction to monitor the construction progress. These will be as requested by the City.
C. Questions during construction – Receive and respond to contractors questions regarding the plans and specifications during the construction phase.
D. The landscape architect will answer and provide ASI's, and RFI's in 8 ½ x 11 or 11 x 17 format during construction.

TERMS AND CONDITIONS

Landscape Architect agrees to provide its professional services in accordance with generally accepted standards of its profession. Landscape Architect agrees to put forth reasonable efforts to comply with codes, laws and regulations in effect as of the date of this agreement.

The proposal will be open for acceptance for sixty (60) days. No work will be performed or billed without your authorization. Additional Services beyond Landscape Architect's Basic Services may be provided for an additional fee.

Vollmer & Associates appreciates the opportunity to make this submittal and continue our involvement with the City of Tempe. Should you have any questions or if any additional information can be supplied, please contact us at 602.358.7711. If this proposal meets with your approval, please sign and return one copy for our files.

Respectfully submitted,
Vollmer & Associates, Inc.

Jim Smith
Project Manager/ RLA
JS/sf
Prop 2008

**CITY OF TEMPE**
**6th STREET PARK**
**CITY PROJECT NO. 6702971**

## LANDSCAPE ARCHITECTURAL SERVICES OUTLINE

| Task | Task Description | Principal Rate $160.00 | Project Manager Rate $125.00 | Project Assistant Rate $100.00 | Landscape Designer Rate $85.00 | CAD Technician Rate $75.00 | Admin. Rate $50.00 | Total Hours | Total Fee |
|---|---|---|---|---|---|---|---|---|---|
| **Professional Labor Fee** | | | | | | | | | |
| **I** | **Preliminary Services** | | | | | | | | |
| A. | Establish budget and review against program | 1.0 | 4.0 | | | | 1.0 | 6.00 | $710.00 |
| B. | Collect Data: | | | | | | | | |
| | 1. Existing approved parking garage to the west | | 2.0 | | | | | 2.00 | $250.00 |
| | 2. Existing park plan | 1.0 | 2.0 | | | | | 3.00 | $410.00 |
| | 3. Review on site existing civil engineering design | 1.0 | 3.0 | | | | | 4.00 | $535.00 |
| | 4. Existing approved hotel development north of the proposed parking garge | 1.0 | 2.0 | 1.0 | | | | 4.00 | $510.00 |
| | 5. Proposed architectural, structural and M.P.E. plans of rooftop garden | | 2.0 | 1.0 | | | | 3.00 | $350.00 |
| C | Utility Investigation | | 4.0 | 2.0 | | | | 6.00 | $700.00 |
| D | Review garage documents with design team and city staff to determine garden feasability | 1.0 | 8.0 | 2.0 | | | | 11.00 | $1,360.00 |
| | | | | | | | | **Subtotal** | **$4,825.00** |
| **II** | **Schematic Design - 10%** | | | | | | | | |
| A. | Design investigation,develop project visions and framework | 12.0 | 4.0 | 2.0 | 2.0 | | | 20.00 | $2,790.00 |
| B. | Illustrative conceptual site plan and landscape design | 8.0 | 2.0 | 8.0 | 2.0 | | | 20.00 | $2,500.00 |
| C. | Illustrative conceptual rooftop garden plan and landscape design | 6.0 | 6.0 | 4.0 | 2.0 | | | 18.00 | $2,280.00 |
| D. | Meeting with staff to review concept plans | 3.0 | 3.0 | | | | | 6.00 | $855.00 |
| E. | Develop hardscape materials, circulation patterns and lighting locations | 4.0 | 4.0 | 2.0 | 1.0 | | | 11.00 | $1,425.00 |
| F. | Develop conceptual plant palette | 2.0 | 2.0 | | 1.0 | 1.0 | | 6.00 | $730.00 |
| G. | Develope speciality features and site furnishings | | 4.0 | 1.0 | | | | 5.00 | $600.00 |
| H. | incorporate staff comments | 2.0 | 4.0 | 2.0 | 2.0 | | | 10.00 | $1,190.00 |
| I. | Submit black and white plans to planning department | | 3.0 | 1.0 | | | | 4.00 | $475.00 |
| J. | Council meeting and presentation (if required) | 3.0 | 3.0 | | | | | 6.00 | $855.00 |
| K. | Preliminary estimate of probable cost | 1.0 | 4.0 | 2.0 | | | 3.0 | 10.00 | $1,010.00 |
| | | | | | | | | **Subtotal** | **$14,710.00** |
| **III** | **Design Development - 30%** | | | | | | | | |
| A. | Further refine hardscape materials and site plan | 9.0 | 5.0 | 5.0 | | 3.0 | | 22.00 | $2,790.00 |
| B. | Preliminary planting plan | 6.0 | 4.0 | 1.0 | 3.0 | | | 14.00 | $1,815.00 |
| C. | Preliminary Irrigation plan | | 8.0 | 2.0 | | 7.0 | | 17.00 | $1,725.00 |
| D | Conceptual grading plan-- by Vollmer | | 8.0 | 2.0 | | 4.0 | | 14.00 | $1,500.00 |
| E. | Conceptual lighting plan--by Vollmer | 4.0 | 2.0 | 2.0 | 1.0 | | | 9.00 | $1,175.00 |
| F. | Lighting and electrical engineering coordination | | 4.0 | 1.0 | 1.0 | | | 6.00 | $685.00 |
| G. | Civil engineer coordination | | 7.0 | 1.0 | 2.0 | | | 10.00 | $1,145.00 |
| H. | Prepare preliminary estimate of probable cost | 1.5 | 6.0 | 2.0 | 2.0 | | | 11.50 | $1,360.00 |
| I. | Coordinate revisions to garage plans based on garden design | | 6.0 | | 4.0 | | | 10.00 | $1,090.00 |
| J. | Finalize site utility locations | | 4.0 | | 2.0 | | | 6.00 | $670.00 |
| K. | Preliminary value engineering | | 4.0 | | 2.0 | | | 6.00 | $670.00 |
| L | CSI format specifications outline | | 4.0 | | | | 2.0 | 6.00 | $600.00 |
| M. | Final design submittal to COT | | 3.0 | | 1.0 | | | 4.00 | $460.00 |
| | | | | | | | | **Subtotal** | **$15,685.00** |
| **IV** | **Construction Documents, Planning and Building Review - 60%, 90% and Permit** | | | | | | | | |
| A. | 1. Site development plans and details | 6.0 | 16.0 | 7.0 | 6.0 | | 2.0 | 37.00 | $4,270.00 |
| | 2. Planting plans including rooftop garden | 8.0 | 2.0 | 6.0 | | 6.0 | | 22.00 | $2,580.00 |
| | 3. Irrigation plans including rooftop garden | 1.0 | 6.0 | 4.0 | 7.0 | 7.0 | | 25.00 | $2,430.00 |
| | 4. Landscape and irrigation details | | 8.0 | 1.0 | | 4.0 | | 13.00 | $1,400.00 |
| | 5. CSI format specifications | | 18.0 | | | | 30.0 | 48.00 | $3,750.00 |
| | 6. Assembly and coordination | | 4.0 | | | | 12.0 | 16.00 | $1,100.00 |
| B. | Roof top garden details and coordination with sub-consultants | 4.0 | 9.0 | 4.0 | | 5.0 | | 22.00 | $2,540.00 |
| C. | Prepare estimate of probable cost | 3.0 | 6.0 | 2.0 | 2.0 | | | 13.00 | $1,600.00 |
| D. | Final set and plan coordination | | 4.0 | | | | | 4.00 | $500.00 |
| E. | Finalize value engineering | 3.0 | 6.0 | 3.0 | 4.0 | 4.0 | | 20.00 | $2,170.00 |
| F. | Finalize plan revisions as necessary to obtain final COT approval | | 6.0 | 1.0 | 1.0 | 8.0 | | 16.00 | $1,535.00 |
| G. | Permiting services | | 8.0 | | | | | 8.00 | $1,000.00 |
| | | | | | | | | **Subtotal** | **$24,875.00** |
| | | | | | | | | **Total Professional Labor Fee** | **$60,095.00** |

## Design Related Service

**V Sub-Consultant Fees**

| | | |
|---|---|---|
| A. | Civil engineer and architectural coordination with garage team (inclusive of rooftop garden coordination) | $40,000.00 |
| B. | Structural Engineer | $11,500.00 |
| C. | Electrical Engineer (site) | $14,290.00 |
| | **Subtotal** | **$65,790.00** |

**VI Post Design Services (hourly not to exceed)**

| | | |
|---|---|---|
| A. | Shop drawings review ( 16 hours allowance) | $2,000.00 |
| B. | RFI's ( 8 hours allowance) | $1,000.00 |
| C. | ASI's ( 10 hours allowance) | $1,250.00 |
| D. | 5 Construction meetings, site visits and field reports (5 meetings at 4 hours each average inclusive of travel time) | $2,500.00 |
| E. | As-built irrigation and hardscape | $2,000.00 |
| | **Subtotal** | **$8,750.00** |

**VII Reimbursables**

Reimbursable expenses: Printing, courrier service, postage, mileage **$3,500.00**

## Expense Summary

| | | |
|---|---|---|
| A. | Professional labor fee (Sections I,II, III IV and V) | $125,885.00 |
| B. | Post Design Services (Section VI) | $8,750.00 |
| C. | Reimbursables (Section VII) | $3,500.00 |
| | **Subtotal** | **$138,135.00** |

**Total Contract Fee** **$138,135.00**

All fees contained herein are referenced from the conceptual landscape plan provided by the city of Tempe dated September 10, 2007