

Staff Summary Report



Council Meeting Date: 12/06/07

Agenda Item Number: 39

SUBJECT: Request approval of a professional services design contract with J2 Engineering & Environmental Design for Clark Park Master Plan.

DOCUMENT NAME: 20071206PWCH13 CLARK PARK (0706-06) PROJECT NO. 6305061

SUPPORTING DOCS: Yes

COMMENTS: Professional design services contract in the amount of \$43,549 with J2 Engineering & Environmental Design, subject to execution of the final written contract.

PREPARED BY: MARK WEBER, PRINCIPAL CIVIL ENGINEER (x8526)

REVIEWED BY: ANDY GOH, DEPUTY PW MANAGER/CITY ENGINEER (x8896)

LEGAL REVIEW AS TO FORM: JENAE NAUMANN, ASSISTANT CITY ATTORNEY (x8402)

FISCAL NOTE: Sufficient funds are available in Capital Improvement Fund No. 6305061.

RECOMMENDATION: Approve contract and authorize the Mayor to sign all necessary documents for the contract together with any required addenda.

ADDITIONAL INFO: The purpose of this project is to prepare the Master Plan for Clark Park (including Aquatic Facility Master Plan). The scope of work for this project includes preparation of a comprehensive public involvement plan; attend Parks Board meetings and present concepts generated as a part of the public input process. Work closely with the Neighborhood and City staff to generate a Master Plan that best responds to the synthesis of technical studies, design concepts, and collective efforts of the consultant, along with the Neighborhood and City staff.

The contract amount of \$43,549, was negotiated by staff and is considered reasonable for the scope of services.

This approval is conditioned upon execution of final written contract documents and approved submittals of any required ensure to insure affidavit, insurance certificates or other documents.

Approved by Glenn Kephart, Public Works Manager



CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
DIVISION OF ENGINEERING

CONTRACT FOR PROFESSIONAL SERVICES

THIS CONTRACT is made and entered into on the 6th day of December, 2007, by and between the City of Tempe, hereinafter called CITY, and J2 ENGINEERING AND ENVIRONMENTAL DESIGN, hereinafter called the CONSULTANT.

The CITY engages the CONSULTANT to perform professional services for a project known and described as CLARK PARK MASTER PLAN, Project No. 6305061, 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 prepare a master plan design for Clark Park, as described in Exhibit "A" attached.
- B. The CONSULTANT has assigned Jeff Velasquez 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 270 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 be the sum of \$43,549.00, unless otherwise authorized by the CITY. This fee includes an allowance of \$404.00 for one additional public meeting.
- 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 (50% plans), payments to the CONSULTANTS shall not exceed 90% of the total CONTRACT amount.
 - 2. Prior to approval of the final design documents, payments to the CONSULTANTS shall not exceed 95% 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.
- 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 4649 E. Cotton Gin Loop, Suite B-2, Phoenix, AZ 85040. 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.

Clark Park Master Plan
Project No. 6305061

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT this _____ day of _____, 2007.

CITY OF TEMPE, ARIZONA

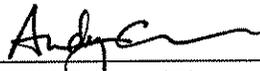
By _____
Mayor

By _____
Public Works Manager

ATTEST:

City Clerk

Recommended By:



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
J2 Engineering & Environmental Design

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 _____

**Clark Park Master Plan
Project No. 6305061**

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 _____, 2007.

General Contractor/Prime Consultant

By: _____

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2007.

Notary Public

My commission expires:

City of Tempe

Guidelines for Implementation of Health Insurance

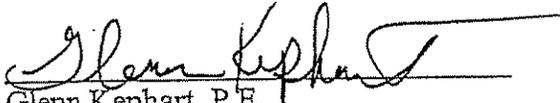
These Guidelines are provided for purposes of implementing Resolution No. 2000.73, which requires all employees of prime consultants, general contractors and major subconsultants and subcontractors to have health insurance and to offer health insurance to their eligible dependants, as determined at the 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 120th 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 - OWNERSHIP OF DOCUMENTS

All work products (electronically or manually generated) including but not limited to 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 before the final payment is made to the CONSULTANT.

The CITY shall retain ownership of these original drawings, however, if approved in writing by the CITY, the CONSULTANT may retain the original drawings and supply the CITY with reproducible mylar copies. CONSULTANT shall endorse by his/her professional seal all plans and special provisions furnished by him/her.

In the event these documents are used for another project without further consultations with the CONSULTANT, the CITY agrees to indemnify and hold the CONSULTANT harmless from any claim arising from the reuse of the documents. The CITY shall remove the CONSULTANT'S seal and title block from such documents.

The CONSULTANT shall retain full copyrights of all documents produced by the CONSULTANT on behalf of City in connection with the Services of this CONTRACT, with exception of CITY rights to use drawings for reproduction and promotional purposes.

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.

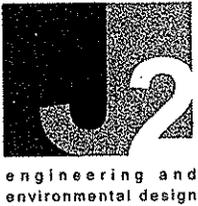


EXHIBIT A

November 7, 2007

Mr. Bob Pohlit
Parks and Capitol Project Coordinator
City of Tempe
Community Services Department
Library Building
3500 S. Rural Rd.
Tempe, AZ 85282

Re: Revised Clark Park Master Plan Design

J2 Engineering & Environmental Design is very excited to begin work on the Clark Park master plan. We would like to sincerely thank you for the opportunity to serve the City of Tempe and the neighborhood with our expertise. The attached scope of services and fees has been developed to reflect the comments from you and City staff regarding services for the project.

This fee proposal for Clark Park includes Master Planning Design Services by J2 and Aquatic Facility Master Planning Services by Water Technology, Inc. The Fee Summary on the following pages shows the breakdown by task. Also included is a detailed Scope of Work for this master planning effort.

Please feel free to contact me with any questions that you may have regarding this proposal. We thank you again for your selection – our entire team looks forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Velasquez', is written over the typed name and title.

Jeff Velasquez, RLA, ASLA
Project Manager
J2 Engineering & Environmental Design

OK
11/7/07

4649 E. Cotton Gin Loop, Suite B2
Phoenix, AZ 85040
voice 602.438.2221
fax 602.438.2225

Scope of Work

Clark Park Master Plan

Wednesday, November 07, 2007

The design/planning process will follow a logical sequence with on-going input from the neighborhood and City Staff and all stakeholders involved. The scope shall be as follows:

J2 - Master Planning Design Scope of Services

Task 1.0 PROGRAMMING & SCOPE DEFINITION

- Goal: Review programming and schedule efforts with the neighborhood associations and City Staff. Establish the overall goals and objectives for Clark Park from the perspective of the neighborhood and City Staff.

Method:

- 1.1 Staff /Team Kickoff Meeting Upon Notice to Proceed
- 1.2 Site visit with City Staff/Consultant to Evaluate Existing Conditions
- 1.3 Gather from City Existing Base Data for Park
- 1.4 Develop Project Schedule. Confirm milestone dates and schedule for completion of products and phases of design.

Meetings:

- One (1) Kick-off Meeting with City staff and Site Visit (Combined as one trip)

Task 2.0 PUBLIC PARTICIPATION PLAN

- Goal: Prepare a comprehensive public involvement plan that will allow the voice of the neighborhood residents to be heard, and the City's perspective to be reflected. Establish a means of communication between J2, the Neighborhood and City Staff (ie: newsletters, flyers etc) and establish public/City Staff meetings. This scope does not include the cost of producing or copying any flyers, newsletters or promotional materials, nor does this scope include the cost of any mailing or door-to-door delivery of any of these items. The costs and effort for production, reproduction, and distribution of any materials to the neighborhood are considered the responsibility of either the neighborhood associations or the City of Tempe. The location of each meeting will be determined and secured by the neighborhood or the City of Tempe.

Method:

- 2.1 G.A.I.N. Meeting at Clark Park
- 2.2 Preparation of Aerial and Public Input Boards for G.A.I.N. Meeting
- 2.3 Summary of G.A.I.N. Meeting Information Gathered
- 2.4 City Staff/Consultant Meeting for Public Involvement
- 2.5 Develop Public Participation Plan - Identify Best Methods and Dates for Meetings
- 2.6 Attend Public Open Houses (3 meetings)
- 2.7 Summarize Open House Comments
- 2.8 Attend Parks Board Presentation to present concepts generated as part of the public input process (1 meeting)



OK
11/7/07

Meetings:

- One (1) G.A.I.N. Meeting at Clark Park
- One (1) City Staff / Consultant Meeting for Public Involvement
- Three (3) Public Open House Meetings 2 hours per meeting. Format and location of each meeting will be determined by the team as process moves forward
- One (1) Parks Board Presentation Meeting to present concept plans generated as part of the public outreach efforts.

Task 3.0 DATA INVENTORY & ANALYSIS

- Goal: To establish a thorough understanding and background of existing conditions on the project site, and a familiarity with previous studies, manuals and reports on the City of Tempe Clark Park Site and surrounding facilities.

Method:

- 3.1 Research Existing Data
- 3.2 Collect Additional Data
- 3.3 Develop Park Database
- 3.4 Conduct On-Site Inventory
- 3.5 Prepare Base Map
- 3.6 Analyze Data
- 3.7 Develop Opportunities & Constraints Graphic
- 3.8 Meeting with City Staff to Review Base Data

Meetings:

- One (1) Meeting with City staff. The meeting will be held to ensure that base data has been obtained and to go over the opportunities and constraints of the site and any other issues.

Task 4.0 MASTER DEVELOPMENT PLAN

- Goal: In response to all of the above tasks, work closely with the Neighborhood and City staff to generate a conceptual master plan that best responds to the synthesis of technical studies, design concepts, and collective efforts of the consultant, the neighborhoods, and the City Staff.

Method:

- 4.1 Review Opportunities & Constraints
- 4.2 Review Stakeholder Comments
- 4.3 Review Facility Requirements Provided by City
- 4.4 Analyze Recreation Center Options
- 4.5 Coordinate Aquatic Design Alternatives with Subconsultant
- 4.6 Develop Master Plan Alternatives (3 total)
- 4.7 City Park Staff, Planning, Engineering Meeting to Discuss Master Plan Alternatives
- 4.8 Prepare Master Plan Presentation Graphics
- 4.9 Coordinate Aquatic Design Presentation Graphics
- 4.10 City Staff Planning / Engineering Meeting to Discuss Master Plan
- 4.11 Prepare Final Master Plan
- 4.12 Prepare Design Memorandum Summarizing Efforts
- 4.13 Final Parks Board Meeting to Present Final Master Plan



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4.14 Neighborhood Quality of Life & Recreation Council
Committee Meeting to Present Final Master Plan

Meetings:

- Two (2) Meetings with City Staff (Planning, Engineering, Crime Prevention, Park Maintenance, etc.) to present initial park master plan and final park master plan
- One (1) Meeting with Parks Board to show final Master Plan
- One (1) Meeting with the Neighborhood Quality of Life and Recreation Council Committee to present the final master plan.

Final Plan products, to include:

1. One 24" x 36" color rendering of Final Park Master Plan mounted on gator board.
2. One 24" x 36" color rendering of Aquatic aspect of the Master Plan mounted on gator board.
3. Final Order of Magnitude Cost Estimate
4. One - CD with a pdf file of the final color rendered Master Plan graphic.
5. Ten - 11" x 17" color copies of final Master Plan graphic.
6. Design Memorandum Summarizing Efforts in Creation of Master Plan

Task 5.0 MEETING ALLOWANCE

- Goal: In response to all of the above tasks, there are sometimes reasons to hold an additional public meeting if the City and the Neighborhood feel that it would help the master planning process. We have included one additional meeting as an allowance if this item is needed for this project.

Method:

5.1 Allowance Meeting



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DERIVATION OF COST PROPOSAL SUMMARY

City of Tempe Clark Park Master Plan

Fee Summary

FIRM NAME: J2 Engineering & Environmental Design

J2 Design:
Park Master Planning Design Services (Landscape Architecture) \$31,614.51

Water Technology, Inc.:
Aquatic Consulting Services \$11,530.00

Total J2 Team Master Planning Services: \$43,144.51

TOTAL FEE NO ALLOWANCES*: \$43,145

Allowances

One Additional Meeting \$404

Total J2 Team Allowance Total: \$404

TOTAL FEE WITH ALLOWANCES*: \$43,549

*Note that the cost for all reproductions, distribution, and mailing of any public announcements, notices, or newsletters have not been included in this fee and shall be accommodated by others.

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11/7/07

DERIVATION OF COST PROPOSAL SUMMARY FOR SPECIFIC TASK

City of Tempe

Clark Park Master Plan

FIRM NAME: J2 Engineering & Environmental Design

BASIC DESIGN SERVICES - LANDSCAPE ARCHITECTURE PARK MASTER PLAN DESIGN

Estimated direct labor and rates

Classification	Estimated Man Hours	Current Rates	Total
P.M./Landscape Architect	120	\$46.65	\$5,596
Landscape Designer	150	\$30.00	\$4,500
CADD Technician	50	\$29.00	\$1,450

Total Hours 320 **Total Direct Labor** \$11,546

Total Estimated Labor: \$11,546
Overhead @ 139.85% of Direct Labor \$16,147

J2 Total Estimated Labor and Overhead: \$27,692

Estimated Direct Expenses
None - Included in Overhead

Total Direct Expenses \$0

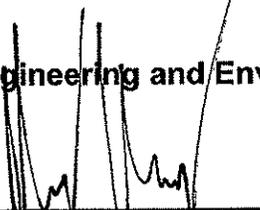
Subconsultants

Water Technology, Inc. \$11,530
(Aquatic Consultant)

Total Estimated Outside Services: \$11,530
Total Estimated Cost J2 and Subconst. \$39,222
Fixed Fee (D.L. + O.H.) X 10% \$3,922

Basic Design Services Total Estimated Cost: \$43,145

J2 Engineering and Environmental Design, LLC



Jeff Velasquez, RLA
Project Manager

11-7-07

Date

OK
11/7/07

DERIVATION OF COST PROPOSAL SUMMARY FOR SPECIFIC TASK

City of Tempe
 Clark Park Master Plan
 FIRM NAME: J2 Engineering & Environmental Design
 Wednesday, November 07, 2007

BASIC DESIGN SERVICES - LANDSCAPE ARCHITECTURE PARK MASTER PLAN DESIGN

Task	Description	P.M. / L.A.	L.A. Designer	CADD Technician	Total Hours
1	1.0 PROGRAMMING & SCOPE DEFINITION	10	8	2	20
	1.1 Staff/Team Kickoff Meeting upon Notice to Proceed	2	2		4
	1.2 Site Visit to Evaluate Existing Conditions	2	2		4
	1.3 Gather from City Existing Base Data for Park	2	4	2	8
	1.4 Develop Project Schedule	4			4
2	2.0 PUBLIC PARTICIPATION PLAN	21	15	0	36
	2.1 G.A.I.N. Meeting at Clark Park	3			3
	2.2 Preparation of Aerial and Public Input Boards for G.A.I.N. Mtg.	2	3		5
	2.3 Summary of G.A.I.N. Mtg. Information Gathered	2			2
	2.4 City Staff/Consultant Meeting For Public Involvement	2	2		4
	2.5 Develop Public Participation Plan - Identify Best Methods and Dates for Meetings	4			4
	2.6 Attend Public Open Houses (3 Meetings)	6	6		12
	2.7 Summarize Open House Comments		4		4
	2.8 Attend Parks Board Presentation to Present Concept (1 Meeting)	2			2
3	3.0 DATA INVENTORY & ANALYSIS	10	24	12	46
	3.1 Research Existing Data		2		2
	3.2 Collect Additional Data		2		2
	3.3 Develop Park Database		2	4	6
	3.4 Conduct On-Site Inventory	2	2		4
	3.5 Prepare Base Map		2	4	6
	3.6 Analyze Data	2	2		4
	3.7 Develop Opportunities & Constraints Graphic	2	8	4	14
	3.8 Meeting with City Staff to Review Base Data	4	4		8
4	4.0 MASTER DEVELOPMENT PLAN	79	103	36	218
	4.1 Review Opportunities & Constraints	1	1		2
	4.2 Review Stakeholder Comments	2	2		4
	4.3 Review Facility Requirements Provided by City	2	2		4
	4.4 Analyze Recreation Center Options	4	4		8
	4.5 Coordinate Aquatic Design Alternatives with Subconsultant	8			8
	4.6 Develop Master Plan Alternatives (3 total)	16	40	24	80
	4.7 City Staff Planning / Engineering Meeting to Discuss Master Plan Alternatives	4	4		8
	4.8 Prepare Master Plan Presentation Graphics	8	24	8	40
	4.9 Coordinate Aquatic Design Presentation Graphics	4			4
	4.10 City Staff Planning / Engineering Meeting to Discuss Master Plan	2	2		4
	4.11 Prepare Final Master Plan	8	16	4	28
	4.12 Prepare Design Memorandum Summarizing Efforts	16	8		24
	4.13 Final Parks Board Meeting to Present Final Master Plan	2			2
	4.14 Neighborhood Quality of Life & Recreation Council Committee Meeting to Present Final Master Plan	2			2
Total Hours		120	150	50	320

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 11/7/07

DERIVATION OF COST PROPOSAL SUMMARY FOR SPECIFIC TASK

City of Tempe
 Clark Park Master Plan
FIRM NAME: J2 Engineering & Environmental Design

Wednesday, November 07, 2007

BASIC DESIGN SERVICES - LANDSCAPE ARCHITECTURE PARK MASTER PLAN DESIGN

Task	Description	P.M. / L.A.	L.A. Designer	CADD Technician	Total Hours
5	5.0 MEETING ALLOWANCE	2	2	0	4
	5.1 One Additional Public Meeting	2	2		4
					0
Total Hours		2	2	0	4

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11/7/07

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID RG
J2ENG-1

DATE (MM/DD/YYYY)
11/16/07

PRODUCER
Professional Underwriters of
Arizona, Inc.
P.O. Box 5419
Scottsdale AZ 85261-5419
Phone: 480-483-0440 Fax: 480-948-7752

INSURED
J2 Engineering & Environmental
Design, LLC
4649 E. Cotton Gin Loop #B2
Phoenix AZ 85040

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE	NAIC #
<input checked="" type="checkbox"/> INSURER A: Travelers Indemnity of America	25666
<input checked="" type="checkbox"/> INSURER B: Travelers Indemnity Co of CT	25682
<input checked="" type="checkbox"/> INSURER C: Charter Oak Fire Ins. Co.	25615
<input checked="" type="checkbox"/> INSURER D: Hazley Insurance Company, Inc	37540
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR/ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liab GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	6801838L769TIA07	05/23/07	05/23/08	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	BA4444L30707GRP	05/27/07	05/27/08	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				WC STATU-TORY LIMITS <input checked="" type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	XEUB6131Y74807	05/27/07	05/27/08	Per claim 2,000,000 Ann Agg 2,000,000
D	Professional Liability	V15IV107PNPM	10/23/07	10/23/08	Per claim 2,000,000 Ann Agg 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Blanket AI, prim&non-contrib, WOS per #CGD381 09/06, w/respects GL, by contract. *10 days for non-payment. Re: Clark Park Master Plan Project #6305061. WOS on Work Comp and GL provided. City, agents, representatives, directors, officials and employees are additional insured.

CERTIFICATE HOLDER

CITY-TE

City of Tempe
PO Box 5002
Tempe AZ 85280

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE: *Jeffrey D. Gerrick*