

# Staff Summary Report



Council Meeting Date: 03/20/08

Agenda Item Number: \_\_\_\_\_

**SUBJECT:** Request approval of a professional services design contract with Fucello Architects for Johnny G. Martinez Water Treatment Plant (JGMWTP) Chemical Building Remodel.

**DOCUMENT NAME:** 20080320PWDR03 JOHNNY G. MARTINEZ WATER TREATMENT PLANT (0811-03) PROJECT NO. 3208031

**SUPPORTING DOCS:** Yes

**COMMENTS:** Professional services design contract in an amount not to exceed \$83,371 with Fucello Architects, subject to execution of the final written contract.

**PREPARED BY:** DONNA RYGIEL, ENGINEERING CONTRACT ADMIN. (x8520)

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

**APPROVED BY:** GLENN KEPHART, PUBLIC WORKS MANAGER (x8205)

**LEGAL REVIEW AS TO FORM:** JUDI MORGAN, ASSISTANT CITY ATTORNEY (x8779)

**FISCAL NOTE:** Sufficient funds are available in Capital Improvement Fund No. 3208031.

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

**ADDITIONAL INFO:** The existing chemical building at the JGMWTP was constructed in the mid 1960's. Some portions of this building regularly occupied by staff are in need of improvement. This project would increase the size of restrooms and locker rooms to meet current and anticipated future staff requirements and bring them into compliance with ADA regulations. The existing laboratory furnishings are also out of date and would be upgraded.

The fee was negotiated by staff and is considered reasonable for the scope of services. Fucello Architects was selected from our Consultant On-Call List consistent with Arizona Revised Statutes



CITY OF TEMPE, ARIZONA  
PUBLIC WORKS DEPARTMENT  
DIVISION OF ENGINEERING

**CONTRACT FOR ARCHITECTURAL SERVICES**

THIS CONTRACT is made and entered into on the 20<sup>th</sup> day of March, 2008, by and between the City of Tempe, hereinafter called CITY, and FUCELLO ARCHITECTS, hereinafter called the CONSULTANT.

The CITY engages the CONSULTANT to perform professional services for a project known and described as JOHNNY G. MARTINEZ WATER TREATMENT PLANT – CHEMICAL BUILDING REMODEL, Project No. 3208031, 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 the following services: programming; schematic and final designs; construction documents; construction procurement and contract administration assistance related to the remodel of the existing restroom, locker room and laboratory sections of the existing chemical building, as described in Exhibit "A" attached.
- B. The CONSULTANT has assigned Steven Fucello 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 design the project within the allotted budget of \$500,000.00. Sufficient alternatives shall be included in the bid package to allow the CITY to construct the facilities.
- F. The CONSULTANT shall be responsible to redesign the project at no additional cost to the CITY if required to build within the CONTRACT specified budget.

- G. 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.
- H. 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 360 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 \$83,371.00, unless otherwise authorized by the CITY. This fee includes the sum of \$72,489.00 for design services and contract documents; and an hourly not to exceed amount of \$10,882.00 for bidding and construction phase services.
- 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 (90% plans), payments to the CONSULTANTS shall not exceed 80 % 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.
- 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. The CITY reserves the right to conduct an independent value engineering review of the project.
- D. The CITY may retain a consulting firm to prepare an estimate of construction costs. The CITY may choose not to bid the project until the architect's estimate and the consulting firm's estimate are within a reasonable variance.
- E. Unless included in the CONSULTANT'S Scope of Work, 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 502 S. College Avenue, Suite 306, Tempe, AZ 85281. 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.

Johnny G. Martinez Water Treatment Plant – Chemical Building Remodel  
Project No. 3208031

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

CITY OF TEMPE, ARIZONA

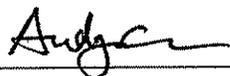
By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
Public Works Manager

ATTEST:

\_\_\_\_\_  
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  
Fucello Architects

\_\_\_\_\_  
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 \_\_\_\_\_

**JOHNNY G. MARTINEZ WATER TREATMENT PLANT – CHEMICAL BUILDING REMODEL  
Project No. 3208031**

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        )

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public

My commission expires:  
\_\_\_\_\_

## **City of Tempe**

### **Guidelines for Implementation of Health Insurance**

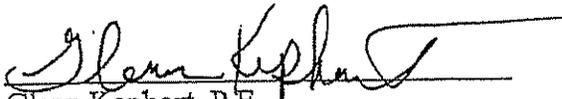
These Guidelines are provided for purposes of implementing Resolution No. 2000.73, which requires all employees of prime consultants, general contractors and major subconsultants and subcontractors to have health insurance and to offer health insurance to their eligible dependants, as determined at the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

# EXHIBIT A

February 18, 2008

Mr. Philip C. Brown, P.E.  
Senior Civil Engineer  
Capital Improvement Project Design  
Section  
City of Tempe Public Works Dept.  
31 E. 5<sup>th</sup> Street  
Tempe, Arizona 85281



Re: **Johnny G. Martinez Water Treatment Facility Chemical Building Remodel  
Restrooms, Locker Rooms, & Laboratory  
Revised Fee Proposal**

Dear Mr. Brown:

Fucello Architects is pleased to present this revised fee proposal to provide architectural and engineering services for the above mentioned project. The following is included in this proposal:

- ~~EXHIBIT A~~ - Project Scope of Work (Programming through Construction Contract Administration Phases)
- Exhibit B - Fee Breakdowns (Lump Sum, Not-to-Exceed, & Hourly Rates)

Per our meeting held on January 10<sup>th</sup> and following two subsequent facility field visits, we have prepared a Scope of Work to reflect the following milestones: Programming, Schematic Design (30%), Design Development (60%), Construction Documents (90%/100%), and Construction Contract Administration. Our total fee and breakdowns are indicated in Exhibit B. We intend to contract supporting engineering and professional services with the following firms per the following:

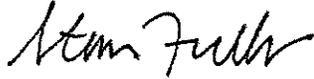
Mechanical, Plumbing, & Electrical Engineering: **Energy Systems Design**  
Structural Engineering: **Bakkum Noelke Consulting Engineers**  
Cost Estimating: **Abacus Project Management**  
Specifications: **RLGA Technical Services**

Compensation for Programming, Schematic Design, Design Development and Construction Documents is based upon a **Lump Sum of \$72,489.00** (seventy two thousand four hundred eighty nine dollars and zero cents) – see attached. Compensation for Bidding Phase and Construction Contract Administration is based upon a **Not-to-Exceed amount of \$10,882.00** (ten thousand eight hundred eighty two dollars and zero cents) – see attached.

*pub*

We are excited to have been selected as your architectural consultant for this project and look forward to working with you and other City of Tempe representatives. We are eager to begin work. If you have any questions, please do not hesitate to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Fucello". The signature is fluid and cursive, with the first name "Steven" and last name "Fucello" clearly distinguishable.

Steven Fucello, AIA  
Principal

~~XXXXXXXXXX~~

## Project Scope of Work

Johnny G. Martinez Water Treatment Facility Chemical Building Remodel  
City of Tempe, Arizona

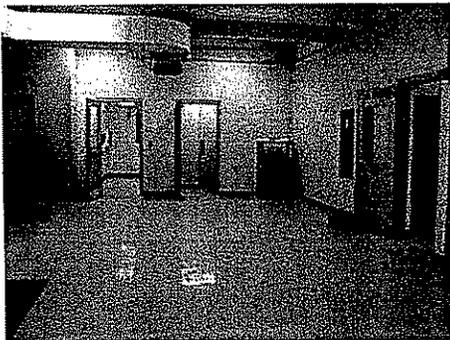
### Project Description:

The primary Scope of Work will occur at the Johnny G. Martinez Water Treatment Plant (JGMWTP) and will include the remodel of existing restrooms, showers, locker rooms, and water testing laboratory. Currently, the existing restrooms and locker rooms do not meet ADA regulations and are not properly equipped with adequate lockers. The original building was built around 1965 and has been expanded since.

Fucello Architects (FA) met with City of Tempe JGMWTP staff to discuss the Scope of Work and tour the existing facility (see Attachment 1- floor plan of existing conditions). The following day, FA toured the South Tempe Water Treatment Plant (STWTP) and the Kyrene Reclamation Facility (KRF) with City of Tempe Staff JGMWTP representative. At the KRF, FA observed new restrooms and locker room facilities that most closely align with the desired objectives for the JGMWTP remodel.

The lockers located in the existing restrooms are too small and are desired to be approximately 24" wide. The flow and sequencing of operations requires staff to retrieve and return uniforms from lockers currently located in the secondary lobby area. If possible, having improved proximity between this staging area and the restroom / locker room would be desired.

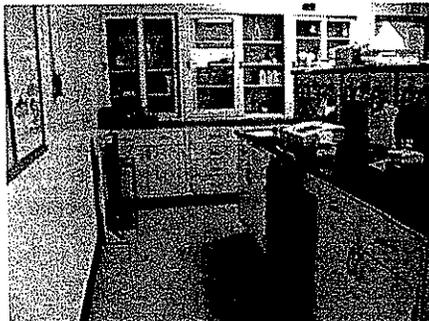
The existing laboratory will need remodel work mostly involving millwork modifications. The current layout and type of equipment is outdated. No major walls will need to be moved nor will there be any 'special' plumbing, HVAC, or electrical additions for this portion of the work. Minor reworking of electrical distribution and/or capping of utilities are anticipated. Minor laboratory system items (i.e. fume hoods) may be a part of this project. An eyewash station will need to be added.



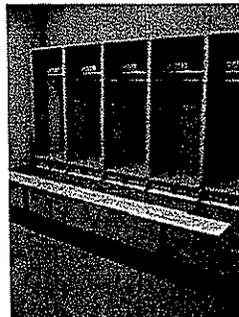
Existing Secondary Lobby



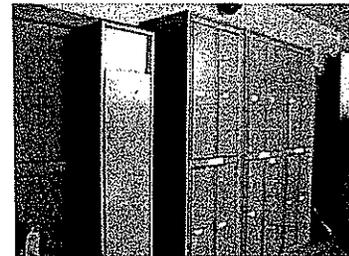
Existing Men's Restroom/Showers



Existing Testing Laboratory



Lockers at KRF



Typical Uniform Lockers

**Existing Building Program Summary:**

Men's Uniform Service Locker Area / Room:	11 lockers (to be verified)
Men's Locker Room:	11 lockers
Men's Restroom:	1 WC, 1 urinal, 1 lavatory
Men's Showers:	1 shower
Women's Uniform Service Locker Area / Room:	6 lockers (to be verified)
Women's Locker Room:	6 lockers
Women's Restroom:	1 WC, 1 lavatory
Women's Showers:	1 shower

**Existing "Approximate" Area Calculations (based upon Owner-provided As-Built drawing):**

Laboratory:	415 s.f.
Laboratory Support Office:	500 s.f.
Men's Shower & Toilet:	110 s.f.
Men's Locker Room:	115 s.f.
Shower, Toilet, Lockers:	140 s.f.

**Proposed Remodel Building Program Summary:**

Men's Uniform Service Locker Area / Room:	15 lockers (to be verified)
Men's Locker Room:	15 lockers
Men's Restroom:	1 WC, 1 urinal, 1 lavatory
Men's Showers:	2 showers
Women's Uniform Service Locker Area / Room:	6 lockers (to be verified)
Women's Locker Room:	6 lockers
Women's Restroom:	1 WC, 1 lavatory
Women's Showers:	2 showers

Fucello Architects proposes to retain subconsultants to perform Mechanical, Plumbing, Electrical, and Structural engineering. Additionally, we will retain Cost Estimating and Specification Consultants as well. This proposal does not reflect any civil engineering services. As a design is further defined and additional engineering services are deemed necessary to complete the Work, FA will request the proper additional services at that time. It is assumed that the existing HVAC units are adequately sized to permit minor modifications to distribution, such as diffuser locations and quantities. Further, we understand the laboratory remodel to be minor in scope that will not require a Laboratory Consultant. If the need arises, FA will request the addition of another consultant.

Fucello Architects is prepared to begin this project once a notice proceed is provided. Per Owner request, we anticipate the project schedule to commence in March or April with Construction Phase beginning in October. The following Scope of Work is to be performed by **Fucello Architects** for the City of Tempe, Arizona.

- Task 1.0 Data Collection / Programming**
- Task 2.0 Schematic Design (30%)**
- Task 3.0 Design Development (60%)**
- Task 4.0 Construction Documents (90%)**
- Task 5.0 Construction Procurement Phase**
- Task 6.0 Construction Contract Administration**

## **Task 1.0 Programming / Data Collection**

### **1.1 Kick-Off Meeting with COT Project Team**

- Conduct meeting with COT Project Team to confirm all programming needs and scope of work.
- Discuss project schedule.

### **1.2 Data Collection / Programming**

- Compile and evaluate all existing data, as-builts, and information and City Standards relevant to the project. Complete site investigation of existing project site conditions.
- Perform all necessary field survey work to prepare the preliminary first level floor plan.
- Conduct field observation report of existing conditions with M,P,E consultants.
- Create total Program Net / Gross Area Tabulation.
- Preliminary Code Analysis.
- Create program data sheet and verification drawing for each required space need. Identify size, finishes, furnishes, and special systems requirements (HVAC, ventilation, plumbing, natural gas, fire protection, security, electrical, lighting, audio / visual, acoustical, communications, data infrastructure, etc.).
- Preliminary Cost Estimate base on programming needs. Make recommendations for expanding or decreasing scope of the project relative to the available funds. Modify the scope and cost estimates to reflect budgetary concerns.
- Documented Meeting Minutes with facility user groups and City staff.

### **1.3 Deliverables**

- Program Phase Report.

## **Task 2.0 Schematic Design (30%)**

### **2.1 Conceptual Design**

- Review Program Report, project budget, and begin conceptual design illustrating the scale and relationship of project components.
- Develop preliminary designs for all building program components of the project.

### **2.2 Meetings / Design Review**

- Present conceptual designs to COT Team for input. Revise design with incorporated comments.
- Present updated conceptual designs for review and approval by COT Team.

### **2.3 Deliverables – Schematic Design Drawings & Cost Estimate**

- Architectural Site Plan, schematic floor plans, interior elevations, building sections.
- Schematic Structural drawings to include preliminary foundation plan, framing plan, typical details if necessary.
- Preliminary Mechanical and Plumbing design to include primary piping runs and major pieces of equipment and fixtures.
- Preliminary Electrical design to include one-line electrical distribution diagram, preliminary lighting and special systems floor plan.
- Provide Outline Specifications.
- Provide Cost Estimate. Architect to make recommendations for expanding or decreasing the scope of the project relative to the available funds. Modify the scope and cost estimate to reflect the budget.

## **Task 3.0 Design Development (60%)**

### **3.1 Design Development**

- Upon authorized notice to proceed, prepare design development drawings consisting of drawings and other necessary documents to fix and describe the size and character of the entire project as to architectural, structural, mechanical, and electrical systems, materials, and such other elements as may be appropriate.
- Incorporate COT Team review comments from Schematic Design Documents.

- 3.2 Meetings / Design Review
- Present updated design to COT Team for input. Revise design with incorporated comments.
  - Present updated designs for review and approval by COT Team.
- 3.3 Deliverables – Design Development Drawings, Specifications, & Cost Estimate
- Architectural drawings – architectural floor plans, interior elevations, building sections, wall sections, typical details, room finishes, door and window schedules, material sample board.
  - Structural drawings – as deemed necessary, foundation plan and details; structural framing plans with horizontal and vertical member sizes, typical construction details; design live and dead loads tabulated for all floors, areas, and roofs as applicable.
  - Plumbing drawings– plumbing plans and drawings to include fixture schedule and locations, equipment schedule and locations, waste and vent riser diagram with types, locations, and key sizes, water piping sizes and locations, roof drainage system, water pressure and fixture count calculations, and fire protection systems as applicable.
  - Mechanical drawings – to include equipment schedule, locations, sizes and types; ductwork sizes and locations, equipment connections and supports with standard details.
  - Electrical drawings – to include power distribution and single line diagrams, power distribution equipment schedule and locations, feeder sizes in one-line diagram, panel schedules, emergency generator size, locations as required, uninterruptible power supply equipment size and location if required, grounding standard details, lightening protection as necessary, load calculations, interior lighting, power, and special systems plans and details, telecommunications and data systems, equipment including cable tray locations as appropriate, fire alarm systems, security systems, energy management systems.
  - Provide Design Development Specifications.
  - Provide Cost Estimate. Architect to make recommendations for expanding or decreasing the scope of the project relative to the available funds.

**Task 4.0 Construction Documents (90%)**

- 4.1 Construction Documents
- Upon authorized notice to proceed, prepare construction document drawings and specifications setting forth in detail the requirements for the construction of the project with all related engineering disciplines included.
  - Incorporate Owner review comments from Design Development Documents.
- 4.2 Meetings / Design Review
- Facilitate progress review meetings as required.
- 4.3 Deliverables –Construction Documents, Specifications, & Cost Estimate
- Provide further development of project to complete construction drawings for all required disciplines.
  - Provide Construction Document Specifications.
  - Provide Cost Estimate. Architect to make recommendations for expanding or decreasing the scope of the project relative to the available funds.
- 4.4 First City of Tempe Plan Review
- Submit Construction Documents for first permit plan review.
- 4.5 Deliverables –Construction Documents & Specifications
- Provide further development of project to complete construction drawings for all required disciplines. Incorporate City of Tempe plan review comments.
  - Provide Construction Document Specifications.
- 4.6 Second City of Tempe Plan Review
- Review Plan Review comments.

- Resubmit Construction Documents for second City of Tempe Development Services Permit Review.
- Incorporate, revise if necessary second review comments, and resubmit as required.

#### **Task 5.0 Construction Procurement Phase**

##### **5.1 Bidding / Negotiation**

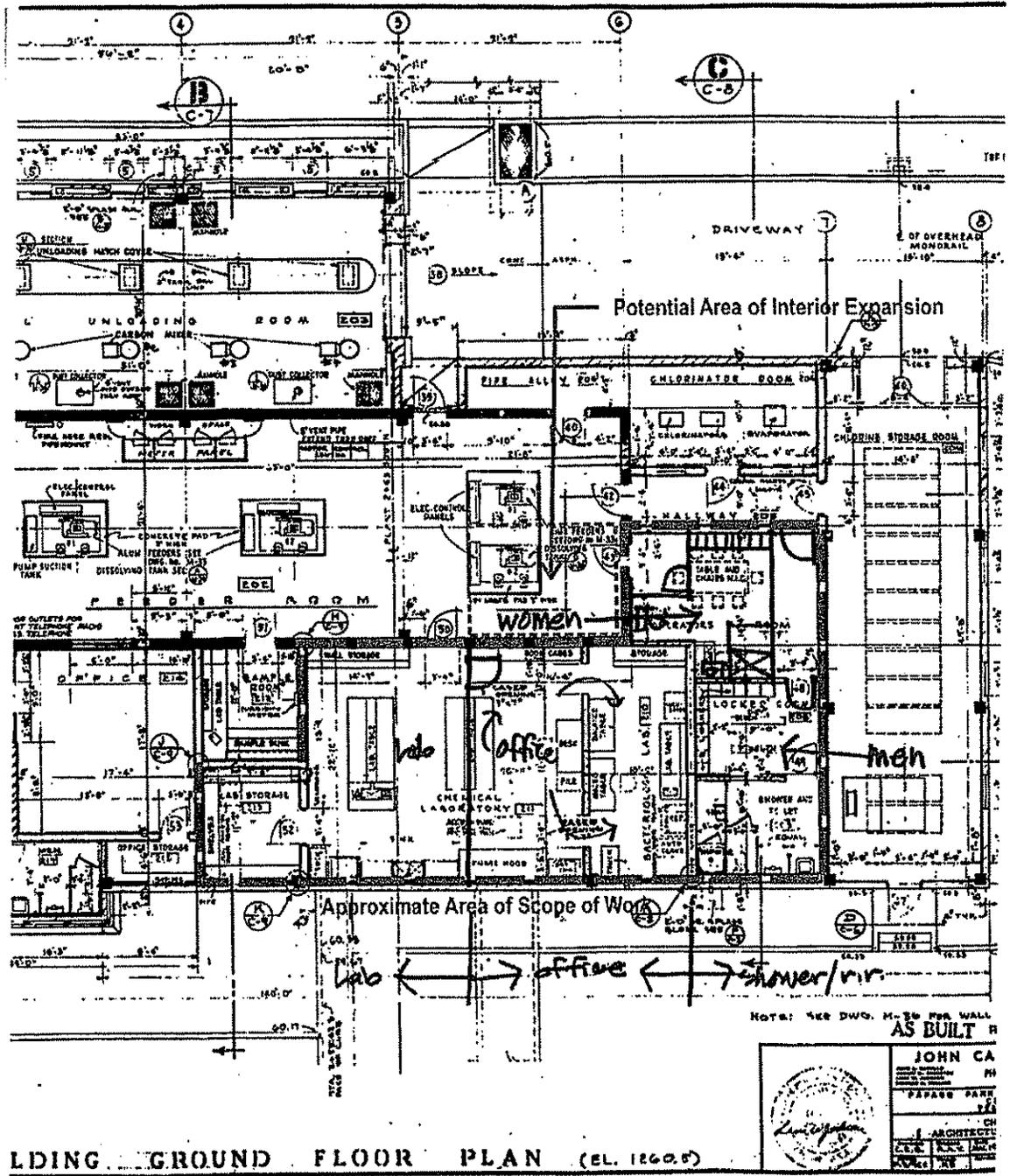
- Facilitate contractor bidding through JOC project delivery method.
- Provide clarification / addenda as necessary during bidding.
- Review and evaluate bidding documents and subcontractor list.
- Provide value engineering as required to ensure compliance with established project budget.

#### **Task 6.0 Construction Contract Administration**

##### **6.1 Construction Contract Administration**

- FA to make periodic field observation visits. Subconsultants to field observation visits appropriate to the Scope of Work.
- FA and subconsultants to review respective submittals and shop drawings.
- FA to respond to RFI's and provide ASI's as required.
- FA to assist Owner in review of Pay Application Requests.
- FA to provide post-design services to incorporate As-Builts as noted and provided by the General Contractor.

Attachment 1 – Existing JGMWTP First Floor Plan with FA mark-ups. Redlines indicate approximate layout of existing floor plan. Changes have been made since the original As-Builts.



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## Johnny G. Martinez Water Treatment Facility Chemical Building Remodel - Exhibit B

Fucello Architects - Fee Breakdown  
February 18, 2008

Phases	Phase Total	Architect Fee Totals	Sub-consultant Fee Totals	Sub-consultant Fee Breakdown					Cost Estimating
				Civil Engineering	Structural Engineer	M,P,&E	Specification Consultant		
1.0 Programming	\$ 7,628	\$ 4,508	\$ 3,120	-	-	\$ 1,960	\$ 480	-	\$ 680
2.0 Schematic Design (30%)	\$ 14,159	\$ 6,871	\$ 7,288	-	-	\$ 3,640	\$ 768	-	\$ 2,880
3.0 Design Development (60%)	\$ 20,924	\$ 11,312	\$ 9,612	-	-	\$ 4,370	\$ 1,392	-	\$ 3,850
4.0 Construction Documents (90% / 100%)	\$ 28,278	\$ 15,968	\$ 12,310	-	\$ 2,500	\$ 6,210	\$ 720	-	\$ 2,880
<b>Grand Total Base Stipulated-Sum Fee</b>	<b>\$ 70,989</b>	<b>\$ 38,659</b>	<b>\$ 32,330</b>	<b>-</b>	<b>\$ 2,500</b>	<b>\$ 16,180</b>	<b>\$ 3,360</b>	<b>-</b>	<b>\$ 10,290</b>

Reimbursable Allowances	
Geotechnical Investigation Allowance	\$ -
Land Survey Allowance	\$ -
Native Plant Survey Allowance	\$ -
Printing & Shipping Allowance	\$ 1,500
<b>Grand Total Allowances</b>	<b>\$ 1,500</b>

<b>Grand Total Base Stipulated-Sum Fee</b>	<b>\$72,489</b>
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**Notes:**

1. Laboratory remodel may involve minor modifications to HVAC and electrical. No laboratory consultant provided.
2. No Civil Engineering is anticipated at this time.
3. This fee reflects a Scope of Work that does not anticipate exterior expansions and remodeling.

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**Johnny G. Martinez Water Treatment Facility Chemical Building Remodel - Exhibit B**

Fucello Architects - Fee Breakdown  
February 18, 2008

Phases	Phase Total	Architect Fee Totals	Sub-consultant Fee Totals	Sub-consultant Fee Breakdown					Cost Estimating
				Civil Engineering	Structural Engineer	M,P,&E	Specification Consultant		
5.0 Bidding	\$ 1,492	\$ 917	\$ 575	\$ -	\$ -	\$ 575	\$ -	\$ -	\$ -
6.0 Construction Contract Administration		\$ 6,130	\$ 3,260	\$ -	\$ 500	\$ 2,760	\$ -	\$ -	\$ -
<b>Grand Total Not-to-Exceed</b>	<b>\$ 10,882</b>	<b>\$ 7,047</b>	<b>\$ 3,835</b>	<b>\$ -</b>	<b>\$ 500</b>	<b>\$ 3,335</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

<b>Reimbursable Allowances</b>	
Printing & Shipping Allowance	\$ -
<b>Grand Total Allowances</b>	\$ -
<b>Grand Total Not-to-Exceed</b>	<b>\$10,882</b>

Notes:

1. Special Structural Observation is not included in the above breakdown. Additional compensation for such services will be \$250/visit *with prior approval from the City.*
2. Architect assumes approximate 3 month construction timeframe.

**Johnny G. Martinez Water Treatment Facility Chemical Building Remodel - Exhibit B**

Fucello Architects - Hourly Rates  
February 18, 2008

Architect	Rate / hr.
Principal Architect	\$128.19
Project Manager	\$101.26
Senior Architect / Designer	\$94.53
Architect / Designer III	\$87.82
Architect / Designer II	\$81.04
Admin. / Clerical	\$54.02
<b>Structural Engineer</b>	<b>Rate / hr.</b>
Principal	\$150.00
Senior Engineer I	\$115.00
Senior Engineer II	\$95.00
Engineer I	\$85.00
Technical Designer	\$75.00
Structural Observer	\$60.00
Draftsperson / CAD	\$60.00
Clerical	\$45.00
<b>M/PE Engineering</b>	<b>Rate / hr.</b>
Sr. Principal Engineer	\$200.00
Principal Engineer	\$180.00
Sr. Engineer	\$140.00
Project Engineer	\$115.00
Designer III	\$115.00
Engineer	\$95.00
Designer II	\$95.00
Designer I	\$80.00
CAD operator	\$65.00
Clerical	\$65.00
Testing / Balancing Supervisor	\$85.00
Testing / Balancing Technician	\$65.00

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