

## Staff Summary Report



Council Meeting Date: 12/11/08

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

**SUBJECT:** Request award of a professional services design contract with PB Americas, Inc. for streetscape on Broadway Road.

**DOCUMENT NAME:** 20081211PWDR02 STREET UPGRADING – MAINT-CONSTRUCTION (0809-05) PROJECT NO. 6003051

**SUPPORTING DOCS:** Yes.

**COMMENTS:** Total cost for this contract shall not exceed \$184,910.

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

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

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

**LEGAL REVIEW BY:** Judi Morgan, Assistant City Attorney (x8227)

**FISCAL NOTE:** Sufficient funds are available in Capital Improvement Fund No. 6003051.

**RECOMMENDATION:** Award professional services contract.

**ADDITIONAL INFO:** The scope of work for this contract is to provide design services and analysis resulting in a design concept report and a categorical exclusion document. This work is being done to meet the federal funding requirements for construction of various streetscape improvement measures along Broadway Road between Mill Avenue and Rural Road.

The contract amount was negotiated by staff and is considered reasonable for the scope of services. PB Americas, Inc. was selected from our consultant on-call list pursuant to A.R.S. § 34-103.



CITY OF TEMPE, ARIZONA  
PUBLIC WORKS DEPARTMENT  
DIVISION OF ENGINEERING

**CONTRACT FOR PROFESSIONAL SERVICES**

This Contract is made and entered into on the 11th day of December, 2008, by and between the City of Tempe, a municipal corporation (“City”), and PB Americas, Inc., an Arizona corporation (“Consultant”).

The City engages the Consultant to perform professional services for a project known and described as Broadway Road Streetscape, Project No. 6003051 (“Project”).

**1. SERVICES OF THE CONSULTANT**

Consultant shall perform the following professional services to City in conformance with applicable professional standards and in accordance with the degree of care and skill that a registered professional in Arizona would exercise under similar conditions:

- 1.1. Consultant shall provide design services and analysis, as described in Exhibit “A” attached.
- 1.2. Consultant has assigned Thomas Hester as the Project Manager for this Contract. Prior written approval by the City is required in the event the Consultant needs to change the Project Manager. Consultant shall submit the qualifications of the proposed substituted personnel to the City for approval prior to any substitution or change.
- 1.3. Consultant shall prepare and submit a detailed opinion of probable cost of the Project.
- 1.4. Consultant shall follow and comply with the Public Improvement Project Guide as directed by the City.
- 1.5. 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) Uniform Standard Details for Public Works Construction 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.
- 1.6. 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.

- 1.7. Consultant shall obtain all necessary permits and licenses required for the performance of its work. Failure of Consultant to obtain said permits prior to the commencement of its work shall constitute a breach of this Contract.
- 1.8. Consultant shall perform the work in a manner and at times which do not impede or delay the City's operations and/or functions.
- 1.9. Consultant shall be solely responsible for any repair, replacement, remediation and/or clean-up of any damage done by Consultant including any impairment of access to City or other lawful invitees, by such work performed on this Project.

## **2. TERM OF CONTRACT**

Consultant shall complete all services by July 31, 2009. In the event delays are experienced beyond the control of the Consultant, the schedule may be revised as determined by the City in its sole discretion.

## **3. CONSULTANT'S COMPENSATION**

- 3.1. The method of payment for this Contract is payment by installments. Total compensation for the services performed shall not exceed \$184,910.00, unless otherwise authorized by the City.
- 3.2. City shall pay Consultant by installments, each installment based upon monthly progress reports and related, detailed invoices submitted by the Consultant. If detailed invoice(s) are approved by the City, such installment payment shall be made within thirty (30) days after City's approval of the progress report and detailed invoice subject to the following limitations:
  - 3.2.1. If the scope of work of this Contract includes the preparation of studies, design concepts, or other investigations, progress payments shall not exceed 90% of the total Contract amount prior to submittal of the final report deliverables.
- 3.3. City at its discretion may, by written notification, waive the above limitations.

## **4. CITY'S RESPONSIBILITIES**

- 4.1. 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.

- 4.2. City shall review requests for information related to the Project by the Consultant and will endeavor to provide a prompt response to minimize delay in the progress of the Consultant's work. City will also endeavor to keep the Consultant advised concerning the progress of the City's review of the work. Consultant agrees that City's inspection, review, acceptance or approval of Consultant's work shall not relieve Consultant of its responsibility for errors or omissions of Consultant or its subconsultant(s).
- 4.3. Unless included in the Consultant's services as identified in Section 1, the City may furnish with or without charge, upon the Consultant's reasonable request, the following information to the extent it is within the City's possession or control:
  - 4.3.1. One copy of its maps, records, laboratory tests, survey ties, and benchmarks, or other data pertinent to the services. However, the Consultant shall be solely responsible for searching the records and requesting specific drawings or information and independently verifying said information.
  - 4.3.2. Available City data relative to policies, regulations, standards, criteria, studies, etc., relevant to the Project.
  - 4.3.3. When required, title searches, legal descriptions, detailed ALTA Surveys, and environmental assessments.

## **5. TERMINATION AND DEFAULT**

- 5.1. City shall be entitled to terminate this Contract at any time, in its discretion. In addition, the City may terminate this Contract for default, non-performance, breach or convenience, or abandon any portion of the Project for which services have not been fully or properly performed by the Consultant. Termination shall be commenced by delivery of written notice delivered to Consultant, personally or by certified mail at 1501 W. Fountainhead Parkway, Suite 400, Tempe, AZ 85282. Termination shall be effective upon fourteen (14) days of delivery of notice to Consultant. In addition, this Contract may be terminated pursuant to A.R.S. § 38-511.
- 5.2. Upon the occurrence of Consultant's default, non-performance or breach of the Contract, City may recover any and all damages permitted by law or in equity against Consultant, in addition to termination of the Contract, including but not limited to compensatory damages, together with all costs and expenses as set forth in Section 12 herein.
- 5.3. Immediately after receiving such notice, the Consultant shall discontinue performance under this Contract and proceed to close said operations under this Contract. The Consultant shall appraise the services it has completed and submit

a detailed appraisal to the City for evaluation. City shall have the right to inspect the Consultant's work to analyze and appraise the services completed. Payment to Consultant shall be determined by City upon approval or disapproval of the services completed as of the date of delivery of notice of termination.

- 5.4. Within ten (10) days of receipt of notice of termination as set forth herein, the 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.
- 5.5. In the event of such termination or abandonment, the Consultant shall be paid only for those services performed in a good and workmanlike manner, in accordance with all plans, specifications and governmental requirements completed prior to receipt of said notice of termination, subject to approval by City. To the extent permitted by this Contract, such payment may include reimbursable expenses then incurred by Consultant, in City's sole discretion.
- 5.6. 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 as approved by the City based upon the scope of work set forth in Exhibit "A" as determined by the City. However, in no event shall the fee exceed that set forth in Section 3 of this Contract.
- 5.7. City shall make a determination as to approval or denial of any requested final payment within sixty (60) days after the Consultant has delivered the last of the completed items and the final appraisal has been submitted to the City.

## 6. INSURANCE

Without limiting any obligations or liabilities, the Consultant, at its sole 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.

### 6.1. General Clauses

- 6.1.1. 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.

- 6.1.2. 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 shall constitute a material breach of this Contract.
- 6.1.3. Primary Coverage. 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.
- 6.1.4. 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.
- 6.1.5. 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.
- 6.1.6. 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. 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.
- 6.1.7. Policies and Endorsements. City reserves the right to request and to receive, within ten (10) working days, information on any or all of the above policies or endorsements.
- 6.1.8. 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 to City of cancellation or termination of insurance.

6.1.9. Subconsultants/Contractors. Consultant shall include all subconsultants and subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subconsultant and subcontractor.

6.2. Workers' Compensation. Consultant shall carry workers' compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Consultant's 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 under this Contract are subcontracted, the Consultant shall require all subconsultant(s) to provide workers' compensation and employer's liability to at least the same extent as provided by the Consultant.

6.3. Automobile Liability. 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.

6.4. Commercial General Liability. 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 (2) 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").

6.5. Professional Liability. 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 it, 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 (2) years past completion and acceptance of services as evidenced by annual certificates of insurance.

- 6.6. Property Coverage – Valuable Papers. 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.

## **7. HEALTH INSURANCE REQUIREMENTS**

- 7.1. Consultant must certify that it has or will offer health insurance to all eligible employees working on services set forth in this Contract prior to the performance of any work or services. An affidavit certifying such offering must be signed in a form approved by the City. All required health insurance must be maintained during the entire time of the Contract with the City. Health insurance pursuant to this Section 7 is not required for temporary employees or students working part-time who are enrolled in a recognized educational institution.
- 7.2. The health insurance requirements herein shall apply to all of Consultant's eligible employees directly involved with the services set forth in this Contract, including support and administrative personnel.
- 7.3. Any and all complaints concerning violations of the health insurance requirements shall be filed, in writing, with the City's Public Works Department, within thirty (30) days from discovery of a potential 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.
- 7.4. Penalties for failing to comply with this Section 7 include, but are not limited to the following: Consultant may 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.
- 7.5. All Consultants subject to the health insurance requirements shall post in English, notice of the health insurance requirements at their office and at the job site.

## **8. WORK FOR HIRE AND OWNERSHIP OF DELIVERABLES**

- 8.1. Consultant shall ensure that all the results and proceeds of Consultant's and any and all work on any Project and any related projects, including that of all 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, without limitation.

- 8.2. 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 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. 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 copies of the work.

## **9. CONFLICT OF INTEREST**

- 9.1. Consultant agrees to promptly disclose any and all financial and/or economic interest in the property, or any property affected by the work, or the Project itself other than as set forth herein, existing prior to the execution of this Contract. Further, the Consultant agrees to promptly disclose any financial or economic interest in the Project property or any property affected by the work, if the Consultant gains such interest during the course of this Contract.
- 9.2. If 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.
- 9.3. 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.
- 9.4. Consultant agrees that it shall not perform services on this Project for any other contractor, subcontractor, or any supplier, other than the City. In addition, Consultant shall not negotiate, contract, or make any agreement with a contractor, subcontractor, or any supplier with regard to any of the work under this Contract, or any services, equipment or facilities to be used on this Project other than with the City.

## **10. COVENANT AGAINST CONTINGENT FEES**

Consultant affirms that it 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 it 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.

#### **11. INDEMNIFICATION**

To the fullest extent permitted by law, Consultant shall defend, indemnify and hold harmless City, its agents, officers, officials, and employees from and against all claims, damages, losses, liability and/or expenses, 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 Consultant, its agents, employees, or any other person for whose negligent acts, errors, mistakes or omissions in the work, services, or professional services Consultant may be deemed legally liable in the performance of this Contract, or any breach of the Contract. Consultant's duty herein shall arise in connection with any and all claims for damage, loss, liability and/or expenses attributable to bodily injury, sickness, disease, death, or injury to, impairment or destruction of any person or property including loss of use resulting therefrom. 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.

#### **12. DISPUTE RESOLUTION**

In the event of a dispute concerning or in any way connected to the Contract or subject Project, the parties agree that the unsuccessful party shall pay to the prevailing party a reasonable sum for attorneys' fees, including taxable and non-taxable costs, fees, costs and disbursements of experts, professionals, paralegals, whether at trial, appeal and/or in bankruptcy court, all of which will be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment. In addition, should the City retain and/or utilize legal counsel as a result of a breach by Consultant of any term, covenant or provision of this Contract, in addition to paying any recovery owed to City and/or performing any obligation remaining to be performed, in order to fully cure such breach or default, Consultant shall reimburse the City for reasonable attorneys' fees, taxable and non-taxable costs and disbursements, incurred by the City in enforcing the Consultant's obligations, whether or not a legal action is commenced, including but not limited to the cost of preparing and presenting default notices, demand letters and similar non-judicial enforcement activities.

#### **13. 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, at the City's sole discretion. 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.

## 14. PROHIBITION ON ASSIGNMENT

This Contract and all duties and obligations of Consultant set forth in this Contract shall not be assignable except by prior written consent of the City, and such prohibition shall extend to and be binding upon the heirs, executors, administrators, successors, and assigns of the Consultant.

## 15. MISCELLANEOUS PROVISIONS

- 15.1. Equal Opportunity. Consultant covenants for itself, its employees, agents, assigns and all persons claiming under or through it, that it shall comply with all applicable federal, state, and local laws and ordinances at the time of execution of this Contract and shall not discriminate against or segregate any person or group of persons any person on account of race, color, religion, gender, marital status, sexual orientation, national origin, ancestry, age, physical handicap or medical condition in the performance of this Contract and shall comply with the terms and intent of all applicable federal, state and local governance concerning nondiscrimination.
- 15.2. Legal Compliance. Consultant agrees and covenants that it will comply with any and all applicable governmental restrictions, regulations and rules of duly constituted authorities having jurisdiction insofar as the performance of the work and services pursuant to the Contract, and all applicable safety and employment laws, rules and regulations, including but not limited to, the Fair Labor Standards Act, the Walsh-Healey Act, Arizona Executive Order No. 99-4, and the Arizona Fair and Legal Employment Act, along with all laws, rules and regulations attendant thereto. Consultant acknowledges that a breach of this warranty is a material breach of this Contract and Consultant is subject to penalties for violation(s) of this provision, including termination of this Contract. City retains the legal right to inspect the documents of any and all Consultants, subconsultants and sub-subconsultants performing work and/or services relating to the Contract to ensure compliance with this warranty. Any and all costs associated with City inspection are the sole responsibility of Consultant. Consultant hereby agrees to indemnify, defend and hold City harmless for, from and against all losses and liabilities arising from any and all violations thereof.
- 15.3. Specially Designated Nationals and Blocked Persons List. Consultant represents and warrants to City that neither Consultant nor any affiliate or representative of Consultant (i) is listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Asset Control, Department of the Treasury (OFAC) pursuant to Executive Order No. 13224, 66 Fed.Reg. 49079 ("Order"); (ii) is listed on any other list of terrorists or terrorist organizations maintained pursuant to the Order, the rules and regulations of OFAC or any other applicable requirements contained in any enabling legislation or other related Order(s); (iii) is engaged in activities prohibited in the Order; or (iv) has been convicted, pleaded *nolo contendere*, indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering. In

addition, Consultant certifies that it does not have a scrutinized business operation in either Iran or Sudan.

Consultant further agrees to include the provisions set forth in Sections 15.2 and 15.3 in any and all subcontracts hereunder. Any violation of such provisions shall constitute a material breach of this Contract.

- 15.4. Effective Date. 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.
- 15.5. Governing Law. This Contract shall be governed and interpreted by the laws of the State of Arizona.
- 15.6. Exhibits. All exhibits attached to this Contract are made a part of and are incorporated into, this Contract. If any inconsistencies exist between this Contract and any exhibit hereto, the terms of this Contract shall govern.
- 15.7. Force Majeure. Any prevention, delay or stoppage of this Project for a cause beyond the reasonable control of Consultant due to acts of God, acts of war or terrorism, fire or other casualty, shall, notwithstanding anything to the contrary contained herein, excuse the performance of Consultant, for a period equal to such prevention, delay or stoppage. For purposes of this Section 15.7, a cause shall not be deemed beyond a party's control if it is within the control of such party's agents, employees, assigns, contractors or subcontractors.
- 15.8. Entire Agreement. This Contract contains all of the agreements of the parties with respect to the Project and related matters, and no prior agreement, negotiations, postings, offerings, or understanding pertaining to any such matter shall be effective for any purpose unless expressly contained herein.
- 15.9. Consultant's Good Standing. Consultant hereby warrants and represents that it is an Arizona corporation, licensed to do business in the state of Arizona and currently in good standing, and that it is not now in violation of any agreement, instrument, contract, law, rule or regulation by which Consultant is bound.
- 15.10. Independent Contractor. Nothing contained in this Contract shall be deemed or construed by the parties hereto or otherwise, to create the relationship of principal and agent, partnership, joint venturer, employer and employee, or any association between City and Consultant. Consultant is an independent contractor and shall be solely responsible for any unemployment or disability insurance payments, or any social security, income tax or other withholdings, deductions or payments that may be required by federal, state or local law with respect to any compensation paid to the Consultant hereunder or for any and all services or materials provided

by or rendered to Consultant hereunder in connection with the work set forth in this Contract.

- 15.11. Severability. If any provision of this Contract shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall not be affected thereby, and every other term and provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.
- 15.12. Time is of the Essence. Time is of the essence in this Contract and each and every provision herein, except as may expressly be provided in writing by the City.
- 15.13. No Waiver. No breach or default hereunder shall be deemed to have been waived the City, except by a writing to that effect signed on behalf of the City. No waiver of any such breach or default shall operate as a waiver of any other succeeding or preceding breach or default or as a waiver of that breach or default after written notice thereof and demand by the City for strict performance of this Contract. Acceptance of partial or delinquent payments or performance shall not constitute the waiver of any right of the City.
- 15.14. Survival. Any and all representations, obligations, indemnities, warranties, covenants, conditions and agreements contained in this Contract which are expressed as surviving the expiration or earlier termination of this Contract, or by their nature, are to be performed, observed or survive, in whole or in part, after the termination or expiration of this Contract term, shall survive the termination or expiration of this Contract.
- 15.15. Retention of Records. City, through any authorized representative, will have access to and the right to examine and copy all records, books, papers or documents related to services rendered under this Contract. Consultant will retain all books and records related to the services performed for a period of not less than the greater of any applicable federal law retention requirement or five (5) years following termination of this Contract.
- 15.16. Antitrust Violations. City and Consultant recognize that in actual economic practice overcharges resulting from antitrust violations are in fact borne by the City. Therefore, the Consultant assigns to the City any and all claims for such overcharges. Consultant in all subcontracts shall require all subcontractors to likewise assign all claims for overcharges to the City.
- 15.17. Headings. The heading use in this Contract is for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.
- 15.18. No Construction Against Drafting Party. Each party acknowledges that it has had an opportunity to review the Contract with counsel, and such documents shall not

be construed against any party that is determined to have been the drafter of the documents.

15.19. Notices to Parties:

All notices pursuant to this Contract shall be made in writing and delivered or mailed by certified mail to the parties at the following addresses:

CITY:

Andy Goh, City Engineer  
City of Tempe  
Public Works/Engineering Dept.  
P.O. Box 5002  
Tempe, AZ 85280

CONSULTANT:

Thomas Hester  
PB Americas Inc.  
1501 W. Fountainhead Parkway  
Suite 400  
Tempe, AZ 85282

15.20. Liquidated Damages. City reserves the right to assess liquidated damages in the sum set forth below per calendar day for failure to comply with the conditions of the Contract, including but not limited to failure of the Consultant to complete the work and/or services by the time specified herein. This sum may be deducted from the Consultant's payment or anticipated payment for failure to deliver and/or perform as specified. No premium will be awarded to the Consultant for delivery and/or performance by the specified time. Permitting the Consultant to complete work and/or services pursuant to the Contract, or by extension thereof, shall in no way be deemed to waive or diminish the City's rights available by law or in equity, under the Contract.

15.21. Non-Appropriation of Funds. If funds appropriated by the City Council or otherwise allocated to perform the work becomes unavailable for payment by the City under this Contract, the City may delay the work for a period up to six (6) months, after which date if no funds are legally available, City may terminate the Contract at the City's sole option. In case of any such delay by City, Consultant may suspend performance of work or services as applicable. However, nothing herein shall be construed to allow termination of the Contract by Consultant for such delay.

[SIGNATURE PAGE TO FOLLOW]

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.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

CITY OF TEMPE, ARIZONA

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

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

ATTEST:

Recommended By:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Deputy PW Manager/City Engineer

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

CONSULTANT  
PB Americas, Inc.

\_\_\_\_\_  
Name

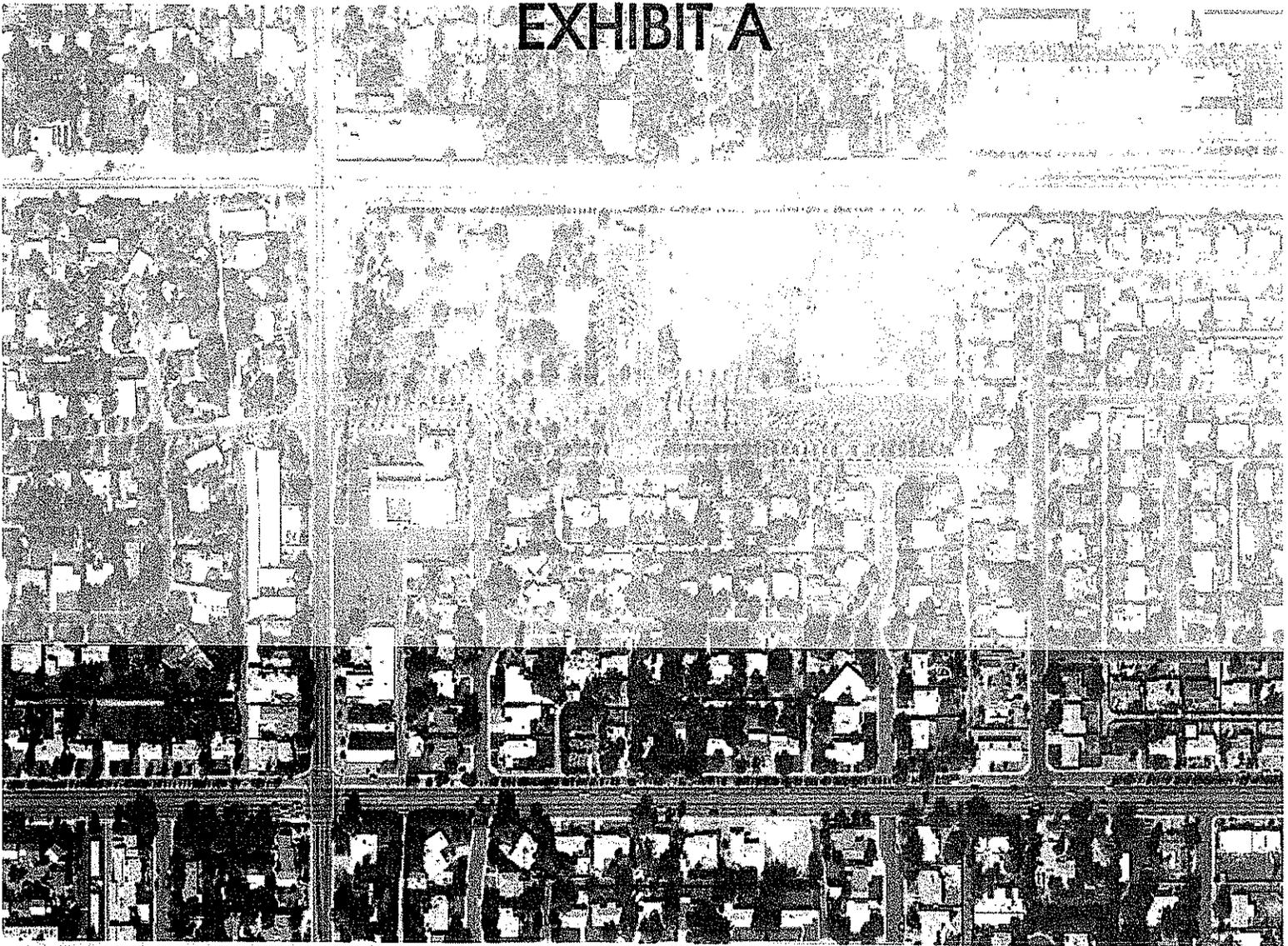
\_\_\_\_\_  
Title

\_\_\_\_\_  
Federal I.D. No./Social Security No.

Certified to be a true and exact copy.

\_\_\_\_\_  
Karen M. Fillmore  
Records Specialist

EXHIBIT A



# BROADWAY ROAD STREETScape PLAN

October 2008

## Fee Proposal



# BROADWAY ROAD STREETScape PLAN

October 2008

## Fee Proposal

*Parsons Brinckerhoff  
1501 W. Fountainhead Parkway, Suite 400  
Tempe, AZ 85282  
Phone: 480-966-8295  
Fax: 480-966-9234*



KC.

## Scope of Services

Based on our project approach we have developed a 4-phase work program with supporting tasks for each phase. An optional 5<sup>th</sup> phase is the creation of public realm design guidelines to be used as a basis for creating a common vocabulary for arterial streets.

### Phase 1: Analysis and Evaluation

Anticipated schedule: December 2008 – January 2009

During the Analysis and Evaluation Phase, we will work with the community, City, and project stakeholders to identify issues and opportunities, and define goals and achievable objectives. We'll assemble baseline information, relevant best practices, and local context research to open the discussion with the community about issues and opportunities for the Broadway Road corridor. This will allow the team to give the community impartial background information and engage them in the decision-making process with the goal of creating community ownership in, and achieving consensus for the project.

#### 1.1 Project Startup

We will verify with the client the scope of work and the appropriate lines of communication to ensure that the project runs efficiently.

- Negotiate final scope of work, schedule, and budget.
- Establish a project management and communication plan to ensure efficient and appropriate lines of communication with the client and confirm client contacts for information requests and decision making.
- Create a contact list of key public officials, staff, and project team members.
- Confirm the decision-making process with the client.

*Deliverables:*

1. Finalized scope, schedule, and budget
2. Client and team contact list

#### 1.2 Team Kickoff Meeting

Organize, conduct, and document an initial conference call with the project and client team.

- Introduce members of the client and consultant teams.
- Review initial goals, objectives, and project approach.



The study area is on Broadway Road between Mill Avenue and Rural Road

*Deliverable:*

1. Memorandum documenting the conference call

### **1.3 Additional Meetings Between Design Team and Client**

To ensure the project and first public workshop runs smoothly, we will organize, conduct, and document two team meetings with the client: one prior to, and one immediately after the public meeting 1.

- Conference call before public meeting 1
- Debrief meeting after public meeting 1 and confirmation of direction for Phase 2

*Deliverables:*

1. Memorandum documenting the conference call
2. Memorandum documenting the debrief meeting

### **1.4 Data Collection and Initial Analysis**

To gain a thorough understanding of the project area, we will assemble and document information from the City related to known issues along the Broadway Road right-of-way. We'll also provide precedent study research on projects similar to the conditions on Broadway Road.

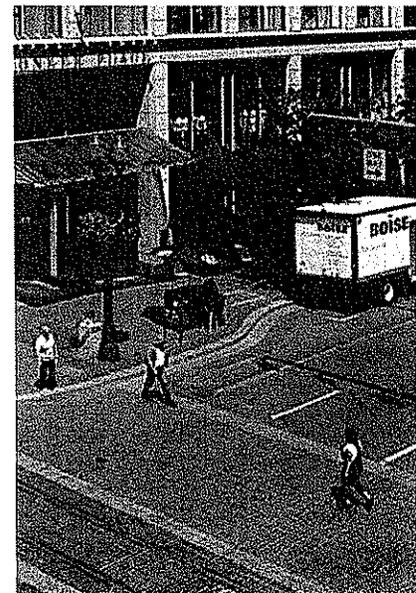
- Coordinate city agencies as necessary for CAD or GIS data.
- Create a base map with the following information:
  - Zoning
  - Utilities
  - Property lines
  - Topography
  - Vegetation
  - Building lines
  - Curb lines
  - Other structures (i.e. utility vaults, enclosures, etc.)
- Photo document the site to be used as reference during meetings, the design process and in the final report.
- Create an analysis diagram based on known information, issues, and conditions provided by the City.

*Deliverables:*

1. List of required information to be obtained from the City
2. Site photos
3. Analysis diagram of known issues and conditions



Achieving public support is a key goal



Another goal is to improve pedestrian safety



Bicycle lanes do not exist on College Avenue or Broadway Road



Bus stops do not have shelters

## 1.5 Traffic Analysis

PB will perform the traffic analysis for proposed Broadway Road Streetscape Project design alternatives. The following tasks are included in the scope of work.

### Initial Meeting

PB will meet with City of Tempe traffic engineering staff to get concurrence on the proposed tasks and obtain additional information relevant to the project. PB will confirm the proposed design alternatives, design year and request information about future planned roadway projects within the project area.

### Data Collection and Field Review

PB will collect the traffic data for the alternatives shown below:

1. Existing traffic conditions
2. No build –Design Year
3. One lane reduction on Broadway Road – Design Year (eastbound approach - Mill Avenue to Rural Road)
4. One lane reduction on Broadway Road and University Drive–Design Year (Mill Avenue to Rural Road)

PB will request the crash data for the latest five-year period from the City of Tempe. The crash data will be used to determine the crash history and patterns in the project limits.

PB will obtain AM (7:00-9:00 AM) and PM (4:00-6:00 PM) peak hour turning movement counts at the signalized intersections shown below:

#### Broadway Road:

- Broadway Road & Roosevelt Road
- Broadway Road & Mill Avenue
- Broadway Road & College Avenue
- Broadway Road & Rural Road
- Broadway Road & Terrace Road

#### University Drive:

- University Drive & Ash Avenue
- University Drive & Mill Avenue
- University Drive & Myrtle Avenue
- University Drive & Forest Avenue
- University Drive & College Avenue
- University Drive & McAllister Avenue
- University Drive & Rural Road

Apache Boulevard:

- Apache Boulevard & Mill Avenue
- Apache Boulevard & Rural Road

PB will obtain 24-hour Average Daily Traffic (ADT) volumes by setting tube counters at locations shown below:

- Broadway Road (eastbound & westbound), west of Mill Avenue
- Broadway Road (eastbound & westbound), east of Rural Road
- University Drive (eastbound & westbound), west of Mill Avenue
- University Drive (eastbound & westbound), west of Rural Road

PB will request Maricopa Association of Governments (MAG) to provide the design year traffic volumes from the regional travel demand model for various design alternatives. PB will coordinate with MAG and City staff to obtain the necessary traffic data that includes improvements to US 60.

PB will conduct a field review of the project site to collect data on traffic control information, posted speed limits, lane usage, existing signal operation and phasing information from City, signing and striping, bus stop locations, adjacent land uses, driveway locations and queuing patterns at signalized intersections.

PB will perform travel time runs along Broadway Road and University Drive to obtain the travel time through the project corridor limits under prevailing traffic conditions. The travel time runs will be obtained during morning and evening peak hours. At least three sets of travel runs will be performed in each direction to obtain reliable traffic data. This will form the basis for future improvement analyses.

Assumptions:

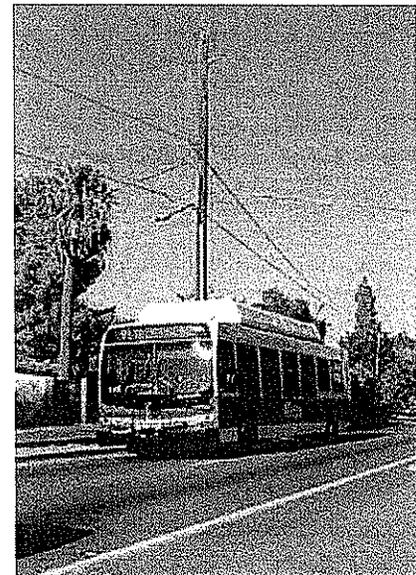
1. The design alternatives presented here were based on a preliminary meeting with City staff and more information will be collected regarding the University Drive project and inclusion of north-south streets.
2. It is assumed that the traffic data will be collected by the PB team. PB will work with the City staff if appropriate traffic data is available and can be used in the analysis.

Deliverable:

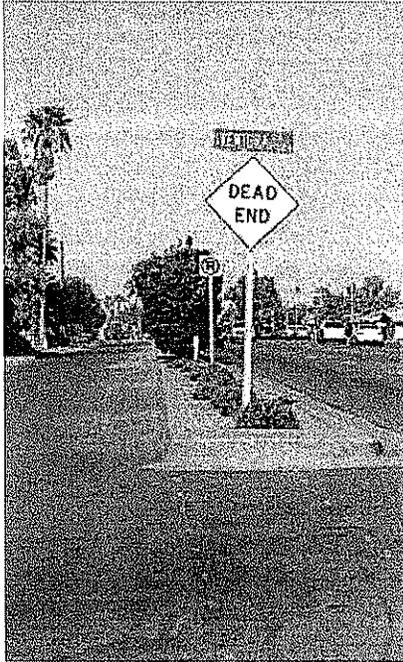
1. *The traffic data will be included in the Appendix of the report*



The "Orbit Jupiter" circulator service



Buses move over 1,500 people a day through Broadway Road



Screening treatments are not consistent

### Traffic Analysis for Existing Conditions

PB will perform Level of Service (LOS) analysis for signalized intersections on Broadway Road for the existing traffic conditions. The analysis will be performed using Synchro 7.0 that operates on Highway Capacity Manual methodologies and VISSIM microscopic traffic simulation model.

PB will document traffic crash history and patterns and evaluate corrective measures to be incorporated into design alternatives.

PB will review the MAG travel demand model for current traffic year to ensure the model output reflects the existing traffic conditions. If necessary, the model traffic volumes will be calibrated using screenline analysis.

PB will use VISSIM traffic modeling software to evaluate the effectiveness of the design alternatives. The VISSIM micro-simulation model will be used to carry out a detailed impact assessment of lane reduction on Broadway Road and University Drive.

PB will set up the base year traffic model to represent the existing traffic conditions. The traffic data collected for the project site will be used to model the existing traffic conditions. The model will be calibrated to ensure that the current traffic conditions are reflected using the travel time runs and vehicle queuing at signalized intersections. AM and PM peak hour traffic conditions will be modeled. PB will work with City staff to get concurrence on the existing conditions model performance.

#### *Deliverables:*

1. *Tabulated LOS results for the signalized intersections for existing traffic conditions.*
2. *Output and summary of traffic for base scenario.*
3. *Traffic simulation model for use during presentations.*

### Traffic Analysis for Future Year Design Alternatives

PB will utilize the MAG travel demand model generated traffic volumes and existing counts to determine the traffic growth factor for the design year. The growth factor will be applied to the existing turning movement counts to determine the design year traffic volumes at signalized intersections.

PB will perform Level of Service (LOS) analysis for the signalized intersections on Broadway Road for the improvement alternatives listed in Task 2.

PB will perform sensitivity analysis of through traffic volumes for different improvement alternatives to determine the increase/decrease in the through traffic volumes along Broadway Road and University Drive.

Future year design alternatives will be modeled in VISSIM using the base model. The following scenarios will be modeled.

1. No build –Design Year
2. One lane reduction on Broadway Road – Design Year (eastbound approach-Mill Avenue to Rural Road)
3. One lane reduction on Broadway Road and University Drive–Design Year (Mill Avenue to Rural Road)

The models will be set up for AM and PM peak hours. VISSIM model will be used to generate the measures of effectiveness such as travel time, queue lengths at signalized intersections, roadway level of service and intersection level of service.

#### *Deliverables:*

1. *Tabulated LOS results for the signalized intersections for various design alternatives*
2. *Tabulated results of sensitivity analysis of change in traffic patterns between various design alternatives*
3. *Outputs and summary of traffic model for each scenario*
4. *Traffic simulation model for use during presentations*

#### **Report**

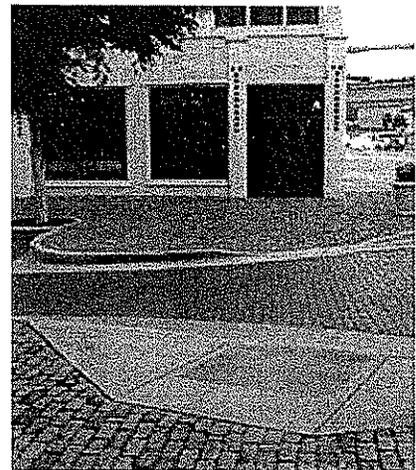
PB will prepare a draft report documenting the findings and recommendations with appropriate graphics and appendix. The report findings will be used in the development and refinement of conceptual design plans. Two copies of draft report will be presented for City staff review. Following discussion with City staff, a final report will be prepared and submitted including the review comments.

#### **Public Meeting**

Prepare exhibits for public meeting and attend the Public Meeting to present study findings.

#### **Additional Services**

As requested by the City, PB will be available to attend additional public meetings or perform other services such as VISSIM 3D modeling as an additional cost.



**Curb extensions and paving treatments can create safer crossings**



The public realm along Broadway Road will need to provide amenities for all users



Broadway Lane limits the capacity of Broadway Road and limits the public realm to particular users

## 1.6 Noise Analysis

**Baseline Study** – Noise measurements will be conducted in the field over a two-day period to establish the existing baseline.

Measurements will include at least 10 short-term measurements and two 24-hour measurements. Most measurements will be at sensitive receivers (homes) that front Broadway. At least two short-term measurements will be taken at homes three or four rows away from Broadway. The measurements will be used to establish baseline noise levels both on Broadway and in the adjacent neighborhoods.

**Modeling Alternatives** – Noise models of the existing conditions and conditions under the proposed alternatives will be created using either the FHWA TNM 2.5 noise model or a three dimensional noise model such as SoundPLAN. The noise models will be used to establish baseline peak hour noise levels, predict changes in noise levels based on each alternative, and determine if noise mitigation is needed.

**Qualitative Mitigation Analysis** – The noise models will be used to understand the level of noise on Broadway Road. We will prepare a qualitative analysis utilizing different types of noise mitigation. This analysis will be based on industry standard principles for noise mitigation and will be used to recommend the type(s) of mitigation that provide(s) the best noise reduction within a reasonable cost.

**Barrier Analysis (Optional)** – The noise models will be used to predict noise reductions provided by different types of noise mitigation. Types of noise mitigation can include using open-graded or rubberized asphalt overlays on Broadway Road, noise barriers between Broadway and sensitive receivers, and speed reduction on Broadway Road. The mitigation analysis will be used to recommend the type(s) of mitigation that provide(s) the best noise reduction within reasonable cost.

*Deliverable:*

1. *Noise Analysis Report.*

## 1.7 Property Owner and Stakeholder Meeting

To better determine the needs and development potential of the corridor, we will conduct a meeting with major property owners and key stakeholders.

- Identify list of stakeholders.
- Coordinate meeting times and venues.

- Conduct an interview session with key stakeholders along Broadway Road to determine goals and needs, future or potential development plans, other concerns.

*Deliverable:*

1. Memorandum documenting the stakeholder interview session

## **1.8 Public Involvement Process and Management**

The following sub-tasks will be completed.

### **Stakeholder Database**

- Review and modify existing City of Tempe database(s) as necessary to serve the project.
- Maintain database.

### **Media Relations/Web Support**

- Provide project information for web, media and city cable.
- Prepare artwork for door hangers.

### **Web Page Content Development (Optional)**

- Develop content for project web page.
- Maintain and update project webpage as needed.

### **Public Meetings**

- Create meeting notice, coordinate approvals, coordinate printing and distribution.
- Work with other team members to develop goals, strategy and message; draft boards.
- Prepare agenda, sign-in sheets, feedback form, comment card.
- Attendance sheet, set-up and tear-down.
- Prepare and distribute meeting summary notes.

### **Newsletter**

- Develop outline.
- Design draft and circulate for review/comment.
- Incorporate comments, coordinate production and distribution.

*Deliverables:*

- Prepare draft Public Involvement Summary Report and circulate for review/comment.
- Incorporate comments; produce final Public Involvement Summary Report.



We propose to meet with the public early in the process



Crossings should connect to places



The cultural heritage of a place can lead to inspirational public art

### 1.9 Best Practice Research

We will research and document examples of similar streetscape projects to illustrate alternative solutions to addressing the conditions on Broadway Road.

- Research case studies.
- Document case studies in PowerPoint format to be added to final report.

*Deliverables:*

1. PowerPoint presentation documenting relevant case studies
2. Material for final report

### 1.10 Research Community Context for Appropriate Design Themes

We will research local contextual themes to provide a basis for our design, identifying what makes this location unique and how that can be reflected in the streetscape design.

- Research historic considerations, regional/natural context and city/stakeholder visions for Broadway Road.
- Document contextual research in PowerPoint format and to be added to final report.

*Deliverables:*

1. PowerPoint presentation documenting relevant case studies
2. Material for final report

### 1.11 Conduct Public Meeting 1:

We will conduct one evening workshop that will provide the community with baseline information and analysis, present options to address known concerns, and listen to the concerns of the community.

- Evening public workshop
  - Present baseline analysis
  - Present options to address known concerns
  - Present examples of best practices
  - Facilitate public comment and question period

*Deliverables:*

1. Organize, conduct, and document the results of the workshop
2. PowerPoint presentation for the public workshop

## Phase 2: Alternatives Development:

Anticipated schedule: January – February 2009

During the Alternatives Development phase, we will develop two design alternatives from the information gained in Phase 1. Those alternatives will be presented in a public meeting to gain public feedback and direction for a preferred alternative that will be developed in Phase 3.

### 2.1 Meetings Between Design Team and Client

We will organize, conduct, and document two team meetings with the client: One coordination call prior to, and one debrief and confirmation meeting immediately after public meeting 2.

- Conference call before public workshop 1
- Debrief meeting after public workshop 1 and confirmation of direction for Phase 2

*Deliverables:*

1. Memorandum documenting the conference call
2. Memorandum documenting the debrief meeting

### 2.2 Develop Two Design Alternatives

We will develop two design alternatives in conjunction with our traffic engineer based on the information and feedback gained in Phase 1. These will be evaluated against community and key stakeholder concerns and goals as well as for functional efficiency for all travel modes.

- Develop two design alternatives that include an:
  - Illustrative plan
  - Up to 3 detail areas
  - Up to 5 street sections
  - Examples of landscape, hardscape, and street furnishings
- Evaluate transportation, circulation and access for design alternatives.

*Deliverables:*

1. Two design alternatives
2. Memorandum evaluating transportation, circulation and access for design alternatives

### 2.3 Conduct Public Meeting 2: Evening Presentation of Design Alternatives

We will conduct one evening public meeting that will allow the community to review and comment on the two design alternatives. The information gained from this meeting will help synthesize the two alternatives into a single preferred alternative in Phase 3.

- Evening public workshop
  - Present design alternatives
  - Facilitate public comment and question period
- Document results of public charrette in a memo to be used to refine the preferred design alternative.

*Deliverables:*

1. Organize, conduct, and document the results of the workshop
2. PowerPoint presentation for the public workshop

## Phase 3: Preferred Alternative Refinement

Anticipated schedule: March – April 2009

Upon completion of Phase 2, a preferred alternative will be developed in Phase 3.

### 3.1 Meetings between design team and client

We will organize, conduct, and document 5 team meetings with the client: One progress meeting during development of the final alternative; a final draft review conference call; a coordination call prior to; one debrief meeting immediately after public meeting 3; and a final product review.

- Progress meeting conference call
- Final draft review conference call
- Conference call before public workshop 3
- Debrief meeting after public meeting 3
- Final product review

*Deliverables:*

1. Memoranda documenting the conference calls
2. Memorandum documenting the debrief meeting

### 3.2 Develop Preferred Alternative

We will develop a preferred alternative streetscape plan including the following components:

- Illustrative plan
- Up to 6 Detail plans and sections
- Up to 6 street sections
- Aerial perspective
- Phasing plan – short and long-term improvements
- Examples of landscape, hardscape, and street furnishings

### 3.3 Conduct Public Meeting 3: Evening Presentation of Preferred Concept

Upon completion of the Final Draft, we will conduct a public meeting to present the preferred concept. The results will help guide any final revisions to the final report.

- Evening public workshop
  - Present final draft
  - Facilitate public comment and question period
- Document results of the public meeting in a memo to be used to inform the final report.

*Deliverables:*

1. Organize, conduct, and document the results of the workshop
2. PowerPoint presentation for the public workshop

### 3.4 Final Report

A highly illustrated final report will be produced.

- Develop draft report and submit to client for review
- Draft report revisions
- Submit final report to client

*Deliverable:*

1. Final report in print resolution electronic format

## Phase 4: Environmental Clearance

PB will prepare an environmental evaluation for the project in accordance with the requirements and procedures of the Arizona Department of Transportation (ADOT) Local Government Section. These procedures are designed to assist local governments in the planning and construction of local government projects that are funded by federal aid programs. The specific federal program to be used for this project is the Congestion Mitigation and Air Quality Improvement Program (CMAQ). The result of the work will be the achievement of the required environmental clearance for the project.

Our estimate is based on the preparation of a Categorical Exclusion (CE) to secure the required environmental clearance. The specific product will be the completion of the Categorical Exclusion Environmental Checklist as defined by the Projects Manual of the ADOT Local Government Section. The required level of environmental investigation will be determined by the Local Government Section based on their review of the Design Concept Report. The major tasks in the process are described below.

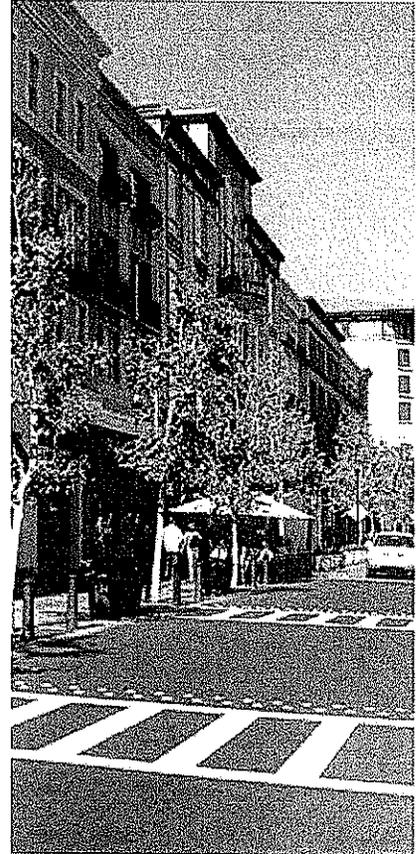
### 4.1 Project Communication and Coordination

Communication and coordination with the personnel of the City of Tempe and ADOT will occur throughout the environmental analysis and documentation. This coordination will include meetings and other communications that are necessary to gather information, complete the analysis, and coordinate with other aspects of the project. The following numbers of meetings are assumed:

- Project Team: 4 meetings
- ADOT Local Government Section: 4 meetings

*Deliverable:*

1. Communication with project team



Mid-block crossings are effective to connect existing pedestrian paths and movements

K.C.

## 4.2 Public and Agency Scoping

The purpose of the scoping process is to identify issues and concerns that must be considered in the environmental analysis. Agency scoping will be accomplished through letters and other contacts with federal, state, and local agencies that have an interest or responsibility related to the project. The agencies to be contacted will be identified through discussions with the ADOT Local Government Section staff. These agencies may include the following:

- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Services
- Arizona Department of Environmental Quality
- State Historic Preservation Office (SHPO)
- Arizona Game and Fish Department
- Flood Control District of Maricopa County

Agency scoping will include the following activities:

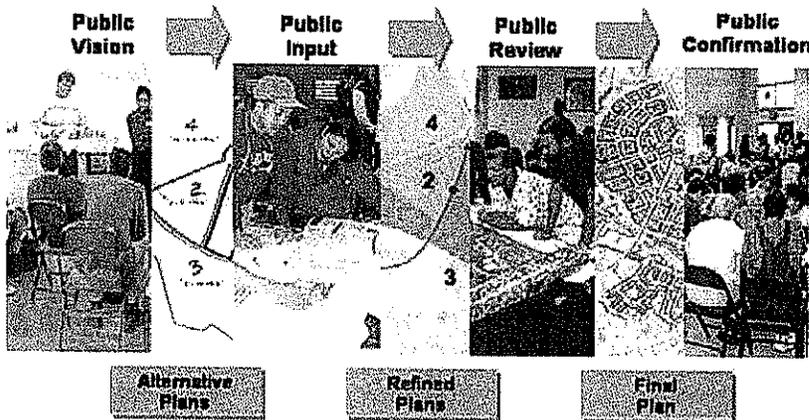
- Preparation and mailing of initial agency scoping letter
- Review and summary of agency responses
- Follow-up contacts as required
- Definition of analysis needed to respond to agency issues

Public scoping will be accomplished in conjunction with the public involvement activities that are described in this Scope of Services. Public scoping will include the following activities:

- Identification of existing citizen groups
- Preparation and mailing of scoping letters
- Use of information from public involvement activities that are defined and conducted by other members of the project team
- Review and summary of public comments
- Definition of analysis needed to respond to public issues

*Deliverable:*

1. *Summary Report of agency and public issues*



### 4.3 Project Description

The Environmental Checklist requires the inclusion of a brief description of the project. PB will prepare this description from information provided by the other tasks in this Scope of Services. Items to be included are the following:

- Existing Conditions
- Need
- Purpose
- Land Ownership and Land Use
- Right-of-Way/Easements
- Funding and Administration

*Deliverable:*

1. *Project description for inclusion in CE Checklist*

### 4.4 Technical Reports

The environmental process of the ADOT Local Government Section requires that technical reports be prepared for subjects for which potential issues may exist. The ADOT Local Government Section will determine the nature of the required reports following their review of the previously prepared DCR. These subjects include the following:

- Biological Resources
- Hazardous Materials
- Cultural Resources
- Floodplains
- Noise/Air Quality

Archaeological Consulting Services, Ltd. (ACS), under contract to PB, and PB staff will evaluate the presence of these technical issues. It is assumed that no major issues will exist. ACS and PB will prepare reports documenting the results of the evaluations. A contract modification will be required in the event that major issues are discovered.

#### Biological Review

ACS will perform an assessment of the potential for encountering threatened and/or endangered species and critical habitat for the proposed Broadway Road Streetscape. The general methodology used to perform the biological assessment is outlined below.

- Obtain a list from the U.S. Fish and Wildlife Service (USFWS) Web Site of all federally listed, candidate and proposed species occurring within the project area (by county).
- Obtain a list from Arizona Game and Fish Department (AZGFD) of all federally listed species and species categorized by the state as species of concern known to occur within a two-three mile radius of the project area.
- Review the habitat requirements of the listed and special status species and determine the areas of possible habitat occurring at the site.
- Determine the likelihood that a listed species currently inhabits the project area or the possibility for future habitation by a listed species.
- Review notes to establish recommendations, if any, for further action.

- Write a brief Biological Review (BR) letter report including a table of the listed species for Maricopa County, a table documenting the exclusion of species from further evaluation (including exclusion reasoning), and recommendations for future actions, if any, that include survey recommendations and protocol information.

### Hazardous Materials

Based on a review of the project information, ACS will complete an ADOT-style Preliminary Initial Site Assessment (PISA). Completion of a PISA document will consist of the following tasks:

- Task initiation.
- Purchase and review of an environmental database report for the project area from an outside vendor.
- Completion of a site visit.
- Completion and submittal of an ADOT PISA.

### Cultural Resources Assessment

ACS will conduct a cultural resources assessment of the corridor. The goal is to understand what the streetscape was like historically, how it has or has not changed, and how the proposed project will impact the historicity of this section of Broadway Road. The assessment will include the following tasks:

- Completion of a Class I cultural resources literature review for prehistoric and historic resources.
- Preparation of a historic property survey that will include a summary historic context statement and up to 80 Historic Property Inventory Forms documenting all historic buildings and features that are more than 50 years old along Broadway between Mill and Rural Avenues.
- Obtaining electronic shape files and data tables from AZSITE, checking the SHPO inventory records, reviewing historic maps, and conducting a limited archival search at ASU for historic photographs and records relevant to the project area.

### Noise Analysis

Findings from the noise analysis in task 1.6 will be used.

*Deliverable:*

1. *Technical reports as required*

## 4.5 Environmental Evaluation

All items that are specified on the Environmental Checklist will be considered and evaluated. The required level of investigation will be initially determined by the ADOT Local Government Section following its review of the project design concept.

Items to be included are listed below. It is assumed that no major issues will exist. However, if substantial issues are encountered as a result of the initial evaluation, a contract modification will be necessary.

- Natural Environment
  - Sensitive Biological Resources
  - 100-year Floodplain
  - Section 404 Waters
  - Section 401 Water Certification

- Wetland Areas
- Riparian Areas
- Cultural Resources
  - Archaeological Resources
  - Historic Resources
- Section 4(f)/Section 6(f) Resources
  - Section 4(f) Wildlife/Waterfowl
  - Section 4(f) Historic Site
  - Section 4(f) Recreational Site
  - Section 4(f) Park
  - Section 6(f) Resource
- Visual Resources
  - Change in Existing Visual Character
  - Post-construction Visual Quality
- Socioeconomic Resources
  - Existing Development
  - Planned Development
  - Displacement(s)
  - Temporary/Permanent Access Concerns
  - Neighborhood Continuity and Community Access Concerns
- Physical/Construction
  - Construction Impacts
  - Utilities
  - Hazardous Materials
  - Sensitive Noise Receivers
  - AZPDES/NPDES Permit/Erosion Control
  - Air Quality

*Deliverable:*

1. *Evaluation of environmental issues*

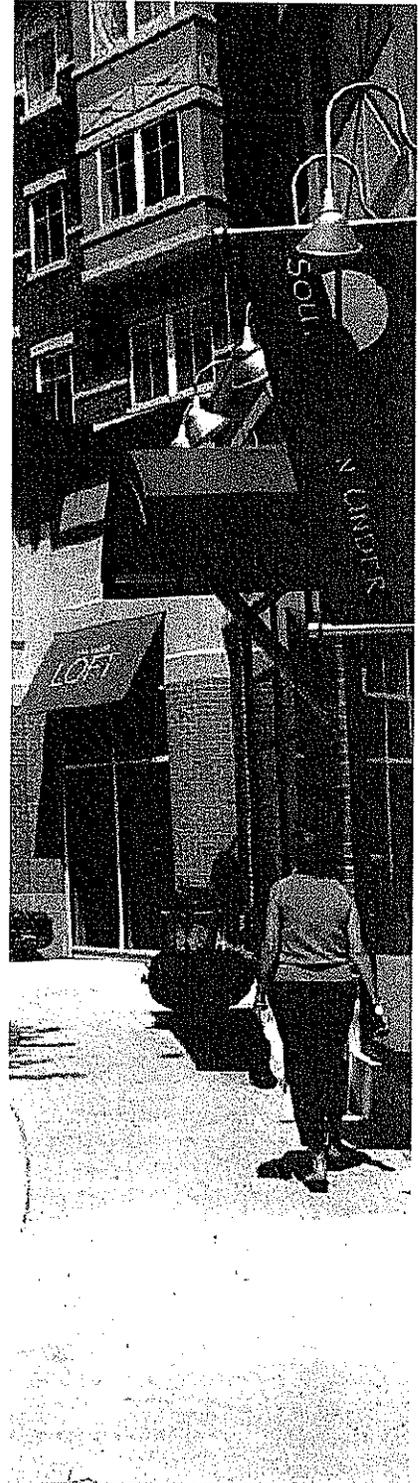
#### **4.6 Document Preparation**

PB will prepare a draft environmental document that follows the guidelines of the ADOT Categorical Exclusion Checklist. This document will first be reviewed by other members of the project team and by the City of Tempe. It will then be submitted to the ADOT Local Government Section.

Following reviews by the ADOT Local Government Section and the Environmental Planning Group, revisions will be made and a final document will be prepared and submitted to ADOT for approval.

*Deliverable:*

1. *Draft and final categorical exclusion checklist*



## Cost Proposal

The following fee structure has been prepared based on the proposed scope of services. To produce the amount of work for the fee indicated will require efficient coordination with the City of Tempe and some availability of City staff to help coordinate public involvement efforts, existing data gathering, work sessions and public meetings.

	Parsons Brinckerhoff					Infraconsult, LLC
	Design	Traffic	Traffic Counts (TRA, Inc.)	Environmental	Env. Technical Studies (ACS, Inc.)	Public Involvement
Phase 1 - Analysis & Evaluation	\$18,580	\$24,200	\$4,200	\$13,800		\$23,620
Phase 2 - Alternatives Development	\$16,180					\$3,250
Phase 3 - Preferred Alternatives Refinement	\$24,570					\$5,400
Phase 4 - Environmental Clearance				\$32,120	\$11,800	
Subtotal	\$59,330	\$24,200	\$4,200	\$45,920	\$11,800	\$32,270
Direct Expenses	\$4,400			\$2,500		\$290
Total for Labor and Direct Expenses	<b>\$63,730</b>	<b>\$24,200</b>	<b>\$4,200</b>	<b>\$48,420</b>	<b>\$11,800</b>	<b>\$32,560</b>
Total Project Fees	<b>\$184,910</b>					

The proposed fees include all team members with allocations for labor, direct expenses and travel costs.

### Fee Assumptions

The above fees are provided as a summary based on a 6-month project duration to complete Phases 1, 2 and 3, commencing the beginning of January 2009 and completing in June 2009. The above fees have been prepared based on the follow project assumptions:

- The overall fee assumes the ability to schedule, organize and lead up to four (4) public community meetings and up to five (5) stakeholder workshops with the project team.
- Additional meetings may be desired during the public hearing and approval process and have not been anticipated in the above fees but could be incorporated into a final scope of work or completed on a time and materials basis.
- Website, media and City Cable efforts led by the City of Tempe.

- Meeting notices and newsletters will be printed and distributed by the City of Tempe.
- Stakeholder database to be provided by the City of Tempe.

We look forward to a discussion of our proposed project approach, work program and cost proposal. It is quite possible that our scope, work program and costs may be modified to more adequately address and balance the goals of City of Tempe.

### Optional Services

The City of Tempe has requested particular optional tasks to be identified. A summary of optional services is listed below:

- |  |         |
|--|---------|
| • Barrier Noise Analysis                           | \$2,300 |
| • Development of Web Page                          | \$5,000 |
| • Preparation of a Project Web Page Content        | \$5,000 |
| • Participation of Road Expert at Public Meeting 2 | \$7,000 |
| • Additional public meetings (per meeting cost)    | \$1,100 |

### Additional Services

When the City of Tempe requests activities or work products that are above and beyond the Scope of Work detailed in this proposal, an Additional Services request will be made by the City of Tempe. PB will provide a proposal for such Additional Services to the City. This request must be approved by the City prior to the beginning the additional work, and will be based on current billing rates.

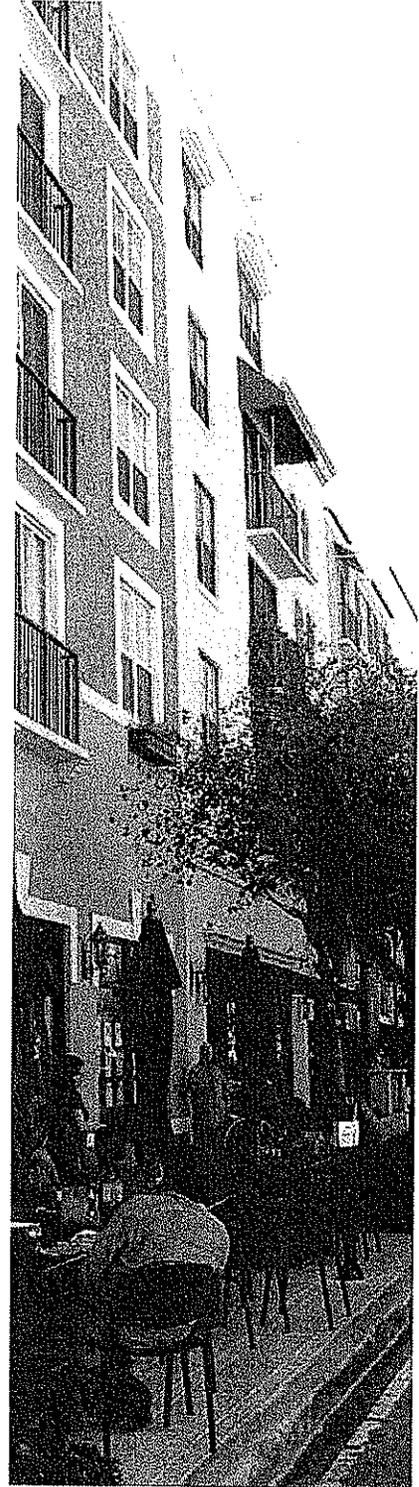
### Form of Contract

We propose to contract with the City of Tempe on a lump sum fee, including labor and direct expenses. PB will be the prime consultant and will contract with the City of Tempe. InfraConsult, LLC, TRA, Inc, and ACS, Inc will contract as sub-consultants to PB.

### Reimbursable Expenses

Normal expenses in our fee include travel, printing, delivery services, long-distance telephone/fax, and photo reproduction. Items not anticipated in this estimate are the printing of multiple copies of final documents, presentation models, and large-scale color renderings, and would be performed as extra services as directed by the City of Tempe. Reimbursable expenses will be billed at cost ~~plus 10%.~~

*TDL*



### Current Billing Rates for Key Consultants

The billing rates listed below are summarized for key members of the project team.

#### Parsons Brinckerhoff

Tom Hester	\$186.00/hour
Jennifer Rosales	\$125.00/hour
Dennis Davis	\$143.00/hour
Jim Hencke	\$116.00/hour
Kevin Keller	\$115.00/hour
Srinivas Goundla	\$110.00/hour
Debbie Torzone	\$102.00/hour
Thomas Bennett	\$92.00/hour
Jennifer Love	\$90.00/hour
Jihong Cao	\$84.00/hour
Alice Chen	\$83.00/hour
Emily Hull	\$67.00/hour

#### InfraConsult, LLC

Terry Gruver	\$155.00/hour
Support	\$55.52/hour

CITY OF TEMPE  
TEMPE, ARIZONA  
DEPARTMENT OF PUBLIC WORKS

AFFIDAVIT OF GENERAL CONTRACTOR / PRIME CONSULTANT  
REGARDING  
HEALTH INSURANCE

\_\_\_\_\_,  
Arizona

Date \_\_\_\_\_

**Broadway Road Streetscape  
Project No. 6003051**

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**

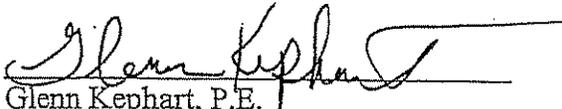
These Guidelines are provided for purposes of implementing Resolution No. 2000.73, which requires all employees of prime consultants, general contractors and major subconsultants and subcontractors to have health insurance and to offer health insurance to their eligible dependants, as determined at the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