

Staff Summary Report



Council Meeting Date: 12/11/08

Agenda Item Number: _____

SUBJECT: Request award of a professional services design contract with Damon S. Williams Associates, LLC for water quality improvements at the South Tempe Water Treatment Plant (STWTP).

DOCUMENT NAME: 20081211PWDR07 WATER PUMPING STATION - SOUTH TEMPE (0811-10) PROJECT NO. 3203211

SUPPORTING DOCS: Yes.

COMMENTS: Total cost for this contract is \$199,691.

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

REVIEWED BY: Andy Goh, Deputy PW Manager/City Engineer (x8896)
Don Hawkes, Water Utilities Manager (x2660)

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 Project No. 3203211.

RECOMMENDATION: Award professional services contract.

ADDITIONAL INFO: Recent bench scale testing by staff at the STWTP led to a proposal for modifications in plant operations and treatment processes. The modifications will result in improved water quality, consistent with EPA standards for drinking water including new limits on disinfection by-products.

The scope of work for this contract includes water testing and treatment process review assistance, engineering calculations, basis of design report, preparation of detailed construction plans and specifications, and other design and post-design services.

The design fee was negotiated by staff and is considered reasonable for the scope of services. Damon S. Williams Associates, LLC was selected by a review committee as the most qualified firm for these services using a qualification based process set forth in A.R.S. § 34-601 through 611.



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 Damon S. Williams Associates, LLC a limited liability company (“Consultant”).

The City engages the Consultant to perform professional services for a project known and described as South Water Treatment Plant Water Quality Improvements, Project No. 3203211 (“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 testing and treatment process review assistance, engineering calculations, basis of design report, detailed construction drawings and specifications and other design and post-design services related to proposed upgrades to the South Tempe Water Treatment Plant, as described in Exhibit “A” attached.
- 1.2. Consultant has assigned Dusan Stanisic 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

- 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 within 365 calendar days of the date appearing on the "Notice to Proceed" issued by the City. 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 \$199,691.00, unless otherwise authorized by the City. This fee includes an amount not to exceed \$169,045.00 for engineering services based on hourly rates established in the attached Exhibit "A" incorporated hereby by this reference; an allowance of \$29,846.00 for additional testing and evaluation; and an allowance of \$800.00 for reimbursable expenses, which in no event will ever be more than actual cost.
- 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 20% of the total Contract amount prior to submittal of the final report deliverables.
 - 3.2.2. Prior to approval of the preliminary design (30% plans), payments to

Consultants shall not exceed 30% of the total Contract amount.

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

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

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 2355 E. Camelback Rd., Suite 700, Phoenix, AZ 85016 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.

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 a limited liability company, 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:

Dusan Stanistic
Damon S. Williams Associates
2355 E. Camelback Road
Suite 700
Phoenix, AZ 85016

- 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
Damon S. Williams Associates, LLC

Name

Title

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

Certified to be a true and exact copy.

Karen M. Fillmore
Records Specialist



DAMON S. WILLIAMS ASSOCIATES, LLC
2355 East Camelback Road, Suite 700 * Phoenix, Arizona 85016-3458
Phone: 602-265-5400 * Fax: 602-265-5632
www.dswa.net

Principals
Damon S. Williams, P.E.
Dusan Stanistic, P.E.
Glen W. Roth, P.E.

Associates
Michelle D. De Haan
Kristopher J. Kile
Chad Seidel, Ph.D., P.E.

November 20, 2008

Mr. Philip C. Brown P.E.
City of Tempe
Public Works Department
31 East Fifth Street
Tempe, AZ 85281

Re: City of Tempe Water Utilities Department
South Tempe WTP DBP Remediation

Dear Mr. Brown,

Attached is our proposal for the City of Tempe Water Utilities Department South Tempe WTP Disinfection Byproducts (DBP) Remediation project. We propose to complete our services on a time and material basis, for a not to exceed amount of \$199,691.00. Thank you for the opportunity to assist the City with this important project.

Please feel free to contact me with any questions at (602) 217-1027.

Very truly yours,

DAMON S. WILLIAMS ASSOCIATES, L.L.C.

Dusan Stanistic, P.E.
Principal

DSW/File



**City of Tempe
Water Utilities Department**

**South Tempe Water Treatment Plant
Disinfection Byproducts Remediation**

**Scope of Work
and Fee Proposal**

November 20, 2008

DSWA
DAMON S. WILLIAMS ASSOCIATES, LLC

pub



PROJECT SCOPE OF WORK AND FEE PROPOSAL

CONTENTS

GENERAL 1

PROJECT ORGANIZATIONAL CHART 3

LIST OF PROJECT STAGES..... 3

STAGE 1 - PROJECT MANAGEMENT 4

 Task 1100 General Project Management 4

 Task 1200 Project Meetings 4

 Subtask 1210 Kickoff Meeting..... 4

 Subtask 1220 Bi-Weekly Design Workshops..... 5

 Subtask 1230 Design Review Meetings 5

STAGE 2 – DBP OPTIMIZATION FOR SOUTH TEMPE WTP 5

 Task 2100 Baseline Water Quality and Treatment Process Evaluation 5

 Task 2200 Prioritization of DBP Reduction Alternatives 6

 Task 2300 Bench Scale Testing 6

 Subtask 2310 Testing Protocol Development..... 7

 Subtask 2320 Bench Testing Oversight and Results Evaluation..... 7

 Task 2400 DBP Optimization Technical Memorandum 8

STAGE 3 – BASIS OF DESIGN 8

 Task 3100 Basis of Design Report..... 9

 Task 3200 Development of Conceptual Design Drawings 9

FEE ESTIMATE 10

SCHEDULE 10

ASSUMPTIONS 10

Exhibit A – Project Fees
 Exhibit B – Project Schedule

POB



Damon S. Williams Associates, L.L.C. (Engineer) is proposing to provide engineering services for the City of Tempe (City) Disinfection Byproducts (DBP) Remediation Project at the City's South Tempe Water Treatment Plant (STWTP).

GENERAL

The City operates the STWTP that treats and supplies drinking water to its residents. As a result of a reaction between disinfectants used to treat drinking water and natural organic matter (NOM) in the source water from the SRP Canal, Disinfection Byproducts (DBPs) are formed including Total Trihalomethanes (TTHM) and Haloacetic Acids (HAA5). The City needs to comply with Stage 1 and 2 DBP Rules to meet the maximum contaminant level (MCL) of 80 ug/L for TTHM and 60 ug/L for HAA5 based on a running annual average (RAA). The Stage 1 DBP Rule requires sampling throughout the water distribution system and compliance based on a system-wide RAA. The Stage 2 DBP Rule, which requires compliance by 2012, is based on a locational RAA (LRAA), which in essence requires that all consumers, on an annual average basis, receive water with less than the DBP MCLs.

The objective of this project is to develop a roadmap for compliance with Stage 1 and 2 DBP regulations for the STWTP. This project will provide the City with the following deliverables to assist with reduction of DBPs with the main focus on TTHMs in the STWTP finished water.

- Operational strategies guidance to assist with meeting the Stage 1 and 2 DBP Rule using existing facilities.
- Technical memorandum with recommendations for basis of design based on evaluations of DBP reduction alternatives using an established list of criteria including a qualitative cost analysis. The qualitative cost analysis will include rankings from 1-5 (i.e., \$, \$\$, \$\$\$, \$\$\$\$, and \$\$\$\$\$) for capital and operations and maintenance (O&M) for all alternatives. Bench testing will be conducted to tighten up the cost and provide definition for basis of design. This memorandum will also include documentation of bench scale testing results.
- Basis of design report including design concept elements for recommended DBP reduction alternatives. This basis of design report will include conceptual drawings (process flow diagrams, site plan, mechanical layouts, electrical single line diagrams and process & instrumentation diagrams), preliminary equipment sizing and conceptual control descriptions associated with recommended alternatives. Estimates of capital,

pub



O&M, and lifecycle costs will be provided to assist with selection of DBP reduction alternatives.

The following DBP reduction alternatives listed in Table 1 have been identified to date for consideration as part of the STWTP strategies to meet the Stage 1 and 2 DBP Rules. This list will be prioritized over the course of this study to meet the City's objectives. The City engaged in critical DBP attack strategies for the Stage 1 DBP Rule during the summer of 2008. This process has helped the City to narrow the range of options provided in Table 1. For this study, items identified with boldface type within Table 1 will be focused on for further evaluation.

Table 1 Alternatives for DBP Reduction and STWTP Optimization

ALTERNATIVE	DESCRIPTION
Aeration	Removal of DBPs once formed by means of air stripping
Chlorine Feed System Upgrades	Upgrades to existing system for reliability and potentially DBP reduction
Well Water Discharge Relocation	Improve blending strategies between surface water & groundwater for DBP reduction
Reservoir Dewatering System	Reduce water age within reservoirs and increase operational flexibility
Reservoir Management	Optimization of operating strategies to meet DBP reduction objectives
Chemical Enhancements	1. Coagulation Optimization/Enhancement (e.g. pH adjustment, PAC / Alum dosing, use of other coagulants) 2. Oxidant Evaluation (e.g. chlorine dioxide, ozone)
Solids Handling	Implementation of improvement components can impact solids handling and must be evaluated (i.e. sludge drying beds when PAC utilized or acid / caustic used for pH adjustment)
GAC / BAC	Adsorption of TOC (for comparison with cost of aeration for justification purposes)
MIEX	Ion exchange process for TOC removal (for comparison with cost of aeration for justification purposes)

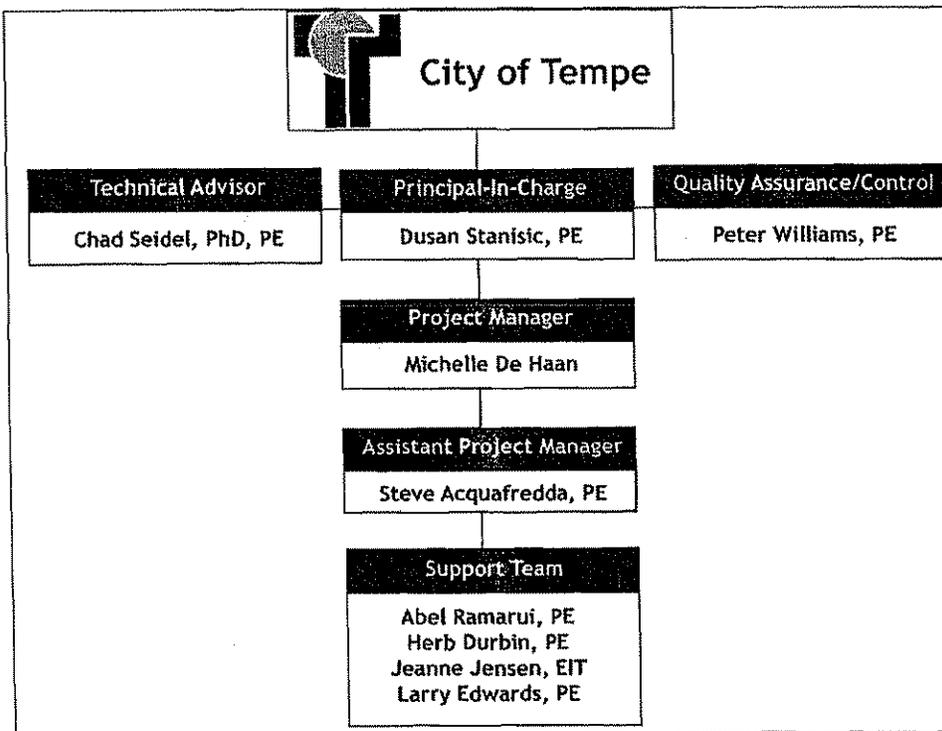
fob



PROJECT ORGANIZATIONAL CHART

DSWA has assembled a skilled team of technical professionals to serve the City's project needs. The collective experience of our team members offers the City a broad range of expertise, as well as a strong working familiarity with DBP reduction challenges. A project organizational chart is provided in Figure 1.

Figure 1 Project Organizational Chart



LIST OF PROJECT STAGES

A four-digit number identifies tasks and subtasks within each major Project Stage and will be used in all references in Project correspondence, meeting notes, progress payments, status reports, schedules, and filing. The major project stages are outlined as follows:

DSW



STAGE 1 – PROJECT MANAGEMENT

STAGE 2 – DBP OPTIMIZATION FOR SOUTH TEMPE WTP

STAGE 3 – BASIS OF DESIGN

Subtask detailed descriptions for each Stage are provided in the following sections.

STAGE 1 - PROJECT MANAGEMENT

Task 1100 General Project Management

The Engineer will perform general project management duties associated with this Project effort. The efforts include preparation and monitoring of project budget and schedules, implementation of quality assurance and quality control programs, Project Team coordination, and preparation of monthly progress reports and invoices.

Task 1200 Project Meetings

Subtask 1210 Kickoff Meeting

DSWA will conduct a project kick-off meeting with representatives of City. The purpose of this meeting will be to initiate the project and develop a working understanding of the following:

- Introduce the Project Team
- Review project Scope of Work
- Review project schedule
- Identify information needed from the City
- Identify City contacts
- Establish communication protocol and project procedures
- Develop a project meeting schedule
- Expand upon list in Table 1 and begin prioritization of DBP reduction alternatives.
 - Define types of testing needed and associated schedule
 - Development of evaluation strategy for aeration process technology

PAB



Deliverables: Meeting Agenda, Handouts and Notes

Subtask 1220 Bi-Weekly Design Workshops

The Engineer will conduct bi-weekly design workshops with representatives of the City. The purpose of these meetings will be to discuss project progress related to bench-scale testing (i.e. progress, protocols, data, etc.) and obtain continuous City feedback on DBP reduction alternatives prioritization.

Deliverables: Meeting Agenda, Handouts and Notes

Subtask 1230 Design Review Meetings

DSWA will conduct design review meetings with representatives of the City. The purpose of these meetings will be to review the contents of major project deliverables and obtain feedback from the City regarding next steps towards project objectives. This task assumes three (3) 2-hour meetings.

Deliverables: Meeting Agenda, Handouts and Notes

STAGE 2 – DBP OPTIMIZATION FOR SOUTH TEMPE WTP

The objectives for Stage 2 of this project are to develop operating strategies guidance using existing WTP facilities and to identify capital improvement recommendations likely to give the City the best value with respect to DBP reduction. The tasks listed and described in this section are proposed to assist the Project Team with meeting these objectives.

Task 2100 Baseline Water Quality and Treatment Process Evaluation

The purpose for this task is to gain familiarity with available data and identify DBP problems and potential control strategies in consideration of the Tempe water system with emphasis on the South WTP. This task will include an evaluation of the following items.

- Review historical DBP compliance and process testing data including IDSE sampling results, aeration testing results, etc.
- Review WTP process performance sequentially by unit process with respect to TOC removal and DBP formation potential (FP) for STWTP and potentially other water sources within the City's system (e.g. wells in vicinity of STWTP).

DSW



- Review distribution system operational conditions with respect to DBPFP (chlorine residual, reservoir management, hydraulic modeling outputs, etc.)

Data reviewed as part of this task will be summarized into a brief technical memorandum for use throughout the project. This technical memorandum will be incorporated into the basis of design report (see Stage 3) as the introduction/background and water quality analysis sections.

Deliverables: Three (3) hard copies of Technical Memorandum

Task 2200 Prioritization of DBP Reduction Alternatives

The list of DBP reduction alternatives provided in Table 1 will be further evaluated in this task as follows.

- Alternatives will be categorized as strategies that optimize existing facilities or require new facilities for implementation.
- Each of the categories will be prioritized based on Project Team preferences, ease of operation/installation, reliability for DBP reduction, and qualitative cost analysis (capital and O&M).

A matrix will be developed at the kickoff meeting and refined over the project to track each of these alternatives and rate their relative effectiveness for meeting City objectives. This matrix will also be used to identify specific testing efforts associated with each DBP reduction alternative and to prioritize the schedule for their completion.

Deliverables: Alternative Prioritization Matrix

Task 2300 Bench Scale Testing

Under this task DSWA will work with City staff to determine which alternatives will be developed into experiments to determine their DBP reduction effectiveness. Testing will likely be conducted in the following areas.

- Aeration Technology Evaluation: The City has conducted a preliminary aeration feasibility evaluation and results from this preliminary testing have been favorable for the

Handwritten initials, possibly 'DSW', in the bottom right corner of the page.



technology. Additional bench-scale evaluation will be performed to confirm the effectiveness of aeration under conditions simulating full-scale application and define related process design parameters needed for basis of design, such as the aeration approach (e.g. spray vs. forced bubble); chlorine residual changes; pH changes (e.g. for distribution system corrosion control purposes); and TTHM and HAA5 formation, removal, and reformation potential. DSWA will assist the City with process testing, equipment selection, vendor correspondence, and protocol development as further discussed below in Task 2310.

- **Chemical Enhancements:** Jar testing will likely be conducted for enhanced coagulation and adsorption optimization with alum and PAC and for oxidants (e.g. chlorine dioxide, ozone, etc.). Adjustment of pH utilizing acid and caustic (rather than mechanical means) and consideration of other coagulants may be included as part of this bench scale testing. Empirical WTP models will be used for costing purposes by incorporating bench test results.
- **System Operational Testing:** The City has evaluated and targeted reservoir management strategies and surface water / groundwater blending strategies as tools to help them achieve DBP reduction. These system operational tests will be used to optimize these tools and to define expected DBP reduction using these strategies.

Subtask 2310 Testing Protocol Development

As part of the prioritization of DBP reduction alternatives, bench scale testing will be required to evaluate the effectiveness of certain alternatives. DSWA will develop detailed testing protocol for use during the project and by the City thereafter including: preparing the experimental set-up procedures and materials list, bench-scale jar testing protocols and associated electronic data reporting logs. For fee estimate purposes, an assumption has been made that there will be up to three protocols.

Deliverables: Testing Protocols (fee estimate assumption of three protocols)

Subtask 2320 Bench Testing Oversight and Results Evaluation

The City will set-up the experiment with assistance from DSWA; maintain bench testing equipment; collect and analyze samples (e.g. pH, temperature, disinfectant residuals, TOC, DBPs, etc.) and report results to the data reporting logs. DSWA will provide on-site training for

POB



developed protocol and oversight for testing when specific results dictate the need for new or modified protocol. DSWA will evaluate all results and review them with the City to determine successes, failures, and basis of design data points. This fee estimate has been prepared with the assumption for oversight of up to three tests.

Task 2400 DBP Optimization Technical Memorandum

The purpose for this task is to develop a technical memorandum that identifies alternatives that are likely to give the City the best value with respect to DBP reduction. Specifically, this memorandum will address the following objectives.

- Summarize evaluations for each DBP reduction alternative including results from all testing.
- Provide operating strategies guidance using existing and/or modified WTP facilities for variable DBP formation conditions.
- Recommend specific alternatives from the Prioritization Matrix for further consideration within the Basis of Design Report (see Stage 3) based on Project Team preference, results from testing, and preliminary evaluations. Recommendations may also include process technology preferences as data will be obtained to support the process selection.

This technical memorandum will be incorporated into the basis of design report (see Stage 3) as the alternatives evaluation section.

Deliverables: Six (6) hard copies of Technical Memorandum

STAGE 3 – BASIS OF DESIGN

The objective for Stage 3 of this project is to provide detailed analysis of DBP reduction alternatives selected for further evaluation in Stage 2 within a Basis of Design Report. Tasks required to develop the Basis of Design Report are described further in this section.

Handwritten initials, possibly 'RW' or 'RWB', in the bottom right corner.



Task 3100 Basis of Design Report

The Basis of Design Report will include the following components.

- Development of detailed capital, O&M, and lifecycle costs for selected alternatives. Cost development will include coordination with technology vendors, as needed, and documentation of assumptions associated with reported costs.
- DBP reduction alternative recommendations based on results from testing/evaluation, Project Team preference, and detailed cost analysis.
- Compilation of all project technical memorandum and protocols with Project Team comments incorporated.

Deliverables: Six (6) hard copies of Draft and Final Basis of Design Report and one CD with pdf version of Final Report

Task 3200 Development of Conceptual Design Drawings

Conceptual design drawings will be developed for alternatives selected for further evaluation in Stage 2 of this project. Drawings to be completed as part of this task will include process flow schematics, site plan, mechanical layouts, electrical single line diagrams and process & instrumentation diagrams. Preliminary equipment sizing and conceptual control descriptions will also be included.

Deliverables: Six (6) hard copies of Draft and Final ½ scale (11x17) drawings and one CD with pdf version of the Final Drawings

pub



FEE ESTIMATE

The Fee Estimate for all services under this Scope of Work is provided in Exhibit A. Our fee proposal is broken down by task and includes estimated hours by labor category for each task. Reimbursable expenses are also identified. Based on our understanding of the project, we propose to complete engineering services for the referenced project on a time and material basis for a not to exceed amount of \$199,691. Additional services other than those specified herein, or those required above the amount identified for tasks may be added through a Contract Addendum with the City.

SCHEDULE

A draft project schedule is included in Exhibit B. December 15, 2008 is assumed for Notice to Proceed (NTP). The schedule will be adjusted based on the actual NTP date and City preferences throughout the project.

ASSUMPTIONS

The following assumptions have been identified:

- DSWA and City bench testing apparatus will be utilized to support this effort. Additional supplies and materials will be supplied by the City. Sample analysis will be conducted by the City's laboratory and at the City's cost internally and/or if outside lab services are required. DSWA will provide protocol development, materials lists, testing oversight, and data evaluation.
- The City will provide personnel assistance to oversee the majority of the equipment setup, maintenance, and sample and data collection/reporting.
- The City will provide unit prices for chemical purchases from contracts and/or vendor quotes.
- The City will provide background materials (e.g. aeration results, GAC design assumptions, operational modeling data, etc.)
- Basis of design deliverables including drawings will provide approximately 5 to 8 % design completion level of detail.

pub



- Bench testing analyses are required to better understand the viable methods for DBP reduction, and it is important to recognize that results from bench testing may not represent full scale test results. Therefore, pilot demonstration or full scale testing is generally recommended after successful bench testing results to verify performance and to gain design parameters. To accommodate the City's time constraints, design and oversight of bench testing will be provided by DSWA, to ensure that the project team can gain as much information as possible to select the most optimum alternatives. If pilot demonstration or full scale testing is warranted, it can be scheduled in parallel with the early stages of the design process. Pilot testing is not intended / required within this scope of work unless requested under a contract amendment.
- Flexibility has been included to allow for outside testing support (e.g. university labs, and/or rental of equipment as required (e.g. ozone generator, etc.)).

PMB



EXHIBIT A – Project Fees

(PND)



CITY OF TEMPE WATER UTILITIES DEPARTMENT
South Tempe WTP DBP Remediation



11/20/08

EXHIBIT A - FEES

Task No.	Description	Consultant Hours										Total Hours	Total Cost
		Prin	QA/QC	PM	Proj Eng	Staff Eng	CAD Design	Cler					
		\$ 199.00	\$ 175.00	\$ 156.00	\$ 134.00	\$ 114.00	\$ 85.00	\$ 63.00					
RATES													
1000	Project Management												
1100	General Project Management	2		16				4				22	\$3,146
1200	Project Meetings											0	\$0
1210	Kickoff Meeting	4		5	4	6						19	\$2,786
1220	Bi-Weekly Design Workshops	8		24	40	48						120	\$16,168
1230	Design Review Meetings	8		15	12	18		4				57	\$7,844
	TOTAL HOURS	22	0	60	56	72	0	8				218	
	TOTAL TASK 1000 COST												\$29,954
2000	DBP Optimization for South WTP												
2100	Baseline Water Quality & Treatment Process Evaluation		1	8	80	80		4				173	\$21,515
2200	Prioritization of DBP Reduction Alternatives			8	42	38						88	\$11,208
2300	Bench Scale Testing	0	3	24	90	114	0	0				231	\$29,325
2400	DBP Optimization Technical Memorandum	0	2	16	56	56	0	8				138	\$17,238
	TOTAL HOURS	0	6	56	268	288	0	12				630	
	TOTAL TASK 2000 COST												\$79,286
3000	Basis of Design												
3100	Basis of Design Report	4	9	36	100	152	0	12				313	\$39,471
3200	Development of Conceptual Design Drawings		2	6	32	40	120					200	\$20,334
	TOTAL HOURS	4	11	42	132	192	120	12				513	
	TOTAL TASK 3000 COST												\$59,805
	TOTAL TASKS 1000 THROUGH 3000	26	17	158	456	552	120	32				1,361	\$169,045
OTHER DIRECT COSTS													
1	Reproduction and Printing												\$300
2	Courier Services												\$150
3	Mileage												\$350
	TOTAL DIRECT COSTS	0	0	0	0	0	0	0	0	0	0	0	\$800
ALLOWANCES													
1	Additional Testing & Evaluation	2	4	40	64	120		4				234	\$29,848
	TOTAL NOT TO EXCEED	28	21	198	520	672	120	36				1,595	\$199,691

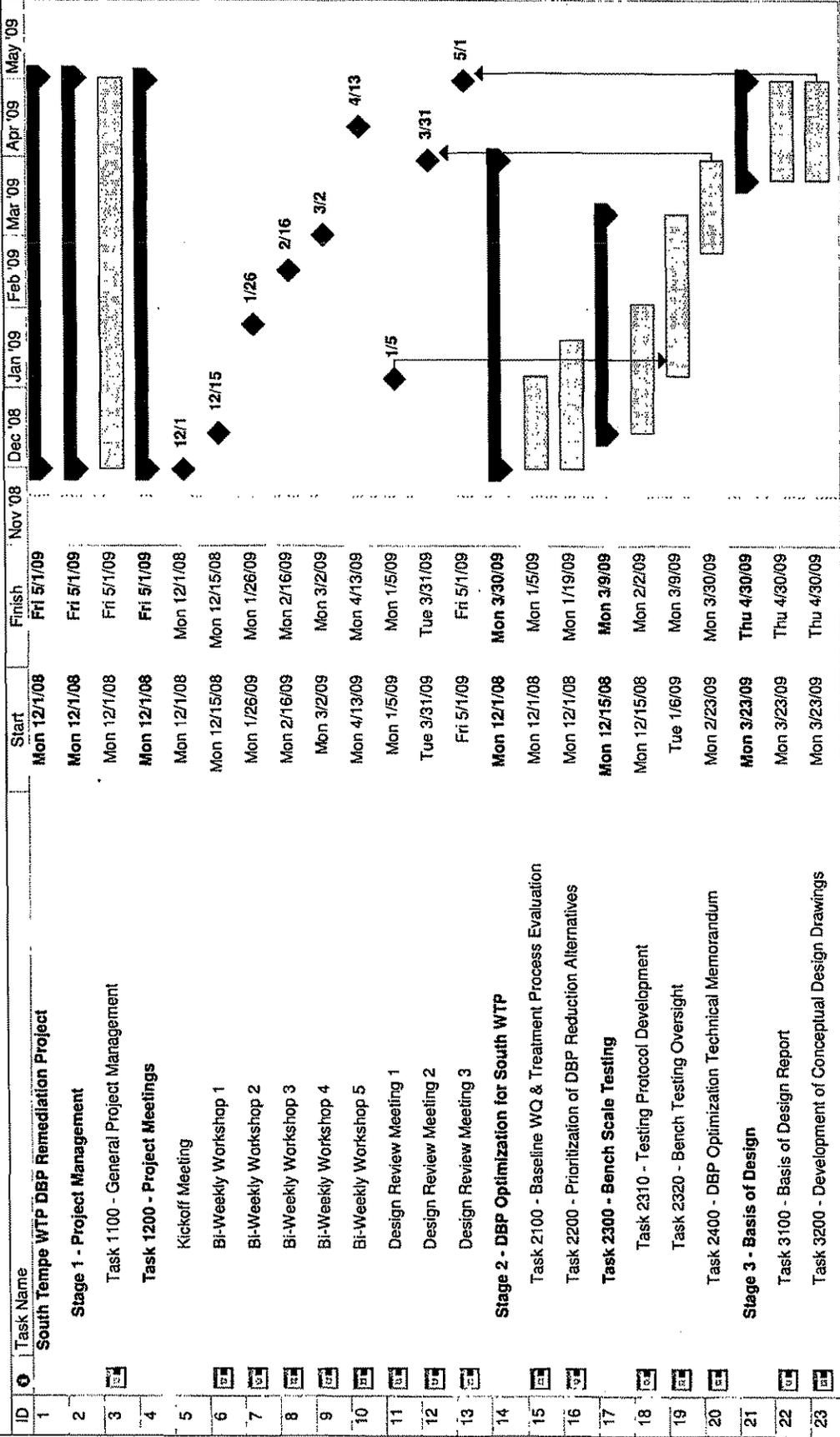
PCB



EXHIBIT B – Project Schedule

DSW

EXHIBIT B - Project Schedule
City of Tempe
South Tempe WTP DBP Remediation



Date: 11-20-2008

Task:

Split:

Progress:

Milestone:

Summary:

Project Summary:

External Tasks:

External Milestone:

Deadline:

Pen

CITY OF TEMPE
TEMPE, ARIZONA
DEPARTMENT OF PUBLIC WORKS

AFFIDAVIT OF GENERAL CONTRACTOR / PRIME CONSULTANT
REGARDING
HEALTH INSURANCE

Arizona

Date _____

South Water Treatment Plant Water Quality Improvements
Project No. 3203211

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

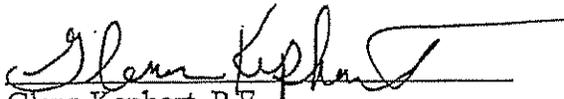
These Guidelines are provided for purposes of implementing Resolution No. 2000.73, which requires all employees of prime consultants, general contractors and major subconsultants and subcontractors to have health insurance and to offer health insurance to their eligible dependants, as determined at the 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 120th day of contract signing. Temporary employees will be covered to the same extent as the City of Tempe covers temporary employees as determined at the start of each project.
3. If a contractor is a "Union" shop and withholds union dues from employees for health insurance coverage that is also offered to their eligible dependents and meets all City requirements, the Contractor may so note on the required affidavit.
4. The health insurance requirements herein apply to all employees that are directly involved with the City of Tempe project including support and administrative personnel.
5. Health insurance coverage must be maintained during the entire time of the contract, including any warranty periods, with the City.
6. All complaints concerning violations of the health insurance requirements shall be filed by an employee, in writing, with the Public Works Department, within thirty (30) days from discovery of the violation. An administrative hearing will be held before the Public Works Manager, and a written decision of findings will be provided to the parties to the hearing within ten (10) days thereafter. Appeal from the decision

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

7. In the event of a finding by the City of a violation of the insurance provisions, the company in violation of the provision shall be barred from bidding on, or entering into, any public works contract with the City for a minimum period of three (3) years.
8. All consultants and contractors subject to the health insurance requirements shall post, in English and Spanish, notice of the health insurance requirements at their office and at the job site. Signs for posting will be provided by the City.

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


Glenn Kephart, P.E.
Public Works Manager