

Staff Summary Report



Council Meeting Date: 1/08/09

Agenda Item Number: _____

SUBJECT: Request award of a landscape architectural contract with Vollmer & Associates Inc. for improvements to Goodwin Park.

DOCUMENT NAME: 20090109PWDR04 GOODWIN PARK (0706-18) PROJECT NO. 6303141

SUPPORTING DOCS: Yes.

COMMENTS: Total cost for this contract is \$154,390.

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. 6303141.

RECOMMENDATION: Award professional services contract.

ADDITIONAL INFO: The scope of work for this contract includes preparation of schematic design and construction documents based on the approved master plan for improvements to Goodwin Park. The design will include automatic sprinkler irrigation, park lighting, ADA accessible park entries, trails/walkways, picnic ramadas, play areas and meditation gardens.

The contract amount was negotiated by staff and is considered reasonable for the scope of services. Vollmer & Associates 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 8th day of January, 2009, by and between the City of Tempe, a municipal corporation ("City"), and Vollmer & Associates, Inc., an Arizona corporation ("Consultant").

The City engages the Consultant to perform professional services for a project known and described as Goodwin Park Improvements, Project No. 6303141 ("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 landscape architectural services for Goodwin Park, as described in Exhibit "A" attached.
- 1.2. Consultant has assigned Jim Smith 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 within 500 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 \$154,390.00, unless otherwise authorized by the City. This fee includes the sum of \$137,540.00 for design services; an amount not to exceed \$11,750.00 for post design services based on hourly rates established in the attached Exhibit "A" incorporated hereby by this reference; and an allowance of \$5,100.00 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. Prior to approval of the preliminary design (60% plans), payments to Consultants shall not exceed 60% of the total Contract amount.
 - 3.2.2. 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.

3.2.3. 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 426 N. 44th Street, Suite 350, Phoenix, Arizona 85008. 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:

Jim Smith
 Vollmer & Associates, Inc.
 426 N. 44th Street
 Suite 350
 Phoenix, AZ 85008

- 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.

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 _____, 2009.

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
Vollmer & Associates, Inc.

Name

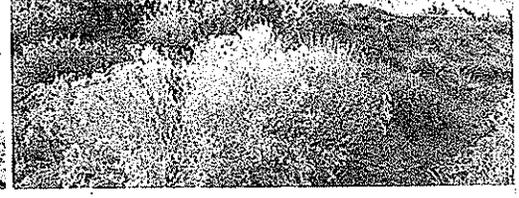
Title

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

Certified to be a true and exact copy.

Karen M. Fillmore
Records Specialist

EXHIBIT A



vollmer
& ASSOCIATES

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

Tuesday December 9 2008

Mr. Chris Kabala P.E.
City of Tempe
Engineering/Capital Improvements
31 East Fifth Street
Tempe, AZ. 85281

RE: GOODWIN PARK 63013140
LANDSCAPE ARCHITECTURAL SERVICES

Dear Chris,

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

SCOPE OF SERVICES

This proposal provides an outline of services based on our initial meeting with you and the rest of the City of Tempe capital improvements team and the conceptual landscape plan dated April 17, 2007. The following estimate of professional fees includes schematic design, design development 30%, 60%, 90% permit construction documents and post design services. Civil and structural will not be included in the 30% submittal.

I. PRELIMINARY SERVICES

- A. Review Budget and Verify Program – Review existing program and budget with staff.
- B. Vollmer & Associates will collect and review available data and print information from the adjacent improvements as provided by the City of Tempe.
 1. Existing park plan dated April 17th, 2007.
 2. Existing civil engineering plans as provided by the City of Tempe.
 3. Review ALTA survey and determine site constraints and opportunities.
- C. Utility Investigation – This will include contacting all of the utility companies with existing or planned utilities in the limit of work. Drawings will be obtained and incorporated into the construction drawings for this project.
- D. Site visit and photographic inventory. Visit site and develop site photo inventory and analysis, compare photo analysis to ALTA and utilize analysis to develop a conceptual site plan.

II. SCHEMATIC DESIGN 10%

Initial design phase to gain a thorough understanding of the influences that will affect the final design. The design dated September 17, 2007 will be used as the base point for design services. Services include the following:

- A. Design investigation, develop vision.
- B. Illustrative conceptual site plan 22" x 34" and landscape design.
- C. Meeting with staff to review concept plan (2 anticipated).
- D. Develop hardscape program materials circulation patterns and lighting locations.
- E. Develop conceptual plant palette.
- F. Develop specialty features and site lighting.
- G. Incorporate staff comments.
- H. Submit black and white plans to planning department.
- I. Prepare preliminary estimate of probable cost.
- J. Project management including sub-consultant coordination, meetings minutes and billing.

III. DESIGN DEVELOPMENT 30% plans

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

- A. Further refine hardscape materials and site plan i.e. (pavers, concrete finishes and colors).
- B. Preliminary planting plan.
- C. Preliminary irrigation plan.
- D. Conceptual grading plan.
- E. Conceptual lighting plans and proposed fixtures.
- F. Lighting and electrical engineering coordination.
- G. Civil engineering coordination.
- H. Prepare preliminary estimate of probable cost.
- I. Finalize site utility locations.
- J. Preliminary value engineering.
- K. Construction Specification Institute format specification outline.
- L. Final design meeting and submittal to The City of Tempe. Submittal will include three (3) 22" x 34" (reduced to 11 x 17) plan set(s) will be submitted to City of Tempe.
- M. Project management including; sub-consultant coordination, meeting minutes, billing and scheduling.

IV. DESIGN DEVELOPMENT / CONSTRUCTION DOCUMENTS 60%

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

A. CONSTRUCTION DOCUMENTS 90% (Agency Review Set)

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

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

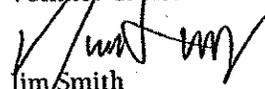
- special notes and related details that specifically address project requirements. All details shall be City of Tempe unless noted otherwise.
3. Irrigation Plans – Plans shall indicate all piping, valves, clocks, heads, points of connection, appropriate details and notes required to complete an operational automatic irrigation system. All new water services will be cross coordinated to the civil engineer plans. All details shall be City of Tempe unless otherwise noted.
 4. Landscape Irrigation Details – Plans shall show specific methods of installation and detailed methods of construction. All irrigation details shall be City of Tempe unless noted otherwise.
 5. 8 ½ x 11 CSI format specifications from all sub-consultants, except civil.
 6. Assembly and coordination of sub-consultant plans and specification including, landscape, irrigation, structural, civil and electrical engineering.
- B. Prepare estimate of probable costs. Deliverables include xls spreadsheet and pdf.
 - C. Preparation of 100% plans and specifications. The final 100% plans and specifications will be prepared incorporating all comments received from the City. One (1) reproducible set of 24" x 36" Mylar plans and 8 ½ x 11 CSI specifications prepared to produce the construction sets.
 - D. Submit plans to each utility company and coordinate "no conflict" letters. Letters will be Emailed to City of Tempe representative in pdf format.
 - E. Finalize value engineering based on budget constraints.
 - F. Modify plans to match project budget realized in estimate and value engineering.
 - G. Permitting services – it is not anticipated that this project will need to be reviewed permitted by Maricopa County. City of Tempe Building Permit will be required – The landscape architect will complete and submit for the required City permit applications for approval. The City will pay for all permits and required review fees.
 - H. Sub-Consultant Fee – See attached architectural services outline spreadsheet and attached individual sub consultant proposals for specific scopes and detailed fee information.
- V. POST DESIGN SERVICES (HOURLY)
- A. Submittals – The engineer will review Shop Drawings submittals on the equipment to be furnished.
 - B. Questions during construction – Receive and respond to contractors questions regarding the plans and specifications during the construction phase.
 - C. The landscape architect will answer and provide ASI's, and RFI's in 8 ½ x 11 or 11 x 17 format during construction.
 - D. Site visits/Construction Meetings – The landscape architect will make periodic site visits during the construction to monitor the construction progress. These will be as requested by the City.
 - E. The landscape architect will prepare myar irrigation as built.

TERMS AND CONDITIONS

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

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

Respectfully submitted,
Vollmer & Associates, Inc.


Jim Smith
Project Manager/ RLA





CITY OF TEMPE
 GOODWIN PARK
 CITY PROJECT NO. 6303140

LANDSCAPE ARCHITECTURAL SERVICES OUTLINE

Task	Task Description	Principal Rate \$160.00	Project Manager Rate \$125.00	Project Assistant Rate \$180.00	Landscape Designer Rate \$85.00	CAD Technician Rate \$75.00	Admin. Rate \$50.00	Total Hours	Total Fee	
Professional Labor Fee										
I Preliminary Services										
A.	Establish budget and review against program	1.0	2.0				1.0	4.00	\$460.00	
B.	Collect Data:									
	1. Review Existing park plan	2.0	5.0					7.00	\$945.00	
	2. Review site and determine site constraints	1.0	3.0					4.00	\$535.00	
C.	Utility Investigation		10.0	2.0				12.00	\$1,450.00	
D.	Site visit and photographic inventory	5.0	5.0	2.0			1.0	13.00	\$1,675.00	
								Subtotal	\$5,085.00	
II Schematic Design - 10%										
A.	Design Investigation, develop project vision and framework	12.0	16.0	2.0	1.0			31.00	\$4,205.00	
B.	Illustrative conceptual site plan and landscape design	8.0	6.0	10.0	1.0			25.00	\$3,115.00	
C.	Meeting with staff to review concept plans	4.0	4.0					8.00	\$1,140.00	
D.	Develop hardscape materials, circulation patterns and lighting locations	6.0	8.0	4.0	1.0			19.00	\$2,445.00	
E.	Develop conceptual plant palette	2.0	2.0		1.0	1.0		6.00	\$730.00	
F.	Develop specialty features and site furnishings	2.0	10.0	4.0				16.00	\$1,970.00	
G.	Incorporate staff comments	3.0	12.0	2.0	1.0			18.00	\$2,285.00	
H.	Submit and coordinate black and white or PDF plans to planning department		3.0	4.0				7.00	\$775.00	
I.	Prepare Preliminary estimate of probable cost	1.0	8.0	2.0			3.0	14.00	\$1,510.00	
J.	Project Management, Correspondence, meeting minutes and billing		12.0				8.0	20.00	\$1,900.00	
								Subtotal	\$18,155.00	
III Design Development - 30%										
A.	Further refine hardscape materials and site plan	9.0	15.0	5.0		3.0		32.00	\$4,040.00	
B.	Preliminary planting plan	6.0	5.0	1.0	2.0	2.0		18.00	\$2,005.00	
C.	Preliminary Irrigation plan		8.0	2.0		7.0		17.00	\$1,725.00	
D.	Conceptual grading plan--by Volmer	1.0	12.0	2.0		6.0		21.00	\$2,310.00	
E.	Conceptual lighting plan--by Volmer	2.0	4.0		1.0			7.00	\$905.00	
F.	Lighting and electrical engineering coordination		2.0	1.0	1.0			4.00	\$435.00	
G.	Civil engineer coordination		6.0	1.0	1.0			8.00	\$935.00	
H.	Prepare preliminary estimate of probable cost	1.5	6.0	2.0	2.0			11.50	\$1,350.00	
I.	Finalize site utility locations		4.0		2.0			6.00	\$670.00	
J.	Preliminary value engineering		4.0		2.0			6.00	\$670.00	
K.	CSI format specifications outline		6.0				2.0	8.00	\$850.00	
L.	Final design Meeting and submittal to COT		10.0		1.0			11.00	\$1,335.00	
M.	Project Management, Correspondence, meeting minutes and billing		12.0				8.0	20.00	\$1,900.00	
								Subtotal	\$17,240.00	
IV Construction Documents, Planning and Building Review - 60%, 90% and Permit										
A.	1. Site development plans and details	8.0	40.0		40.0			88.00	\$9,380.00	
	2. Planting plans	10.0	2.0	20.0		6.0		38.00	\$4,300.00	
	3. Irrigation plans	1.0	20.0	4.0	35.0	5.0		65.00	\$5,495.00	
	4. Landscape and irrigation details		18.0	4.0		6.0		28.00	\$2,850.00	
	5. CSI format specifications and b/d tabulations		60.0				15.0	75.00	\$8,250.00	
	6. Assembly and coordination		4.0				12.0	16.00	\$1,100.00	
B.	Prepare estimate of probable cost (60/90/Final)	3.0	12.0	2.0	2.0			19.00	\$2,350.00	
C.	Final set and plan coordination		4.0					4.00	\$500.00	
D.	Submit plans to individual utility companies for "No conflict" resolution letters		8.0				1.5	9.50	\$1,075.00	
E.	Finalize value engineering	3.0	10.0	3.0	6.0	6.0		28.00	\$2,890.00	
F.	Finalize plan revisions as necessary to obtain final COT approval		10.0	5.0	5.0	12.0		32.00	\$3,075.00	
G.	Permitting services		4.0					4.00	\$500.00	
H.	Project Management, Correspondence, meeting minutes and billing		12.0				8.0	20.00	\$1,900.00	
								Subtotal	\$44,745.00	
									Total Professional Labor Fee	\$86,205.00

Design Related Service

V Sub-Consultant Fees

A.	Civil Engineering and Structural Engineering Services. Structural Engineering only covers walls up to 3'	\$34,625.00
	1. Alta Survey	
	2. Topographic Survey	
	3. 60/90/100/Final Grading and Drainage Plans	
	4. Project Meetings	
B.	Geotechnical (soils report)	\$3,180.00
	1. project Meetings	
	2. Geotech borings	
	3. Laboratory Analysis	
	4. Engineers report of Analysis	
C.	Electrical Engineer	\$14,550.00
	1. Coordinate power with SRP	
	2. Meetings	
	3. Site Lighting and Photometric Plans and Calculatons 60/90/100/final plans	
	4.Prepare Specifications	
	5.Prepare Bid Tabulations	
	6.Post Design Services	
	7. Record Drawings	
	Subtotal	\$62,335.00

VI Post Design Services (hourly not to exceed)

A.	Shop drawings review (25 hours allowance)	\$3,125.00
B.	RFIs (15 hours allowance)	\$1,875.00
C.	ASIs (10 hours allowance)	\$1,250.00
D.	5 Construction meetings, site visits and field reports (5 meetings at 4 hours each average inclusive of travel time)	\$2,500.00
E.	As-built irrigation and hardscape(30 Hour allowance)	\$3,000.00
	Subtotal	\$11,750.00

VII Reimbursables

	Reimbursable expenses: Printing, courier service, postage, mileage	\$5,100.00
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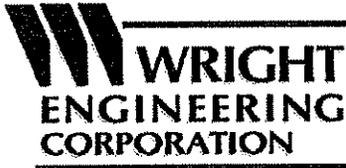
Expense Summary

A.	Professional labor fee (Lump Sum including Sub-Consultant Fees)	\$137,540.00
B.	Post Design Services (Section VI)	\$11,750.00
C.	Reimbursables (Section VII)	\$5,100.00
	Subtotal	\$154,390.00

Total Contract Fee \$154,390.00

All fees contained herein are referenced from the conceptual landscape plan provided by the city of Tempe dated April 17, 2007

Percentage of estimated construction budget 10.29%



165 East Chilton
Chandler, AZ 85225
Phone: (480) 497-5829
Fax: (480) 497-5807

Electrical Engineering & Design

December 9, 2008

Vollmer & Associates
One Gateway Center
426 N. 44th Street
Suite 350
Phoenix, AZ 85008

Re: **City of Tempe Goodwin Park Electrical & Lighting Design**

Attn: Jim Smith

Dear Jim:

Wright Engineering appreciates this opportunity to submit a proposal for electrical engineering services on the above referenced project. The following services will be performed in a professional manner to meet City of Tempe requirements:

Scope of Services Site Electrical and Lighting:

1. Investigate site and determine electrical utility service drop locations. Coordinate electrical primary and secondary installation requirements and utility delivery design with SRP.
2. Attend design meetings with Tempe staff and the Design team.
3. Design a lighting system for two basketball courts, and one sand volleyball court including layout of lights, details of poles, foundations, and equipment on poles. Design will be based on footcandle averages, as requested by the City for each court. Photometric printouts will be provided to the City of Tempe showing designed lighting levels.
4. Site lighting as required for the aesthetic and security requirements of the park, tot-lots and all picnic and group ramadas all to meet footcandle levels outlined by the City of Tempe, including all details of construction, power distribution, outlets in the ramadas and circuiting.
5. Provide photometric plan calculations integrated into each submittal and final plan sets for review and for inclusion in bidding set. Photometric calculations will adhere to City of Tempe requirements.

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6. Provide circuits for irrigation controllers, and drinking fountains as required by the design team. It is anticipated that all equipment will be pre-manufactured with one point of electrical connection.
7. All lighting control will be designed per City of Tempe requirements. All necessary equipment will be shown on the plans.
8. Prepare load calculations/panel schedules, and single line diagrams for the electric service per City and SRP requirements.
9. Prepare engineer's opinion of probable construction cost for the lighting and electrical systems.
10. Prepare an electrical specification to be included in the bid documents.
11. Bid quantities will be provided for the bid tab section in the 100% specifications
12. Provide notes and description as required for demolition of the existing site electrical equipment and lighting.
13. The above Services will be provided in the following phases:
 - a. Schematic Design Phase (30%)
 - i. Lighting locations, and preliminary details will be provide
 - ii. Design meetings attended
 - b. Design Development Phase (60%)
 - i. City comments will be addressed
 - ii. Additional team input will be included
 - iii. Additional design development will be made, power routing etc.
 - iv. Design meetings attended.
 - c. Design Development Phase (90%)
 - i. City comments will be addressed
 - ii. Additional team input will be included
 - iii. Additional design development will be made, wire sizing etc.
 - iv. Design meetings attended.
 - d. Final Design Phase (100%)
 - i. City comments will be addressed
 - ii. Additional team input will be included
 - iii. Additional design development will be made, electrical calculations, wire sizing and final detail adjustments
 - iv. Design meetings attended.
 - e. Final Plans Specifications & Estimates (100% Final)
 - i. Provide Final Construction documents, including electrical/lighting construction drawings, specifications, and a construction cost estimate.



Deliverables:

1. Plans will be prepared for 30%, 60%, 90%, 100% and permit stages. For each preliminary design phase, plans will be submitted for review on 24" x 36" bond for review with 8 ½" x 11" reports, or submitted electronically in PDF format via email or other approved method.
2. Upon completion of the design, we will provide the requested sets of final sealed documents including 24" x 36" construction plans bearing the signature of a registered electrical engineer in the State of Arizona, and electronic copies as requested.

Scope of Post Design or Construction Services:

1. Provide addendums (ASI) as necessary to the project.
2. Review Contractor Submittals.
3. Provide RFI review and response.
4. Attend construction meetings as required.
5. Provide Walk through review and punch lists as requested.

Record Drawings:

1. Prepare Record Drawings based on Contractor As-Builts. It is anticipated that 25% of the total sheets in the CCD's set will require modifications based on the Contractor marked up field set, and each set will require only 3 man-hours to complete the incorporation of the mark ups. Additional effort to prepare the record drawings shall be billed on a Time and Material basis. As-built Surveys are not included in the scope of work. Record drawings shall be produced on Mylar with Engineer's original seal.

Responsibilities of Others:

1. Provide Wright Engineering Corp. electronic base files in an AutoCAD format, which includes all proposed, and existing utilities, all proposed improvements, and any existing conditions that affect this scope.
2. Documents will be submitted to Vollmer & Associates for Submittal to the City of Tempe permitting and design review.

Design Services Fees:

The above Design services will be provided and billed on a Lump Sum basis according to the attached schedule. **Total Lump Sum = \$9,780.00**

Printing Charges:

Printing and delivery will be charged as follows not to exceed **\$300.00**:

Blacklines	\$.90 each
Vellum Sepia	\$ 6.00 each
Mylar Sepia	\$15.00 each
Delivery Cost	cost

Post-Design and Construction Services Fees:

The Post Design services described above will be provided and billed on a Time and Material Basis according to the Rates Below Not to Exceed: **\$3330.00**

Record Drawings:

Record Drawings according to the above scope will be provided on a lump sum basis with any excess billed hourly for: **\$1140.00**

<u>Personnel</u>	<u>Hourly Rate</u>	<u>Personnel</u>	<u>Hourly Rate</u>
Principal	\$120	Designer	\$75
Senior Engineer	\$105	Draftsman	\$65
Engineer	\$95	Secretary	\$45

When work has been completed under this contract we will bill you on a monthly basis for these services. Payment terms are Net 30 days.

I look forward to working with you on the upcoming project.

Sincerely,



R. Scott Wright, P.E.
Wright Engineering Corporation

The Client agrees that the technical methods, techniques, and pricing information contained in any proposal submitted by Wright Engineering pertaining to this project or in this Agreement or any addendum thereto, are to be considered confidential and proprietary, and shall not be released or otherwise made available to any third party without the express written consent of Wright Engineering.





Environmental ♦ Geotechnical ♦ Chemical ♦ Materials Testing

2801 South 35th Street, Phoenix, AZ 85034
ph 602.393.4800 ♦ ♦ info@gecaz.com ♦ ♦ 602.393.4801 fax

Vollmer & Associates
One Gateway Center
426 North 44th Street, Suite 350
Phoenix, Arizona 85008

September 8, 2008

Attention: Mr. Jim Smith

Reference: Geotechnical Exploration
City of Tempe Goodwin Park
Between Caroline Lane and Taylor Drive
Tempe, Arizona

Dear Mr. Smith:

This letter presents our proposal to conduct a geotechnical exploration on the referenced Site. Geotechnical and Environmental Consultants, Inc. (d.b.a. GEC) would be please to assist you in evaluating the geotechnical condition of the Site.

PROJECT INFORMATION

We understand the Site is the proposed Goodwin Park located between Caroline Lane and Taylor Drive in Tempe, Arizona. We understand the park will be re-graded and upgraded. The improvements will include basketball courts, shade canopies over the playground areas, large shade pavilions, perimeter walls, and ramadas. You requested that we prepare a proposal to conduct a geotechnical exploration at the Site in order to prepare a soils report for the project.

SCOPE OF SERVICES

1. Conduct an in-house startup meeting to discuss the project and our scope of work and contact the Arizona Blue Stake center to locate public underground utilities that may be present on the Site. We have assumed that you will provide right-of-entry to the Site and will assist us in scheduling and coordinating the field work with the City of Tempe. We have assumed the Site will be accessible to a truck-mounted drill rig, there are no private underground utilities at the Site, and we will not have any difficulties accessing the Site due to irrigation or soft soils. There may be additional costs associated with access difficulties.
2. Conduct a geotechnical exploration to evaluate subsurface soil conditions at the Site. We propose drilling 3 exploratory test borings within the existing park area to depths of about 15 feet below the existing ground surface or prior auger refusal. Relatively undisturbed soil samples and/or grab samples will be obtained from the borings for laboratory analyses.



Proposal No. P08-0730.P01
GEC © 2008

3. Perform laboratory analyses on recovered soil samples to develop geotechnical design parameters for the Site. The following laboratory tests are proposed:

No. of Tests	Type of Test	Purpose of Test
3	Compression Test	Soil settlement characteristics
2	Percent Passing #200 Sieve	Soil classification
2	Atterberg Limits	Soil classification
1	Expansion Test	Soil expansion potential
1	Standard Proctor	Earthwork factors
1	Soluble Salts, Sulfates & Chlorides	Soil corrosion characteristics
1	pH & Resistivity	Soil corrosion characteristics
10	Moisture/Density	Soil moisture/density information

4. Conduct engineering analyses and prepare an engineer's report presenting the results of the field exploration and laboratory testing, and provide geotechnical recommendations for the project. Our report will include geotechnical recommendations for site grading, subgrade preparation, foundation design (footing types, depths, allowable bearing pressures, estimated foundation settlements), expansion characteristics, lateral design parameters, and requirements for structural fill materials.

COMPLETION TIME

We will provide 3 bound copies of the final report within approximately 3 to 4 weeks after authorization to proceed provided timely access to the Site (no issues with irrigation schedules, etc.).

FEE

Total lump sum fee of \$3,160.00.

Note: The above fee is based on the scope of work included in this proposal. Any other services that may be required outside this scope of work will be performed in accordance with our current unit fee schedule. Additional services which may be required include: access issues due irrigation and/or soft soils; additional test borings; additional laboratory testing; additional engineering consulting and meetings not specified in this proposal; the preparation of supplemental reports and addenda; and a written review of the structural plans and specifications. This fee will be honored for 120 days, and after that time may require review.

TERMS AND CONDITIONS

GEC is an Arizona registered professional engineering and geology firm. As such, all services performed under this contract will be conducted under the direct supervision of an Arizona-registered professional engineer or geologist.



We propose to perform this work in accordance with this proposal and our attached Standard General Terms and Conditions which are incorporated herein. If this proposal meets your needs, we ask that a copy of this proposal be signed by an authorized agent and returned to this office. When signed by an authorized agent below, this proposal and our attached Standard General Terms and Conditions become our contract with you for the performance of these services.

We welcome the opportunity to review this scope-of-services with all parties concerned. Please call us with any questions at (602) 393-4800.

Sincerely,
GEC

By: 
Donald J. Spadola, P.E.

Accepted By:

Client: _____

Sign Name: _____

Print Name: _____

Title: _____

Date: _____

Attachment

Copies to: Addressee (2)



A handwritten mark, possibly initials or a signature, is located in the bottom right corner of the page.

GEC STANDARD GENERAL TERMS AND CONDITIONS

1. CLIENT - "Client," as used herein, is the individual or entity who authorized performance of services by Geotechnical and Environmental Consultants, Inc. d.b.a. GEC ("GEC"), and Client accepts responsibility for payment under the conditions stated in our proposal and herein. If Client is not the Owner of the Site or the Owner's authorized agent, Client agrees to be liable for the contract amount and for any direct, consequential or incidental damages to the Owner, or claimed by the Owner, resulting from the performance of services hereunder; and the Client agrees to indemnify and hold GEC harmless from any claims against GEC asserted by the Owner related to the performance of services hereunder. If Client signs this agreement and returns it by facsimile or e-mail, Client intends that the copy of its authorized signature as printed by the facsimile machine or computer to serve as its original signature and to bind Client.

2. SERVICES OF GEC - GEC's scope of services ("Services") shall be limited to those Services expressly set forth in its Proposal and is subject to the terms and conditions set forth herein. Without increasing the Services, compensation ("Compensation"), or schedule ("Schedule") contained in GEC's Proposal, GEC may employ such subcontractors as GEC deems necessary to assist in furnishing its Services. Upon Client's request (and for additional Compensation, if not already included in GEC's Proposal), GEC shall assist Client in attempting to obtain, or on behalf of Client (and in Client's name) attempt to obtain, those permits and approvals required for the performance of GEC's Services. Client acknowledges, depending on field conditions encountered and subsurface conditions discovered, that the scope of GEC's services, as deemed necessary by GEC in the exercise of due care, may need to be increased or decreased; if such modifications are approved by Client, GEC's Compensation and Schedule shall be equitably adjusted. If conditions encountered at the Site differ materially from those represented by Client and/or are shown or indicated in the contract documents, or other project documents provided to GEC, or are of an unusual nature which materially differ from those ordinarily encountered and generally recognized for the locality, GEC's Compensation and Schedule shall be equitably and upwardly adjusted. If GEC's Services and/or Schedule are increased or decreased by Client, GEC's Compensation and Schedule shall be equitably adjusted.

3. RIGHT OF ENTRY - SITE DAMAGE - Unless otherwise agreed, Client will furnish GEC with applicable permits and right-of-entry to the Site, and Client will be responsible for the propriety of the time, place, and manner of our entry to the Site. GEC shall take reasonable precautions to minimize damage to the Site, but it is understood by Client that, in the normal course of GEC's Services, some Site damage may occur, and the correction of such damage is not part of GEC's Services unless so stated in GEC's Proposal. To the fullest extent permitted by law, Client shall waive any claims against GEC and its subcontractors, and indemnify and hold GEC and its subcontractors harmless from any claims, liability, or expenses (including reasonable attorneys' fees and costs) arising from any Site damage caused by GEC, except to the extent of GEC's and its subcontractor's negligent or wrongful acts, errors, omissions, or breach of contract. If there are any buried structures and/or utilities on the Site where subsurface explorations are to take place, Client shall provide GEC with a plan showing their locations as precisely as is reasonably available. GEC shall contact the one-number utility locator service to request that they identify any public utilities. GEC shall use reasonable care and diligence to avoid contact with buried structures and/or utilities made known to GEC. GEC shall not be liable for any loss or damage to buried structures and/or utilities resulting from inaccuracy of the plans, lack of plans, or errors by the locator service. To the fullest extent permitted by law, Client shall waive any claims against GEC and its subcontractors, and indemnify, and hold GEC and its subcontractors harmless from any claims, liability, or expenses (including reasonable attorneys' fees and costs) arising from damage to buried structures and/or utilities caused by GEC's sampling, except to the extent of GEC's and its subcontractor's negligent or wrongful acts, errors, omissions, or breach of contract.

4. INSURANCE - GEC is protected against most risks of liability exposure by general liability insurance, automobile liability insurance, and professional/errors and omissions liability insurance with respect to liabilities arising from negligence and wrongful acts. GEC also carries statutorily mandated worker's compensation insurance. Certificates of coverage will be supplied to Client upon request.

5. INDEMNIFICATION OF CLIENT - To the maximum extent permitted by law, GEC shall indemnify and hold harmless Client, its appointed and elected officials, partners, officers, directors, employees, and agents from and against any and all actions (whether sounding in tort, contract (express or implied), warranty (express or implied), statutory liability, strict liability, or otherwise), claims (including, but not limited to, claims for bodily injury, death, property damage, (including bodily injury, death, or property damage to GEC's own employees) or arising under CERCLA [or similar federal, state, or local environmental laws], costs, damages (including without limitation, economic, non-economic, general, special, incidental, consequential), demands, expenses (including, but not limited to, reasonable attorneys' fees and costs of defense), fines, judgments, liens, liabilities, and penalties of any kind whatsoever, arising from the negligent or wrongful acts, errors, or omissions, or breach of contract or warranty express or implied, by GEC or any of its subcontractors; but only to the extent of GEC's and its subcontractor's relative degree (if any) of fault. In furtherance of these obligations, and only with respect to Client, its appointed and elected officials, partners, officers, directors, employees and agents, GEC waives any immunity it may have or limitation on the amount or type of damages imposed under any industrial insurance, worker's compensation, disability, employee benefit, or similar laws.

6. LIMITATION ON GEC'S LIABILITY FOR DAMAGES - A. Total Liability for Damages Limited to Available Insurance Proceeds - Notwithstanding any other provisions of this Agreement, and only to the maximum extent permitted by law, the total liability for damages, in the aggregate, under this Agreement, of GEC, its subcontractors, and their partners, officers, directors, employees, agents and/or any of them, to Client and/or anyone claiming by, through, or under Client, for any and all actions (whether sounding in tort, contract (express or implied), warranty (express or implied), statutory liability, strict liability, or otherwise), claims (including, but not limited to, claims for bodily injury, death, property damage, (including bodily injury, death, or property damage to GEC's own employees) or arising under CERCLA, or similar federal, state, or local environmental laws], costs, damages (including without limitation, economic, non-economic, general, special, incidental, consequential), demands, expenses (including, but not limited to, reasonable attorneys' fees and costs of defense), fines, judgments, liens, liabilities, and penalties of any kind whatsoever, arising



and GEC, in order to observe and keep Client generally informed of the progress and quality of the work. Such visits and observations are not intended to be an exhaustive check or a detailed inspection of any contractor's work, but rather are to allow GEC, as a professional, to become generally familiar with the work in progress in order to determine, in general, whether the work is progressing in a manner indicating that the work, when fully completed, will be in accordance with the project documents. GEC's authority shall be limited to observing, making technical comments regarding general overall compliance with the project documents, and providing recommendations on any work which it becomes aware of that does not comply with the project documents. GEC's acceptance of any non-conforming work containing latent defects or failure to reject any non-conforming work not observed by GEC shall not impose any liability on GEC or relieve any contractor from complying with its contract documents. All construction contractors shall be solely responsible for construction Site safety, the quality of their work, and adherence to the project documents. GEC shall have no authority to direct any contractor's actions or stop any contractor's work. If GEC is not retained to provide construction observation of the implementation of its design recommendations, Client shall, only to the fullest extent permitted by law, waive any claims against GEC, and indemnify and hold GEC harmless from any claims, liability, or expenses (including reasonable attorneys' fees and costs) arising from the implementation of GEC's design recommendations or project documents, except to the extent of GEC's and its subcontractor's negligent or wrongful acts, errors, omissions, or breach of contract.

Unless otherwise agreed upon by Client and GEC, all construction materials testing will be performed on an "on-call" basis. Client agrees that test results for "on-call" testing, where Client does not request GEC's continuous construction and field observation, will be based only on the representative sample, or limited location tested. In addition, GEC will not be responsible for verifying whether the appropriate number of tests were performed.

10. ON-SITE JOB RESPONSIBILITY - Except for its own subcontractors and employees, GEC shall not supervise, direct, have control over, or authority to stop any contractor's work; have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by any contractor; be responsible for safety precautions and programs incident to any contractor's work; or be responsible for any failure of any contractor to comply with laws and regulations applicable to the contractor, all of which are the sole responsibility of the construction contractors. This requirement shall apply continuously, regardless of time or place, and shall in no way be altered because a representative of GEC is present at the Site performing his/her duties. Notwithstanding anything to the contrary, GEC shall never be deemed to have assumed responsibility for the project's safety by either contract or conduct. No act or direction by GEC shall be deemed the exercise of supervision or control of any contractor's employees or the direction of any contractor's performance. Any direction provided by GEC shall be deemed solely to ensure the contractor's general overall compliance with the project documents. Except for its own subcontractors and employees, GEC shall not be responsible for safety precautions, the quality of any contractor's work, or any contractor's failure to furnish or perform their work in accordance with the project documents. Except for GEC's own employees and its subcontractors, GEC shall not be responsible for the acts or omissions of any contractor, subcontractor or supplier, or other persons at the Site, or otherwise furnishing or performing any work; or for any decision based on interpretations or clarifications of GEC's design concept given without the consultation and concurrence of GEC.

11. STANDARD OF CARE - WARRANTIES - The standard of care for all Services performed or furnished by GEC under this Agreement shall be the skill and care ordinarily exercised by other members of GEC's profession, providing the same or similar services, under the same or similar circumstances, at the same time and locally as the Services were provided by GEC. The installation, construction, alteration, or repair of any object or structure by GEC shall be performed in a good and workmanlike manner in accordance with general industry standards and conform to this Agreement. Subsurface explorations and testing identify subsurface conditions only at those sample locations and times. Actual conditions at other locations of the Site, including those inferred to exist between the sample points, may differ significantly from conditions that exist at the sampling locations. The passage of time or intervening cause may change the actual conditions at the sampling locations as well. Interpretations and recommendations made by GEC shall be based solely upon information available to GEC at the time the interpretations and recommendations are made. GEC makes no guarantees or warranties, express or implied, under this Agreement or otherwise, about GEC's Services.

Test borings and test pits are an accepted and informative means of subsurface exploration. However, in the nature of things, they cannot indicate with absolute certainty the nature of the subsurface conditions between and below the test explorations. Therefore, a report based on test borings, test pits, or other exploration method cannot guarantee the nature of the subsurface conditions between and below the test explorations. If conditions different than those indicated in GEC report come to your attention after you receive the report, Client shall contact GEC immediately to inform GEC what Client has discovered and to authorize further evaluation, if appropriate; failure to so contact GEC shall be deemed Client's agreement that GEC's report need not address the differently-circumstanced subsurface conditions.

12. USE OF DOCUMENTS - All documents, including electronic documents, prepared by GEC such as reports, logs, data, notes, or calculations are instruments of service with respect to the project, and GEC shall retain a copyrighted ownership and properly interest therein (including the right of reuse) whether or not the project is completed. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of GEC. Files shall be maintained in general accordance with GEC's document retention policies and practices.

GEC grants to Client a non-exclusive, irrevocable, unlimited, royalty-free license to use any documents prepared by GEC for Client. Client may make and retain copies of such documents for their information and use. Such documents are not intended or represented to be suitable for reuse by Client, or others, after the passage of time, on extensions of the project, or on any other project. Any such reuse without written verification or adaptation by GEC, as appropriate for the specific purpose intended, shall be at Client's sole risk, and Client shall, only to the fullest extent permitted by law, waive any claims against GEC and its subcontractors, and indemnify and hold GEC and its subcontractors harmless from any claims, liability, or expenses (including reasonable attorneys' fees and costs) arising from such reuse. Any verification or adaptation of the documents for extensions of the project or for any other project by GEC shall entitle GEC to additional Compensation to be agreed upon by Client and GEC. Copies of documents that may be relied upon by Client are limited to the printed copies that are signed or sealed by GEC. Text,



A handwritten signature or mark in the bottom right corner of the page.

Description of Project:

Phase I - Produce an A.L.T.A Survey and Topographic Survey
 Phase II - Develop Grading and Drainage Plans

Scope of Services:

- Task 1. A.L.T.A. Survey**
 - Prepare A.L.T.A. Survey.

- Task 2. Topographic Survey**
 - Prepare topographic mapping at 1' contour intervals.
 Does not include locating finish floor elevations on adjacent housing.
 Does include locating 1/2 street improvements.

- Task 3. Develop Grading and Drainage (G&D) Plans**
 - Coordination of Site Plan Development
 - Prepare and submit G&D plans for 60% completion level.
 - Prepare and submit G&D plans for 90% completion level.
 - Prepare and submit G&D plans for 100% completion level.
 - Prepare Bid Tabulation and Quantities
 - Does not include a Drainage Report nor an addendum to any existing drainage reports.

- Task 4. Project Meetings**
 Attend three (3) project meetings at C.O.T offices.
 - 60% review meeting
 - 90% review meeting
 - 100% review meeting

Schedule:

Task 1.	A.L.T.A Survey	2 weeks
Task 2.	Topographic Survey	2 weeks
Task 3.	Develop G&D Plans	T.B.D.
Task 4.	Project Meetings	T.B.D.

Fee Proposal:

Basic Service (Lump Sum Basis)

Task 1: A.L.T.A. Survey	\$ <u>3,850.00</u>
Task 2: Topographic Survey	\$ <u>7,525.00</u>
Task 3: Develop G&D Plans	
• 60% Plans	\$ <u>11,380.00</u>
• 90% Plans	\$ <u>5,740.00</u>
• 100% Plans	\$ <u>3,500.00</u>
Task 4: Project Meetings	\$ <u>2,130.00</u>
Reimbursable (Not to Exceed)	\$ <u>500.00</u>
 Contract Total	 \$ <u>34,625.00</u>

This proposal includes the design of retaining walls up to 3' in height. If higher walls are required, a structural engineer will be required as an additional service.

Additional Professional Services as requested in writing.

(T & M in accordance with attached
Hourly Rate Sheet, Exhibit B, or as negotiated) Fee \$ T & M

General Notes:

- a) Work required that is not listed in the Scope of Work above will be performed only after fee negotiation and authorization by Client.
- b) Reimbursable expenses shall be invoiced at Cost +10%.
- c) The fee schedule does not include preparing a Drainage Report or Addendum.

Terms and Conditions:

SEE ATTACHED EXHIBIT A

Authorization:

HUITT-ZOLIARS, INC.



(Signature)

Mark Hanshaw

(Printed Name)

Vice President

(Title)

12/10/08

(Date)

ACCEPTED BY:
Vollmer & Associates

(Signature)

(Printed Name)

(Title)

(Date)



EXHIBIT A
Huitt-Zollars, Inc.
Terms and Conditions

HUITT-ZOLLARS

1. AUTHORIZATION FOR WORK TO PROCEED

Signing of this AGREEMENT for services shall be authorization by the CLIENT for Huitt-Zollars, Inc. (HZI) to proceed with the work, unless stated otherwise in the WORK AUTHORIZATION / AGREEMENT.

2. COST ESTIMATES FOR PROPOSED CONSTRUCTION

Construction cost estimates provided by HZI are prepared from experience and judgment. HZI has no control over market conditions or construction procedures and does not warrant that proposals, bids, or actual construction costs will not vary from HZI estimates.

3. STANDARD OF PRACTICE

Services performed by HZI under this AGREEMENT will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation expressed or implied and no warranty or guarantee is included or intended in this AGREEMENT or in any report, opinion, document, or otherwise.

4. SALES TAXES

All sales taxes required to be paid by HZI will be billed to the CLIENT in addition to the fees.

5. BILLING AND PAYMENT

The CLIENT, recognizing that timely payment is a material part of the consideration of this AGREEMENT, shall pay HZI for services performed in accordance with the rates and charges set forth herein. Invoices will be submitted by HZI on a monthly basis and shall be due and payable within thirty (30) calendar days of invoice date. If the CLIENT objects to all or any portion of an invoice, the CLIENT shall so notify HZI in writing within ten (10) calendar days of receipt of the bill in question, and pay when due, that portion of the invoice not in dispute.

The CLIENT shall pay an additional charge of one and one half (1.5%) percent (or the maximum percentage allowed by law, which ever is lower) of the invoiced amount per month for any payment received by HZI more than thirty (30) calendar days from receipt of the invoice, excepting any portion of the invoiced amount in dispute and resolved in favor of the CLIENT. Payment thereafter shall first be applied to accrued interest and then to principal unpaid amount.

If CLIENT for any reason fails to pay the undisputed portion of HZI's invoices within 30 days of presentation, HZI shall cease work on the project and CLIENT shall waive any claim against HZI and shall defend and indemnify HZI from and against any claims for injury or loss stemming from HZI's cessation of service. CLIENT shall also pay HZI the cost associated with premature project demobilization. In the event the project is remobilized, CLIENT shall also pay the cost of remobilization and shall renegotiate appropriate contract terms and conditions, such as those associated with budget, schedule or scope of service.

In the event any bill or portion thereof is disputed by CLIENT, CLIENT shall notify HZI within ten (10) days of receipt of the bill in question and CLIENT and HZI shall work together to resolve the matter within 60 days of its being called to HZI's attention. If resolution of the matter is not attained within 60 days, either party may terminate this AGREEMENT.

The client shall pay retainer in the amount of \$_____ before work is to proceed. The retainer shall be applied against the last invoice(s) in excess of 30 days delinquent and/or the final invoice under this contract. All interest charges accrued for payment exceeding 30 days will be included.

6. LIMITATION OF LIABILITY

In order for the CLIENT to obtain the benefits of a fee which includes a lesser allowance for risk funding, the CLIENT agrees to limit HZI's liability arising from HZI's professional acts, errors or omissions, such that the total aggregate liability of HZI shall not exceed HZI's total fee for the services rendered on this project.

7. CONSEQUENTIAL DAMAGES

The CLIENT shall not be liable to HZI and HZI shall not be liable to the CLIENT for any consequential damages incurred by either due to the fault of the other, regardless of the nature of this fault or whether it was committed by the CLIENT or HZI, their employees, agents, or subcontractors. Consequential damages include, but are not limited to loss of use and loss of profit.

8. TERMINATION

In the event termination becomes necessary, the party (CLIENT or HZI) effecting termination shall so notify the other party and termination will become effective fourteen (14) calendar days after receipt of the termination notice. Irrespective of which party shall effect termination or the cause of termination, the CLIENT shall within thirty (30) calendar days of termination remunerate HZI for services rendered and costs incurred up to the effective time of termination, in accordance with HZI's prevailing fee schedule and expense reimbursement policy.

9. ADDITIONAL SERVICE

Any services beyond those specified will be provided for separately under additional Work Authorization or amended Work Authorization.

IF ANY ONE OR MORE OF THE PROVISIONS CONTAINED IN THIS AGREEMENT SHALL BE HELD UNENFORCEABLE, THE ENFORCEABILITY OF THE REMAINING PROVISIONS SHALL NOT BE IMPAIRED.

CLIENT INITIAL _____

HUITT-ZOLIARS

PHOENIX

2008

HOURLY RATE SHEET

Engineering/Architecture

Principal-In-Charge	\$ 195.00
Sr. Project Manager	\$ 180.00
Project Manager	\$ 160.00
QA/QC Manager	\$ 180.00
Sr. Civil Engineer	\$ 175.00
Sr. Structural Engineer	\$ 165.00
Civil Engineer	\$ 140.00
Structural Engineer	\$ 120.00
Engineer Intern	\$ 100.00
Sr. Planner	\$ 140.00
Planner	\$ 85.00
Planner Intern	\$ 75.00
Sr. Environmental Scientist	\$ 140.00
Environmental Scientist	\$ 85.00
Sr. Designer	\$ 120.00
Designer	\$ 90.00
Sr. CADD Technician	\$ 90.00
CADD Technician	\$ 70.00

Administrative

Project Support	\$ 60.00
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Survey

Survey Manager	\$ 125.00
Sr. Project Surveyor	\$ 125.00
Project Surveyor	\$ 105.00
Survey Technician	\$ 100.00

Survey Crews

2-Person Survey Crew	\$ 135.00
3-Person Survey Crew	\$ 195.00
1-Person Survey Crew-GPS	\$ 125.00

Construction

Construction Manager	\$ 175.00
Resident Engineer	\$ 150.00
Resident Project Representative	\$ 115.00

Reimbursables

Consultants	Cost + 10%
Other Direct Costs	Cost + 10%
Mileage	\$.485/mile

CITY OF TEMPE
TEMPE, ARIZONA
DEPARTMENT OF PUBLIC WORKS

AFFIDAVIT OF GENERAL CONTRACTOR / PRIME CONSULTANT
REGARDING
HEALTH INSURANCE

Arizona

Date _____

**Goodwin Park Improvements
Project No. 6303141**

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

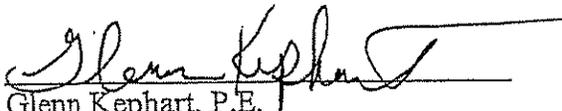
These Guidelines are provided for purposes of implementing Resolution No. 2000.73, which requires all employees of prime consultants, general contractors and major subconsultants and subcontractors to have health insurance and to offer health insurance to their eligible dependants, as determined at the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