

Staff Summary Report



Council Meeting Date: 6/11/2009

Agenda Item Number: _____

SUBJECT: Request approval of job order no. 6 with Caliente Construction, Inc. and a project contingency, for improvements at Playa del Norte Drive park.

DOCUMENT NAME: 20090611PWTG02 RIO SALADO PARK (0706-32) PROJECT NO. 6502421

COMMENTS: Total amount of job order no. 6 is \$511,775 and the project contingency is \$50,000.

PREPARED BY: Theresa Galindo, Acting Engineering Contracts Administrator (x8518)

REVIEWED BY: Nancy Ryan, Rio Salado Manager (x8096)
Andy Goh, Deputy PW Manager/City Engineer (x8896)

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

DEPARTMENT REVIEW BY: Glenn Kephart, Public Works Manager (x8205)

FISCAL NOTE: Sufficient funds are available in Capital Improvement Fund No. 6502421.

RECOMMENDATION: Approve job order no. 6 with Caliente Construction, Inc. in the amount of \$511,775, through existing job order contract no.C2008-137, and approve a project contingency of \$50,000.

ADDITIONAL INFO: The scope of work for this job order consists of improvements to a concrete activity platform, changes to site grading, drywells and storm water discharge, additional lighting, new trees, plants and new decomposed granite ground cover. Improvements to the landscape medians and traffic round-about along Playa del Norte include stepped terraces, lighting, trees, plants and new decomposed granite ground cover.

The project contingency has been established at \$50,000, which is approximately ten percent (10%) of the job order amount, to cover possible unforeseen conditions during construction.

Staff has reviewed the proposal from Caliente Construction, Inc. and found it to be in order. Caliente Construction, Inc. is one of three contractors previously selected through qualifications based process consistent with A.R.S. § 34-601 through 611 for job order general construction services.

CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
DIVISION OF ENGINEERING

JOB ORDER NO. 6 TO CALIENTE CONSTRUCTION, INC.
THROUGH EXISTING CONTRACT NO. C2008-137

**PLAYA DEL NORTE DRIVE/ PLAYA DEL NORTE
PARK IMPROVEMENTS**

PROJECT NO. 6502421

This **JOB ORDER NO. 6** is entered into on this 11th day of June, 2009, by and between the **City of Tempe**, an Arizona municipal corporation (“City”) and **Caliente Construction, Inc.**, an Arizona corporation, (“JOC”), through the existing Contract made and entered into by and between the parties on July 22, 2008 (Contract No. C2008-137).

SECTION 1 – JOB ORDER PRICE AND WORK LOCATION: JOC shall furnish any and all plant, materials, labor, construction equipment, services and transportation (all applicable taxes included) required for performing all work for the construction of Playa Del Norte Drive/ Playa Del Norte Park Improvements (Project No. 6502421) (“Project”) for the sum of Five Hundred Eleven Thousand Seven Hundred Seventy Five Thousand Dollars (\$511,775.00), as detailed in the Proposal (Exhibit “A”), and to completely and totally construct the same and install the materials therein for the Project, in a good and workmanlike and substantial manner and to the satisfaction of City or its properly authorized agents and strictly pursuant to and in conformity with the Specifications and Plans for the Project and other documents that may be requested by City through its Engineer or other properly authorized agents, as provided herein. The full street or physical address of the construction work location (“Work Location”) is 1170 E. Playa Del Norte Drive, Tempe, Arizona. JOC shall list the Work Location in any subcontract related to this job order at any level and each subcontractor shall likewise include the Work Location in any of its subcontracts.

SECTION 2 – REQUIRED SUBMITTALS: JOC shall submit the completed forms

referenced in the Forms Appendix (Exhibit "B") to City for approval prior to receipt of a Notice to Proceed issued by City for the Project.

SECTION 3 – AMENDMENT: City of Tempe Contract No. C2008-137, the terms and conditions contained therein and all exhibits attached to the Contract and to this Job Order No. 6, are by reference incorporated into this Job Order No. 6. All provisions of the underlying Contract where not inconsistent with this Job Order No. 6 shall remain binding on the parties.

SECTION 4 – CONTRACT TERM: Work shall start as soon as practicable, and in no case later than seven (7) calendar days after the Notice to Proceed is issued by City, and shall be completed within one hundred fifty (150) calendar days thereafter.

SECTION 5 – SPECIALLY DESIGNATED NATIONALS AND BLOCKED PERSONS LIST: JOC represents and warrants to City that neither JOC nor any affiliate or representative of JOC (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, JOC certifies that it does not have a scrutinized business operation in either Iran or Sudan.

SECTION 6 – EMPLOYMENT LAWS: JOC agrees and covenants that it will comply with any and all applicable safety and employment laws, rules and regulations, including but not limited to, the Fair Labor Standards Act, the Walsh-Healy Act, and the Arizona Fair and Legal Employment Act, and all amendments thereto, along with all attendant laws, rules and regulations. JOC acknowledges that a breach of this warranty is a material breach of this

Contract and JOC is subject to penalties for violation(s) of this provision, including termination of this Contract. City retains the right to inspect the documents of any and all contractors, subcontractors and sub-subcontractors 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 JOC. JOC hereby agrees to indemnify, defend and hold City harmless for, from and against all losses and liabilities arising from any and all violations thereof.

SECTION 7 – EQUAL OPPORTUNITY: City is an equal opportunity, affirmative action employer. JOC hereby covenants that it shall not discriminate unlawfully against any employee or applicant for employment, nor shall it deny the benefits of this Contract, to any person on the basis of race, color, nation origin, physical or mental disability, age, gender or veteran status. JOC covenants and agrees that it will comply in all respects with the applicable provisions of the Executive Order 11246, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Vietnam Era Veterans’ Readjustment Assistance Act, the Rehabilitation Act, and any other applicable state and federal statutes governing equal opportunity. JOC agrees to post hereinafter in conspicuous places, available for employees and applicants for employment, notices setting forth the provisions of this Section.

JOC further agrees to include the provisions of this Section in any and all subcontracts hereunder. Any violation of such provisions shall constitute a material breach of this Contract.

[SIGNATURE PAGE TO FOLLOW]

Playa Del Norte Drive/ Playa Del Norte Park Improvements
Project No. 6502421

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

JOC warrants that the person who is signing this Job Order on behalf of the JOC is authorized to do so and to execute all other documents necessary to carry out the terms of this Job Order.

CALIENTE CONSTRUCTION, INC.

By: _____
Name

Its: _____
Title

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

Certified to be a true and exact copy.

Karen M. Fillmore
Records Specialist

EXHIBIT B

FORMS APPENDIX

The following forms shall be completed and submitted with each Job Order.

LIST OF SUBCONTRACTORSSB-1
STATUTORY PERFORMANCE BONDPB-1
STATUTORY PAYMENT BONDPB-2

STATUTORY PERFORMANCE BOND
PURSUANT TO TITLE 34,
CHAPTER 6, OF THE ARIZONA REVISED STATUTES
(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS:

That _____ (“Principal”) and _____,
a corporation organized and existing under the laws of the State of _____, with
its principal office in the City of _____ (“Surety”), are held and firmly bound
unto _____ (“Obligee”) in the amount of _____ Dollars
(\$_____), for the payment whereof, the said Principal and Surety bind themselves,
and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by
these presents.

WHEREAS, the Principal has entered into a certain written Contract with the
Obligee, dated the 11th day of June, 2009, to complete Project No. 6502421, which Contract is
hereby referred to and made a part hereof as fully and to the same extent as if copied at length
herein.

NOW, THEREFORE, the condition of this obligation is such, that if the said
Principal shall faithfully perform and fulfill all the undertakings, covenants, terms, conditions
and agreements of said Contract during the original term of said Contract and any extension
thereof, with or without notice to the Surety, and during the life of any guaranty required under
the Contract, and shall also perform and fulfill all the undertakings, covenants, terms, conditions,
and agreements of any and all duly authorized modifications of said Contract that may hereafter
be made, notice of which modifications to the Surety being hereby waived; then the above
obligation shall be void, otherwise to remain in full force and effect.

Provided, however, that this bond is executed pursuant to the provisions of Title 34, Chapter 6, of the Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of said Title and Chapter, to the extent as if it were copied at length herein.

The prevailing party in a suit on this bond shall recover as part of the judgment reasonable attorney fees that may be fixed by the Court. The performance under this bond is limited to the construction to be performed under this Contract and does not include any design services, preconstruction services, finance services, maintenance services, operations services or any other related services included in the Contract.

DATED this ____ day of _____, 2009.

PRINCIPAL SEAL

BY: _____

**

SURETY SEAL

BY: _____

AGENCY ADDRESS

** Surety hereby acknowledges they are licensed to do business in the State of Arizona **

STATUTORY PAYMENT BOND
PURSUANT TO TITLE 34,
CHAPTER 6, OF THE ARIZONA REVISED STATUTES
(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS:

That _____ (“Principal”) and _____,
a corporation organized and existing under the laws of the State of _____,
with its principal office in the City of _____ (“Surety”), as held and firmly
bound unto _____ (“Obligee”) in the amount of _____
Dollars (\$_____), for the payment whereof, the said Principal and Surety bind
themselves, and their heirs, administrators, executors, successors and assigns, jointly and
severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the
Obligee, dated the 11th day of June, 2009, to complete Project No. 6502421, which Contract is
hereby referred to and made a part hereof as fully and to the same extent as if copied at length
herein.

NOW, THEREFORE, the condition of this obligation is such, that if the said
Principal shall promptly pay all monies due to all persons supplying labor or materials to the
Principal or the Principal’s Subcontractors in the prosecution of the construction provided for the
Contract, then this obligation shall be void, otherwise to remain in full force and effect;

Provided, however, that this bond is executed pursuant to Title 34, Chapter 6,
Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with
the provisions, conditions and limitations of said Title and Chapter to the same extent as if it
were copied at length in this Contract.

The prevailing party in a suit on this bond shall recover as a part of the judgment reasonable attorney fees that may be fixed by the Court.

DATED this _____ day of _____, 2009.

PRINCIPAL SEAL

BY: _____

**

SURETY SEAL

BY: _____

AGENCY ADDRESS

** Surety hereby acknowledges they are licensed to do business in the State of Arizona **

**CITY OF TEMPE
TEMPE, ARIZONA
DEPARTMENT OF PUBLIC WORKS**

**JOC'S AFFIDAVIT
REGARDING
SETTLEMENT OF CLAIMS**

_____, Arizona

Date _____

**PLAYA DEL NORTE DRIVE/ PLAYA DEL NORTE PARK IMPROVEMENTS
PROJECT NO. 6502421**

To the City of Tempe, Arizona

This is to certify that all lawful claims for materials, rental of equipment and labor used in connection with the construction of the above Project, whether by subcontractor or claimant in person, have been duly discharged or will be discharged after receipt of the final payment from the City of Tempe for the above Project.

The undersigned, for the consideration of \$_____, as set out in the final pay estimate, as full and complete payment under the terms of the Contract, hereby waives and relinquishes any and all further claims or right of lien under, in connection with, or as a result of the above described Project against the City of Tempe. The undersigned further agrees to defend, indemnify and save harmless the City of Tempe against any and all liens, claims of liens, suits, actions, damages, charges and expenses whatsoever, which said City may suffer arising out of the failure of the undersigned to pay for all labor performances, materials, and/or equipment furnished for the performance of said installation.

Signed and dated at _____ this _____ day of _____, 2009.

JOB ORDER CONTRACTOR

By: _____

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

The foregoing instrument was subscribed and sworn to before me this ____ day of _____, 2009.

Notary Public

[Notary Seal]

EXHIBIT A



**General Construction
Facilities Management**

April 28, 2009

Scott Balck
City of Tempe
Public Works/Engineering
31 East Fifth Street
Tempe, Arizona 85281

Subject: City of Tempe - Playa Del Norte Improvements

Dear Mr. Balck,

Please find attached the Proposal to make the modifications stated in the project walk, meetings and illustrated on the project drawings dated 04/10/09.

PROPOSAL AMOUNT FOR PLAYA DEL NORTE ROUNDABOUT: \$125,447.00

PROPOSAL AMOUNT FOR PLAYA DEL NORTE PARK: \$386,328.00

CLARIFICATIONS:

- Prices are based upon both projects being performed at the same time.
- Prices based upon standard soil conditions. Hard Dig will be evaluated on a case by case basis and additional charges may be included on a T&M basis.
- Grading based upon reusing cut soil as backfill.
- All work will be conducted during daytime work hours.
- Water for construction and dust control provided on site.
- Park irrigation is being connected into an existing system.
- Able to locate a water line below the Roundabout as shown on plans.

EXCLUSIONS:

- Anything not specifically itemized in the Proposal or clearly shown on plans.
- Unforeseen repairs that could not be accounted for.
- Any planting soil other than native.

SCHEDULE: The construction duration is approx. ten (10) weeks. A formal schedule can be produced after a contract has been issued.

GENERAL NOTES: This quotation will remain in effect for Sixty (60) calendar days from the above date. Included in the base bid are all applicable City, State and Federal taxes. Payment to be made thirty (30) days from receipt of invoice.

If we can be of further assistance, please do not hesitate to call. We appreciate the opportunity to be of service to you.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Frederick Kinzer', written over a horizontal line.

Frederick Kinzer
Project Manager



242 S. El Dorado Circle, Mesa AZ 85202, Phone: (480) 894-5500 Fax: (480) 894-2323
AZ ROC091625 AZ ROC098769 AZ ROC164561 CA 770323 UT 4741522-5501 NV 0051507 NM 85371 CO 233580



242 S. El Dorado Circle
Mesa, AZ 85202
Phone: 480-894-5800 Fax: 480-894-2323
Lic. # AZ ROC 091625; AZ ROC 164561

Caliente
Construction Inc.

CITY OF TEMPE PLAZA DEL NORTE IMPROVEMENTS - ROUNDABOUT 100%

04/28/09

BY CODE	ITEM	QTY	UNIT	RATE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	
01	GENERAL CONDITIONS													
	Project Manager	1	wk	2,500.00		2,500.00								
	Project Engineer	25	wk	1,250.00		312.50								
	General Sup	1	wk	2,400.00		240.00								
	Superintendent	2	wk	2,150.00		430.00								
	Mobile Phone	2	wk	50.00		100.00								
	Pick Up Truck	2	wk	100.00		200.00								
	Vehicle Fuel	2	wk	150.00		300.00								
	Demolition & Fees	1	pull	550.00		550.00								
	Clean Up	2	wk	200.00		400.00								
	Safety / temp protection	2	wk	200.00		400.00								
	Traffic control	2	wk	1,500.00		3,000.00								
	Structural Engineer	1	ea	500.00		500.00								
	Locator	1	ea	300.00		300.00								
	Road Closure	2	wk	200.00		400.00								
	Subtotal										\$	13,502.50		
02	STEELWORK													
	Dust control	2	wk	150.00		300.00								
	SWPP Allowance	1	ea	200.00		200.00								
	Surveyor	1	ea	500.00		500.00								
0210	Grading	1	ea	29,428.00		29,428.00								
0210	Tracing, Backfill and patching road crossing	1	ea	4,816.00		4,816.00								
02700	Gabion Walls	1	ea	22,044.00		22,044.00								
02800	Landscaping/Irrigation	1	ea	20,390.00		20,390.00								
	Subtotal										\$	77,080.00		
03	CONCRETE													
03300	Concrete curb Repair	1	ea	214.00		214.00								
	Subtotal										\$	214.00		
15	MECHANICAL													
15100	Backflow/Hot tap allowance	1	ea	5,000.00		5,000.00								
	Subtotal										\$	5,000.00		
16	ELECTRICAL													
16100	Site Lighting	1	ea	10,185.00		10,185.00								
	Subtotal										\$	10,185.00		
	SUBTOTAL					\$	13,362.50		\$	92,079.00	\$	1,160.00	\$	106,581.50
	BOND										\$	1,254.47		
	GENERAL LIABILITY INSURANCE										\$	1,254.47		
	BUILDERS RISK INSURANCE										\$	110,344.91		
	SUBTOTAL										\$	8,827.59		
	FEE										\$	6,274.43		
	TAX										\$	125,446.93		
	TOTAL										\$	125,447		
	Total if fencing required													
	Respectfully submitted,													
	Fred Kinzer													
	Caliente Construction, Inc.													



Caliente
Construction Inc.

242 S. El Dorado Circle
Mesa, AZ 85202
Phone: 480-894-5500 Fax: 480-894-2323
Lic. # AZ ROC 091625, AZ ROC 164561

04/28/09

SY CODE	ITEM	QTY	UO	UNIT PRICE	AMOUNT	SUBTOTAL	DATE	REMARKS
CITY OF TEMPE PLAYA DEL NORTE IMPROVEMENTS - PARK 100%								
01	GENERAL CONDITIONS							
	Project Manager	2	Wk	2,500.00	5,000.00	5,000.00		
	Project Engineer	1	Wk	1,250.00	1,250.00	1,250.00		
	General Supt	5	Wk	2,400.00	12,000.00	12,000.00		
	Superintendent	10	Wk	2,150.00	21,500.00	21,500.00		
	Mobile Phone	10	Wk	50.00	500.00	500.00		
	Pick Up Truck	10	Wk	100.00	1,000.00	1,000.00		
	Vehicle Fuel	10	Wk	150.00	1,500.00	1,500.00		
	Dumpster & Fees	2	pull	550.00	1,100.00	1,100.00		
	Clean Up	10	Wk	200.00	2,000.00	2,000.00		
	Temporary Toilet	10	Wk	35.00	350.00	350.00		
	Job Trailer	10	Wk	125.00	1,250.00	1,250.00		
	Temporary Fence	1	ea	3,100.00	3,100.00	3,100.00		
	Safety / Temp protection	10	Wk	100.00	1,000.00	1,000.00		
	Locator	1	ea	1,000.00	1,000.00	1,000.00		
	Subtotal					\$ 41,750.00		
02	Site Work							
	Quest Control	1	ea	2,855.00	2,855.00	2,855.00		
	Construction Entrance Track Out	1	ea	2,935.00	2,935.00	2,935.00		
	SWFP Allowance	1	ea	500.00	500.00	500.00		
	Surveyor	1	ea	6,250.00	6,250.00	6,250.00		Cart-am
02050	Site Demolition/ Remove & Salvage Fence	1	ea	500.00	500.00	500.00		YSC
02210	Grading	1	ea	43,837.00	43,837.00	43,837.00		Nickle
02500	Storm Drain Piping	1	ea	5,072.00	5,072.00	5,072.00		Revegetation Services
02700	Gabion Walls	1	ea	66,953.00	66,953.00	66,953.00		Landmark
02800	Landscaping/Irrigation	1	ea	84,655.00	84,655.00	84,655.00		
	Subtotal					\$ 212,755.00		
03	CONCRETE							
03300	Concrete Bench and Paving	1	ea	41,530.00	41,530.00	41,530.00		FBG
	Cauffing Conc. Joints	1	ea	1,325.00	1,325.00	1,325.00		
	Subtotal					\$ 42,855.00		
05	METAL							
05500	New Guardrails	1	ea	6,200.00	6,200.00	6,200.00		Milico
	Subtotal					\$ 6,200.00		
16	ELECTRICAL							
16100	Site Lighting	1	ea	24,670.00	24,670.00	24,670.00		Swain
	Subtotal					\$ 24,670.00		
	SUBTOTAL					\$ 328,230.00		✓
	BOND	1.00%				\$ 3,282.30		
	GENERAL LIABILITY INSURANCE	1.00%				\$ 3,282.30		
	BUILDERS RISK INSURANCE	1.00%				\$ 3,282.30		
	SUBTOTAL					\$ 9,846.90		
	FEE	8.00%				\$ 27,185.59		
	TAX	5.285%				\$ 19,322.54		
	TOTAL					\$ 385,328.27		
	Respectfully submitted,							
	Fred Kitzler							
	Caliente Construction, Inc.							