

## **PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT** is made this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by the **CITY OF GARDEN GROVE**, a municipal corporation, ("CITY") and **David Volz Design Landscape Architects, Inc.**, herein after referred to as "CONTRACTOR".

### **RECITALS**

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Garden Grove COUNCIL AUTHORIZATION, DATED \_\_\_\_\_.
2. CITY desires to utilize the services of CONTRACTOR to Provide Consultant Services for the Revitalization and Expansion of Woodbury Park per RFP S-1298 Scope of Work, Attachment "A" and Contractor's Proposal, Attachment "C".
3. CONTRACTOR is qualified by virtue of experience, training, education and expertise to accomplish services.

### **AGREEMENT**

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination.** The initial term of the agreement shall be from full execution of the agreement through June 30, 2023, with an option to extend said agreement an additional three (3) fiscal years, for a total performance period of four (4) fiscal years. Option years shall be exercised one (1) fiscal year at a time, at the sole option of the CITY. This agreement may be terminated by the CITY without cause. In such event, the CITY will compensate CONTRACTOR for work performed to date in accordance with CONTRACTOR'S PROPOSAL which is attached as Attachment "C" and is hereby incorporated by reference. Contractor is required to present evidence to support performed work. This agreement may be terminated by the CITY without cause. In such event, the CITY will compensate CONTRACTOR for work performed to date in accordance with PROPOSAL PRICING (Attachment "B"). Contractor is required to present evidence to support performed work completion.
2. **Services to be Provided.** The services to be performed by CONTRACTOR shall consist of tasks as set forth in the Scope of Work. The Scope of Work is attached as Attachment "A", and is incorporated herein by reference. The Scope of Work and this Agreement do not guarantee any specific amount of work.

3. **Compensation.** CONTRACTOR shall be compensated as follows:

3.1 **AMOUNT.** Total Compensation under this agreement shall not exceed (NTE) amount of Six Hundred Seventy Eight Thousand One Hundred Forty Six Dollars (\$678,146.00), through June 30, 2023, payable in arrears and in accordance with PROPOSAL PRICING, Attachment "B". All work shall be in accordance with the requirements specified in RFP No. S-1298 and includes the following costs:

Project Costs	\$667,806.00
Commission and Council Reviews	\$2,020.00
Walk Through and Warranty Review 12 Months	\$3,320.00
Reimbursable Expenses	\$5,000.00
<b>TOTAL CONTRACT AMOUNT</b>	<b>\$678,146.00</b>

3.2 **Payment** For work under this Agreement, payment shall be made per invoice for work completed. Within 45 day of delivery of goods or completion of performance of services, CONTRACTOR must promptly render an invoice to CITY or payment may be significantly delayed. For extra work not a part of this Agreement, a written authorization by CITY will be required, and payment shall be based on schedule included in PROPOSAL PRICING, Attachment "B". For extra work not a part of this Agreement, a written authorization by CITY will be required, and payment shall be based on schedule included in CONTRACTOR'S PROPOSAL, Attachment "C. All work shall be in accordance with RFP. No. S-1298.

3.3 **Records of Expenses.** CONTRACTOR shall keep complete and accurate records of all costs and expenses incidental to services covered by this Agreement. These records will be made available at reasonable times to CITY.

3.4 **Termination.** CITY shall have the right to terminate this agreement, without cause, by giving thirty (30) days written notice of termination. If the Agreement is terminated by CITY, then the provisions of paragraph 3 would apply to that portion of the work completed.

4. **Insurance Requirements.**

4.1 **COMMENCEMENT OF WORK.** CONTRACTOR shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance and provide a Waiver of Subrogation in favor of the City.

- 4.2 WORKERS COMPENSATION INSURANCE. During the duration of this Agreement, CONTRACTOR shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable.
- 4.3 INSURANCE AMOUNTS. CONTRACTOR shall maintain the following insurance for the duration of this Agreement:
- (a) Commercial general liability in an amount not less than of \$1,000,000.00 per occurrence (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A-, Class VII or better, as approved by the CITY.
  - (b) Automobile liability in an amount not less than \$1,000,000.00 combined single limit (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A-, Class VII or better, as approved by the CITY.
  - (c) Professional liability in an amount not less than \$1,000,000. Insurance companies must be admitted and licensed In California and have a Best's Guide Rating of A-,Class VII or better, as approved by the City. If the policy is written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of the agreement, and for a period of three (3) years from the date of the completion of services provided. In the event of termination, cancellation, or material change in the policy, professional/consultant shall obtain continuing insurance coverage for the prior acts or omissions of professional/consultant during the course of performing services under the term of the agreement. The coverage shall be evidenced either by a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier.

An Additional Insured Endorsement, **ongoing and completed operations**, for the policy under section 4.3 (a) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to city's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for automobiles owned, leased, hired, or borrowed by the CONTRACTOR.

CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, or volunteers shall by excess of the CONTRACTOR's insurance and shall not contribute with it.

*If CONTRACTOR maintains higher insurance limits than the minimums shown above, CONTRACTOR shall provide coverage for the higher insurance limits otherwise maintained by the CONTRACTOR.*

5. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable to CONTRACTOR in the event of any default or breach by CITY, or for any amount which may become due to CONTRACTOR.
6. **Non-Discrimination.** CONTRACTOR covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.
7. **Independent Contractor.** It is agreed to that CONTRACTOR shall act and be an independent contractor and not an agent or employee of the CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.
8. **Compliance with Law.** CONTRACTOR shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government. CONTRACTOR shall comply with, and shall be responsible for causing all contractors and subcontractors performing any of the work pursuant to this Agreement to comply with, all applicable federal and state labor standards, including, to the extent applicable, the prevailing wage requirements promulgated by the Director of Industrial Relations of the State of California Department of Labor. The City makes no warranty or representation concerning whether any of the work performed pursuant to this Agreement constitutes public works subject to the prevailing wage requirements.

9. **Notices.** All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.
- a. (Contractor)  
**David Volz Design Landscape Architects, Inc.**  
 Attention: David J. Volz, President/Secretary  
 151 Kalmus Drive, Suite M8  
 Costa Mesa, CA 92626
  - b. (Address of CITY) (with a copy to):  
 City of Garden Grove Garden Grove City Attorney  
 11222 Acacia Parkway 11222 Acacia Parkway  
 Garden Grove, CA 92840 Garden Grove, CA 92840
10. **CONTRACTOR'S PROPOSAL.** This Agreement shall include CONTRACTOR'S proposal or bid which shall be incorporated herein by reference. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.
11. **Licenses, Permits, and Fees.** At its sole expense, CONTRACTOR shall obtain a Garden Grove Business License, all permits, and licenses as may be required by this Agreement.
12. **Familiarity with Work.** By executing this Agreement, CONTRACTOR warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties, and restrictions of the work under this Agreement. Should Contractor discover any latent or unknown conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of this and shall not proceed, except at CONTRACTOR'S risk, until written instructions are received from CITY.
13. **Time of Essence.** Time is of the essence in the performance of this Agreement.
14. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability, and reputation of CONTRACTOR, its principals and employees were a substantial inducement for CITY to enter into this Agreement. CONTRACTOR shall not contract with any other entity to perform the services required without written approval of the CITY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of CITY. If CONTRACTOR is permitted to subcontract any part of this Agreement, CONTRACTOR shall be responsible to CITY for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and CITY. All persons engaged in the work will be considered employees of CONTRACTOR. CITY will deal directly with and will make all payments to CONTRACTOR.

15. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.

16. **Indemnification.** CONTRACTOR agrees to protect, defend, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by CONTRACTOR, CONTRACTOR'S agents, officers, employees, subcontractors, or independent contractors hired by CONTRACTOR. The only exception to CONTRACTOR'S responsibility to protect, defend, and hold harmless CITY, is due to the sole negligence of CITY, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONTRACTOR

17. **Appropriations.** This Agreement is subject to and contingent upon funds being appropriated therefor by the Garden Grove City Council for each fiscal year covered by the term of this Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to the CITY.

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(Agreement Signature Block on Next Page)

**IN WITNESS THEREOF**, these parties have executed this Agreement on the day and year shown below.

Date: \_\_\_\_\_

**"CITY"**  
**CITY OF GARDEN GROVE**

By: \_\_\_\_\_  
**City Manager**

**ATTESTED:**

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

Date: \_\_\_\_\_

**"CONTRACTOR"**  
**David Volz Design Landscape Architects, Inc.**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Tax ID No. \_\_\_\_\_

Contractor's License: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

If CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY.

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Garden Grove City Attorney

\_\_\_\_\_

## **RFP S-1298**

### **ATTACHMENT "A" SCOPE OF WORK**

#### **CONSULTANT SERVICES FOR THE REVITALIZATION OF WOODBURY PARK IN GARDEN GROVE**

##### **PROJECT OBJECTIVE**

The City of Garden Grove Community Services Department is requesting proposals from qualified design firms for the preparation of Plans and Specifications, including engineered cost estimate, for the revitalization and expansion of Woodbury Park as outlined in the scope of services.

##### **BACKGROUND**

Woodbury Park is located at 13800 Rosita Place, Garden Grove, California, 92843. A portion of this park location, including the area for expansion, is leased to the City by the Garden Grove Unified School District. The park, including the .5 acre expansion, is approximately three and a half (3.5) acres to be used for recreation space.

The City has been awarded a Statewide Parks Program Grant from California State Parks to revitalize and expand Woodbury Park.

##### **SCOPE OF SERVICES**

The consultant will develop all biddable design plans and specifications for the project that will include the following improvements: demolition of all existing amenities, with the exception of some of the existing fences and trees that will remain; and construction of new and expanded park space that will include a new basketball court area, new walking/running path around the perimeter of park, new outdoor exercise equipment stations, two new separate playground areas for 2-5 ages and 5-12 ages that include integrated shade canopy units and PIP playground surface, three new picnic shelters that include picnic tables and lighting, expanded and larger swimming pool area approximately 25 meters with six lanes, new wading pool adjacent to the swimming pool, new skate park/plaza, new parking lot area, new building restrooms, new pool house building, landscape improvements, irrigation improvements, and electrical improvements for new park lighting. Please use as a guide the conceptual plan in APPENDIX "C".



**Services to be performed by the Consultant shall also include the following:**

- Consultant shall prepare design development plans and other documents that include a site plan, demolition plan, structural plan and details, electrical plan, plumbing plan, preliminary and final grading plan, accessibility plan, landscape and irrigation plan, while incorporating the City's requirements for water usage, and other applicable requirements for City approval and permitting. Consultant shall use as a guide the attached conceptual design in APPENDIX "C".
- The project site is located in a flood zone area. The Consultant will need to ensure that the plans comply with FEMA guidelines and that a flood elevation certificate is requested and issued.
- During the development of these plans, the Consultant may need to attend/facilitate at minimum two community/Commission/City Council meetings. Please include cost per hour for Consultant to attend/facilitate any additional meetings requested.
- Consultant shall prepare earthwork quantities, a detailed topographic survey and map of the site and the necessary surrounding areas including but not limited to utilities, a complete geotechnical investigation, preliminary and final WQMP, SWPPP, hydrology & hydraulics report, construction cost estimates, any necessary miscellaneous exhibits, legal descriptions, building elevation, and building sections incorporating the ultimate size and layout, and equipment locations, character and finishes of the entire project, including exterior elevations and finishes, and landscape.
- The Consultant shall conduct a complete utility search within the project area and determine service requirements from utility companies. As part of preparing the construction plans, the consultant shall notify all utility companies and verify in writing that utility companies have reviewed the preliminary and final construction plans and concur with the information shown. Consultant shall ensure utility companies have no restrictions or easements within the project boundaries. **Coordination with all affected utilities or agencies shall be the full responsibility of the consultant. Consultant shall be responsible for obtaining all necessary plans and clearances for all fieldwork. Consultant shall provide to the City copies of responses from the utilities regarding the location of their facilities and service requirements.**
- The City of Garden Grove will coordinate the plan check of the documents submitted for City permits and Orange County Fire Authority permits. Consultant shall incorporate revisions resulting from the plan check activities and other requested clarifications, notes and details of the City or other applicable agencies. Consultant fee shall include at minimum two design revisions requested during the plan check process.

- Consultant shall provide digital copies of all files during the plan check process and of the approved final plans, including final engineering calculations, quantity and cost estimates, with all supporting files. All documents are the property of the City of Garden Grove.
- Obtain final approval of all plans from City of Garden Grove Building, Planning, Public Works and the Orange County Fire Authority and secure the status of 'ready to issue permit' on the complete plan set to commence project construction.
- Consultant shall attend project pre-construction meeting and provide office and field assistance during bidding and construction periods if the need for such assistance arises.
- Consultant shall assist City staff and Project Manager in the receipt of sealed construction bids and analysis thereof, including analysis of qualifications of bidders, and verification of responsiveness to the bid documents.
- During construction, Consultant shall provide project management & administration and construction support services including but not limited to responses to RFI's, review and approval of submittals, review of shop drawings, construction plan revisions, and development of final record drawings.
- The Consultant shall attend update meetings throughout the project, or as requested by City staff.
- Consultant must have a General Architect License and/or Landscape Architect License
- Consultant must have at least ten (10) years of notable experience

The most qualified consultant will be selected based directly on their related qualifications, including but not limited to: renovation experience preparing similar design development plans and specifications; experience with park revitalization projects; experience working with school districts; ability to produce biddable public construction contract documents; proven ability to complete high quality work within approved timeline; submission of thorough and complete contract documents; and reference checks.

**The City will provide the following:**

- Processing and approval of plans, specifications, and estimates for City Council approval.
- Review and advertising of the construction bids and construction contract award, including required duplication of contract documents.

- Management and administration, inspection and materials testing of the construction contract.

## **PROPOSAL REQUIREMENTS**

### **Content and Format**

The proposal submitted shall be organized and presented in a logical format and relevant to these services.

The proposal should include the following:

- Transmittal/offer letter
- Page numbering
- Table of Contents
- Approach and Work Program
- Team Organization including an organization diagram and time commitment of key staff
- Statement of Qualifications including descriptions of similar projects by key staff to be assigned during the term of the contract
- Brief resumes of key staff
- Schedule of hourly rates and fees labeled as Attachment "B"
- Proof of proper licensing
- See Page 9 of this RFP document for other documents that must be included in the proposal when submitted

### **Approach**

A description of the Consultant's approach and work program to meet the City's objectives shall be included. It should explain the firm's technical approach and methodology, as well as specific tasks and activities, laid out in an estimated timeline that will be performed to address the specific issues and work items. Firms are also encouraged to provide examples of environmental and maintenance friendly design elements that could be incorporated into the project.

### **Team Organization**

The purpose of this section is to describe the organization of the project team including sub-consultants and key staff. A Project Manager and an alternate Project Manager shall be named who shall be the prime contact and be responsible for coordinating all activities with the City. An organization diagram shall be submitted showing all key team members and illustrating the relationship between the City, the Project Manager, key staff, and sub-consultants. There also should be a brief description of the role and responsibilities of all key staff and sub-consultants identified in the team organization.

### **Statement of Qualifications**

The information provided in this section should describe the qualifications of the firm and key staff in performing projects within the past ten (10) years that are similar in scope and size to demonstrate competence to perform these services. In particular, direct experience with the following are highly preferred:

- Municipalities

- Public school districts
- California Division of the State Architect
- California Department of Parks and Recreation, Office of Grants and Local Services
- Management of multiple sub-consultants

**References-APPENDIX "A" of the RFP document**

The projects listed should be those that the key staff named for this project were responsible for performing. Information shall include:

- Names of key staff that participated on named projects and their specific responsibilities
- The client's name, contact person, mailing address, email address, and telephone numbers
- A brief description of type and extent of services provided
- Completion dates (estimated, if not yet completed)
- Total cost of the projects

There should be included in this section brief resumes of key personnel who will provide these services demonstrating their qualifications and experience. Resumes should highlight education, relevant experience, licenses, and specific responsibilities for services described.

**Fee Proposal-Attachment "B"**

The fee proposal should be based upon the required work hours by phase. Include a current fee proposal for various levels of staff who may participate in the project. Any reimbursable or other cost such as overhead and mark-ups should be identified and included in the fee proposal.

**Scoring and Selection of the Consultant**

Please see Section 8.0 EVALUATION OF PROPOSALS of this RFP document for the scoring criteria and point system that will be used to score the proposals. The most qualified consultant will be selected based directly on their related qualifications, including but not limited to the criteria listed in Section 8.0 EVALUATION OF PROPOSALS.