

Contract No. _____

AGREEMENT BETWEEN CITY AND CONSULTANT

THIS AGREEMENT, entered into this 4th day of June, 2003 by and between the City of Richland, 505 Swift Ave., Richland, Washington, (hereinafter called the "City"), and Michael Terrell, (hereinafter called the "Consultant").

WITNESSETH:**1. GENERAL DESCRIPTION OF WORK:**

The Consultant shall furnish all services, labor and related equipment necessary to conduct and complete the work as designated elsewhere in this Agreement.

2. SCOPE OF WORK

The Consultant shall provide Conceptual & Final Design and Construction Management for the Howard Amon Park Sturgeon Cove Playground as identified in the Scope and Schedule of Services dated March 25, 2003, attached as Exhibit "A" and made part of this Agreement.

3. GENERAL REQUIREMENTS

The Consultant shall attend coordination meetings, progress and presentation meetings with the City or such Federal, community, State, City, or County officials, groups or individuals as may be requested by the City. The City will provide the Consultant sufficient notice prior to meetings requiring Consultant participation.

The Consultant shall prepare a monthly progress report, in a form approved by the City, that will outline in written and graphical form the various phases and the order of performance of the work in sufficient details so that the progress of the work can easily be evaluated.

4. TIME FOR BEGINNING AND COMPLETION

The Consultant shall not begin any work under the terms of this Agreement until authorized in writing by the City. Consultant agrees to use best efforts to complete all design work, Phase I-IV of the scope of work, described under this Agreement by June 30, 2003. Construction management services, Phase V, shall continue until the completion of the project by the construction contractor.

5. PAYMENT

The Consultant shall be paid a Lump Sum Amount of Forty Two Thousand Four Hundred and Sixty Dollars (\$42,460), by the City to complete the services rendered under this Agreement. The Consultant shall also be paid a not to exceed amount of \$2,300 for travel and other miscellaneous expenses. Such payment shall be full compensation for all work performed or services rendered, and for all labor,

materials, supplies, equipment, and incidentals necessary to complete the work specified in Exhibit "A".

The maximum total amount payable, by the City to the Consultant under this Agreement, shall not exceed the above lump sum amount .

Partial payments to cover the percentage of work completed may be requested by the Consultant. These payments shall not be more than one (1) per month. To provide a means of verifying the invoiced salary costs for the Consultant's employees, the City may conduct employee interviews. These interviews may consist of recording the names, titles, salary rate, and present duties of those employees performing work on the Project at the time of the interview.

The Consultant and his/her subconsultants shall keep available for inspection by representatives of the City, the State and the United States for a period of three years after final payment the cost records and accounts pertaining to this Agreement and all items relating to or bearing upon these records with the following exception: if any litigation, claim, or audit arising out of, in connection with, or relating to this contract is initiated before the expiration of the three-year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

6. EMPLOYMENT

Any and all employees of the Consultant or other persons while engaged in the performance of any work or services required of the Consultant under this Agreement, shall be considered employees of the Consultant only and not of the City, and any and all claims that may or might arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the Consultant's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the Consultant.

7. OTHER PARTIES

It is mutually agreed that this Agreement is not transferable by either signatory to a third party without the consent of the other principal party.

8. OWNERSHIP OF DOCUMENTS

All designs, drawings, specifications, documents, and other work products prepared pursuant to this Agreement, will become the property of the City upon payment to the Consultant of his fees as set forth in this Agreement. The City acknowledges the Consultant's plans and specifications, including all documents on electronic media, as instruments of professional services. The plans and specifications prepared under this Agreement shall become the property of the City upon completion of the services and payment in full of all payment due to the Consultant. The City may make or permit to be made any modifications to the plans and specifications without the prior written authorization of the Consultant. The City

agrees to waive any claim against the Consultant arising from any unauthorized reuse of the plans and specifications and to indemnify and hold the Consultant harmless from any claim, liability or cost arising or allegedly arising out of any reuse of the plans and specifications by the City or its agent not authorized by the Consultant.

9. TERMINATION

This Agreement may be terminated by either party upon thirty (30) days written notice, by registered mail, or mailed to the other party at his usual place of business. In the event this contract is terminated by the Consultant, the City will be entitled to reimbursement of costs occasioned by such termination by the Consultant. In the event the City terminates this Agreement, the City shall pay the Consultant for the work performed, an amount equal to the percentage of completion of the work as mutually agreed between the City and the Consultant.

If any work covered by this Agreement shall be suspended or abandoned by the City before the Consultant has completed the assigned work, the Consultant shall be paid for services performed down to the time of such termination or suspension an amount equal to the costs incurred at the date of termination as mutually agreed upon between the City and the Consultant.

10. DISPUTE RESOLUTION

The City and the Consultant agree to negotiate in good faith for a period of thirty (30) days from the date of notice of all disputes between them prior to exercising their rights under this Agreement, or under law.

All disputes between the City and the Consultant not resolved by negotiation between the parties may be arbitrated only by mutual agreement of the City and the Consultant. If not mutually agreed to resolve the claim by arbitration, the claim will be resolved by legal action. Arbitration of all claims will be in accordance with the Arbitration Rules of the American Arbitration Association.

11. VENUE, APPLICABLE LAW AND PERSONAL JURISDICTION

In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the parties hereto agree that any such action shall be initiated in the Superior Court of the State of Washington, situated in Benton County. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties to such action shall have the right of appeal from such decision of the Superior Court in accordance with the laws of the State of Washington. The Consultant hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in Benton County.

12. ATTORNEY'S FEES

Attorney's fees which are reasonable and costs, including those on appeal, if appeal is taken, shall be allowed to the prevailing party by any court hearing a dispute under this Agreement.

13. INSURANCE

The Consultant shall maintain insurance as will protect the City from claims for bodily injury, or death, or property damage which may arise from the negligent performance by their employees in the functions and services required under this Agreement. Said insurance shall be as a minimum: Workmen's Compensation, Comprehensive General and Contractual Liability and Comprehensive Automobile Liability insurance in the following amounts:

Worker's Compensation when applicable: Statutory

Comprehensive General Liability: On an occurrence basis with limits no less than \$1,000,000 combined single limit per occurrence and \$2,000,000 aggregate for personal injury, bodily injury and property damage.

Comprehensive Automobile Liability: limits no less than \$1,000,000 combined single limit per accident for bodily injury and property damage.

Professional Liability when required: Limits no less than \$1,000,000 per claim.

Consultant shall provide certificates of insurance evidencing the above described coverage. The City shall be named as an additional insured on the Commercial General Liability insurance policy and a copy of the endorsement naming the City as additional insured shall be attached to the Certificate of Insurance. The City shall be given thirty (30) days prior written notice of any cancellation.

14. HOLD HARMLESS

It is further agreed that the Consultant shall defend, indemnify, and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the negligent performance of the contract, except for injuries and damages caused by the sole negligence of the City.

15. WARRANTY

The professional services will be furnished in accordance with the care and skill ordinarily used by members of the same profession practicing under similar conditions at the same time and in the same locality. The Consultant makes no warranties express or implied, under this Agreement or otherwise, in connection with the Consultant's services.

16. SUCCESSORS OR ASSIGNS

All of the terms, conditions and provisions hereof shall inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns; provided, however, that no assignment of the Agreement shall be made without written consent of the parties to the Agreement.

17. EQUAL OPPORTUNITY AGREEMENT

The Consultant agrees that he will not discriminate against any employee or job applicants for work on this Agreement for reasons of race, sex, nationality or religious creed.

18. CHANGES OF WORK

The Consultant shall make such changes and revisions in the completed work of this Agreement as necessary to correct or revise any errors, omissions, or other deficiencies in the design, drawings, specifications, reports, and other similar documents which the Consultant is responsible for preparing or furnishing under this Agreement, when required to do so by the City, without additional compensation thereof.

Should the City find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the Consultant shall make such revisions as directed by the City. This work shall be considered as Extra Work and will be paid for as herein provided under Section 19, Extra Work.

19. EXTRA WORK

The City may desire to have the Consultant perform work or render additional services within the general scope of this Agreement. Such work shall be considered as Extra Work and will be specified in a written supplement to this Agreement which will set forth the nature of the scope, schedule for additional work, additional fees and the method of payment. Work under a supplemental Agreement shall not proceed until authorized in writing by the City.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF RICHLAND, WASHINGTON



JOHN C. DARRINGTON
City Manager

MICHAEL D. TERRELL




ATTEST:



KENNETH R. BAYS
City Clerk

APPROVED AS TO FORM:



THOMAS O. LAMPSON
City Attorney



SCOPE AND SCHEDULE

This proposal must be flexible enough to provide the appropriate level of service without incurring unreasonable cost or time. We intend to proceed with the design utilizing the Conceptual Design of Sturgeon Cove prepared by Ramm Associates as a starting point. I have separated the process into phases and have indicated the estimated duration and resultant fees for each phase.

Sturgeon Cove			
Date	Tasks	Duration	Fees
April	Phase I Site Investigation & Conceptual Programming		
	<ol style="list-style-type: none"> 1. Review Existing site conditions and all collateral site engineering drawings and other design documents provided by the City of Richland. 2. Meet with City of Richland staff to discuss concepts, budgets, schedules, and further define the scope of work. Verify landscape standard construction guidelines with City of Richland Parks and Recreation Department staff. Review and verify health standards for construction and installation of children's spray pools. One meeting with staff. 3. Verify and validate the conceptual program developed in the Conceptual Plan prepared by Ramm Associates. 	1 week	
	Phase I Subtotal		\$2,290.00
April / June	Phase II Community Engagement and Participation		
	<ol style="list-style-type: none"> 1. Stakeholder Interviews <ol style="list-style-type: none"> a. Conduct interviews with a representative of Richland's Accessibility Committee and parks maintenance personnel to discuss play area maintenance issues. 2. Workshop Session #1 <ol style="list-style-type: none"> a. Conduct a "Play Discovery" 	6 weeks	

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	<p>workshop with local children to get input for design of the play area. (Details related to number of children, amount of time, format and outcomes need to be resolved.) Tentatively a four hour block with 20-30 children. City of Richland to coordinate issues related to location, children and publicity.</p> <p>b. Conduct a public workshop in the evening to discuss the process, results of the children's workshop and next steps.</p> <p>c. Team Charrette will be held in Richland the following day to incorporate ideas and "brainstorm" the design of the play area.</p> <p>3. Workshop Session #2</p> <p>a. Conduct Public Workshop #2 in the evening to discuss the process, results of the children's workshop and next steps.</p> <p>b. Team Charrette will be held in Richland the following day to incorporate ideas and "brainstorm" the design of the play area. This will be a refinement of the previous input. The team will finalize the detailed Conceptual Design with individual elements identified and conceptual sketches of each element.</p> <p>4. Detailed conceptual design would illustrate the final build-out of Sturgeon Cove and identify the elements for inclusion in Phase I Construction.</p>		
	Phase II Subtotal		\$9,960.00
July	Phase III Design Development		
	<p>1. Refine Conceptual Design that synthesizes design input into final design plans.</p> <p>2. Prepare Design Development Drawings of demolition, planting, irrigation, construction and design development details of critical design elements for review by staff.</p>	4 weeks	

	<ol style="list-style-type: none"> 3. Prepare schematic of customized pre-manufactured park elements and play equipment for review by staff prior to submitting to manufacturers for detailing. Park elements will include bollards, tables, benches, water fountains, and other site furniture as identified in the Conceptual Plan. 4. Prepare Design Development Cost estimate. 5. Submittal to City of Richland for review. City to schedule meeting with critical staff to review documents with consultant. Documents will be submitted prior to meeting for review. Meeting will serve to consolidate and coordinate comments. <p>Phase III Subtotal</p>		<p>\$14,350.00</p>
<p>August/ September</p>	<p>Phase IV Construction Documents</p>		
	<ol style="list-style-type: none"> 1. Title Sheet and Location Map 2. <u>Demolition Plan</u> - Preparation of a plan that illustrates in sufficient detail the existing elements to be removed under the contract. The demolition plan will identify locations for construction staging and access. Plan to include necessary demolition for the play area and the Howard Amon Park sidewalk. 3. <u>Play Area Construction and Grading Plan</u> - Location of site design elements. Call out of materials, finishes, types, limit of work, elements not in contract, etc. with reference to construction details, notes and specifications. 4. <u>Howard Amon Park Sidewalk</u> - Location of new sidewalk with call out materials, finishes, and limit of work. Plan will reference applicable construction details, notes and specifications. 5. <u>Planting Plan</u> - Preparation of planting plans in sufficient detail for bidding and permitting. The planting plans will indicate the locations, species, and sizes of trees, shrubs, vines and groundcovers with reference to necessary notes, details and specifications. 		

	<p>6. <u>Irrigation Plan</u> - Preparation of irrigation plans in sufficient detail for bidding and permitting. The irrigation plans will indicate required modifications to the existing system, the type of irrigation equipment, connection to existing system, valves, heads and nozzles, piping and other components with references to all necessary notes, details and specifications.</p> <p>7. <u>Construction Details</u> - Preparation of all necessary details to convey the desired methods of construction of the site elements indicated on the Construction/Grading Plan. These will be of sufficient detail to accurately bid and construct the design elements. Incorporation of sidewalk details for Howard Amon Park sidewalk connections.</p> <p>8. <u>Planting and Irrigation Details</u> - Preparation of all necessary details to convey the desired methods of the planting and irrigation installation of elements indicated on Planting and Irrigation Plans. These will be of sufficient detail to accurately bid and install these elements.</p> <p>9. <u>Project Specifications</u> - Preparation of the project specifications for all designed elements.</p> <p>10. <u>90% Submittal for review by staff.</u> Consolidated Comments to be received within two weeks of submittal in order to be incorporated into final bid documents.</p> <p>11. <u>Construction Cost Estimate</u> - Preparation of one Construction Cost Estimate based on 90% Construction Documents.</p> <p>12. Submittal of 100% complete plans and specifications for bidding by City of Richland. One bid package is included in this scope of work. Bidding of additional elements would be included as an extra service.</p> <p>13. Bidding</p> <ol style="list-style-type: none"> a. One Pre-Bid Meeting and walkthrough. b. Answer contractor questions as necessary during bidding. 		
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	<ul style="list-style-type: none"> c. Prepare Addenda as necessary prior to bidding. d. Printing, issuing, updating and receiving bid documents to/from contractors to be provided by City of Richland. e. Tabulating and reviewing bids to be completed by City of Richland. <p>14. One Pre-Construction Meeting with staff and contractor.</p>		
	Phase IV Subtotal		\$11,800.00
October/ December	Phase V Construction Management		
	<ul style="list-style-type: none"> 1. Site observation during landscape construction and installation of landscape design elements with field reports at regularly scheduled intervals to evaluate installation for compliance with contract documents. Three site visits and subsequent field reports are included. 2. Review of submittals, shop drawings, and as-built irrigations plans as required. 3. Review and approval of Contractor Requests for Payments and billings to be completed by City of Richland. 	12 Weeks	
	Phase V Subtotal		\$4,060.00
Total			\$42,460.00

COMPENSATION

We will invoice based upon a lump sum basis by percentage complete and the tasks listed above.

We will bill reimbursable travel expenses based upon actual cost plus 10% for mileage and other miscellaneous expenses. Incidental expenses will be billed as incurred. These expenses will include cost of reproduction, telephone, etc. as necessary. I estimate these costs will not exceed \$2,300.00.