

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To:	Matthew Fertal	From:	Kimberly Huy
Dept.:	City Manager	Dept.:	Community Services
Subject:	PURCHASE AND INSTALLATION OF OUTDOOR FITNESS EQUIPMENT AT MAGNOLIA PARK		Date: May 12, 2009

OBJECTIVE

To request City Council approval for the purchase and installation of outdoor fitness equipment at Magnolia Park.

BACKGROUND

In 2008, the City received funding from Supervisor Janet Nguyen's office for the installation of outdoor fitness equipment at the H. Louis Lake Senior Center. The equipment has proven to be very popular with seniors from the Center as well as other members of the public. Recently, additional funding was made available through Supervisor Nguyen's office for outdoor fitness equipment at Magnolia Park.

DISCUSSION

Staff is proposing that 12 pieces of outdoor fitness equipment be installed outside of the Magnolia Park Family Resource Center, as proximity to this location will allow staff to expand fitness programs for families that attend the Center, in addition to the equipment being available to the local community.

Staff is requesting approval to contract with Greenfield Sport Parks, Inc. for the purchase of the outdoor fitness equipment. This vendor has previously proven to supply quality equipment suitable for this type of project. The proposal with Greenfield Sport Parks includes the purchase of 12 individual pieces of equipment and the installation of said equipment including concrete curb and decomposed granite surfacing for a total of \$29,980.

There is currently funding in the amount of \$20,000 available from Supervisor Janet Nguyen's office for this project. Staff is requesting approval of an additional \$10,000 be allocated from the Park Development Fund to cover the balance.

FISCAL IMPACT

There will be no impact to the City's general fund as \$20,000 is allocated from Supervisor Nguyen's office, and there are sufficient funds available in the Park Development Fund to allocate an additional \$10,000 for a total of \$30,000 to be used for this project.


COMMUNITY VISION IMPLEMENTATION

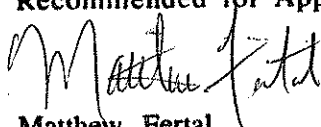
The purchase and installation of pieces of outdoor fitness equipment meets the goals of the Community Vision by improving quality of life in the City and by providing additional quality community facilities, including gathering places for recreational activities. This equipment will be another tool to encourage healthy habits among residents of the City.


RECOMMENDATION

It is recommended that the City Council:

- Authorize the purchase and installation of outdoor fitness equipment at Magnolia Park,
- Authorize the City Manager and City Clerk to enter into a contract with Greenfield Sport Parks, Inc. for the purchase and installation of outdoor fitness equipment, and
- Authorize the allocation of \$10,000 in funding for this project from the Park Development Fund.


KIMBERLY HUY
Director

Recommended for Approval

Matthew Fernal
City Manager

By: Janet Pelayo 
Administrative Analyst

Attachment.

CONSTRUCTION CONTRACT
(under \$30,000.00)

THIS AGREEMENT is made this _____ day of _____, 2009, by the **CITY OF GARDEN GROVE**, a municipal corporation, ("CITY") and **Greenfield Sport Parks, Inc.**, here in 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 for the purchase and installation of outdoor fitness equipment.
3. CONTRACTOR is qualified by experience and expertise to accomplish said services.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination.** The term of the Agreement shall be for period of **six months from full execution** of the Agreement or completion of the project which ever occurs first. 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 fee schedule and Proposal (Attachment "A"). 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 Proposal. The Proposal is incorporated herein by reference. The Proposal and this Agreement do not guarantee any specific amount of work.
3. **Compensation.** CONTRACTOR shall be compensated as follows:
 - 3.1 **AMOUNT.** Compensation under this agreement shall be the Not To Exceed (NTE) amount of **Twenty Nine Thousand Nine Hundred Eighty Dollars (\$29,980.00)**, in arrears and in accordance with proposal in Attachment A.

- 3.2 Payment. For services and expenses incurred under this Agreement, payment and reimbursements shall be made consistent with the proposal attached as "Attachment A."
- 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 and CONTRACTOR 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.
- 4.2 WORKERS COMPENSATION INSURANCE. During the duration of this Agreement, CONTRACTOR and all subcontractors 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 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 of \$1,000,000.00 per occurrence. 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.

An **On-Going and Completed Operations Additional Insured Endorsement** for the policy under section 4.3 (a) shall designate CITY, it's officers, officials, employees, agents, and volunteers as additional insured for liability arising out of work or operations performed by or on behalf of the CONSULTANT. CONSULTANT 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, it's officers, officials, employees, agents, and volunteers as additional insured for automobiles, owned, leased, hired, or borrowed by the CONSULTANT. CONSULTANT 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, CONSULTANT's insurance coverage shall be primary insurance as respects CITY, it's officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, it's officers, officials, employees, agents, and volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.

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.
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. Greenfield Sport Parks, Inc.
3432 West Harvard Street
Santa Ana, CA 92704
 - b. (Address of City)
City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840
 - (with a copy to):
Garden Grove City Attorney
11222 Acacia Parkway
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. **Prevailing Wages.** The CITY has been advised that the Prevailing Wages Law applies to the work. CONTRACTOR shall be responsible for CONTRACTOR's compliance in all respects with the prevailing wage rates to all the laborers involved, and with California Labor Code Section 1770 et seq., including the keeping of all records required by the provisions of Labor Code Section 1776 and the implementing administrative regulations. The CITY shall be a third party beneficiary of the forgoing covenant with rights to enforce the same as against the CONTRACTOR.

17. **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.

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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"
Greenfield Sport Parks, Inc.

By: Greenfield SP

Name: Aviv Avishay

Title: _____

Date: 5.5/2009

Tax ID No. 56-2649357

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

5/5/09
Date

QUOTATION # 2056

Project Name: Magnolia Park

Quote Date: 2009-04-29

Sales Rep: 101 - Aviv Avishay

<u>Sell To:</u>	<u>Ship To:</u>	<u>Bill To:</u>
Company Name: City of Garden Grove Address: 11222 Acacia PArway City State Zip Garden Grove, CA 92842 Contact: Janet Pelayo Tel: (714) 741-5215 Fax: (714) 741-5579 Email: janetp@ci.garden-grove.ca.us	Company Name: City of Garden Grove Address: 11222 Acacia PArway City State Zip Garden Grove, CA 92842 Contact: Janet Pelayo Tel: (714) 741-5215 Fax: (714) 741-5579 Email: janetp@ci.garden-grove.ca.us	Company Name: City of Garden Grove Address: 11222 Acacia PArway City State Zip Garden Grove, CA 92842 Contact: Janet Pelayo Tel: (714) 741-5215 Fax: (714) 741-5579 Email: janetp@ci.garden-grove.ca.us

SKU & Item Description	Color Selection	Qty	Item Cost	Total
GR2005-1-47 2-Person Vertical Press	Black / Red / Yellow	1	Included	Included
GR2005-1-08 Single Butterfly	Black / Red / Yellow	1	Included	Included
GR2005-1-04 Tai-Chi Spinner	Black / Red / Yellow	1	Included	Included
GR2005-1-19 2-Person Sit-Up Bench	Black / Red / Yellow	1	Included	Included
GR2005-1-91 Rower	Black / Red / Yellow	1	Included	Included
GR2005-1-22 2-Person Pendulum & Dip	Black / Red / Yellow	1	Included	Included
GR2005-1-09 Single Cross Country Ski	Black / Red / Yellow	1	Included	Included
GR2005-1-23 2-Person Air-Walker	Black / Red / Yellow	1	Included	Included
GR2005-1-104 4-Person leg Press	Black / Red / Yellow	1	Included	Included
GR2005-1-49 Recumbent Bike	Black / Red / Yellow	1	Included	Included
GR2005-1-98 Single Leg Extension	Black / Red / Yellow	1	Included	Included
GR2005-1-28 Core Strength	Black / Red / Yellow	1	Included	Included
GR2005-1-143 Announcement Board	Black / Red / Yellow	1	Included	Included
	SUB TOTAL	13		\$22,000.00
Installation with D.G. Surfacing				\$ 7,980.00
COLOR SELECTION: Please be advised that there can only be one color for each welded assembly.			GRAND TOTAL	\$29,980.00

Applicable OC Sales-Tax will be added to invoice

PAYMENT TERMS & CONDITIONS 50% Deposit with signed order 50% within 15-days of complete installation This quote is in effect until May 30, 2009	WARRANTY Fixed Components: 10-years limited warranty Moving Components: 5-years limited warranty Rubber Components: 2-years limited warranty A replacement of items due to vandalism is not covered.
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