

Agreement for Professional Services

6/24/2009

Project Temporary Regional Trail-Section Graphics-#08-065-1

Client Parker Jordan Metropolitan District
 Attn: Bob Blodgett with R S Wells
 8390 East Crescent Parkway, Suite #500
 Greenwood Village, Colorado 80111-2811

Dear Parker Jordan Metropolitan District,

We are pleased to submit this proposal for professional services in connection with the Parker Jordan Metropolitan District's (the "Client") project. We greatly appreciate the opportunity and consideration that allows us to work with you. This proposal is being prepared using our best understanding of the project scope based on information provided via phone conversations, email and meetings. Our fees are based upon the amount of Landscape Architectural and Planning services necessary to satisfactorily complete the work initially requested, and as specified in this agreement.

Scope of Services

Coordination w/ PJMD, Mulhern MRE, Inc and/or OTL Consulting Services, Inc (2 hours @ \$95.00/hour)	\$190.00
Graphic Development (2 Sections & 2 Associated Plans of the Sections) (6 hours @ \$70.00/hour)	\$420.00
Subtotal	\$610.00
Total Proposal Amount	\$610.00

Role of Landscape Architect

Valerian llc (Valerian) shall develop two (2) graphic sections and two (2) associated plans of the sections. One section will show the proposed regional trail with a retaining wall and one section will show the proposed regional trail without a retaining wall. The purpose of the sections is to show the location of the proposed regional trail in relationship to the back property lines of the adjacent lots and the relationship to the Vermilion Creek parcel property line. The associated plans will not show the entire layout of the proposed regional trail, they will only show the section layout information in a plan view. The sections/plans will be "generic" in that they will not be designed to a specific location along the trail because such specific information is not available at this time. They will be designed based on the general dimensions known at this time and discussed at the site visit that took place on Monday, June 22, 2009. The graphics will be hand-generated. One round of revisions to the above mentioned graphics will be included in this proposal based on comments received from the Client, Mulhern MRE, Inc and/or OTL Consulting Services, Inc. Any additional coordination, graphics (sections, plans, details, etc.) or revisions above and beyond what is outlined above will be considered a change in scope and will require a work authorization to be approved by the Client prior to commencing work. Additional hourly services will only be in effect by written request. At the sole discretion of the District (Parker Jordan Metropolitan District), the Board (Parker Jordan Metropolitan District representatives) may terminate the Agreement at any time upon payment of any amounts duly owing to Valerian.



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Project Coordination

Valerian will coordinate work tasks with project team members, the Client, consultants, jurisdictional staff and referral agencies as necessary. Unless specifically outlined here all project coordination is included in the above tasks.

Limitation of Liability

In recognition of the relative risks and benefits of the project to both the client and Valerian, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of Valerian and our sub-consultants to the Client and to all construction contractors and subcontractors on the project for any claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, so that the total aggregate liability of Valerian and our sub-consultants to all those names shall not exceed our design fee for services rendered on this project. Such claims and causes include, but are not limited to, negligence, professional errors or omissions, strict liability breach of contract or warranty.

Ownership and Copyright of Documents

All drawings and documents produced under terms of this Agreement, in whatever medium, are the property of the Client. Valerian and the Client have the right to use the drawings and documents for the purpose of constructing, maintaining, and operating the project. Valerian shall maintain copies on file of such work product involved in the performance of the Agreement for five years, shall make them available for the Client's use, and shall provide such copies to the Client upon request, at commercial printing or reproduction rates. The work product shall not be used by the Client on another project except by written agreement between the parties. Valerian shall be permitted to retain copies of work product, including reproducible copies, drawings and specifications, for reasonable marketing activities.

Publicity

Valerian has the right to photograph the above named project and to use the photos in the promotion of the professional practice through advertising, public relations, brochures or other marketing or educational materials with attribution.

Payment

Statements will be due and payable upon approval of such statements by Client, such approval or disapproval to occur at a board meeting of the Client immediately following receipt of such statement. Approval of any invoice may be withheld in the amount which remains incorrect or for those portions which are unsatisfactory. Valerian may re-submit an invoice for payment which does not include those items disputed or unsatisfactory. If the invoice is approved, the Client shall promptly compensate Valerian for the approved amount at the next held Client Board meeting. If approved by the Client but not paid within 60 days from the statement date, a finance charge of 1.5% per month (Annual Percentage Rate of 18%) will be charged on the balance after deducting any payments received during the same 30-day period. Valerian reserves the right to stop work on any project that has Account Receivables (A/R) exceeding 45 days without penalty for missing any implied deadlines or schedules.

Compensation

Services will be paid in accordance with the Authorization Page. Terms of the contract are hourly, not to exceed, plus direct costs as outlined below.

The hourly rates and fees set forth below are viable for nine (9) months from the date of execution of this agreement. In the event additional Landscape Architectural consulting services are required beyond the Scope

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www.valerianllc.com

Landscape Architecture
Master Planning
Urban Design



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of Services itemized above, they will be billed according to the rate schedule given below, or our current rates if contract is older than 9 months, on a time and materials basis, as a change order to this contract, or as outlined in a separate contract, upon Clients written authorization

Should the Scope of Services and/or deliverables outlined in this proposal change based on Client or jurisdictional needs or requirements, the fees associated with the affected portion described herein may also be changed Valerian will discuss all such changes with the Client and such changes will be agreed upon in advance of production

Design changes made necessary by newly enacted or interpreted laws, codes and regulations by the agencies after the date of this contract shall entitle Valerian to reasonable compensation and extension of time as mutually agreed upon Valerian will not be liable for changes in construction or increase in maintenance associated with newly created or interpreted laws, codes or regulations after the date final drawings are submitted

All direct costs including but not limited to printing, reprographic and photographic reproduction of drawings, postage, delivery services, mileage and out-of-pocket expenses incurred in connection with this project shall be considered reimbursable expenses and shall be paid in addition to the fees for professional services All reimbursable expenses are billed at cost

Termination

The Client may terminate this Agreement for cause or not for cause, in whole or in part, by delivering to Valerian a written notice of such termination specifying the extent of termination and the effective date of termination, not less than thirty (30) days after the date of notice If this Agreement is terminated, Valerian shall be paid for those services satisfactorily performed prior to the designated termination date, including reimbursable expenses due Client may specify in the termination notice the extent to which work is to be performed prior to the termination date

Undocumented Workers

A Valerian certifies that Valerian has complied with the provisions of CRS §§ 8-17-5-101, et seq Valerian shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien to perform under this Agreement Valerian represents, warrants and agrees that it has verified or attempted to verify through participation in the E-Verify Program or the employment verification program established pursuant to CRS § 8-17-5-102(5)(c) (the "Department Program"), as administered by the Department of Homeland Security, that Valerian does not employ any illegal aliens and, if Valerian is not accepted into the E-Verify Program or the Department Program prior to entering into this Agreement, that Valerian shall apply to participate in the E-Verify Program or Department Program every three (3) months until Valerian is accepted or this Agreement has been completed, whichever is earlier Valerian shall not use E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed Valerian shall comply with all reasonable requests made in the course of an investigation by the Colorado Department of Labor and Employment If Valerian fails to comply with any requirement of this provision or CRS § 8-17-5-101, et seq, the District may terminate this Agreement for breach of contract, and Valerian shall be liable for actual and consequential damages to the District



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- B If Valerian obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Valerian shall
- (1) Notify the subcontractor and the District within three (3) days that Valerian has actual knowledge that the subcontractor is employing or contracting with an illegal alien, and
 - (2) Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to sub-paragraph (1) above, the subcontractor does not stop employing or contracting with the illegal alien, unless the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien "

Governmental Immunity

Nothing herein shall be construed as a waiver of the rights and privileges of the Client pursuant to the Colorado Governmental Immunities Act, C R S §§ 24-10-101, *et seq* , as amended

Amendment 54 Compliance

On or after December 31, 2008, and to the extent required by law, the Consultant shall comply with article XXVIII, Sections 15 through 17 of the Colorado Constitution (also known as Amendment 54) The language of applicable sections is as follows

Section 15 Because of a presumption of impropriety between contributions to any campaign and sole source government contracts, contract holders shall contractually agree, for the duration of the contract and for two years thereafter, to cease making, causing to be made, or inducing by any means, a contribution, directly or indirectly, on behalf of the contract holder or on behalf of his or her immediate family member and for the benefit of any political party or for the benefit of any candidate for any elected office of the state or any of its political subdivisions

Section 16 To aid in enforcement of this measure concerning sole source contracts, the executive director of the department of personnel shall promptly publish and maintain a summary of each sole source government contract issued Any contract holder of a sole source government contract shall promptly prepare and deliver to the executive director of the department of personnel a true and correct "Government Contract Summary," in digital format as prescribed by that office, which shall identify the names and addresses of the contract holders and all other parties to the government contract, briefly describe the nature of the contract and goods or services performed, disclose the start and end date of the contract, disclose the contract's estimated amount or rate of payment, disclose the sources of payment, and disclose other information as determined by the executive director of the department of personnel which is not in violation of federal law, trade secrets or intellectual property rights The executive director of the department of personnel is hereby given authority to promulgate rules to facilitate this section

Section 17 (1) Every sole source government contract by the state or any of its political subdivisions shall incorporate article XXVIII, section 15, into the contract Any person who intentionally accepts contributions on behalf of a candidate committee, political committee, small donor committee, political party, or other entity, in violation of section 15 has engaged in corrupt misconduct and shall pay restitution to the general treasury of the contracting governmental entity to compensate the governmental entity for all costs and expenses associated with the breach, including costs and losses involved in securing a new contract if that becomes necessary If a person responsible for the bookkeeping of an entity that has a sole source contract with a governmental entity, or if a person acting on behalf of the governmental entity, obtains knowledge of a contribution made or accepted in violation of section 15, and that person intentionally fails to notify the secretary of state or



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appropriate government officer about the violation in writing within ten business days of learning of such contribution, then that person may be contractually liable in an amount up to the above restitution

(2) Any person who makes or causes to be made any contribution intended to promote or influence the result of an election on a ballot issue shall not be qualified to enter into a sole source government contract relating to that particular ballot issue

(3) The parties shall agree that if a contract holder intentionally violates section 15 or section 17 (2), as contractual damages that contract holder shall be ineligible to hold any sole source government contract, or public employment with the state or any of its political subdivisions, for three years. The governor may temporarily suspend any remedy under this section during a declared state of emergency

(4) Knowing violation of section 15 or section 17 (2) by an elected or appointed official is grounds for removal from office and disqualification to hold any office of honor, trust or profit in the state, and shall constitute misconduct or malfeasance

(5) A registered voter of the state may enforce section 15 or section 17 (2) by filing a complaint for injunctive or declaratory relief or for civil damages and remedies, if appropriate, in the district court

Definitions regarding article XXVIII can be found in Section 2, including

(4 5) "Contract holder" means any non-governmental party to a sole source government contract, including persons that control ten percent or more shares or interest in that party, or that party's officers, directors or trustees, or, in the case of collective bargaining agreements, the labor organization and any political committees created or controlled by the labor organization,

(8 5) "Immediate family member" means any spouse, child, spouse's child, son-in-law, daughter-in-law, parent, sibling, grandparent, grandchild, stepbrother, stepsister, stepparent, parent-in-law, brother-in-law, sister-in-law, aunt, niece, nephew, guardian, or domestic partner,

(14 4) "Sole source government contract" means any government contract that does not use a public and competitive bidding process soliciting at least three bids prior to awarding the contract. This provision applies only to government contracts awarded by the state or any of its political subdivisions for amounts greater than one hundred thousand dollars indexed for inflation per the United States bureau of labor statistics consumer price index for Denver-Boulder-Greeley after the year 2012, adjusted every four years, beginning January 1, 2012, to the nearest lowest twenty five dollars. This amount is cumulative and includes all sole source government contracts with any and all governmental entities involving the contract holder during a calendar year. A sole source government contract includes collective bargaining agreements with a labor organization representing employees, but not employment contracts with individual employees. Collective bargaining agreements qualify as sole source government contracts if the contract confers an exclusive representative status to bind all employees to accept the terms and conditions of the contract,

(14 6) "State or any of its political subdivisions" means the state of Colorado and its agencies or departments, as well as the political subdivisions within this state including counties, municipalities, school districts, special districts, and any public or quasi-public body that receives a majority of its funding from the taxpayers of the state of Colorado



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Contract Validity

This contract is valid only if signed within 45 days of origination, unless formally extended by both parties

We look forward to providing professional services for this project. We are also committed to providing the resources necessary to assure prompt responses and attention to your development goals and objectives.

If there is any additional information that we can provide or if you have any questions please do not hesitate to give me a call.

Sincerely,



Susan Brown
Principal



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Temporary Regional Trail-Section Graphics-#08-065-1 Fee Schedule

Fee Summary

Valerian llc shall provide professional services on an hourly, not to exceed basis as outlined below

Coordination w/ PJMD, Mulhern MRE, Inc and/or OTL Consulting Services, Inc (2 hours @ \$95 00/hour)	\$	190 00
Graphic Development (2 Sections & 2 Associated Plans of the Sections) (6 hours @ \$70 00/hour)	\$	420 00
<u>Expenses</u>		<u>As Below</u>
Subtotal	\$	610 00
Proposal Total	\$	610.00

The hourly rates used in the preparation of the fee schedule are as follows

Principal	\$150 00
Executive Director	\$115 00 – 125 00
Director	\$105 00 – 115 00
Project Leader	\$ 85 00 – 95 00
Project Coordinator	\$ 75 00 – 85 00
Project Designer	\$ 70 00 – 75 00
Design Support	\$ 45 00

All direct costs including but not limited to printing, reprographic and photographic reproduction of drawings, postage, delivery services, mileage and out-of-pocket expenses incurred in connection with this project shall be considered reimbursable expenses and shall be paid in addition to the fees for professional services. All reimbursable expenses are billed at cost.



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Temporary Regional Trail-Section Graphics-#08-065-1 Authorization Page

I hereby authorize Valerian Ilc to proceed with the Scope of Services as defined above for the Temporary Regional Trail-Section Graphics, at an hourly, not to exceed amount of \$610 00 plus direct reimbursable expenses. Please return one (1) signed copy of this Agreement for Professional Services to Valerian Ilc for our records.

Agreed on this 24 day of June, 2009

By [Signature] Title Manager

Organization PJMP

