



**PURCHASING ITEM
FOR
COUNCIL AGENDA**

1. Agenda Item Number:

29

2. Council Meeting Date:

September 20, 2007

TO: MAYOR & COUNCIL

3. Date Prepared: September 5, 2007

THROUGH: CITY MANAGER

4. Requesting Department: City Manager

5. **SUBJECT:** Approval of Agreement No. CM8-918-2482 for a Downtown Parking Study with Carl Walker, Inc., in an amount not to exceed \$59,090.

6. **RECOMMENDATION:** Staff recommends approval of the agreement with Carl Walker, Inc. in an amount not to exceed \$59,090

7. **HISTORICAL BACKGROUND/DISCUSSION:** This contract will provide the City with a comprehensive review and analysis of the downtown parking system, to help assess current and plan for future downtown parking availability. The study area for this project has been designated as the area bordered by Chandler Boulevard to the north, Frye Road to the south, Dakota Street to the west, and the railroad tracks to the east. During the 17-week study period, a complete parking inventory and periodic occupancy counts will be compiled. Additionally, parking duration and vehicle turnover surveys will be completed in several downtown parking lots. Finally, a series of public and stakeholder meetings will be held in order to gain additional insights about the downtown parking system.

8. **EVALUATION PROCESS:** A Request for Proposals (RFP) for a Downtown Parking Study was advertised and issued to registered City Vendors. The Purchasing Office received two (2) offers. The evaluation committee was comprised of the following individuals: Marian Norris, Assistant to the City Manager; Kysa Meyerer, Management Intern; Michael Normand, Acting Asst. Public Works Director, Transportation; Teri Killgore, Downtown Redevelopment Manager; and Robert Descheemaker, Purchasing Supervisor. The selection process was conducted in accordance with established City policies and the recommendation for award is based on the evaluation criteria in the RFP.

9. FINANCIAL IMPLICATIONS:

Cost: \$59,090

Savings: N/A

Long Term Costs: N/A

Fund Source: Funds for this project are available in General Fund, Non-departmental, Consulting Services, 101-1290-5219

10. **PROPOSED MOTION:** Move to approve Agreement CM8-918-2482, with Carl Walker, Inc., per staff recommendation, and authorize the Mayor to sign the agreement in an amount not to exceed \$59,090.

APPROVALS

11. Requesting Department

Pat McDermott, Asst. City Manager

12. Procurement Officer

Robert Descheemaker, CPPB

13. City Manager

W. Mark Pentz

**CITY OF CHANDLER SERVICES AGREEMENT
DOWNTOWN PARKING STUDY
CONTRACT NO.: CM8-918-2482**

THIS AGREEMENT is made and entered into this _____ day of _____, 200_____, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and Carl Walker, Inc. a Corporation of the State Michigan, hereinafter referred to as "CONTRACTOR".

WHEREAS, CONTRACTOR represents that CONTRACTOR has the expertise and is qualified to perform the services described in the Agreement.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. CONTRACT ADMINISTRATOR:

- 1.1. **Contract Administrator.** CONTRACTOR shall act under the authority and approval of Kysa Meyerer (Contract Administrator), to provide the services required by this Agreement.
- 1.2. **Key Staff.** This Contract has been awarded to CONTRACTOR based partially on the key personnel proposed to perform the services required herein. CONTRACTOR shall not change nor substitute any of these key staff for work on this Contract without prior written approval by CITY.
- 1.3. **Subcontractors.** During the performance of the Agreement, CONTRACTOR may engage such additional SUBCONTRACTORS as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with CONTRACTOR.

2. SCOPE OF WORK: CONTRACTOR shall conduct a Downtown Chandler Parking Study all as more specifically set forth in the Scope of Work, labeled Exhibit A, attached hereto and made a part hereof by reference and as set forth in the Scope of Work and details included therein.

- 2.1. **Non-Discrimination.** The CONTRACTOR shall comply with State Executive Order No. 99-4 and all other applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.
- 2.2. **Licenses.** CONTRACTOR shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by the CONTRACTOR as applicable to this contract.
- 2.3. **Advertising, Publishing and Promotion of Contract.** The CONTRACTOR shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the CITY.
- 2.4. **Compliance With Applicable Laws.** CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable license and permit requirements.

3. ACCEPTANCE AND DOCUMENTATION: Each task shall be reviewed and approved by the Contract Administrator to determine acceptable completion.

- 3.1. **Records.** The CONTRACTOR shall retain and shall contractually require each SUBCONTRACTOR to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.
- 3.2. **Audit.** At any time during the term of this Contract and five (5) years thereafter, the

CONTRACTOR'S or any SUBCONTRACTOR'S books and records shall be subject to audit by the City to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, the CONTRACTOR shall produce a legible copy of any or all such records.

3.3. **Property of CITY.** Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of CITY. CONTRACTOR is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. CONTRACTOR shall not use or release these materials without the prior written consent of CITY.

4. **PRICE.**

4.1 CITY shall pay to CONTRACTOR an amount not to exceed [REDACTED] Dollars (\$ [REDACTED]) for the completion of all the work and services described herein, which sum shall include all costs or expenses incurred by CONTRACTOR, payable as set forth in Exhibit B, attached hereto and made a part hereof by reference.

4.2 **Payment.** CONTRACTOR shall submit to the Contract Administrator, after completion of the task or combination of tasks listed in the Agreement, a statement of charges for the work completed under that Project Agreement, in conformance with the pricing schedule set forth in Exhibit B, the Contract Administrator shall process the claim for prompt payment in accordance with the standard operating procedures of CITY.

4.3 **IRS W9 Form.** In order to receive payment CONTRACTOR shall have a current I.R.S. W9 Form on file with CITY, unless not required by law.

5. **TERM.**

5.1 Following execution of this Agreement by CITY, CONTRACTOR shall immediately commence work and shall complete all services described herein within sixteen (16) weeks from the date hereof.

6. **CITY'S CONTRACTUAL REMEDIES.**

6.1 **Right to Assurance.** If the City in good faith has reason to believe that the CONTRACTOR does not intend to, or is unable to perform or continue performing under this Contract, the Contract Administrator may demand in writing that the CONTRACTOR give a written assurance of intent to perform. Failure by the CONTRACTOR to provide written assurance within the number of Days specified in the demand may, at the City's option, be the basis for terminating the Contract in addition to any other rights and remedies provided by law or this Contract.

6.2 **Stop Work Order.** The City may, at any time, by written order to the CONTRACTOR, require the CONTRACTOR to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the City after the order is delivered to the CONTRACTOR. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the CONTRACTOR shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

6.3 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the CONTRACTOR shall resume work. The Contract Administrator shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

6.4 **Non-exclusive Remedies.** The rights and the remedies of the City under this Contract are not

exclusive.

- 6.5 Nonconforming Tender.** Services and materials supplied under this Contract shall fully comply with Contract requirements and specifications. Services or materials that do not fully comply constitute a breach of contract.
- 6.6 Right of Offset.** The City shall be entitled to offset against any sums due CONTRACTOR, any expenses or costs incurred by the City, or damages assessed by the City concerning the CONTRACTOR'S non-conforming performance or failure to perform the Contract, including expenses to complete the work and other costs and damages incurred by CITY.
- 7. TERMINATION.**
- 7.1 Termination for Convenience.** CITY reserves the right to terminate this Agreement or any part thereof for its sole convenience with thirty (30) days written notice. In the event of such termination, CONTRACTOR shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and SUBCONTRACTORS to cease such work. As compensation in full for services performed to the date of such termination, the CONTRACTOR shall receive a fee for the percentage of services actually performed. This fee shall be in the amount to be mutually agreed upon by the CONTRACTOR and CITY, based on the agreed Scope of Work. If there is no mutual agreement, the **Management Services Director** shall determine the percentage of work performed for each task detailed in the Scope of Work and the CONTRACTOR'S compensation shall be based upon such determination and CONTRACTOR'S fee schedule included herein.
- 7.2 Termination for Cause.** CITY may, upon written notice, terminate this Agreement for CONTRACTOR'S failure to comply with the terms of this Agreement.
- 7.3 Cancellation for Conflict of Interest.** Pursuant to A.R.S. § 38-511, CITY may cancel this Contract after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.
- 7.4 Gratuities.** CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by CONTRACTOR or a representative of CONTRACTOR to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by CONTRACTOR.
- 7.5 Suspension or Debarment.** CITY may, by written notice to the CONTRACTOR, immediately terminate this Contract if CITY determines that CONTRACTOR has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a SUBCONTRACTOR of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the CONTRACTOR is not currently suspended or debarred. If CONTRACTOR becomes suspended or debarred, CONTRACTOR shall immediately notify CITY.
- 7.6 Continuation of Performance Through Termination.** The CONTRACTOR shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

- 7.7 **No Waiver.** Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
8. **FORCE MAJEURE.** Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.
9. **ALTERNATE DISPUTE RESOLUTION.** Notwithstanding anything to the contrary provided elsewhere in the Contract documents, the alternate dispute resolution (ADR) process provided herein shall be the exclusive means for resolution of claims or disputes and other matters in question between the City and the CONTRACTOR arising out of, or relating to the Contract documents, interpretation of the Contract, or the performance of or the breach by any party thereto, including but not limited to, original claims or disputes asserted as cross claims, counterclaims, third party claims or claims for indemnity or subrogation, in any threatened or ongoing litigation or arbitration with third parties, if such disputes involve parties to contracts containing this ADR provision.
10. **Notice.** CONTRACTOR shall submit written notice of any claim or dispute to the Contract Administrator within thirty (30) days of the occurrence, event or disputed response from CITY for immediate resolution pursuant to these provisions. Each claim or dispute shall be submitted and resolved as it occurs and not postponed until the end of the Contract nor lumped together with other pending claims.
- 10.1 **Forfeiture.** Failure to submit a notice of any claim, dispute, or other issue within such thirty (30) days shall constitute CONTRACTOR'S forfeiture of its right to dispute the issue, raise the claim or make the request and shall also constitute CONTRACTOR'S agreement and acceptance of the CITY'S position.
- 10.2 **CITY Response.** The Contract Administrator will provide to CONTRACTOR a written response to any claim, request for clarification or dispute on or before thirty (30) days from receipt of CONTRACTOR'S written claim.
- 10.3 **Appeal.** If CONTRACTOR disagrees with the response of the Contract Administrator, within fifteen days of the date of the response by the Contract Administrator, CONTRACTOR shall file with the Contract Administrator, written notice of appeal. The Contract Administrator shall provide copies of all relevant information concerning the Contract and claim or dispute to the Assistant Management Services Director who will determine the appeal. The Assistant Management Services Director may request additional information from either party, may hold an informal informational hearing or may make the determination based on the information provided. The Assistant Management Services Director shall make a final determination of the appeal and provide written notice to CONTRACTOR within sixty (60) days from the date of CONTRACTOR'S written notice of appeal.
- 10.4 **Arbitration.** If CONTRACTOR is not satisfied with the determination of the Assistant Management Services Director, the following binding arbitration procedure shall serve as the exclusive method to resolve all unresolved disputes. If CONTRACTOR chooses not to accept the decision of the Assistant Management Services Director, CONTRACTOR shall notify the Contract Administrator in writing within ten (10) business days of receipt of the Assistant Management Services Director's decision of a request for arbitration. The CONTRACTOR shall post a cash bond with the Arbitrator in the amount of \$5,000, or a greater amount as determined by the Arbitrator, that will defray the cost of the arbitration as set forth in paragraph M, Fees and Costs, and proceeds from said bond shall be allocated in accordance with said paragraph by the Arbitrator.

- A. Arbitration Panel:** The Arbitration Panel shall consist of the arbitrators selected by the parties involved in the dispute, (i.e., CITY will select one arbitrator, CONTRACTOR will select one arbitrator, and any other CONTRACTOR who has a contract with the CITY which contains this ADR provision and is a party to the same dispute will also select an arbitrator), and the foregoing arbitrators shall select a neutral Arbitrator who will hear the matter and make a final determination, as set forth herein.
- B. Expedited Hearing:** The parties have structured this procedure with the goal of providing for the prompt and efficient resolution of all disputes falling within the purview of this ADR process. To that end, any party can petition the Arbitrator to set an expedited hearing if circumstances justify it. The Arbitrator shall contact the parties and schedule the arbitration at the earliest possible date. In any event, the hearing of any dispute not expedited will commence as soon as practical, but in no event later than sixty (60) days after notification of request for arbitration having been submitted. This deadline can be extended only with the consent of all the parties to the dispute, or by decision of the Arbitrator upon a showing of emergency circumstances.
- C. Procedure:** The Arbitrator shall conduct the hearing that will resolve disputes in a prompt, cost efficient manner giving due regard to the rights of all parties. Each party shall supply to the Arbitrator a written pre-hearing statement, which shall contain a brief statement of the nature of the claim or defense, a list of witnesses and exhibits, a brief description of the subject matter of the testimony of each witness who will be called to testify, and an estimate as to the length of time that will be required for the arbitration hearing. The Arbitrator shall determine the nature and scope of discovery, if any, and the manner of presentation of relevant evidence consistent with the deadlines provided herein, and the parties' objective that disputes be resolved in a prompt and efficient manner. No discovery may be had of privileged materials or information. The Arbitrator, upon proper application, shall issue such orders as may be necessary and permissible under law to protect confidential, proprietary, or sensitive materials or information from public disclosure or other misuse. Any party may make application to the Maricopa County Superior Court to have a protective order entered as may be appropriate to conform to such orders of the Arbitrator.
- D. Hearing Days:** To effectuate the parties' goals, the hearing once commenced, will proceed from business day to business day until concluded, absent a showing of emergency circumstances.
- E. Award:** The Arbitrator shall within ten (10) days from the conclusion of any hearing issue its award. The award shall include an allocation of fees and costs pursuant to the Binding Arbitration Procedure paragraph herein. Any award providing for deferred payment shall include interest at the rate of ten (10%) percent per annum. The award is to be rendered in accordance with the Contract and the laws of the State of Arizona.
- F. Scope of Award:** The Arbitrator shall be without authority to award punitive damages, and any such punitive damage award shall be void. The Arbitrator shall also be without authority to issue an award against any individual party in excess of \$500,000, exclusive of interest, arbitration fees, costs, and attorney's fees. If an award is made against any individual party in excess of \$50,000, exclusive of interest, arbitration fees, costs and attorneys' fees, it must be supported by written findings of fact, conclusions of law and statement as to how damages were calculated.
- G. Jurisdiction:** The Arbitrator shall not be bound for jurisdictional purposes by the amount asserted in any party's claim, but shall conduct a preliminary hearing into the question of jurisdiction upon application of any party at the earliest convenient time, but not later than the commencement of the arbitration hearing.
- H. Entry of Judgment:** Any party can make application to the Maricopa County Superior Court for confirmation of any award and for entry of judgment on it.
- I. Severance and Joinder:** To reduce the possibility of inconsistent adjudications, the Arbitrator, may

at the request of any party, join and/or sever parties, and/or claims arising under other contracts containing this ADR provision, and the Arbitrator may, on his own authority, join or sever parties and/or claims subject to this ADR process as they deem necessary for a just resolution of the dispute, consistent with the parties' goal of the prompt and efficient resolution of disputes. Nothing herein shall create the right by any party to assert claims against another party not recognized under the substantive law applicable to the dispute. The Arbitrator is not authorized to join to the proceeding parties not in privity with the CITY.

J. Appeal: Any party may appeal errors of law by the Arbitrator if, but only if, the errors arise in an award in excess of \$100,000; the exercise by the Arbitrator of any powers contrary to or inconsistent with the Contract; or any of the grounds provided in A.R.S. 12-1512. Appeals shall be to the Maricopa County Superior Court within fifteen (15) days of entry of the award. The standard of review in such cases shall be that applicable to the consideration of a motion for judgment notwithstanding the verdict, and the Maricopa County Superior Court shall have the authority to confirm, vacate, modify or remand an award appealed under this section.

K. Uniform Arbitration Act: Except as otherwise provided herein, binding arbitration pursued under this provision shall be governed by the Uniform Arbitration Act as enacted in Arizona in A.R.S. 12-1501, et. seq.

L. Fees and Costs: Each party shall bear its own fees and costs in connection with any informal hearing before the Assistant Management Services Director. All fees and costs associated with any arbitration before the Arbitrator, including without limitation, the Arbitrator's fees, the prevailing party's attorneys' fees, expert witness fees and costs, will be paid by the nonprevailing party, except as provided for herein. The determination of prevailing and nonprevailing parties, and the appropriate allocation of fees and costs, will be included in the award by the Arbitrator.

M. Equitable Litigation: Notwithstanding any other provision of ADR to the contrary, any party may petition the Maricopa County Superior Court for interim equitable relief as necessary to preserve the status quo and prevent immediate and irreparable harm to a party or to ongoing work pending resolution of a dispute pursuant to ADR provided for herein. No court may order any permanent injunctive relief except as may be necessary to enforce an order or award entered by the Arbitrator. The fees and costs incurred in connection with any such equitable proceeding shall be determined and assessed in ADR.

11. INDEMNIFICATION: To the fullest extent permitted by law, CONTRACTOR shall defend, indemnify and hold harmless the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees individually and collectively; from and against all losses, claims, suits, actions, payments and judgments, demands, expenses, damages, including consequential damages and loss of productivity, attorney's fees, defense costs, or actions of any kind and nature relating to, arising out of, or alleged to have resulted from CONTRACTOR'S work or services. CONTRACTOR'S duty to defend, hold harmless and indemnify the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees shall arise in connection with any claim or amounts arising or recovered under Worker Compensation Laws, damage, loss or expenses relating to, arising out of or alleged to have resulted from any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of CONTRACTOR, anyone directly or indirectly employed by them or anyone for whose acts CONTRACTOR may be liable, regardless of whether it is caused in part by a party indemnified hereunder, including the City of Chandler. IT IS THE INTENTION OF THE PARTIES to this contract that the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees, individually and collectively, are to be indemnified against their own negligence unless and except their negligence is found to be the sole cause of the injury to persons or damages to property. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

12. INSURANCE.

12.1. Insurance Representations and Requirements:

- A.** CONTRACTOR, at its own expense, shall purchase and maintain insurance of the types and amounts required in this section, with companies possessing a current A.M. Best, Inc. rating of B++6, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY.
- B.** Policies written on a "Claims made" basis are not acceptable without written permission from the City's Risk Manager.
- C.** All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of CITY, constitute a material breach of this Agreement and may result in termination of this contract.
- D.** If any of the insurance policies are not renewed prior to expiration, payments to the CONTRACTOR may be withheld until these requirements have been met, or at the option of the City, the City may pay the Renewal Premium and withhold such payments from any monies due the CONTRACTOR.
- E.** All insurance policies, except Workers' Compensation required by this Agreement, and self-insured retention or deductible portions, shall name, to the fullest extent permitted by law for claims arising out of the performance of this contract, the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insureds.
- F.** CONTRACTOR'S insurance shall be primary insurance over any insurance available to the CITY and as to any claims resulting from this contract, it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.
- G.** The insurance policies, except Workers' Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against CITY, its agents, representatives, officers, directors, officials and employees for any claims arising out of CONTRACTOR'S acts, errors, mistakes, omissions, work or service.
- H.** The insurance policies may provide coverage, which contain deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall be assumed by and be for the account of, and at the sole risk of CONTRACTOR. CONTRACTOR shall be solely responsible for the deductible and/or self-insured retention. The amounts of any self-insured retentions shall be noted on the Certificate of Insurance. CITY, at its option, may require CONTRACTOR to secure payment of such deductibles or self-insured retentions by a Surety Bond or an irrevocable and unconditional letter of credit. Self-insured retentions (SIR) in excess of \$25,000 will only be accepted with the permission of the Management Services Director/Designee.
- I.** All policies and certificates shall contain an endorsement providing that the coverage afforded under such policies shall not be reduced, canceled or allowed to expire until at least thirty (30) days prior written notice has been given to CITY.
- J.** Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the CONTRACTOR with reasonable promptness in accordance with the CONTRACTOR'S information and belief.
- K.** In the event that claims in excess of the insured amounts provided herein, are filed by reason of any operations under this contract, the amount of excess of such claims, or any portion thereof, may be

withheld from payment due or to become due the CONTRACTOR until such time as the CONTRACTOR shall furnish such additional security covering such claims as may be determined by the CITY.

12.2. Proof of Insurance – Certificates of Insurance

- A.** Prior to commencing work or services under this Agreement, CONTRACTOR shall furnish to CITY Certificates of Insurance, issued by CONTRACTOR'S insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Agreement are in full force and effect and obtain from the City's Risk Management Division approval of such Certificates.
- B.** If a policy does expire during the life of this Agreement, a renewal certificate must be sent to the City of Chandler five (5) days prior to the expiration date.
- C.** All Certificates of Insurance shall identify the policies in effect on behalf of CONTRACTOR, their policy period(s), and limits of liability. Each Certificate shall include the job site and project number and title. Coverage shown on the Certificate of Insurance must coincide with the requirements in the text of the contract documents. Information required to be on the certificate of Insurance may be typed on the reverse of the Certificate and countersigned by an authorized representative of the insurance company.
- D.** REQUIRED CITY reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. CITY shall not be obligated, however, to review same or to advise CONTRACTOR of any deficiencies in such policies and endorsements, and such receipt shall not relieve CONTRACTOR from, or be deemed a waiver of CITY'S right to insist on, strict fulfillment of CONTRACTOR'S obligations under this Agreement.

12.3. Coverage

- A.** Such insurance shall protect CONTRACTOR from claims set forth below which may arise out of or result from the operations of CONTRACTOR under this Contract and for which CONTRACTOR may be legally liable, whether such operations be by the CONTRACTOR or by a SUBCONTRACTOR by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Coverage under the policy will be at least as broad as Insurance Services Office, Inc., policy form CG00011093 or equivalent thereof, including but not limited to severability of interest and waiver of subrogation clauses.
- B.** Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
- C.** Claims for damages because of bodily injury, occupational sickness or disease, or death of the CONTRACTOR'S employees;
- D.** Claims for damages because of bodily injury, sickness or disease, or death of any person other than the CONTRACTOR'S employees;
- E.** Claims for damages insured by usual personal injury liability coverage;
- F.** Claims for damages, other than to Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- G.** Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; Coverage will be at least as broad as Insurance Service Office, Inc., coverage Code "I" "any auto" policy form CA00011293 or equivalent thereof.

- H. Claims for bodily injury or property damage arising out of completed operations;
- I. Claims involving contractual liability insurance applicable to the CONTRACTOR'S obligations under the Indemnification Agreement;
- J. Claims for injury or damages in connection with one's professional services;
- K. Claims involving construction projects while they are in progress. Such insurance shall include coverage for loading and off loading hazards. If any hazardous material, as defined by any local, state or federal authorities are to be transported, MCS 90 endorsement shall be included.

12.4. Commercial General Liability - Minimum Coverage Limits.

The Commercial General Liability insurance required herein shall be written for not less than \$500,000 limits of liability. Any combination between general liability and excess general liability alone amounting to a minimum of \$1,000,000 per occurrence (or 10% per occurrence) and an aggregate of \$2,000,000 (or 20% whichever is greater) in coverage will be acceptable. The Commercial General Liability additional insured endorsement shall be as broad as the Insurance Services, Inc's (ISO) Additional Insured, Form B, CG 20101001, and shall include coverage for CONTRACTOR'S operations and products, and completed operations.

12.5. Automobile Liability

CONTRACTOR shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any owned, hired, and non-owned vehicles assigned to or used in performance of the CONTRACTOR'S work. Coverage shall be at least as broad as coverage code 1, "any auto", (Insurance Service Office, Inc. Policy Form CA 00011293, or any replacements thereof).

12.6 Worker's Compensation and Employer's Liability

CONTRACTOR shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over CONTRACTOR'S employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease coverage for each employee, and \$1,000,000 disease policy limit.

In case any work is subcontracted, CONTRACTOR will require the SUBCONTRACTOR to provide Workers' Compensation and Employer's Liability to at least the same extent as required of CONTRACTOR.

- 13. **NOTICES:** All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of the CITY

Contract Administrator: Kysa Meyerer,
Management Intern
 Contact: 480-782-2246
 Mailing Address: 55 N. Arizona Place
Suite 301
 Physical Address: Same
 City, State, Zip Chandler, AZ 85281

In the case of the CONTRACTOR

Firm Name: Carl Walker, Inc.
 Contact: L. Dennis Burns, Vice
President
 Address: 950 W. Elliot Rd., Ste.
107
 City, State, Zip Tempe, AZ 85284
 Phone: 480-505-0088

FAX: 480-782-2209

FAX: 480-505-0090

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

14. CONFLICT OF INTEREST:

- 14.1. No Kickback.** CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in CONTRACTOR'S proposal to the CITY.
- 14.2. Kickback Termination.** CITY may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the CITY is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a CONTRACTOR to any other party to the Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when written notice from CITY is received by all other parties, unless the notice specifies a later time (A.R.S. §38-511).
- 14.3. No Conflict:** CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

15. GENERAL TERMS.

- 15.1 OWNERSHIP.** All deliverables and/or other products of the Contract (including but not limited to all software documentation, reports, records, summaries and other matter and materials prepared or developed by CONTRACTOR in performance of the Contract) shall be the sole, absolute and exclusive property of CITY, free from any claim or retention of right on the part of CONTRACTOR, its agents, sub-contractors, officers or employees.
- 15.2 Entire Agreement.** This Agreement, including Exhibits A and B attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement may not be modified or amended except by a written document, signed by authorized representatives of each party.
- 15.3 Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 15.4 Assignment:** Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the CITY.
- 15.5 Amendments.** The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the CONTRACTOR are violations of the Contract. Any such changes, including unauthorized written Contract Amendments shall be void and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on such changes.

15.6 Independent CONTRACTOR. The CONTRACTOR under this Contract is an independent CONTRACTOR. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

15.7 No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

15.8 Authority: Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

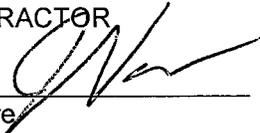
IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this _____ day of _____ 20____.

FOR THE CITY OF CHANDLER

FOR THE CONTRACTOR

Carl Walker, Inc.

By: _____

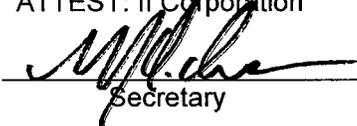
Signature 

MAYOR

ATTEST:

ATTEST: If Corporation

SEAL



Secretary

City Clerk

Approved as to form:

City Attorney

Exhibit A Scope of Work

For the Study Area, (the area of Historic Downtown bordered by Chandler Boulevard to the north, Frye Road to the south, Dakota Street to the west, and the railroad tracks to the east), the CONSULTANT shall:

STUDY METHODOLOGY/WORK PLAN

PHASE ONE – Review of Background Data and Initial Site Visit

Task 1 – Review of Background Data

A. The CONTRACTOR shall:

- a. Upon receiving an authorization to proceed, **CONTRACTOR** shall submit an initial “request for information” (RFI). This will allow us to get familiar with area issues, existing facilities, utilization, and other characteristics prior to our first visit to the study area.
- b. Review any pertinent studies/reports concerning the study area. **CONTRACTOR** shall also review current parking ordinances and any designated parking policies and procedures.
- c. While reviewing background materials, **CONTRACTOR** shall identify major issues impacting parking, determine the validity of inventory data, and identify information that will need to be updated.
- d. Review available statistical data on land uses and parking utilization.

Task 2 – Initial Site Visit (Parking Inventory and Occupancy Counts)

A. CONTRACTOR shall:

- a. During the first site visit, review the scope of services with representatives from the CITY and any designated stakeholders to clarify study objectives, identify existing conditions, confirm the study area(s), define parking analysis zones, confirm any known parking inventories, review and update the work plan and schedule, and identify project milestones. We will review the study area with appropriate CITY representatives to develop a first-hand understanding of the parking system and CITY and business concerns.
- b. Conduct an initial review of existing parking conditions in the study area. Begin photo documentation of the study area.
- c. Complete an inventory of existing parking in the entire study area. Parking will be categorized based on location (on-street vs. off-street) and the type of parking provided (e.g. public parking, monthly parking, private parking, etc.) Privately-owned residential parking will not be counted (e.g., residential driveways, apartment complex parking lots) unless directed by the CITY.
- d. Determine the existing peak parking occupancy period(s) for the study area. Parking occupancy counts will be completed on two typical weekdays (every two hours from 8:00 a.m. to 4:00 p.m.), one typical weekday night (every two hours from 4:00 p.m. to 10:00 p.m.), and one Saturday (every two hours from 10:00 a.m. to 10:00 p.m.) All on-street and off-street parking spaces will be included in the survey. An additional weekday will be held for additional counts if it is determined that the recounting of any area(s) is required.

- e. In addition to the occupancy survey, up to 50 on-street spaces and six CITY-selected parking areas will be designated for duration and turnover surveys.

These surveys would determine parking duration and vehicle turnover for each space included in the survey. The duration and turnover surveys would be conducted using license plate inventories on a half-hour basis during one weekday (8:00 a.m. to 4:00 p.m.), one weekday night (4:00 p.m. to 10:00 p.m.), and one Saturday (10:00 a.m. to 10:00 p.m.)

- f. Determine parking surpluses and deficits by location, block, and zone. Provide the results of the parking inventory and occupancy counts in both tabular and graphic formats.
- g. Based on land use, household, and/or employee data provided by the CITY (or available through other sources), provide an analysis of parking generation in the downtown study area by user group.

PHASE TWO – Public Outreach and Additional Site Visit

Task 1 – Public Outreach

A. CONTRACTOR shall:

- a. Work with CITY representatives to designate community stakeholders to be included in the outreach process (not including any general public meetings).
- b. After the parking inventory and occupancy counts have been completed, conduct a general public input meeting and one full day of focus group/stakeholder meetings. These meetings would be scheduled for approximately two weeks after the initial site visit and parking inventory/occupancy counts.
- c. The general public meeting would be open to anyone interested in participating in the study, while the focus group/stakeholder meetings would be scheduled for specific downtown stakeholders designated by the city. The input sessions will be conducted to gain perspectives concerning parking in the study area, as well as provide some education concerning parking planning, operations, and management.
- d. Items to be covered could include (but are not limited to): parking supply/demand, parking system operations/management (e.g., parking enforcement, permits, etc.), ADA accessibility, on-street and off-street concerns, study area employee parking, parking validation programs, neighborhood issues/concerns, residential parking, parking pricing issues, walking environment, etc.
- e. Input will be solicited from stakeholders to help define opportunities and constraints. A survey will be provided during the interview process that would allow participants to help prioritize study area parking needs/issues.

Task 2 – Additional Field Work

- a. The additional site visit for the public input sessions will also include additional photo documentation of existing conditions and field reviews/analysis of concerns raised during the stakeholder input meetings.

PHASE THREE – Parking Alternatives Analysis

A. CONTRACTOR shall:

- a. Based on the initial review of current parking conditions in the study area, and the information provided during the initial public/stakeholder input session(s), **CONTRACTOR** shall conduct an analysis of downtown parking supply, management, and operations alternatives. The analysis will provide options and recommendations to improve system operations (customer service, etc.) and management, as well as meet current and projected parking needs.
- b. Determine future parking demand by collecting and analyzing data as follows:
 - i. The CITY will provide information regarding future development plans in the study area including projected employment data, projected use and location of proposed future buildings (e.g., land use data), development of new programs, and any anticipated loss of existing parking spaces. Some of this information will also be gathered during stakeholder interviews/surveys.
 - ii. Comment on future parking demand based on the site specific parking ratios determined by the field survey, land use data, and/or industry standards. A comprehensive shared parking model based on the latest Urban Land Institute (ULI) model will be utilized to project future parking demands. Compare the land use data provided by the CITY with the results of the inventory/occupancy counts to determine potential parking demand generation ratios.
 - iii. Compare the anticipated future parking supply with the projected future demand for the land uses within the study area to determine the impact that projected development will have on parking conditions.
 - iv. Determine future parking surpluses or deficits within the study area on a block and zone basis.
- c. Develop options for addressing current and projected parking demands based on observed and projected parking occupancy and turnover. Based on the development information provided by the CITY and designated stakeholders, project future parking demand through a 20-year horizon. This could include (but not be limited to):
 - i. Review existing zoning ordinances and other parking related policies and procedures, and recommend improvements.
 - ii. Provide recommendations to better manage existing parking inventories, improve current operations, and improve the utilization of existing parking.
 - iii. Apply shared parking strategies to reduce future parking needs.
 - iv. Provide recommendations for future parking facility changes/additions. Identify locations for additional parking supplies including on-street spaces, off-street lots, and possible parking structures (where needed). Determine the number of parking spaces needed, and provide preliminary estimates on how much parking could be provided at each site based on available site footprints.
 - v. Provide cost estimates for recommended parking facility additions.
 - vi. Provide a preliminary review of potential financing options/strategies for funding parking system expansion.
- d. Provide additional operational and management related options and recommendations that

other similar cities have successfully used to improve downtown parking. After reviewing many different downtown parking environments, **CONTRACTOR** has developed a review approach that uses the twenty characteristics of successful parking systems and will apply these characteristics to downtown Chandler.

- i. Provide options for controlling on-street parking spaces (if desired).
 - ii. Provide options for improving parking system management and improving community relations.
 - iii. Provide preliminary recommendations on parking technology improvements.
 - iv. Provide opportunities for reducing parking needs based on transportation demand and parking demand management strategies.
 - v. Provide options for improving parking enforcement.
 - vi. Provide preliminary guidance concerning parking system mission, vision, and guiding principles.
- e. Develop short-term and long-term recommended parking system improvements and recommend an improvement implementation program.

PHASE FOUR – Final Parking Study Report

A. CONTRACTOR shall:

- a. Incorporate the input received at the end of each of the previous three phases into the final report (covering the entire parking study). The final report will include:
 - i. Assessment of current conditions;
 - ii. Assessment of future conditions;
 - iii. Parking supply, management, and operations alternatives;
 - iv. Prioritized short-term and long-term parking management plan for the downtown parking system.
- b. Provide six copies of the final draft of the report to the CITY for final review.
- c. Incorporate any final comments and complete the final report.
- d. Present the final report to the CITY and designated stakeholders. Provide a PowerPoint presentation of the study to the CITY and designated stakeholders.
- e. Provide a final report CD with electronic copies of all deliverables and spreadsheets, including a shared parking model based on the latest ULI model.

PROJECT SCHEDULE

The following is a preliminary schedule for accomplishing the tasks required to complete the project. Although there is likely to be some variation in the timing, particularly of unrelated tasks, this schedule represents a typical work sequence. Any additional processing, review and/or scheduling time required by

the CITY (or other stakeholder groups) should be added to this schedule. **Approximately seventeen weeks would be needed to complete the study.**

- Week 1 Prepare and submit preliminary request for information.
- Weeks 2 – 3 PHASE ONE: Task 1 – Review existing development plans and studies. Prepare list of additional information needs. Also, conduct initial project meeting. Determine stakeholders to be included in future meetings. Begin work on Task II.
- Weeks 4 – 6 PHASE ONE: Task 2 – Conduct the parking occupancy and turnover surveys. Compile the data and prepare a summary report for Phase One. Begin planning for next phase.
- Week 7 PHASE TWO: Tasks 1 and 2 – Conduct input meetings with designated downtown stakeholders, general public, etc. Gather data/responses from attendees. Conduct additional site visit. Begin work on next task.
- Weeks 8 – 12 PHASE THREE: Project future parking system conditions and develop recommendations to improve operations and management, as well as recommended parking system facility additions. Work on cost estimates for recommendations.
- Week 13 PHASE FOUR: Develop study report for and submit for review. Present report to the CITY and designated stakeholders.
- Weeks 14 – 17 PHASE FOUR: Incorporate draft report comments and complete final report. Provide final report presentation to CITY and designated stakeholders. **Complete final report.**

KEY PERSONNEL

L. Dennis Burns—Principal in Charge
Matthew Inman—Project Manger
Scot D. Martin—Asst. Project Manager
Leo Whitely—Engineer
Traffic Research and Analysis, Inc.—subcontractor

**EXHIBIT B
PRICING**

The Scope of Work shall be provided at a total guaranteed not to exceed price of \$59,090, including reimbursable expenses. Reimbursable expenses include items such as telephone, airfare, meals, photographs, postage, hotels, rental cars, etc.

The project will be billed monthly based upon the percentage of project completion.

REQUEST FOR LEGAL SERVICES

Request Number
PG7-264

To: Legal *Sandy*

From: Purchasing

Date: 6/15/07

Date Service Required:
6/19/07

Point of Contact:
Robert Descheemaker—
Purchasing

Phone #: x2409—Robert
Mail Stop: 901

SERVICES REQUESTED:

- Formal Written Opinion
- Informal Written Opinion
- Verbal Opinion
- Review Contract / RFP
- Prepare Contract
- Provide Training

- Review Resolution/Ordinance
- Prepare Resolution/Ordinance
- Review Attached; Send Letter
- Review Documents
- Filing of Lawsuit

Other:

(Note: Attach all pertinent information (e.g., contact persons within and without City, date of Council approval, citation to applicable code/charter provisions.)

Explanation: Please review draft RFP for Downtown Parking Study (City Managers Office)

Thank you

LAW DEPARTMENT USE ONLY

LW 7-621

Date Received: *6/15/07*

Assigned To: *Sandy*

First Contact:

Date of Reply: *6/20/07*

See File:

Response Time:

Reply:

OK. Sandy

clerk:

Sandy should have but, did not sign signature page of attached agreement — but did approve per above.

Thx,

*R. Descheemaker
X 2409*