



Conejo Recreation & Park District

GENERAL MANAGER

Jim Friedl

BOARD OF DIRECTORS

Doug Nickles, Chair
Nellie Cusworth, Vice Chair
George M. Lange, Director
Susan L. Holt, Director
Chuck Huffer, Director

DATE: July 15, 2021

TO: Board of Directors

FROM: Jim Friedl, General Manager

GENERAL MANAGER EMERITUS

Tex Ward

SUBJECT: Contract with California Skateparks in the amount of \$26,800 for Phase 1 Skatepark Design and Estimating Services for Borchard Community Park Skatepark Renovation Project

RECOMMENDATION

Authorize General Manager to enter into a contract with California Skateparks in the total amount of \$26,800 for Phase 1 Design and Estimating Services for Borchard Community Park Skatepark Renovation Project.

DISCUSSION

Since early 2019, numerous staff meetings were held to assess recreational needs at the Borchard Community Park Skatepark. From these efforts, a focus group was formed made up of various community members. Additionally, throughout the past 2 years focus group meetings were held developing concepts and ideas of the community into a renovated facility. A well-received concept plan (Attachment A) has been created from these meetings, including renovation of the existing skatepark area and a newly expanded footprint with various features and amenities.

To continue progress on the project, District staff recommends entering into a contract (Attachment B) with California Skateparks (CAS). CAS is an approved vendor for design/build of skateparks through Sourcewell, which the District is a member. Sourcewell procures cooperative purchasing agreements for a wide array of products and services for government, education and nonprofit organizations.

CAS staff has worked on past recent District projects (Sapwi Trails Community Park – Pump Track and Teen Center Expansion – Skate Plaza Feature).

Thus, as the District is a Sourcewell member, and due to CAS's demonstrated competence, professional qualifications, and familiarity with the District, staff recommends entering into a contract for these services. Staff considers the cost of these services to be fair and reasonable.

ADMINISTRATIVE OFFICES

403 West Hillcrest Drive, Thousand Oaks, CA 91360-4223
805-495-6471 | Fax: 805-497-3199 | parks@crpd.org | www.crpd.org

Furthermore, the contract is structured so that, at this time, the District is only obligated for CAS to complete Phase 1. Upon completion of Phase 1, staff will return to the Board for an update and a recommendation for further action. Future phases of work are: Phase 2 Construction Documents of a Board approved concept; and Phase 3 Skatepark Construction. Both Phase 2 and Phase 3 costs are to be determined as the project and scope of work are more defined.

Project Financial Status

FY 21/22 BUDGET	
CIP Budgeted Funds	\$ 100,000
TOTAL BUDGET	\$ 100,000
FY 21/22 BUDGET	
PAID TO DATE (as of 6/21/2021)	\$ 500
Supplies for Fundraising Efforts	
PROJECTED COSTS*	
CAS Phase 1 –Design and Estimating Services	\$ 26,800
TOTAL COSTS	\$ 27,300
FY 21/22 PROJECTED BALANCE	\$ 72,700

** Phase 2 Construction Documents (\$ TBD); Phase 3 Construction (\$ TBD) Upon completion of Phase 1, staff will return to the Board for an update and a recommendation for further action.*

STRATEGIC PLAN COMPLIANCE

Meets 2021 Strategic Plan Goal 2.3: Maintain the 10-Year Capital Improvement Plan. Regularly update the 10-year Capital Improvement Plan to prioritize projects and effectively plan and allocate future resources. As capital funding allows, execute, implement, and develop projects each year in accordance with the plan. This Plan should include funds for accessibility improvements associated with park improvements. Update plan every two years as part of the Capital Budget process.

Meets 2021 Strategic Plan Goal 2.5: Maintain a capital improvement fund. Provide incentives for groups to improve District facilities through a grant funding application program for District approved projects.

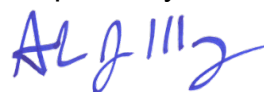
Meets 2021 Strategic Plan Goal 4.6: Build, maintain, and support relationships with local organizations engaged in activities consistent with the District’s mission. Look for collaborative opportunities to expand services and fill unmet needs.

Respectfully submitted by,



T. P. Hare, Administrator
Parks and Planning

Prepared by,



Andrew J. Mooney, Senior Park Planner
Parks and Planning

Attachments

**AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN CONEJO RECREATION & PARK DISTRICT AND
CALIFORNIA SKATEPARKS**

THIS AGREEMENT is made and entered into this 15th day of July, 2021, by and between **CONEJO RECREATION & PARK DISTRICT**, a municipal corporation ("District"), and **CALIFORNIA SKATEPARKS** ("Consultant").

District and Consultant agree as follows:

1. RETENTION OF CONSULTANT

District hereby retains Consultant, and Consultant hereby accepts such engagement, to perform the services described in Section 2. Consultant represents that it has the qualifications, experience, and facilities to properly and timely perform said services.

2. DESCRIPTION OF SERVICES

The services to be performed by Consultant are to provide Design Plans for Borchard Community Park Skate Park Project, more specifically detailed in Exhibit "A".

Upon completion of Phase 1 of Exhibit "A", Consultant shall provide a revised Task and Fee Schedule for subsequent Phases. Consultant shall only proceed with subsequent Phases upon direction and approval of the District with such services and compensation mutually agreed to in advance.

3. COMPENSATION AND PAYMENT

(a) **Maximum and Rate.** The total compensation payable to Consultant for the services under this Agreement in Phase 1 **SHALL NOT EXCEED** the sum of \$26,800.00 (herein "not to exceed amount"), and shall be earned as the work progresses on the following basis:

Hourly, at the hourly rates and with reimbursement to Consultant for those expenses set forth in Consultant's Schedule of Fees, attached as Exhibit "B" and incorporated herein. The rates and expenses set forth in that exhibit shall be binding upon Consultant for the term of this Agreement. After which any change in the rates and expenses must be approved in writing by District's Project Manager (District is to be given 60 days' notice of any rate increase request), provided the not to exceed amount is the total compensation due Consultant for all work described under this Agreement.

(b) **Payment.** Consultant shall provide District with written verification of the actual compensation earned, in a form satisfactory to District's Project Manager. Invoices shall be made no more frequently than on a monthly basis, and describe the work performed (including, if applicable, a list of hours worked by personnel classification). All payments shall be made within 30 days after District's approval of the invoice.

(c) **Extra Services.** Additional work not reasonably encompassed by the Scope of Services described in Section 2 may be agreed upon only by execution of a written Amendment to this Agreement signed by both District and Consultant. No liability or right to compensation for extra services shall exist without such Amendment. Unless otherwise stated in the Amendment, applicable rates for extra services shall be at the rates set forth in Exhibit "B."

4. DISTRICT PROJECT MANAGER

The services to be performed by Consultant shall be accomplished under the general direction of, and coordinate with, District's "Project Manager", as that staff person is designated by the District from time to time, and who presently is **Andrew Mooney**.

5. TERM, PROGRESS AND COMPLETION

The term of this Agreement is from the date first written above to June 1, 2022 unless term of this Agreement is extended or the Agreement is terminated as provided for herein.

Consultant shall not commence work on the services to be performed under the Agreement until (i) Consultant furnishes proof of insurance as required by paragraph 9 below, and (ii) District's Project Manager gives written authorization to proceed with the work. All services shall be completed within the term of this Agreement.

6. OWNERSHIP OF DOCUMENTS

All drawings, designs, data, photographs, reports and other documentation (other than Consultant's drafts, notes and internal memorandum), including duplication of same prepared by Consultant in the performance of these services, shall, subject to Consultant's receipt of payment in full of all monies due Consultant for services rendered under this Agreement, the property of District. District shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when requested by District. District agrees to hold Consultant harmless from all damages, claims, expenses, and losses arising out of any reuse or modification of the plans, specifications, graphics, brochures, reports, and other documentation for purposes other than those described in this Agreement, unless written authorization of Consultant is first obtained.

7. PERSONAL SERVICES/NO ASSIGNMENT/SUBCONTRACTS

This Agreement is for professional services, Zachary Wormhoudt is deemed to be experienced and is a key member of Consultant's firm, and shall be directly involved in performing, supervising or assisting in the performance of this work. This key person shall communicate with, and periodically report to, District on the progress of the work. Should said individual be removed from assisting in this contracted work for any reason, District may terminate this Agreement.

This Agreement is not assignable by Consultant without District's prior written consent.

The following portions of the work described in this Agreement may be subcontracted out to other parties by Consultant: Environmental Consulting, Landscape Architecture, Civil, Structural and MEP Engineering, and Cost Estimating.

8. HOLD HARMLESS AND INDEMNITY

(a) Defense and Indemnity of Third Party Claims/Liability. To the maximum extent allowed by law, Consultant shall indemnify, and hold harmless District, its officers, officials, employees and volunteers from and against all liability including, loss, damage, expense, cost (including without limitation reimbursement of reasonable legal counsel fees, expert fees and all other reasonable related costs and fees of litigation) to the extent found to be arising out of Consultant's negligence, recklessness or willful misconduct in the performance of work hereunder or its negligent failure to comply with any of its obligations contained in the Agreement, except such loss or damage which is caused by the sole or active negligence or willful misconduct of District. Consultant shall reimburse District its reasonable costs of defense, including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation tied directly to Contractor's determined percentage of fault as set forth in California Civil Code 2782.8 as it is written as of the date of this Agreement. The Consultant shall promptly pay District any final judgment rendered against District (and its officers, officials, employees and volunteers) with respect to liability or damages determined by a trier of fact to have been the result of Consultant's negligent, reckless or wrongful performance. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

Consultant shall not be required to indemnify and hold harmless District for liability attributable to the negligence of District or any third party.

(b) Nonwaiver. District does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this section because of the acceptance by District, or the deposit with District, of any insurance certificates or policies described in Section 9.

9. MINIMUM SCOPE AND LIMIT OF INSURANCE

Without limiting Consultant's indemnification of District, and prior to commencement of Work, Consultant shall obtain, provide, and maintain at its own expense during the term of this Agreement, and any extension thereof, policies of insurance of the type and amounts described below and in a form that is satisfactory to District.

Coverage shall be at least as broad as:

(a). **Commercial General Liability (CGL):** Consultant shall, at Consultant's sole cost and expense and throughout the term of this Agreement, and any extensions thereof, carry General Liability insurance coverage at least as broad as Insurance Services form CG 00 01 in an amount not less than \$2,000,000 per occurrence, \$4,000,000 general aggregate for bodily injury, personal and advertising injury and property damage, including without limitation, blanket contractual liability.

(b). **Automobile Liability:** Consultant shall, at Consultant's sole cost and expense and throughout the term of this Agreement, and any extensions thereof, carry Automobile Liability insurance coverage at least as broad as Insurance Services form CA 00 01 or the exact equivalent covering bodily injury and property damage for all activities of Consultant arising out of or in connection with the work to be performed under this Agreement, including coverage of any owned, hired, non-owned, or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

(c). **Worker's Compensation:** Consultant shall, at Consultant's sole cost and expense and throughout the term of this Agreement, and any extensions thereof, carry workers' compensation statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident for bodily injury or disease. Consultant shall submit to District, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of District, its elected officials, officers, agents, employees and volunteers for all work performed by Consultant, its employees, agents and subcontractors.

(d). **Professional Errors and Omissions Insurance:** Consultant shall, at Consultant's sole cost and expense throughout the term of this Agreement, and any extensions thereof, carry professional errors and omissions coverage of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate, with tail coverage for an extended reporting period of three (3) years or such coverage shall be annually renewed for three (3) years after completion of Consultant's services under this Agreement.

If Consultant maintains higher limits than the minimum shown above, District requires and shall be entitled to coverage for the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to District.

10. RELATION OF THE PARTIES

The relationship of the parties to this Agreement shall be that of independent contractors and in no event shall Consultant be considered an officer, agent, servant or employee of District. Consultant shall be solely responsible for any workers compensation insurance, withholding taxes, unemployment insurance, and any other employer obligations associated with the described work.

11. CORRECTIONS

In addition to the above indemnification obligations, Consultant shall correct, at its expense, all errors in the work that may be disclosed during District's review of Consultant's report or plans. Should Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by District, and the cost thereof shall be charged to Consultant and Consultant agrees to reimburse District for such costs to the extent Consultant has been found legally liable.

12. TERMINATION BY DISTRICT

District may, upon 10 calendar days written notice to Consultant, terminate without cause any portion or all of the services agreed to be performed under this Agreement. If termination is for cause, no advance notice need be given. In the event of termination, Consultant shall have the right and obligation to immediately assemble work in progress for the purpose of closing out the job. All compensation for actual work performed and charges outstanding at the time of termination shall be payable by District to Consultant within 30 days following submission of a final statement by Consultant unless termination is for cause. District agrees that "cause" as used in this Agreement shall be as services performed by Consultant which are not in accordance with the skill and care ordinarily exercised by members of the same profession currently practicing under similar conditions in the same or similar locale.

13. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of District from all claims and liabilities for compensation to Consultant for anything done, furnished, or relating to Consultant's work or services. Acceptance of payment shall be any negotiation of District's check or the failure to make a written extra compensation claim within 10 calendar days of the receipt of that check. However, approval or payment by District shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, subcontractors, agents and consultants for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by District for any defect or error in the work prepared by Consultant, its employees, subcontractors, agents and consultants.

14. AUDIT OF RECORDS

Consultant shall maintain, in accordance with generally accepted accounting principles, complete and accurate records of all activities and operations relating to this Agreement. Records, including but not limited to, timecards, employment records, work progress reports, reimbursements, invoices, project records, proprietary data and information, as well as licensed software and any electronic records shall be kept for a period of four years beyond the termination of this Agreement. Consultant agrees that District, or its authorized representative, shall have the right to examine, audit, excerpt, copy or transcribe any of the records pertaining to this Agreement at any time during normal business hours. Consultant shall reimburse District for all reasonable costs of the audit, including travel time and auditor costs, should such audit reveal an overcharge of five (5) percent or more. Any overcharge will be considered a breach of this Agreement and could be cause for termination. The obligations of this section shall be explicitly included in any subcontracts or other agreements entered into by Consultant with respect to this Agreement.

15. WAIVER; REMEDIES CUMULATIVE

Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by such party, and no such waiver shall be implied from any omissions by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this Agreement, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right of remedy.

16. CONFLICT OF INTEREST

Consultant is unaware of any District employee or official that has a financial interest in Consultant's business. During the term of this Agreement and/or as a result of being awarded this Agreement, Consultant shall not offer, encourage or accept any financial interest in Consultant's business by any District employee or official.

17. CONSTRUCTION OF LANGUAGE OF AGREEMENT

The provisions of this Agreement shall be construed as a whole according to its common meaning of purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the

feminine or neutral genders or vice versa.

18. MITIGATION OF DAMAGES

In all situations arising out of this Agreement, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

19. GOVERNING LAW

This Agreement, and the rights and obligations of the parties, shall be governed and interpreted in accordance with the laws of the State of California. Should litigation occur, venue shall be in Superior Court of Ventura County.

20. TAXPAYER IDENTIFICATION NUMBER

Consultant shall provide District with a complete Request for Taxpayer Identification Number and Certification, Form W-9 (Rev. 12-87), as issued by the Internal Revenue Service.

21. NON-APPROPRIATION OF FUNDS

Payments due and payable to Consultant for current services are within the current budget and within an available, unexhausted and unencumbered appropriation of District funds. In the event District has not appropriated sufficient funds for payment of Consultant's services beyond the current fiscal year, this Agreement shall cover only those costs incurred up to the conclusion of the current fiscal year.

22. MODIFICATION/AMENDMENT OF AGREEMENT

Any amendment, modification, or variation of the terms or tasks of this Agreement shall be in writing and shall be effective only upon the mutual written approval of the General Manager, or his designee, and Consultant.

23. USE OF THE TERM "DISTRICT"

Reference to "District" in this Agreement includes the General Manager or any authorized representative acting on behalf of District.

24. PERMITS AND LICENSES

Consultant, at its sole expense, shall obtain and maintain during the term of this Agreement all appropriate permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

25. CAPTIONS

The captions or headings in this Agreement are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the Agreement.

26. AUTHORIZATION

Each party has expressly authorized the execution of this Agreement on its behalf and binds said party and its respective administrators, officers, directors, shareholders, divisions, subsidiaries, agents, employees, successors, assigns, principals, partners, joint ventures, insurance carriers and any others who may claim through it to this Agreement.

27. ENTIRE AGREEMENT BETWEEN PARTIES

Except for Consultant's proposals and submitted representations for obtaining this Agreement, this Agreement supersedes any other agreements, either oral or in writing, between the parties hereto with respect to the rendering of services and contains all of the covenants and agreements between the parties with respect to said services.

28. PARTIAL INVALIDITY

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

29. NOTICES

Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

TO DISTRICT:

Attention: Andrew Mooney
Conejo Recreation & Park District
403 West Hillcrest Drive
Thousand Oaks, CA 91360

TO CONSULTANT:

Attention: Zachary Wormhoudt
California Skateparks
273 N. Benson Avenue.
Upland, CA 91786

In concurrence and witness whereof, this Agreement has been executed by the parties effective on the date and year first above written.

CONSULTANT:

By:
Title:

CONEJO RECREATION & PARK DISTRICT:

Jim Friedl, General Manager