



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular <input type="checkbox"/> Statutory
Council Meeting Date:	4/26/10
Department:	Parks and Recreation
Department Head	Amy Fortenberry
Agenda Coordinator (include phone #): Susan Berger (7255)	

CAPTION

To approve a contract with Caye Cook DBA Caye Cook and Associates to provide Landscape Architectural Services in conjunction with the Frank Beverly Park Improvements in an amount not to exceed \$64,745 and authorizing the City Manager to execute any and all documents necessary to effectuate the contract.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	69,812	852,188	0	922,000
Encumbered/Expended Amount	-69,812	-53,699	0	-123,511
This Item	0	-64,745	0	-64,745
BALANCE	0	733,744	0	733,744

FUND(S): PARK IMPROVEMENT CIP

COMMENTS: Funds are included in the 2009-10 Park Improvement CIP. This item, in the amount of \$64,745, will leave a current year balance of \$733,744 for the Park Improvement project.

STRATEGIC PLAN GOAL: Landscape architectural services for parks relate to the City's Goal of Great Neighborhoods -1st Choice to Live.

SUMMARY OF ITEM

The attached Landscape Architectural Service Agreement with Caye Cook and Associates is for the preparation of construction drawings that include plans and specifications for expanding and improving Frank Beverly Park in accordance with a revised master plan completed in 2008 by Parks Planning staff, Caye Cook and Associates and residents of the Frank Beverly Park neighborhood.

The contract fee is \$64,745 and includes basic services, surveying and reimbursable expenses.

The total fee is 9.96% of the construction budget of \$650,000. This fee is consistent with other park and engineering projects of this size and scope.

Caye Cook and Associates is on the City's list of selected consultants for 2009-10.



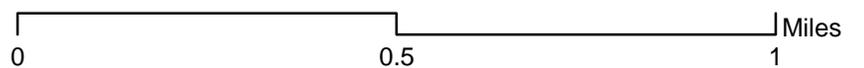
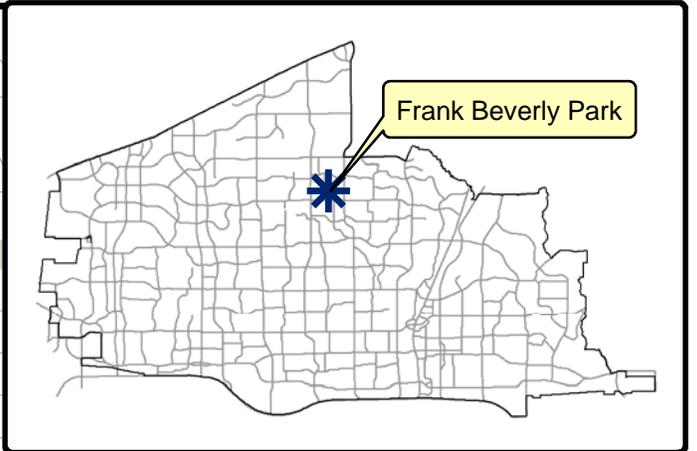
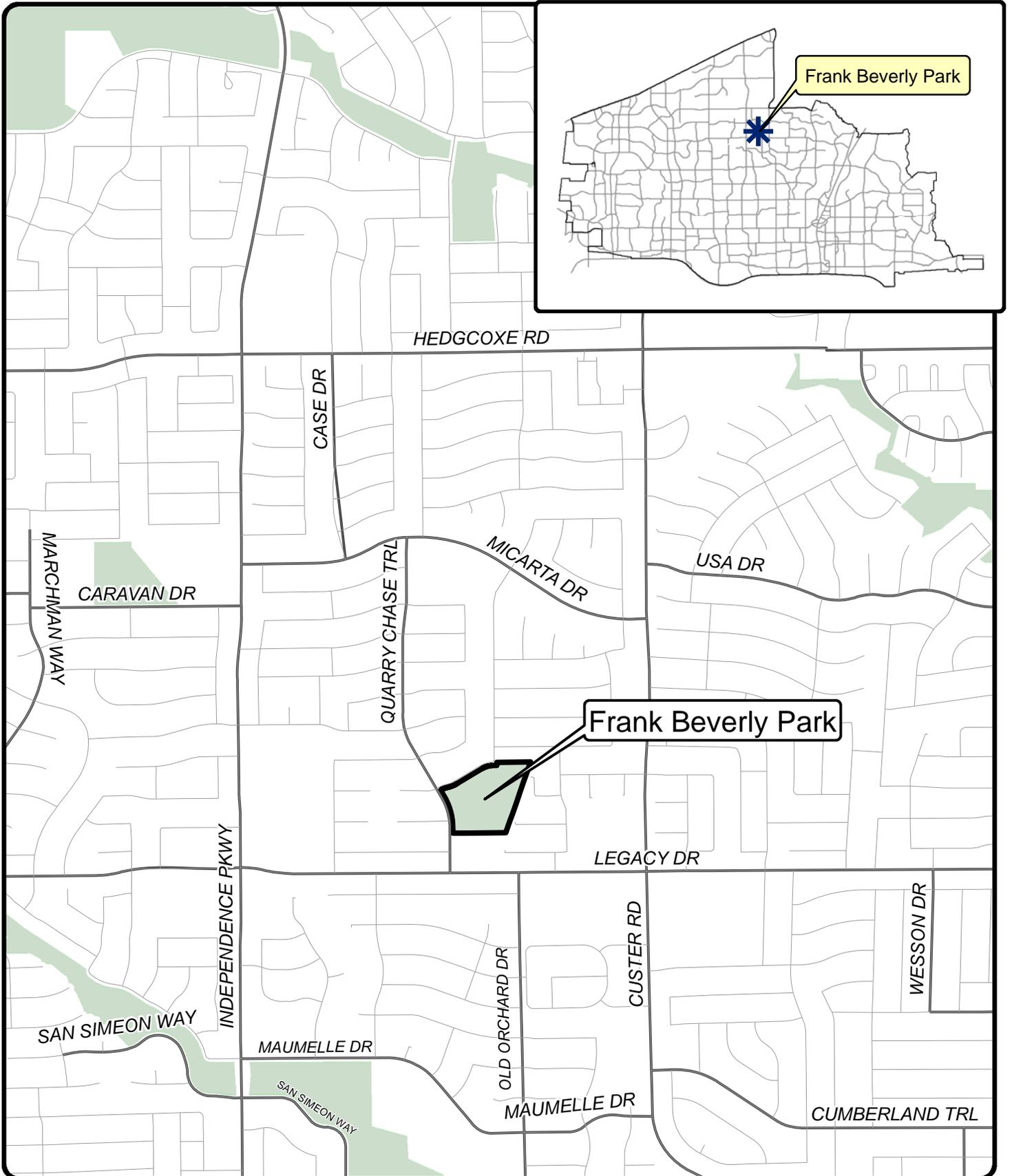
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List of Supporting Documents: Location Map Landscape Architectural Agreement	Other Departments, Boards, Commissions or Agencies



Location Map

Frank Beverly Park Improvements



FRANK BEVERLY PARK IMPROVEMENTS

PROJECT NO. 6044

LANDSCAPE ARCHITECT SERVICES AGREEMENT

THIS AGREEMENT is made and entered by and between the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, hereinafter referred to as "City", and **CAYE COOK d/b/a CAYE COOK AND ASSOCIATES**, licensed to do business in the State of Texas, hereinafter referred to as "Architect", to be effective from and after the date as provided herein.

WITNESSETH:

WHEREAS, the City desires to engage the services of the Architect to perform landscape architectural services in connection with the **FRANK BEVERLY PARK IMPROVEMENTS** project located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

WHEREAS, the Architect desires to render such Architectural services for the City upon the terms and conditions provided herein.

NOW, THEREFORE, for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

I. Employment of the Architect

The City hereby agrees to retain the Architect to perform professional services in connection with the Project. Architect agrees to perform such services in accordance with the terms and conditions of this Agreement.

II. Scope of Services

The parties agree that Architect shall perform such services as are set forth and described in Exhibit "A", which is attached hereto and thereby made a part of this Agreement. The parties understand and agree that deviations or modifications in the form of contract modifications orders may be authorized from time to time by the City.

III. Schedule of Work

The Architect agrees to commence work immediately upon execution of this Agreement, and to proceed diligently with said work, except for delays beyond the

reasonable control of Architect, to completion as described in the Completion Schedule, attached hereto as Exhibit "B" and thereby made a part of this Agreement.

IV. Compensation and Method of Payment

The parties agree that Architect shall be compensated for all services provided pursuant to this Agreement in the amount and manner described and set forth in the Payment Schedule attached hereto and incorporated herein as Exhibit "C". The contract amount specified in Exhibit "C" shall not be exceeded without the written permission of the City.

V. Information to be Provided by the City

The City agrees to furnish, prior to commencement of work, all that information requested by Architect and available in City's files.

VI. Insurance

Architect agrees to meet all insurance requirements, and to require all consultants who perform work for Architect to meet all insurance requirements, as set forth on Exhibit "D", which is attached hereto and thereby made a part of this Agreement.

Architect agrees to notify the City of any changes in insurance policy coverage, including but not limited to changes in limits and cancellation. The Architect shall notify the City in writing of any changes within forty-eight (48) hours of the change. The Architect's notice shall include a description of the changes and how those changes vary from the insurance requirements of the contract/agreement.

VII. INDEMNITY

THE ARCHITECT AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY ARCHITECT'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE ARCHITECT, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE

OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE ARCHITECT IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE ARCHITECTS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

ARCHITECT AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF ARCHITECT'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF ARCHITECT'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. ARCHITECT SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF ARCHITECT FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND ARCHITECT SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

VIII. Independent Contractor

Architect covenants and agrees that Architect is an independent contractor and not an officer, agent, servant or employee of City; that Architect shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondeat superior shall not apply as between City and Architect, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Architect.

IX. Assignment and Subletting

The Architect agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the City. The

Architect further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Architect from its full obligations to the City as provided by this Agreement.

X. Audits and Records/Prohibited Interest

The Architect agrees that at any time during normal business hours and as often as City may deem necessary, Architect shall make available to representatives of the City for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the City to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, all for a period of one (1) year from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

The Architect agrees that it is aware of the prohibited interest requirements of the City Charter and Code of Conduct and will abide by the same. Further, a lawful representative of Architect shall execute the affidavit shown in Exhibit "E". Architect understands and agrees that the existence of a prohibited interest during the term of this contract will render the contract voidable.

XI. Contract Termination

The parties agree that City shall have the right to terminate this Agreement with or without cause upon thirty (30) days written notice to Architect. In the event of such termination, Architect shall deliver to City all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by Architect in connection with this Agreement. Architect shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to termination.

XII. Architect's Opinion of Probable Construction Costs

The parties recognize and agree that any and all opinions of probable construction costs prepared by Architect in connection with the Project represent the best judgment of Architect as a design professional familiar with the construction industry, but that the Architect does not guarantee that any bids solicited or received in connection with the Project will not vary from opinions prepared by Architect.

XIII. Ownership of Documents

Original drawings and specifications are the property of the Architect; however, the Project is the property of the City and Architect may not use the drawings and specifications therefor for any purpose not relating to the Project without City's consent. City shall be furnished with such reproductions of drawings and specifications as City may reasonably require. Upon completion of the work or any earlier termination of this Agreement under Article XI, Architect will revise drawings to reflect changes made during construction and he will promptly furnish the City with one (1) complete set of reproducible record prints. Prints shall be furnished, as an additional service, at any other time requested by City. All such reproductions shall be the property of the City who may use them without Architect's permission for any proper purpose including, but not limited to, additions to or completion of the Project. However, use of the documents for other than their intended purpose shall be at the sole risk of the City.

XIV. Complete Contract

This Agreement, including the Exhibits lettered "A" through "E", constitute the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument.

XV. Mailing of Notices

Unless instructed otherwise in writing, Architect agrees that all notices or communications to City permitted or required under this Agreement shall be addressed to City at the following address:

City of Plano
Parks Department
P.O. Box 860358
Plano, TX 75086-0358

City agrees that all notices or communications to Architect permitted or required under this Agreement shall be addressed to Architect at the following address:

Caye Cook and Associates
12700 Hillcrest Road, Suite 149
Dallas, TX 75230
Attn: Caye Cook

All notices or communications required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is posted by the sending party.

XVI. Miscellaneous

A. Paragraph Headings:

The paragraph headings contained herein are for convenience only and are not intended to define or limit the scope of any provision in this Agreement.

B. Contract Interpretation:

Although this Agreement is drafted by the City, should any part be in dispute, the parties agree that the Agreement shall not be construed more favorably for either party.

C. Venue/Governing Law:

The parties agree that the laws of the State of Texas shall govern this Agreement, and that it is performable in Collin County, Texas. Exclusive venue shall lie in Collin County, Texas.

D. Successors and Assigns:

City and Architect, and their partners, successors, subcontractors, executors, legal representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

E. Severability:

In the event a term, condition, or provision of this Agreement is determined to be void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect.

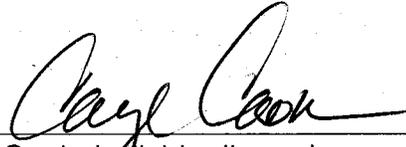
F. Effective Date:

This Agreement shall be effective from and after execution by both parties hereto.

SIGNED on the date indicated below.

**CAYE COOK d/b/a
CAYE COOK AND ASSOCIATES**

DATE: February 16, 2010

BY: 
Caye Cook, Individually and as
SOLE PROPRIETOR

CITY OF PLANO, TEXAS

DATE: _____

BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

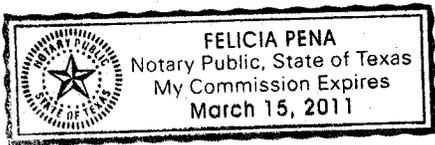
APPROVED AS TO FORM:

Diane C. Wetherbee
CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the 16th day of February, 2010, by **CAYE COOK d/b/a CAYE COOK AND ASSOCIATES**, a sole proprietorship, individually and on behalf of said company.



Felicia Peña
Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2010, by **THOMAS H. MUEHLENBECK, City Manager** of the **City of Plano, Texas**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

Notary Public, State of Texas



Caye Cook & Associates
12700 Hillcrest Road
Suite 149
Dallas, TX 75230
P: 214.739.9105

Exhibit A Scope of Services

Proposal for Landscape Architecture for Frank Beverly Park

This proposal is for Landscape design and consulting services by Caye Cook & Associates (CCA) for the City of Plano (the Owner and/or the Client). CCA will provide civil engineering and other services through three subconsultants, Pacheco Koch Engineers (civil engineering and surveying), Texas Irrigation Design (irrigation design services) and Stephen Marks (TDLR/TAS consultant).

1.0 SCOPE

Caye Cook & Associates' area and scope shall consist of improvements at Frank Beverly Park as illustrated in the Master Plan prepared by CCA.

1.1 This proposal is based on the man-hour labor, material, with a construction budget of \$650,000.00 to include the following:

- Demolition of sidewalk, street curb for driveway and adjacent berm at Banner Elk
- One parking lot accessed from Banner Elk Circle (about 30 spaces)
- One parking lot accessed from Quarry Chase Trail (about 16 spaces)
- Relocation of softball field and backstop
- Preservation of existing softball field in northeast corner of lot
- Addition of two soccer practice fields
- About 1500 lineal feet of concrete walkway connected to existing (about 800 LF on south end of site will be considered as Add Alternate)
- Site furniture – new benches
- Grading and drainage to accommodate new parking lots and new fields and repair low area in northeast field
- Seeding of turfgrass for graded areas
- Irrigation to new, relocated and regraded fields
- New trees with irrigation bubblers (Add alternate to bid)

1.2 Phases of the work shall consist of Design Development, Construction Documents, Bidding, and Construction Administration

2.0 BASIC SERVICES



Caye Cook & Associates
12700 Hillcrest Road
Suite 149
Dallas, TX 75230
P: 214.739.9105

The Consultant services shall consist of the five phases described in Paragraph's 2.1. Through 2.5 as follows:

2.1 Surveying

Upon Notice to Proceed, the Consultant will commence with survey services.

- Boundary & Topographic Survey for the entire site

2.2 Design Development

Based on the approved Master Plan and Cost Estimate, the Consultant shall work in coordination with the Client to provide Design Development documents consisting of drawings, details, and other documents to fix and describe the size and character of the project. Anticipated drawings include:

- Cover Sheet per Park Department requirements
- Key Plan with notes
- Demolition and Tree Removal/Protection Sheet with notes
- Grading and erosion control plan (with SWPPP per City of Plano)
- Drainage Plan and details
- Preliminary and Final Site Plan
- Dimensional Control Plan for paving
- Retaining wall (maximum 30" height)
- Paving Plan and City standard details for parking and walkways
- Planting plan and details
- Irrigation plan and City standard technical specifications and details

2.2.1. Consultant shall submit Design Development Cost Estimate to the Owner.

2.2.2. Deliverables shall include ONE set of 24" x 36" (full size) bond prints of the design development plans and details.



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P: 214.739.9105

2.2 Construction Documents

Based on the approved Design Development Documents and Design Development Cost Estimate, Consultant shall prepare for approval by the Owner, Construction Documents that further develop the Design Development package.

- 2.3.1 Consultant shall prepare and submit cost estimates at 50% and 100% of construction phase.
- 2.3.2 Deliverables shall include five sets of full size review prints at 50% and 100% for Owner review. One set of technical specifications shall be submitted at 50% and 100% for Owner review.
- 2.3.3 Consultant shall submit a full-sized set of Owner approved 100% construction documents to the Texas Department of Licensing and Regulation or an Independent Contract Provider for *Texas Accessibility Standards* review. Based on this review, Consultant shall revise the construction documents accordingly.
- 2.3.4 Final deliverables for bid issue shall include one set of full size reproducible 3 mil mylar (24"x36"), one set of unbound specifications, and one electronic file of the construction documents in AutoCAD and PDF compatible format and specifications in Microsoft Word format.

2.4 Bidding

Consultant shall provide bidding services to include the following:

- Hand out plans and specifications to perspective bidders
- Attend pre-bid conference
- Prepare addenda items
- Answer questions during the bidding process
- Review bids, as requested

2.5 Construction Administration

During construction, Consultant shall perform the following construction administration services:

- 2.5.1 Attend pre-construction conference.
- 2.5.2 Review submittals.



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2.5.3 The consultant shall make:

- Site visits - CCA will assist City staff to observe contractor progress and plan compliance. The fee allows for 4 site visits as needed (including final punch lists) to observe contractor progress and plan compliance. City of Plano staff will be responsible for the following:
 1. Review tree protection and extent of demolition
 2. Review grading
 3. Review paving layout
 4. Review irrigation
 5. Review tree and planting layout
 6. Review site furniture location.

2.5.4 Prepare written report of findings and report any discrepancies or problems to the Owner for each site visit.

2.5.5 Provide preparation of responses to requests for information, architectural supplemental information.

2.5.6 Review and approve submittals and mock-ups.

2.5.7 The consultant shall coordinate an inspection of the completed project and pay related fees for Texas Accessibility Standards (TAS) review by the Texas Department of Licensing and Regulation or an independent contract provider.

2.5.8 Provide project record drawings.

3.0 Consultant Team –

Caye Cook & Associates – Prime consultant/ Landscape Architecture

WFDB 40616Y0410

Pacheco Koch Consulting Engineers, Inc., Hispanic Owned Firm – Surveying and Civil Engineering

NCTRCA HMDB38318Y0909 (30% percentage of participation)

Stephens Marks Architects – TAS review

HUB 133111694220 registered as American Indian (1% percentage of participation)

4.0 Schedule

Refer to Exhibit B.



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5.0 Fee and Compensation

Refer to Exhibit C.

6.0 Limitations

Limitations to the work are as follows:

Flood plain delineation will not be provided since the site is well outside 100 year flood plain. Scope of work does not include obtaining fill permit or variance to fill in flood plain. This will be considered additional services to the contract.

Additional site visits to those enumerated above will be considered additional services.

Design and engineering services for water fountain are not included.

7.0 Additional services

Additional services to those enumerated must receive written authorization from the Client before being performed. The following hourly rates will be utilized for additional services:

- | | |
|--|----------|
| • Principal/Senior Landscape Architect | \$115.00 |
| • Project Landscape Architect | \$ 75.00 |
| • Irrigation Designer | \$ 75.00 |
| • Clerical | \$ 40.00 |

Caye Cook & Associates

Rebecca Caye Cook, RLA, ASLA

Sole Proprietor



Caye Cook & Associates
12700 Hillcrest Road
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Dallas, TX 75230
P: 214.739.9105

Exhibit B Schedule

Proposal for Landscape Architecture for Frank Beverly Park

This proposal is for Landscape design and consulting services by Caye Cook & Associates (CCA) for the City of Plano (the Owner and/or the Client). CCA will provide civil engineering and other services through three subconsultants, Pacheco Koch Engineers (civil engineering and surveying), Texas Irrigation Design (irrigation design services) and Stephen Marks (TDLR/TAS consultant).

1.0 Schedule

Work shall be performed in accordance with the following schedule:

Surveying – 6 weeks after receipt of Notice to Proceed;
Schematic Design - 6 weeks after surveying completed
Design Development – 8 weeks after surveying completed
Construction Documents – 8 weeks after receipt of comments from City for Design Development
Bidding (TBD) – 2 months estimated
Construction Administration (TBD) – 4 months

Caye Cook & Associates

A handwritten signature in black ink that reads 'Rebecca Caye Cook' in a cursive script.

Rebecca Caye Cook, RLA, ASLA
Sole Proprietor



Caye Cook & Associates
12700 Hillcrest Road
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**Exhibit C
Compensation – Method of Payment**

**Proposal for
Landscape Architecture
for
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This proposal is for Landscape design and consulting services by Caye Cook & Associates (CCA) for the City of Plano (the Owner and/or the Client). CCA will provide civil engineering and other services through three subconsultants, Pacheco Koch Engineers (civil engineering and surveying), Texas Irrigation Design (irrigation design services) and Stephen Marks (TDLR/TAS consultant).

1.0 Fees

1.1 Basic Services

For the Basic Services outlined above, the Owner agrees to pay Consultant a fee of Sixty four thousand seven hundred forty-five dollars (\$64,745.00) to be billed monthly as a percentage of the work completed. The fee is broken down as follows:

• Surveying	\$ 9,000.00
• Schematic Design	\$ 8,000.00
• Design Development	\$ 12,000.00
• Construction Documents	\$ 26,945.00
• Bidding	\$ 2,300.00
• Construction Administration	\$ 6,500.00
FEE FOR BASIC SERVICES	\$ 64,745.00

2.0 Reimbursable Expenses

Reimbursable Expenses – not to exceed \$6,425.00 (included in above fee)

Reimbursable Expenses shall include the following:

Direct mileage expenses of staff for meetings and site visits

Identifiable communication expense, such as long distance telephone, express charges and postage directly related to the project and courier services.



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Identifiable reproduction costs applicable to the work, such as blueprinting, plotting, photocopying, printing and binding, etc.

Reimbursable expenses shall not exceed the fee above without prior approval from the Owner.

4.0 Compensation – Method of Payment

Invoices shall be issued monthly for services performed and will be billed as the percentage of work completed. Payment is due within 10 business days of receipt of invoice. Payment shall be made by check payable to Caye Cook & Associates.

Caye Cook & Associates

Rebecca Caye Cook, RLA, ASLA
Sole Proprietor

EXHIBIT "D"

LANDSCAPE ARCHITECT

INSURANCE

INSURANCE: (Review this section carefully with your insurance agent prior to bid or proposal submission. See "Insurance Checklist" on the last page or specific coverages applicable to this contract).

1. General Insurance Requirements:

- 1.1 The Architect (hereinafter called "Architect") shall not start work under this contract until the Architect has obtained at his own expense all of the insurance called for here under and such insurance has been approved by the City. Approval of insurance required of the Architect will be granted only after submission to the Purchasing Agent of original, signed certificates of insurance or, alternately, at the City's request, certified copies of the required insurance policies.
- 1.2 All insurance policies required hereunder shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, non-renewal, without first providing the Risk Manager, City of Plano, at least ten (10) days prior written notice."

NOTE: The words "endeavor to" and "but failure to mail such notice shall impose no obligation to liability of any kind upon the company, its agents or representatives" are to be eliminated from the cancellation provision of standard ACORD certificates of insurance.

- 1.3 No acceptance and/or approval of any insurance by the City shall be construed as relieving or excusing the Architect from any liability or obligation imposed upon the provisions of the Contract.
- 1.4 The City of Plano (including its elected and appointed officials, agents, volunteers, and employees) is to be named as an additional insured under Architect's General Liability Policy, and the certificate of insurance, or the certified policy, if requested, must so state. Coverage afforded under this paragraph shall be primary as respects the City, its elected and appointed officials, agents and employees.
 - 1.4.1 The following definition of the term "City" applies to all policies issued under the contract:

The City Council of the City of Plano and any affiliated or subsidiary Board, Commission Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board Commission, Authority, Committee, or Independent Agency is either a Body Politic created by the City Council of the City of Plano, or one in which controlling interest is vested in the City of Plano; and City of Plano Constitutional Officers.
- 1.5 The Architect shall provide insurance as specified in the "Insurance Checklist" (Checklist) found on the last page of the bid or proposal form. Full limits of insurance required in the Checklist of this agreement shall be available for claims arising out of this agreement with the City of Plano.

- 1.6 Architect agrees to defend and indemnify the City of Plano, its officers, agents and employees as provided in Paragraph VII. of this contract.
- 1.7 Insurance coverage required in these specifications shall be in force throughout the Contract Term. Should the Architect fail to provide acceptable evidence of current insurance within seven (7) days of written notice at any time during the Contract Term, the City shall have the absolute right to terminate the Contract without any further obligation to the Architect, and the Architect shall be liable to the City for the entire additional cost of procuring performance and the cost of performing the incomplete portion of the Contract at time of termination.
- 1.8 Written requests for consideration of alternate coverages must be received by the City Purchasing Manager at least ten (10) working days prior to the date set for receipt of bids or proposals. If the City denies the request for alternative coverages, the specified coverages will be required to be submitted.
- 1.9 All required insurance coverages must be acquired from insurers authorized to do business in the State of Texas and acceptable to the City. The City prefers that all insurers also have a policyholder's rating of "A-" or better, and a financial size of "Class VI" or better in the latest edition of A.M. Best, or A or better by Standard and Poors, unless the City grants specific approval for an exception.
- 1.10 Any deductibles shall be disclosed in the Checklist and all deductibles will be assumed by the Architect. Architect may be required to provide proof of financial ability to cover deductibles, or may be required to post a bond to cover deductibles.

2. Architect's Insurance - "Occurrence" Basis:

- 2.1 The Architect shall purchase the following insurance coverages, including the terms, provisions and limits shown in the Checklist.
 - 2.1.1 Commercial General Liability - Such Commercial General Liability policy shall include any or all of the following as indicated on the Checklist:
 - i. General aggregate limit is to apply per project;
 - ii. Premises/Operations;
 - iii. Actions of Independent Contractors;
 - iv. Contractual Liability including protection for the Architect from claims arising out of liability assumed under this contract;
 - v. Personal Injury Liability including coverage for offenses related to employment;
 - vi. Explosion, Collapse, or Underground (XCU) hazards; if applicable. This coverage required for any and all work involving drilling, excavation, etc.

- 2.1.2 Business Automobile Liability including coverage for any owned, hired, or non-owned motor vehicles and automobile contractual liability.
- 2.1.3 Workers' Compensation - statutory benefits as required by the State of Texas, or other laws as required by labor union agreements, including Employers' Liability coverage.

3.0 Consultant's Insurance – Claims Made

Professional Errors and Omissions

The Consultant shall carry Professional Liability insurance which will pay for injuries arising out of negligent errors or omissions in the rendering, or failure to render professional services under the contract, for the term of the Contract and up to three years after the contract is completed in the amount shown in the Checklist.

Professional Errors and Omissions, Limit \$1,000,000
per claim and aggregate of \$2,000,000

LANDSCAPE ARCHITECT

City of Plano - Insurance Checklist

("X" means the coverage is required.)

<u>Coverages Required</u>	<u>Limits (Figures Denote Minimums)</u>
<u>X</u> 1 Workers Compensation & Employers' Liability	Statutory limits of State of Texas \$100,000 accident; \$100,000 disease \$500,000 policy limit disease
<input type="checkbox"/> 2 For Future Use	
<input type="checkbox"/> 3. City Approved Alternative Workers' Comp. Program	\$150,000 medical, safety program
<u>X</u> 4. General Liability	Complete entry No. 26 Minimum \$500,000 each occurrence \$1,000,000 general aggregate
<u>X</u> 5 General aggregate applies per project (CGL)	
<u>X</u> 6 Premises/Operations	(Items No 3-10 & 12 require)
<u>X</u> 7. Independent Contractors	\$500,000 combined single limit for bodily injury and property damage
<input type="checkbox"/> 8. Products	damage each occurrence with
<input type="checkbox"/> 9. Completed Operations	\$1,000,000 general aggregate that applies to project under contract
<u>X</u> 10. Contractual Liability	
<u>X</u> 11. Personal Injury Liability	\$500,000 each offense & aggregate
<input type="checkbox"/> 12. XCU Coverages	
<u>X</u> 13. Automobile Liability	\$500,000 Bodily Injury & Property
<u>X</u> 14. Owned, Hired & Non-owned	Damage each accident
<input type="checkbox"/> 15. Motor Carrier Act Endorsement	
<u>X</u> 16. Professional Liability	\$1,000,000 each claim \$5,000,000 aggregate 2,000,000 aggregate
<input type="checkbox"/> 17. Garage Liability	\$_____ BI & PD each occurrence

Landscape Architectural Services Agreement
Frank Beverly Park Improvements
Project No. 6044

Exhibit D - Page _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
4/5/2010

PRODUCER (214) 526-5646 FAX: (214) 526-6926

Dexter & Company
3601 Cedar Springs Rd.

Dallas TX 75219

INSURED

Rebecca Caye Cook, DBA: Caye Cook & Associates
12700 Hillcrest Rd
Suite 149
Dallas TX 75230
*Verified by
Ron Bludworth
4/6/2010*

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURER A: CNA Surety Corporation

INSURER B: Texas Mutual Insurance

INSURER C:

INSURER D:

INSURER E:

NAIC #

0233

22945

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	B4014394501	5/3/2010	5/3/2011	EACH OCCURRENCE \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	B4014394501	5/3/2010	5/3/2011	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
					BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
A	EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 10,000	B4014394465	5/3/2010	5/3/2011	EACH OCCURRENCE \$ 1,000,000
					AGGREGATE \$ 1,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under SPECIAL PROVISIONS below	SBP0001166249	3/3/2010	3/3/2011	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	OTHER Prof Liability	LAH1138130	4/7/2010	4/7/2011	Aggregate 2,000,000 Occurrence 1,000,000 Deductible 15,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Re: Project: Frank Beverly Park Improvements
City of Plano are Additional Insureds as required by written contract, but only with respect to liability arising out of operations of the Named Insured. Waiver of Subrogation in favor of Certificate Holder where required by written contract.

CERTIFICATE HOLDER

ronu@plano.gov
City of Plano
P.O. Box 860358
Plano, TX 75086-0358

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ~~BE REQUIRED TO~~ MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BY REGISTERED MAIL TO THE ADDRESS OF THE INSURED OR TO THE ADDRESS OF THE CERTIFICATE HOLDER.~~
AUTHORIZED REPRESENTATIVE
Bob Carter/TONYAR *J. Robert Carter, III*

IMPORTANT

If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

EXHIBIT "E"

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare and affirm that no person or officer of **CAYE COOK d/b/a CAYE COOK AND ASSOCIATES** (herein "Architect") is either employed by the City of Plano or is an elected official of the City of Plano and who has a financial interest, direct or indirect, in any contract with the City of Plano or has a financial interest, directly or indirectly, in the sale to the City of Plano of any land, or rights or interest in any land, materials, supplies or service. As per Section 11.02 of the Plano City Charter, interest represented by ownership of stock by a City of Plano employee or official is permitted if the ownership amounts to less than one (1) per cent of the corporation stock.

I further understand and acknowledge that the existence of a prohibited interest at any time during the term of this contract will render the contract voidable.

CAYE COOK & ASSOCIATES
Name of Architect

By: Caye Cook
Signature

CAYE COOK
Print Name

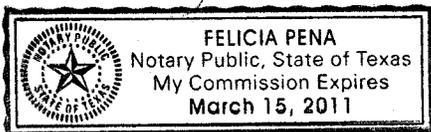
SOLE PROPRIETOR
Title

February 16, 2010
Date

STATE OF TEXAS §

COUNTY OF DALLAS §

SUBSCRIBED AND SWORN TO before me this 16th day of February, 2010.



Felicia Pena
Notary Public, State of Texas