

Consulting Services Contract
City of Waukesha – Graef-USA Inc.
Project Name: Buchner Park Pool Master Plan

This Contract is by and between the City of Waukesha, a Wisconsin municipal corporation, referred to herein as the City; and Graef-USA Inc., 125 South 84th Street, Suite 401, Milwaukee, Wisconsin 53214-1470, referred to herein as the Consultant. Together, the City and Consultant are referred to as the Parties.

Recitals

The City published a Request for Proposals, referred to as the RFP, for consulting services in connection with the following Project:

Buchner Park Pool Facility analysis, evaluation and development of Master Plan.

The RFP contained a specific Scope of Work to be incorporated into the successful bidder's contract.

The Consultant submitted a proposal in response to the RFP, and was selected by the City to be awarded the contract for the Project.

The Consultant is willing to perform consulting services according to the Scope of Work stated in the RFP and the Consultant's responsive Proposal, and to accept the award of the contract for the Project.

Now, therefore, the City and the Consultant agree and contract as follows:

1. **Scope of Work.** The Consultant shall perform the Work described on Schedule A, Plan Development Methodology and Work Plan, according to the terms and conditions of this Contract. Schedule A is incorporated into this Contract by reference.
2. **Standard of Work.** Consultant will perform the Work according to generally-accepted industry practices and the highest standards of the professions of the individual employees performing the Work for Consultant.
3. **Payment.** The City shall pay to Consultant a total, flat Contract Price of Thirty-Six Thousand Eight Hundred Eighty-Three Dollars (\$36,883.00) for performance of the Work in compliance with the terms and conditions of this Contract. Consultant shall invoice the City, monthly. No more than 90% of the Contract Price shall be payable before Consultant's Work is complete and delivered to the City. All invoices shall be payable net 30 days.
4. **Subcontractors.** City acknowledges that Consultant may use the services of subcontractors in the performance of the Work. Consultant shall be responsible for payment of all subcontractor services and shall indemnify City from claims for payment from any subcontractors used by Consultant.
5. **Time.** Consultant shall commence the Work as promptly after execution of this Contract as is possible, and shall complete the Work no later than August 1, 2016, subject only to delays for circumstances beyond Consultant's control, provided Consultant recommences work promptly in good faith upon the return of normal circumstances.
6. **Ownership of Work Product.** All materials produced in the performance of the Work shall be the sole property of the City, and shall be kept confidential and not disclosed to any third party without the prior written permission of the City.
7. **Changes.** This Contract can only be amended by the written, mutual agreement of the Parties. No change to the scope of the Work, or the total amount to be paid to Consultant, shall be effective unless done by the written mutual agreement of the Parties.

8. **Indemnification.** Consultant shall indemnify and hold the City harmless from any and all third-party claims, demands, causes of action, lawsuits, judgments, penalties, and other liabilities of any kind arising out of, or connected in any way with, Consultant's performance of the Work, including court costs and actual attorney fees.
9. **Insurance.** Consultant shall maintain insurance of the following kinds and for not less than the following limits, at Consultant's sole expense, at all times during the performance of the Work. Policies shall be occurrence, and not claims-made, policies. Consultant shall obtain an endorsement making the City an additional insured and loss payee, and Consultant's insurance shall be primary, not excess, and non-contributory. All policies shall be from insurers licensed to issue such policies in Wisconsin. Upon the execution of this Contract, Consultant shall deliver a certificate of insurance to City showing that all requirements of this section are met.
 - a. Commercial general liability, including products-completed operations, \$1,000,000 per occurrence, \$2,000,000 aggregate per project.
 - b. Automobile liability, \$1,000,000 bodily injury, \$1,000,000 property damage.
 - c. Umbrella, \$5,000,000.
 - d. Worker compensation, statutory requirements.
 - e. Professional liability-errors and omissions, \$2,000,000, with extended-reporting period endorsement.
10. **Record Keeping.** Consultant shall keep all documents and records generated in the performance of the Work for no less than 7 years after completion of the Work, and shall make them available to the City at the City's request. Consultant acknowledges that such documents and records may be subject to Wisconsin's Open Records Law.
11. **Cooperation by City.** The City shall cooperate with the Consultant in the performance of the Work, and shall respond timely to all reasonable requests for information and access.
12. **Parties Are Independent Contractors.** Nothing in this Contract shall be construed to create any relationship between the Parties other than independent contractors. Unless specifically provided in this Contract, the Parties are not agents for one another, have no authority to bind the other to contracts, and have no vicarious liability for the other's acts or omissions.
13. **Governmental Immunities and Notice Requirement Preserved.** Nothing in this Contract shall be construed to be a waiver or modification of the governmental immunities or notice requirements imposed by Wis. Stats. §893.80 or any other law.
14. **Permits and Licenses.** Consultant shall be responsible, at Consultant's expense, for obtaining all permits and licenses required for the performance of the Work.
15. **Assignment Prohibited.** This Contract, and the Consultant's responsibility to perform the Work under this Contract, may not be assigned by the Consultant without the City's written consent.
16. **Notices.** All notices required by this Contract, and all other communications between the Parties, shall be addressed as follows:

To the City: Attention Ron Grall
 City of Waukesha Dept of Parks Recreation & Forestry
 1900 Aviation Drive
 Waukesha WI 53188

To Consultant: Attention Joseph Pepitone, Jr.
Graef-USA, Inc.
125 South 84th Street
Suite 401
Milwaukee WI 53214-1470

17. **Corporate Authorization.** The individuals executing this Contract on behalf of the Consultant warrant and represent that they are duly authorized to bind the Consultant to this Contract. Consultant warrants and represents that the execution of this Contract is not prohibited by the Consultant's articles of incorporation, by-laws, operating agreement, or other internal operating orders, or by any applicable law, regulation or court order. Consultant shall provide proof upon request.
18. **Assistance of Counsel, Voluntary Contract.** The Consultant acknowledges that it has either had the assistance of legal counsel in the negotiation, review and execution of this Contract, or has voluntarily waived the opportunity to do so; that it has read and understood each of this Contract's terms, conditions and provisions, and their effects; and that it has executed this Contract freely and not under conditions of duress.
19. **Adequacy of Consideration.** The Parties acknowledge that the consideration expressed in this Contract is adequate and sufficient to make the obligations contained in this Contract binding upon the Parties.
20. **Costs of Enforcement.** The Parties agree that in the event legal action is necessary to enforce any term or condition of this Contract, then the breaching Party will pay the non-breaching Party's costs incurred in such legal action, including actual attorney fees. If a judgment is taken, then costs of enforcement will be added to the judgment.
21. **Severability.** If any term of this Contract is held unenforceable by a court having jurisdiction, then to the extent the unenforceable term can be severed from the remainder of this Contract without affecting the enforceability of the remainder of this Contract or substantially frustrating its purpose, it will be so severed, and the remainder of this Contract will remain in effect and enforceable.
22. **Survival and Parties Bound.** Unless specifically limited in this Contract, any term, condition or provision of this Contract will survive the execution of this Contract or any stated time periods, to the extent necessary for their performance. This Contract is binding upon, and inures to the benefit of, the Parties' successors, assigns, heirs, executors, trustees and personal representatives.
23. **Governing Law and Jurisdiction.** This Contract will be construed and enforced according to the laws of Wisconsin. If a lawsuit arises out of this Contract, it shall be filed in the state Circuit Court for Waukesha County, Wisconsin. The Parties consent to personal and subject-matter jurisdiction in Wisconsin, and waive all jurisdictional defenses.
24. **Integration.** This Contract constitutes the entire agreement of the Parties formed by the City's RFP and the Consultant's responsive proposal; however, if any ambiguity in this Contract requires resolution, or this Contract is silent on a material point, then reference may be made to the RFP and the Consultant's proposal, in that order of priority, to construe this Contract. All other agreements and understandings of the parties with respect to the subject matter expressed in this Contract are unenforceable.
25. **Termination.** Either party may terminate this Contract without cause by giving written notice of termination to the other party, with termination to occur no sooner than 20 days after delivery of the notice. Upon termination, Consultant shall be paid for all Work completed as of the date of termination.

City of Waukesha

By Shawn N. Reilly, Mayor
Date: _____

Attested by Gina L. Kozlik, City Clerk
Date: _____

To certify that funds are provided for payment:

Richard L. Abbott, Director of Finance
Date: _____

Graef-USA, Inc.

By (print name) _____
Title: _____
Date: _____

By (print name) _____
Title: _____
Date: _____

[Attach Schedule A]

Schedule A

Plan Development Methodology and Work Plan



Plan Development Methodology

Buchner Park and Pool are an important part of the City of Waukesha. This 7.5-acre park includes a pavilion, large outdoor pool with support facilities, six tennis courts, a softball field, sand volleyball court, playground, ice skating rink, open space and pathways. The City of Waukesha Parks, Recreation & Forestry Department (WPRF) and the City of Waukesha Parks, Recreation & Forestry Board (WPRF-B) has issued a Request for Proposal for Professional Services to conduct an analysis and evaluation of the Buchner Park Pool Facility and to work to develop an overall Master Plan that may include future renovations or improvements for the swimming pools and related facilities to meet the current and future needs of the community.

Our approach to this exciting project is to first collect all available data and to investigate the existing site, listen to key stakeholders and then use our experience to help you determine the right project program and design for the aquatics facility based on your budget and the needs of the City of Waukesha.



We will investigate the overall park and swimming facility with the intention of understanding the facilities opportunities and challenges. While investigating we will begin our *listening* process, where we ask questions and listen to key project stakeholders such as elected officials, WPRF-B, WPRF, other City staff, park/pool operations staff, park/pool maintenance staff, major user groups, and the citizens of the City of Waukesha. We will coordinate and host two public information gathering sessions to solicit feedback in a program/activity station format. Additionally we would recommend as an additional service to conduct an on-line survey that would run concurrent with the pool opening.

With the information from the public information and listening sessions, we will begin the Programming Phase, in which we will help you evaluate what is appropriate for the future of Buchner Park Pool in the way of activities and aquatics within the desires of the overall community and project budget. We will investigate the existing fees and rates as compared to other facilities. Based on this program, we will work with WPRF to develop two conceptual master plans and opinions of probable construction costs. Once complete, we will garner feedback from the key project stakeholders. We will take that information and develop an overall final conceptual master plan and construction costs for the redevelopment of Buchner Park Pool.



GRAEF is multidisciplinary engineering and planning firm that has been providing our clients with the highest level of technical expertise since 1961. We are headquartered in Milwaukee and have a diverse team of professionals to serve you that include planning, landscape architecture, civil engineering, structural engineering, MEP engineering, public participation expertise. We are very good at building a consensus and are very familiar with integrating active park uses within neighborhood parks.

Plan Development Methodology and Work Plan

continued



To aid us in providing you with the very best in professional aquatic design services, we have teamed with Water Technology, Inc. (WTI) headquartered in Beaver Dam, WI. WTI's creative energy and passion embraces the philosophy that aquatic recreation completes communities and makes them a better place to live. WTI has evaluated, designed and engineered literally hundreds of aquatic facilities throughout North America since 1983. WTI designs are forward-looking and support dynamic community programs. Another key ingredient to a project's success is our historical database, which helps us provide client's accurate cost estimates and a realistic timeline.

Conceptual Redevelopment Master Planning Work Plan

We have outlined an overall work program that we believe will produce a meaningful, cost effective and responsive master plan. We have divided this project into two phases that will allow us to understand the existing facility, what is possible, what is desired by the community and ultimately it will allow us to create a conceptual master plan with associated construction for the future redevelopment or Buchner Park Pool. The phases include:

- Phase I – Data Collection and Programming
- Phase II – Conceptual Master Planning

Phase I – Data Collection and Programming

We will work with WPRF staff to conduct a thorough analysis and evaluation of the existing pool facilities within this neighborhood park. We will work with WPRF staff, applicable user groups and residents to determine the future needs of your community and how this park may be programmed for future generations. Specific tasks for this phase of work include:

- *Project Kick-Off Meeting* – We will coordinate a kickoff meeting with the project team with the following goals:
 - Refine the overall project and approach
 - Refine the work program and deliverables
 - Determine project team and stakeholders
 - Discuss design intent and preliminary program
 - Define project goals and objectives
- *Collect and Review Existing Data and Information* – The City staff will provide us with all of the available surveys, plans, maps, photographs, construction drawings, attendance records and financials of the existing facility for our review and analysis.
- *Conduct Site Review* – We will visit the pool and review the existing site area.
- *Meetings and Interviews with Key Stakeholders* – We will interview elected officials, members of the WPRF-B, WPRF, City Staff, Park/Pool Operations Staff, Park/Pool Maintenance Staff, and any Major User Groups during a one day session.
- *Project Program Development* – Based on our project goals, objectives and desires of the key stakeholders we will prepare three preliminary project programs.
- *Public Open House: Programming* – We will organize and attend a public information gathering session on the potential program elements.
- *Meeting with WPRF / City to Review and Approve Project Programs* – We will work with you to finalize two distinct project programs which form the basis of the conceptual master plans.

Plan Development Methodology and Work Plan

continued



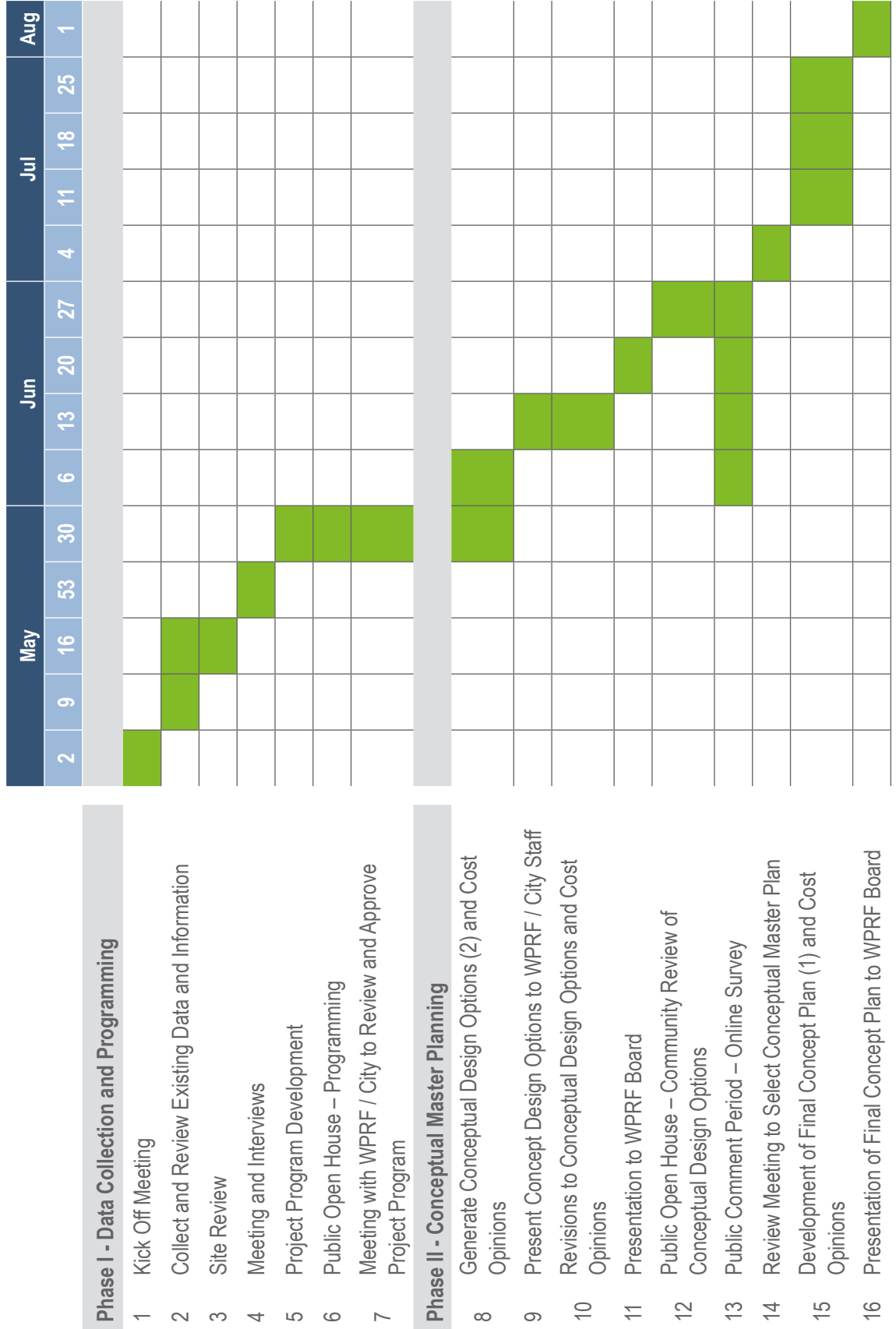
Phase II – Conceptual Master Planning

Based on the two project programs, we will develop a conceptual master plan and opinions of probable construction cost of each for review and consideration. We will work with WPRF staff to develop and refine these alternatives and once complete we will garner additional feedback from the WPRF-B, other key stakeholders and from the general public through an open house. Additionally we will garner additional information and feedback through the use of an on-line questionnaire. Using this important input we will develop a final concept plan and opinion of probable construction costs for presentation to the WPRF Board for approval. Specific tasks for this phase of work include:

- *Prepare Conceptual Design Options (2) and Cost Opinions* – Prepare two rendered conceptual master plans and opinion of probable construction costs for the redevelopment of the pool facility and associated improvements based on the three project programs.
- *Present Concept Design Options to WPRF / City Staff* – Present each conceptual master plan alternative for review and comment.
- *Revise Conceptual Design Options and Cost Opinions* – Revise the master plan alternatives based on comments received.
- *Presentation to the WPRF Board* – Present each conceptual master plan alternative for review and

comment with the intent of completing the alternatives prior to the public open house and survey.

- *Public Open House* – We will organize and attend a public information gathering session on the three conceptual Master Plans.
- *Public Comment Period* – We will work with the project team to develop an on-line questionnaire to solicit feedback of programmatic elements as well as the conceptual master plans.
- *Review Meeting to Select Conceptual Master Plan* – We will summarize the information that was received during the public open house and comment period. As a team we will review and select the preferred master plan alternative.
- *Finalize Conceptual Master Plan* – We will finalize the conceptual master plan and opinion of probable construction costs.
- *Presentation of Final Concept Plan* to the WPRF Board.



Breakdown of Costs and Hourly Rates

Schedule A

	Project Manager	Senior Engineer/Planner	Civil Engineer	Landscape /Planning	Structural Engineer	MEP Engineer	WTI Project Lead	WTI PM	WTI Designer	Technician	Clerical	Miscellaneous Expenses	NOTES
	\$153	\$144	\$113	\$124	\$113	\$113	\$150	\$105	\$95	\$89	\$60		
	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.		
Conceptual Design													
1	6	4					4					\$15	WTI on call
2		2	2				2	2					
3	2	2	4										
4	8	2					6				2	\$100	WTI in person
5	2			4			2	4					
6	6	4		12								\$30	
7	4											\$15	
8	2	4	8	24	2	4	2	4	8	8			
9	4						6					\$15	WTI on call
10	2	2	2	8	2	2	2	4		6			
11	4						6					\$100	WTI in person
12	6	4	8	8			8					\$150	WTI in person
13	2			4			2	4				\$100	
14	4											\$15	
15	2	2	2	8	2	2	2	4	6	4			
16	4											\$15	
Total Hours													
	58	26	18	68	6	8	42	22	14	18	2		
Total Cost													
	\$8,874	\$3,744	\$2,034	\$8,432	\$678	\$904	\$6,300	\$2,310	\$1,330	\$1,602	\$120	\$555	

Total Project Cost: \$36,883