City of FRESNO **REPORT TO THE CITYCOUNCIL**

AGENDA ITEM NO. 1 E
COUNCIL MEETING 2/04/10
APPROVED BY
DEPARTMENT DIRECTOR
CITY MANAGER

February 4, 2010

FROM: RANDALL L. COOPER, Director
Parks, Recreation and Community Services Department

BY: PAUL A. MELIKIAN, Administrative Manager
Parks, After-school, Recreation and Community Services Department

SUBJECT: APPROVE THIRD AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF FRESNO, ROEDING PARK PLAYLAND, FRESNO STORYLAND AND FRESNO'S CHAFFEE ZOO CORPORATION REGARDING PRELIMINARY ROEDING PARK MASTER USE, ENVIRONMENTAL AND DEVELOPMENT PLANNING

RECOMMENDATIONS

Staff recommends that the Council approve the attached Third Amendment to Memorandum of Understanding (MOU) between the City (City), Roeding Park Playland, Fresno Storyland and Fresno (Rotary) and Fresno Chaffee Zoo Corporation (Zoo). The purpose of the Amendment is to facilitate the continued progress of completing the Environmental Impact Report (EIR) for the Chaffee Zoo expansion in light of the ongoing budget impacts facing the City.

EXECUTIVE SUMMARY

The City and Zoo entered into a Memorandum of Understanding in August of 2007; wherein, the Zoo hired CLRdesigning, Inc. to prepare a Master Plan for the Zoo, and hired Paoli & Odell, Inc. to prepare an EIR. The Zoo also engaged firms to prepare a comprehensive study of the trees in Roeding Park, and prepare a Historical Resource Assessment Report.

To date, the Zoo has been reimbursed $171,957.13 for the previously agreed upon City share of these services; a majority of the reimbursements were funded by the Roeding Park Capital Improvement fund. However due to ongoing budget impacts, half of the revenue previously deposited into the capital improvement fund is now going to the General Fund - therefore not available to continue reimbursing the Zoo for consulting fees and City Attorney's Office for outsourced legal services. As a result, the Department has begun to accumulate reimbursement invoices received from the Zoo and City Attorney's Office, totaling $67,187.37 and $79,824.87, respectively, for a total of $147,012.24.

Given that the City's financial position is not anticipated to improve in the near future and the necessity for the EIR (planning) process to continue, the City and the Zoo have agreed to amend the MOU as it relates to reimbursement of shared costs. The following points represent the changes to the agreement:

1. The Zoo will pay on behalf of the City the previously agreed upon City share of outstanding (unpaid) and remaining consultant fees related to the EIR, Historical Assessment, and Master Plan (under the terms set forth in the MOU and subsequent Amendments, attached) not to exceed $125,000.

2. The Zoo will provide to the City the previously agreed upon City share of outstanding (unpaid) and remaining outside legal expenses not to exceed $155,000, and the City shall remit payment to legal counsel.

3. Unless otherwise provided for in a separate agreement, the Zoo shall not be responsible for the City's legal expenses incurred to defend any challenges to the EIR, should they occur.

4. The Zoo is responsible for 100% of remaining consultant fees related to the completion of the EIR by Michael Brandman & Associates, or another consultant to be selected by the Zoo and the City.

5. The Zoo will receive a dollar for dollar credit against future shared development costs of the Fresno Chaffee Zoo expansion for all expenses paid on behalf of City under this Amendment.

6. All expenses paid on behalf of the City by the Zoo from the date of this Amendment through June 30, 2011 will be due in full July 1, 2011 in the event the dollar for dollar credit against shared development costs is not already substantially earned through progress in the construction phase of the expansion.

FISCAL IMPACT

Approval of this amendment will have no immediate impact to the General Fund. The total consulting and outside legal services fees paid on behalf of the City is not expected to exceed $280,000. The Zoo will receive a dollar for dollar credit toward future shared development costs equal to the amount paid on the City's behalf as a result of this Amendment.

Attachments: Third Amendment of MOU
MOU - Council Report Dated August 28, 2007
First Amendment to MOU – Council Report Dated December 9, 2008
Second Amendment to MOU – Council Report Dated February 10, 2009

THIRD AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF FRESNO, ROEDING PARK PLAYLAND, FRESNO STORYLAND AND FRESNO'S CHAFFEE ZOO CORPORATION REGARDING PRELIMINARY ROEDING PARK MASTER USE, ENVIRONMENTAL AND DEVELOPMENT PLANNING

This THIRD AMENDMENT TO MEMORANDUM OF UNDERSTANDING (hereinafter "MOU") is entered between the CITY OF FRESNO, a municipal corporation of the State of California (hereinafter referred to as "CITY"), and FRESNO'S CHAFFEE ZOO CORPORATION, a California nonprofit corporation (hereinafter referred to as "ZOO").

RECITALS

WHEREAS, CITY and ZOO entered into an Agreement dated August 21, 2007 for the obtaining and administration of consulting services, as once amended, hereinafter collectively referred to as "Agreement" and attached hereto as Exhibit A; and

WHEREAS, Under the terms of reimbursement set forth in the MOU dated August 21, 2007 and subsequent first and second amendments, the CITY owes the ZOO $67,187.37 over four invoices dating back to April 2009 for the previously agreed upon CITY share of consultant fees for Environmental Impact Report (EIR), Historical Assessment, and the Master Plan work; and

WHEREAS, Through November 2009, the CITY has incurred $79,824.87 in outside legal expenses related to the Zoo expansion; including $60,493.42 outstanding to Meyers Nave with the balance owed to Planning & Development for invoices already paid for outside legal services; and

WHEREAS the CITY is currently not able to identify a funding source for its share of consultant and outside legal fees for the amounts stated above or going forward through the planning phase of the expansion of the Fresno Chaffee Zoo; and

WHEREAS, in order to ensure continued progress of the planning phase of the expansion of the Fresno Chaffee Zoo, CITY and ZOO desire to modify the Agreement in certain regards, upon the terms and conditions herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions and premises hereinafter contained, to be kept and performed by the respective parties, the parties agree that the aforesaid Agreement be amended as follows:

1. ZOO will pay on behalf of CITY the previously agreed upon CITY share of outstanding (unpaid) and remaining consultant fees related to the EIR, Historical Assessment, and Master Plan (under the terms set forth in the MOU and subsequent Amendments, attached) not to exceed $125,000.

2. ZOO will provide to CITY the previously agreed upon CITY share of outstanding (unpaid) and remaining outside legal expenses not to exceed $155,000, and CITY shall remit payment to legal counsel.

3. Unless otherwise provided for in a separate agreement, ZOO shall not be responsible for CITY legal expenses incurred to defend a challenge(s) to the EIR, should one occur.

4. ZOO is responsible for 100% of consultant fees related to the completion of the EIR by Michael Brandman & Associates, or another consultant to be selected by ZOO and CITY.

5. ZOO will receive a dollar for dollar credit against future shared development costs of the Fresno Chaffee Zoo expansion for all expenses paid on behalf of CITY under this Amendment.

6. All expenses paid on behalf of CITY by ZOO from the date of this Amendment through June 30, 2011 will be due in full July 1, 2011 in the event the dollar for dollar credit against shared development costs is not already substantially earned through progress in the construction phase.

ARTICLE II
EFFECT OF THIS THIRD AMENDMENT

The Agreement shall remain in full force and effect except as amended hereby or inconsistent herewith.

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first above written.

CITY OF FRESNO,
a municipal corporation

By: _____
Randall L. Cooper

Title: Director – City PR&CS

FRESNO'S CHAFFEE ZOO CORPORATION

By: _____
Scott Barton

Title: Chief Executive Officer

ATTEST:
REBECCA E. KLISCH
City Clerk

By: _____
Deputy

APPROVED AS TO FORM:
JAMES C. SANCHEZ
City Attorney

By: _____
Deputy

Attachments:
Exhibit A – Agreement and Amendments

City of FRESNO **REPORT TO THE CITYCOUNCIL**

AGENDA ITEM NO.	
COUNCIL MEETING	8/28/07
APPROVED BY	
DEPARTMENT DIRECTOR	
CITY MANAGER	

August 28, 2007

FROM: RANDALL L. COOPER, Director
Parks, Recreation and Community Services Department

BY: JERRY HAYNES, Assistant Director
Parks, Recreation and Community Services Department

SUBJECT: APPROVE A MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF FRESNO, ROEDING PARK PLAYLAND, FRESNO STORYLAND AND FRESNO'S CHAFFEE ZOO CORPORATION REGARDING PRELIMINARY ROEDING PARK MASTER USE, ENVIRONMENTAL AND DEVELOPMENT PLANNING

KEY RESULT AREA Customer Satisfaction

RECOMMENDATIONS

Staff recommends that the Council approve the attached Memorandum of Understanding (MOU) regarding the City of Fresno (City), Fresno Rotary Club (Rotary) and Fresno Chaffee Zoo Corporation (Zoo). The purpose of the MOU is to allow a partnership between the City and Rotary for Roeding Park/Zoo's Master Plan and Environmental Review. CLRdesigning, Inc, an architectural company (CLR), and Paoli & Odell, Inc., (P&O) were hired by the Zoo to deliver a Master Plan and Environmental Review Report that includes the entire Roeding Park area.

EXECUTIVE SUMMARY

The Zoo hired CLR, to prepare a Master Plan for the Zoo, and they also hired P&O to prepare an Environmental Review Report (EIR). The City of Fresno Parks, Recreation and Community Services (PRCS) Department Director and staff met with Zoo's Chief Executive Officer, Lewis Greene and other Zoo officials to discuss their Master Plan and EIR and the possibility of having CLR and P&O amend the Zoo's agreement to include Roeding Park and Playland/StoryLand. The Zoo amended CLR's and P&O's agreement with the understanding that City will reimburse the Zoo for the additional fees and reimbursable expenses. A complete copy of Attachment "A" referenced in Exhibit "A-1" to the MOU is on file in the City Clerk's Office.

KEY OBJECTIVE BALANCE

Customer Satisfaction: A Master Plan of Roeding including the Zoo will provide more amenities for Fresno's citizens to enjoy when visiting Roeding, which will undoubtedly generate positive experiences for our citizens. **Employee Satisfaction:** Employees will feel great satisfaction knowing that significant improvements have been and will continue to be made that will improve their work environment. **Financial Management:** PRCS is leveraging their funds by partnering with Rotary Playland/Storyland and the Zoo to prepare a Master Plan and Environmental Report for Roeding Park.

BACKGROUND

PRCS Department desires to have a Comprehensive Master Plan of Roeding Park which includes Playland and Storyland. A Comprehensive Master Plan would address the current site, circulation/entry, visitors element, and operation. It would also provide constraints and recommendations for future development. In order for the City to hire a company to prepare a Master Plan, it would need to go through the bid process. Ultimately, the costs for the City to engage in the bid process would be much greater than partnering with the Zoo and allowing their Consultant CLR to provide Additional Design Services for a Master Plan specific to Roeding Park and Playland/Storyland. Furthermore, CLR anticipates that the addition of Roeding Park and Playland/Storyland should allow for better decision-making about the Zoo land use operation. PRCS is recommending that City pay the Zoo up to $70,000 for CLR's services.

Prior to moving forward with implementing any phase of the Master Plan, an EIR needs to be completed. The Zoo hired P&O to prepare an EIR. Most likely there will be impacts identified in the report that will require all three entities, Rotary Playland/Storyland, PRCS and the Zoo to take action to mitigate. Based on discussions with the Zoo and Rotary Playland/Storyland, the following cost sharing participation percentages were identified: 65% - Zoo, 25% - PRCS, 10% - Rotary Playland/Storyland. PRCS is recommending that the City pay $41,774 to the Zoo or 25% of the total cost of the EIR.

The Zoo engaged in a comprehensive bid process to identify the Master Planner, CLRdesign. They developed a list of 10 pre-qualified master plan firms to mail RFQ to. After receiving the professional qualifications they identified four finalists that were interviewed by a panel which included Zoo Board members, Zoo consultant and Zoo management. Attached are documents that illustrate and support that process. The Zoo also hired Paoli and Odell and the attached document supports their justification for that process. CLRdesign estimates that all approvals for the Master Plan should be received by September 2007 and Paoli and Odell estimates the EIR will be completed by April 2008.

FISCAL IMPACT

The total professional fee for the Proposal for Additional Services related to Roeding Park and Playland is $57,685 with an estimated $7,000 in additional reimbursable printing and reproduction and trip expenses, for a total of $64,685.00. The maximum payable to the Zoo for CLRdesign services will be $70,000.

The total cost of the EIR services provided by P&O is $167,095. PRCS would pay $41,774 (25%) to the Zoo. The total cost for both is not to exceed $111,774 and will be covered by the Roeding Park Capital improvement funds.

Attachments:
- MOU with attached CLR's proposal and P&O's Agreement
- RFP for Facility Master Planning Services
- Zoo Pre-Qualified Master Plan Firm list
- Paoli and Odell Letter of Recommendation from Blair,Church & Flynn

MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF FRESNO, ROEDING PARK PLAYLAND, FRESNO STORYLAND AND FRESNO'S CHAFFEE ZOO CORPORATION REGARDING PRELIMINARY ROEDING PARK MASTER USE, ENVIRONMENTAL AND DEVELOPMENT PLANNING

This MEMORANDUM OF UNDERSTANDING (hereinafter "MOU") is made and entered into the 21st day of August, 2007, by and between the CITY OF FRESNO, a municipal corporation of the State of California (hereinafter referred to as "CITY"), the ROEDING PARK PLAYLAND, a California nonprofit corporation, FRESNO STORYLAND, a California nonprofit corporation (hereinafter ROEDING PARK PLAYLAND and FRESNO STORYLAND collectively referred to as "ROTARY" and they each agree they shall be jointly and severably liable under this MOU), and FRESNO'S CHAFFEE ZOO CORPORATION, a privately created California public benefit corporation (hereinafter referred to as the "ZOO").

RECITALS

WHEREAS, the CITY, ROTARY AND ZOO desire to cooperate in certain preliminary Roeding Park master use, environmental and development planning including preparation of certain master plan, environmental and related documents (collectively the "Project"); and

WHEREAS, ZOO has retained CLR Design, Inc., a Pennsylvania corporation duly admitted in good standing to do business in California ("CLR"), for professional consulting services for preparation of Project master use and development deliverables relating to the Chaffee Zoo in Roeding Park; and

WHEREAS, ZOO has retained Paoli & Odell, Inc., a California corporation in good standing, ("P&O"), for professional consulting services for preparation of Project environmental deliverables relating to the Chaffee Zoo in Roeding Park; and

WHEREAS, ROTARY operates Storyland and Playland in Roeding Park and desires to cooperate and participate in preparation of additional Project deliverables by CLR and P&O relating to Storyland and Playland; and

WHEREAS, CITY owns and variously administers Roeding Park/portions thereof and desires to cooperate, participate in and fund prorata the preparation of additional Project deliverables by CLR and P&O relating to Roeding Park; and

WHEREAS, ZOO is willing to amend its contracts with CLR and P&O to provide for the additional non-ZOO Project deliverables above as more specifically described in Exhibit "A" (CLR 's Proposal for Additional Services related to Parks and Playland - Revised 3-22-07) and Exhibit "A-1" (P&O's Agreement for Professional Services) hereto, upon the terms and conditions herein; and

WHEREAS, on August 21, 2007, the Fresno City Council considered and approved this MOU.

AGREEMENT

NOW, THEREFORE, the CITY, ROTARY and ZOO evidence their intention to work cooperatively in pursuit of the Roeding Park Planning Project as follows:

ARTICLE I
ROLES AND CONTRIBUTIONS OF THE PARTIES

A. CITY OF FRESNO

1. The CITY shall reasonably cooperate and participate in preparation of the Project deliverables described in Exhibit "A" and Exhibit "A-1" hereto/incorporated herein. All legally protected confidential information shall be and remain confidential and proprietary in CITY.

2. The CITY shall pay ZOO within 30 days of CITY'S approval of invoice, pursuant to the terms set out in Exhibit "A" and Exhibit "A-1", not to exceed a total sum of One Hundred Eleven Thousand Seven Hundred Seventy Four Dollars ($111,774.00), provided that all Exhibit "A" and Exhibit "A-1" deliverables shall be provided to CITY, and further provided that CITY'S obligations shall be limited to allocated and available funds in each CITY fiscal year.

B. ROEDING PARK PLAYLAND AND FRESNO STORYLAND

1. The ROTARY shall reasonably cooperate and participate in preparation of the Project deliverables described in Exhibit "A" and Exhibit "A-1" hereto/incorporated herein. All legally protected confidential information shall be and remain confidential and proprietary in ROTARY.

2. The ROTARY shall pay ZOO within 30 days of ROTARY'S approval of invoice, pursuant to the terms set out in Exhibit "A-1", not to exceed a total sum of Sixteen Thousand Seven Hundred Nine Dollars ($16,709.00), provided that all Exhibit "A-1" deliverables shall be provided to ROTARY.

C. FRESNO'S CHAFFEE ZOO CORPORATION

1. The ZOO shall amend and administer its contracts with CLR and P&O to add the Exhibit "A" and Exhibit "A-1" Project deliverables/related work.

2. The ZOO shall monitor the CLR contract as amended and the P&O contract as amended in order that all Exhibit "A" and Exhibit "A-1" deliverables shall be provided to CITY and ROTARY at a mutually agreeable date.

ARTICLE II
GENERAL TERMS AND CONDITIONS

1. Meetings, comprised of representatives of CITY'S Parks Department, ZOO and ROTARY shall be held on a monthly basis. The purpose of these meetings shall be to review ongoing Project activities.

2. Except as otherwise provided by law, all notices expressly required of CITY within the body of this MOU, and not otherwise specifically provided for, shall be effective only if signed by the CITY'S Director of Parks, Recreation and Community Services or his/her designee.

3. Any notice required or intended to be given to either party under the terms of this MOU shall be in writing and shall be deemed to be duly given if delivered personally, transmitted by facsimile followed by telephone confirmation of receipt, or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this MOU or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of the mailing thereof.

4. Each party shall have full rights to own and use the Project deliverables hereunder, except as to designated protectable confidential information.

5. In pursuit of this MOU the parties shall act in an independent capacity and not as an officer, agent, servant, employee, joint venturer, partner, or associate of the other party. Each party shall retain the right to administer this MOU so as to verify that the other party/ies is/are performing respective obligations in accordance with the terms and conditions hereof. Each party shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over the subject matters herein.

6. Each party shall indemnify, hold harmless and defend the others and each of them including respective officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred thereby, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising directly or indirectly from the negligent or intentional acts or omissions in the performance of this MOU. This section shall survive termination or expiration of this MOU.

7. It is understood and agreed that each party maintains insurance policies or self-insurance programs to fund its liability under this MOU. The parties agree that such respective program or policy coverage for workers' compensation shall contain a waiver of subrogation as to the other parties and each of their respective officers, officials, agents, employees and volunteers. Evidence of Insurance, Certificates of Insurance or other similar documentation shall not be required under this MOU unless expressly requested in writing.

8. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this MOU, the prevailing party in such proceeding or action shall be entitled to recover from the other party(ies) its reasonable attorney's fees and legal expenses.

9. In the event of any conflict between the body of this MOU and any exhibit or attachment hereto, the terms and conditions of the body of this MOU shall control and take precedence over the terms and conditions expressed within the exhibit or attachment.

10. Each party acknowledges that they have read and fully understand the contents of this MOU. This MOU represents the entire and integrated agreement

between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral.

11. This MOU shall be in effect upon its full execution by the parties through the complete rendition of Project services and acceptance of all Project deliverables by each of the parties hereunder.

12. This MOU may be modified only by written instrument duly authorized and executed by all the parties.

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IN WITNESS WHEREOF, the parties have executed this MOU at Fresno, California, the day and year first above written.

CITY OF FRESNO,
a municipal corporation

By: _____
Randall L. Cooper, Director
Parks, Recreation and Community Services Department

ATTEST:
REBECCA E. KLISCH
City Clerk

By: _____
Deputy 10/9/07

APPROVED AS TO FORM:
JAMES C. SANCHEZ
City Attorney

By: _____ 8/23/07
Nancy A. Algier Date
Senior Deputy

ROEDING PARK PLAYLAND and FRESNO STORYLAND, each a California nonprofit corporation and governed by same Board of Trustees and officers

By: _____
Wayne Thomas, President, Board of Trustees

By: _____
Greg Baxter, Vice President, Board of Trustees

FRESNO'S CHAFFEE ZOO CORPORATION, a privately created California public benefit corporation

By: _____
Lewis Greene,
CEO/Executive Director

Addresses:

CITY:

City of Fresno Parks, Recreation & Community Services Department
Attention: Jerry Haynes, Assistant Director
2326 Fresno Street, Room 101
Fresno, CA 93721-1824
Phone: (559) 621-2910
FAX: (559) 498-1588

ROTARY:

Roeding Park Playland and Fresno Storyland
Attention: Barry Falke, Executive Director
890 W. Belmont Ave.
Fresno, CA 93728
Phone: (559) 486-2124
FAX: (559) 495-1594

ZOO:

Fresno's Chaffee Zoo Corporation
Attention: Lewis Greene, CEO
894 W. Belmont Ave.
Fresno, CA 93728
Phone: (559) 498-5915
FAX: (559) 264-9226

Attachments:

1. Exhibit "A" – CLR's Proposal for Additional Services related to Parks and Playland – Revised 3-22-07
2. Exhibit "A-1 – P&O's Agreement for Professional Services

City of FRESNO

REPORT TO THE CITYCOUNCIL

AGENDA ITEM NO.	
COUNCIL MEETING	12/9/08
APPROVED BY	
DEPARTMENT DIRECTOR	
CITY MANAGER	

December 9, 2008

FROM: RANDALL L. COOPER, Director
Parks, Recreation and Community Services Department

BY: JERRY HAYNES, Assistant Director
Parks, After-school, Recreation and Community Services Department

SUBJECT: APPROVE FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF FRESNO, ROEDING PARK PLAYLAND, FRESNO STORYLAND AND FRESNO'S CHAFFEE ZOO CORPORATION REGARDING PRELIMINARY ROEDING PARK MASTER USE, ENVIRONMENTAL AND DEVELOPMENT PLANNING

KEY RESULT AREA Customer Satisfaction

RECOMMENDATIONS

Staff recommends that the Council approve the attached First Amendment to Memorandum of Understanding (MOU) between the City of Fresno (City), Roeding Park Playland, Fresno Storyland and Fresno (Rotary) and Fresno Chaffee Zoo Corporation (ZOO). The purpose of the Amendment is to cooperate in certain further assessments including a tree study, historical resource assessment, and an evaluation of the Peach Avenue property.

EXECUTIVE SUMMARY

The City and Zoo entered into a Memorandum of Understanding in August of 2007; wherein, the Zoo hired CLRdesigning, Inc, (CLR), to prepare a Master Plan for the Zoo, and they also hired Paoli & Odell, Inc., (P&O) to prepare an Environmental Review Report (EIR). The Zoo retained ArborPro (AP) to prepare the comprehensive study of the trees in Roeding Park, and Page & Turnbull, Inc. (P&T) to prepare a Historical Resource Assessment Report.

Article A. under Roles and Contributions of the Parties shall be amended as follows: ZOO shall enter into and administer a contract with AP for the survey of trees within Roeding Park. City shall have the opportunity to review the contract before execution by ZOO and shall be provided with a copy of the fully executed contract thereafter. City shall pay ZOO within 30 days of City's approval of invoice, the amount of Fourteen Thousand Four Hundred Dollars ($14,400) provided that all deliverables shall be provided to City, and further provided that City's obligations shall be limited to allocated and available funds in each City fiscal year.

Furthermore, Article B shall be amended as follows: ZOO shall enter into and administer a contract with P&T for professional consulting services for preparation of a Historical Resource Assessment Report. City shall have the opportunity to review the contract before execution by ZOO and shall be provided with a copy of the fully executed contract thereafter. City shall pay ZOO within 30 days of City's approval of invoice, Fifty Percent (50%) of the cost of the Historical Resource Assessment Report, not to exceed a total sum of Thirty-five Thousand Dollars ($35,000), provided that all deliverables shall be provided to City, and further provided that City's obligations shall be limited to allocated and available funds in each City fiscal year.

Finally, Article C shall be amended as follows: ZOO shall enter into and administer a contract with P&O for professional consulting services for preparation of an evaluation of the Peach Property. City shall have the opportunity to review the contract before execution by ZOO and shall be provided with a copy of the fully executed contract thereafter. City shall pay ZOO within 30 days of City's approval of invoice, the amount of Five Thousand Six Hundred Dollars ($5,600) provided that all deliverables shall be provided to City, and further provided that City's obligations shall be limited to allocated and available funds in each City fiscal year.

KEY OBJECTIVE BALANCE

Customer Satisfaction: A Master Plan of Roeding including the ZOO will provide more amenities for Fresno's citizens to enjoy when visiting Roeding, which will undoubtedly generate positive experiences for our citizens. **Employee Satisfaction:** Employees will feel great satisfaction knowing that significant improvements have been and will continue to be made that will improve their work environment. **Financial Management:** PARCS is leveraging their funds by partnering with Rotary Playland/Storyland and the ZOO to prepare a Master Plan and Environmental Report for Roeding Park.

BACKGROUND

The ZOO hired CLR, to prepare a Master Plan for the ZOO, and they also hired P&O to prepare an Environmental Review Report (EIR). The PARCS Department Director and staff met with ZOO's Chief Executive Officer, Lewis Greene and other Zoo officials to discuss their Master Plan and EIR and the possibility of having CLR and P&O amend the Zoo's agreement to include Roeding Park and Playland/StoryLand. The ZOO amended CLR's and P&O's agreement with the understanding that City will reimburse the ZOO for the additional fees and reimbursable expenses. A Memorandum of Understanding was drafted, presented and approved by City Council on August 28, 2007 detailing the intentions of each party.

FISCAL IMPACT

The City shall pay from the General Fund, City Manager's Office, the total cost of the $14,400 to the ZOO for all deliverables related to the Roeding Park Tree Survey. The balance will be paid through Roeding Park Capital Fund, which includes fifty (50%) of the Historical Resource Assessment Report not to exceed a total sum of Thirty-five Thousand Dollars ($35,000), and Five Thousand Six Hundred Dollars ($5,600) within Thirty (30) days of City's approval of invoice for the Peach Property Evaluation from the Zoo. The total costs for all three projects will not exceed $55,000.

Attachments: First Amendment to MOU with attached CLR's proposal and P&O's Agreement
ArbroPro, Page & Turnbull and Paoli & Odell Assessments

FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF FRESNO, ROEDING PARK PLAYLAND, FRESNO STORYLAND AND FRESNO'S CHAFFEE ZOO CORPORATION REGARDING PRELIMINARY ROEDING PARK MASTER USE, ENVIRONMENTAL AND DEVELOPMENT PLANNING

This FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING (hereinafter "MOU") is entered between the CITY OF FRESNO, a municipal corporation of the State of California (hereinafter referred to as "CITY"), and FRESNO'S CHAFFEE ZOO CORPORATION, a California nonprofit corporation (hereinafter referred to as "ZOO").

WITNESSETH

WHEREAS, the CITY and ZOO entered into a Memorandum of Understanding (the "2007 Agreement"), as of the Effective Date defined therein. That agreement is attached hereto as Exhibit "A"; and

WHEREAS, the CITY and ZOO now wish to cooperate in certain further assessments including a comprehensive tree survey, an Historical Resource Assessment Study, and a Peach Avenue property evaluation; and

WHEREAS, ZOO has retained ArborPro, Inc. a California Corporation duly admitted in good standing to do business in California, for preparation of a comprehensive study of trees in Roeding Park; and

WHEREAS, ZOO has retained Page & Turnbull, Inc., a California Corporation duly admitted in good standing to business in California, for preparation of a Historical Resource Assessment Study; and

WHEREAS, ZOO has retained Paoli & Odell, Inc., a California corporation in good standing, to prepare for inclusion in the Roeding Regional Park and Fresno Chaffee Zoo Master Plans Environmental Impact Report a preliminary evaluation of environmental impacts associated with developing a PARCS maintenance yard at the Peach Avenue Property; and

WHEREAS, the CITY and ZOO now wish to amend and revise the 2007 Agreement as set forth below.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the CITY, ROTARY and ZOO hereby agree as follows:

ARTICLE 1
ROLES AND CONTRIBUTIONS OF THE PARTIES

A. Roeding Park Tree Survey

1. ZOO has entered into an agreement with ArborPro, Inc. for a comprehensive tree inventory of trees within Roeding Park (see Exhibit "B" attached hereto).

2. Within 30 days of CITY's approval of invoice, CITY shall pay ZOO the actual cost of the comprehensive tree survey, not to exceed Fourteen Thousand Four Hundred Dollars ($14,400) provided that all deliverables shall be provided to CITY, and further provided that CITY's obligations shall be limited to allocated and available funds in each CITY fiscal year.

B. Historical Resource Assessment Report

1. CITY and ZOO have entered into a Consultant Services Agreement with Page & Turnbull, Inc. for professional consulting services for preparation of a Historical Resource Assessment Study. A true and correct copy of that agreement is attached hereto as Exhibit "C".

2. Within 30 days of CITY's approval of invoice, CITY shall pay ZOO Fifty Percent (50%) of the cost of the Historical Resource Assessment Report, not to exceed a total sum of Thirty-Five Thousand Dollars ($35,000), provided that all deliverables shall be provided to CITY, and further provided that CITY's obligations shall be limited to allocated and available funds in each CITY fiscal year.

C. Peach Property Evaluation Assessment

1. ZOO shall enter into and administer a contract with Paoli & Odell, Inc. for professional consulting services to prepare for inclusion in the Roeding Regional Park and Fresno Chaffee Zoo Master Plans Environmental Impact Report a preliminary evaluation of environmental impacts associated with developing a PARCS maintenance yard at the Peach Avenue Property.

2. Within 30 days of CITY's approval of invoice, CITY shall pay ZOO the amount of Five Thousand Six Hundred Dollars ($5,600) provided that all deliverables shall be provided to CITY, and further provided that CITY's obligations shall be limited to allocated and available funds in each CITY fiscal year.

ARTICLE II
EFFECT OF THIS FIRST AMENDMENT

The 2007 Agreement shall remain in full force and effect except as amended hereby or inconsistent herewith.

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first above written.

CITY OF FRESNO,
a municipal corporation

By: _____
Randall L. Cooper

Title: Director – City PR&CS

FRESNO'S CHAFFEE ZOO CORPORATION

By: _____
Lewis Greene

Title: Chief Executive Officer

ATTEST:
REBECCA E. KLISCH
City Clerk

By: _____
Deputy (1/6/09)

APPROVED AS TO FORM:
JAMES C. SANCHEZ
City Attorney

By: _____
Deputy BRADLEY

Attachments:
Exhibit A – 2007 Agreement
Exhibit B – ArborPro Agreement
Exhibit C – Page & Turnbull Agreement

December 10, 2008

NO RETURN

Council Adoption: 12/9/08
Mayor Approval:
Mayor Veto:
Override Request:

TO: MAYOR ALAN AUTRY

FROM: REBECCA E. KLISCH, CMC
City Clerk

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 12/9/08, Council took legislative action entitled **Appv First Amndmnt to MOU btwn City of Fresno, Roeding Park Playland, Fresno Storyland & Fresno's Chaffee Zoo Corporation re: Preliminary Roeding Park Master Use, Environ & Dev. Planning**, Item No. **1F**, by the following vote:

Ayes	:	Calhoun, Caprioglio, Dages, Duncan, Perea, Sterling, Xiong
Noes	:	None
Absent	:	None
Abstain	:	None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before December 22, 2008. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

****

APPROVED:

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

_____

_____

_____ Date: _____
Alan Autry, Mayor

COUNCIL OVERRIDE ACTION: Date: _____

Ayes :
Noes :
Absent :
Abstain :

City of FRESNO REPORT TO THE CITYCOUNCIL

AGENDA ITEM NO.	
COUNCIL MEETING	2/10/09
APPROVED BY	
DEPARTMENT DIRECTOR	
CITY MANAGER	

February 10, 2009

FROM: RANDALL L. COOPER, Director
Parks, Recreation and Community Services Department

BY: JERRY HAYNES, Assistant Director
Parks, After-school, Recreation and Community Services Department

SUBJECT: APPROVE SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF FRESNO, ROEDING PARK PLAYLAND, FRESNO STORYLAND AND FRESNO'S CHAFFEE ZOO CORPORATION REGARDING THE ROEDING PARK MASTER PLANS ENVIRONMENTAL IMPACT REPORT

KEY RESULT AREA Customer Satisfaction

RECOMMENDATIONS

Staff recommends that the Council approve the attached Second Amendment to Memorandum of Understanding (MOU) between the City of Fresno (City), Roeding Park Playland, Fresno Storyland and Fresno Chaffee Zoo Corporation (ZOO). The purpose of the Amendment is to support the alternative environmental review methodology change in scope of work for Paoli & Odell, Inc. (P&O), the consultant hired by the Zoo to deliver the Environmental Impact Report (EIR), and to recommend payment of an additional $1,000 to Page & Turnbull, Inc. for consultant services regarding the Historical Resource Assessment Report according to the Exhibit A attached hereto.

EXECUTIVE SUMMARY

The City and Zoo entered into a Memorandum of Understanding in August of 2007; wherein, the Zoo hired CLRdesigning, Inc, (CLR), to prepare a Master Plan for the Zoo, and they also hired Paoli & Odell, Inc., (P&O) to prepare an Environmental Review Report (EIR). The Zoo proposed an alternative environmental review process methodology to P&O that would provide a draft EIR to the Zoo and City of Fresno by April 3, 2009. This change and others as defined in Exhibit C require an additional payment to P&O.

Article C. shall be amended as follows: ZOO shall amend the agreement with P&O to reflect the change in program and scope of work with P&O. City shall have the opportunity to review the amended agreement before execution by Zoo and shall be provided with a copy of the fully executed agreement thereafter. City shall pay ZOO within 30 days of City's approval of invoice, Thirty-Five Percent (35%) of the increased cost of the EIR, not to exceed a total sum of Fifty Thousand Dollars ($50,000), provided that all deliverables shall be provided to City, and further provided that City's obligations shall be limited to allocated and available funds in each City fiscal year.

Through the City Managers Office on January 28, 2009, a meeting was held with members from the Chaffee Zoo Corporation, Chaffee Zoo staff and consultants, along with city staff attending. As a result of that meeting, it was agreed to by all parties that every effort would be made to process the Draft Environmental Impact Report within sixty (60) days, barring any unforeseen challenges.

Additionally, the Zoo and the City hired Page & Trunbull, Inc, as consultants to prepare a Historical Resource Assessment Report. The final bill has been received, and an additional $1,000 is required to satisfy their invoice.

KEY OBJECTIVE BALANCE

Customer Satisfaction: A Master Plan of Roeding including the ZOO will provide more amenities for Fresno's citizens to enjoy when visiting Roeding, which will undoubtedly generate positive experiences for our citizens. **Employee Satisfaction:** Employees will feel great satisfaction knowing that significant improvements have been and will continue to be made that will improve their work environment. **Financial Management:** PARCS is leveraging their funds by partnering with Rotary Playland/Storyland and the ZOO to prepare an Environmental Report for Roeding Park and to pay the additional $1,000 to Page & Turnbull, Inc. consultants for the Historical Resources Assessment Report.

BACKGROUND

The ZOO hired CLR, to prepare a Master Plan for the ZOO, and they also hired P&O to prepare an Environmental Review Report (EIR). The PARCS Department Director and staff met with ZOO's Chief Executive Officer, Lewis Greene and other Zoo officials to discuss their Master Plan and EIR and the possibility of having CLR and P&O amend the Zoo's agreement to include Roeding Park and Playland/StoryLand. The ZOO amended CLR's and P&O's agreement with the understanding that City will reimburse the ZOO for the additional fees and reimbursable expenses. A Memorandum of Understanding was drafted, presented and approved by City Council on August 28, 2007 detailing the intentions of each party.

On December 9, 2008 the City Council approved the First Amendment to the MOU which supported and helped to fund the Zoo's hiring of ArborPro to prepare a comprehensive study of the trees in Roeding Park, and the hiring of Page & Turnbull, Inc. to prepare a Historical Resource Assessment Report.

FISCAL IMPACT

PARCS shall pay using Roeding Park Capital Fund, Thirty-Five Percent (35%) of the increased cost of the EIR, not to exceed a total sum of Fifty Thousand Dollars ($50,000).

Attachments: Second Amendment to MOU
Exhibit A - Agreement
Exhibit B - P&O's Revised Agreement
Exhibit C – P&O's Letter Requesting Revised Agreement

SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF FRESNO, ROEDING PARK PLAYLAND, FRESNO STORYLAND AND FRESNO'S CHAFFEE ZOO CORPORATION REGARDING PRELIMINARY ROEDING PARK MASTER USE, ENVIRONMENTAL AND DEVELOPMENT PLANNING

This SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING ("2nd AMENDMENT") is entered this 15th day of March, 2009, between the CITY OF FRESNO, a municipal corporation of the State of California (hereinafter referred to as "CITY"), and FRESNO'S CHAFFEE ZOO CORPORATION, a California nonprofit corporation (hereinafter referred to as "ZOO").

RECITALS

WHEREAS, CITY, ZOO, ROEDING PARK PLAYLAND, and FRESNO STORYLAND entered into a Memorandum of Understanding dated August 21, 2007 for the obtaining and administration of consulting services, as once amended, hereinafter collectively referred to as "Agreement" and attached hereto as Exhibit A;

WHEREAS, the Fresno City Council approved payment for the increases in costs set forth in this MOU at its February 10, 2009 meeting, the minutes of which are attached hereto as Exhibit C; and

WHEREAS, CITY and ZOO desire to modify the Agreement in certain regards, upon the terms and conditions herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions and premises hereinafter contained, to be kept and performed by the respective parties, the parties agree that the aforesaid Agreement be amended as follows:

1. The following language will be added to the Agreement as Article I, Section D:

D. Historical Resource Assessment Report

1. CITY and ZOO have entered into a Consultant Services Agreement with Page & Turnbull, Inc. for professional consulting services for preparation of a Historical Resource Assessment Study. A true and correct copy of that agreement is attached hereto as Exhibit "C".

2. Within 30 days of CITY's approval of invoice, CITY shall pay ZOO Fifty Percent (50%) of the cost of the Historical Resource Assessment Report, not to exceed a total sum of Forty Thousand Dollars ($40,000), provided that all deliverables shall be provided to CITY, and further provided that CITY's

obligations shall be limited to allocated and available funds in each CITY fiscal year.

2. Article I, C of the Agreement shall be supplemented as follows:

3. ZOO shall amend the contract with Paoli and Odell, Inc., to reflect the change in program and scope of work as outlined in Exhibit B to this ~~Second~~ 2nd Amendment.

.4. CITY shall have the opportunity to review the amended contract with Paoli & Odell, Inc., before execution by ZOO and shall be provided with a copy of the fully executed contract thereafter.

3. The following language will be added to the Agreement as Article I, Section E:

E. Increased Costs of Paoli and Odell, Inc. Contract

3. CITY shall pay ZOO within 30 days of CITY'S approval of invoice, Thirty-Five Percent (35%) of the increased cost of the Paoli and Odell, Inc., not to exceed a total sum of Fifty Thousand Dollars ($50,000), provided that all deliverables shall be provided to CITY, and further provided that CITY'S obligations shall be limited to allocated and available funds in each CITY fiscal year.

ARTICLE II
EFFECT OF THIS SECOND AMENDMENT

The Agreement shall remain in full force and effect except as amended hereby or inconsistent herewith.

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IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first above written.

CITY OF FRESNO,
a municipal corporation

By: _____
Randall L. Cooper

Title: Director – City PR&CS

FRESNO'S CHAFFEE ZOO CORPORATION

By: _____
Colin Dougherty

Title: Chairman, Board of Directors

ATTEST:
REBECCA E. KLISCH
City Clerk

By: _____ 3/24/09
Deputy

APPROVED AS TO FORM:
JAMES C. SANCHEZ
City Attorney

By: _____
Deputy BRADLEY

Attachments:
Exhibit A – Agreement
Exhibit B – Program and Scope of Work
Exhibit C – Council Minutes

KEB:sn [47969sn/keb] 2/4/09