



March 3, 2011

FROM: PATRICK WIEMILLER, Public Works Director  
Public Works Department

BY: KELLY RIDDLE, Manager  
Facilities and Major Projects Division

SUBJECT: APPROVE A FOURTH AMENDMENT TO THE AGREEMENT WITH DESIGN LAB  
252, OF FRESNO, CA, IN THE AMOUNT OF \$5,300.00 TO PROVIDE ADDITIONAL  
SERVICES FOR THE EATON PLAZA PARK PROJECT

### RECOMMENDATION

Staff recommends that the City Council approve a Fourth Amendment to the Agreement with Design Lab 252 in the amount of \$5,300.00 for additional services for the Eaton Plaza Park Project, including preparation of additional design documents necessary for securing the Conditional Use Permit (CUP). Authorization is recommended for the Public Works Director, or designee, to sign the amendment agreement.

### EXECUTIVE SUMMARY

Staff requested Design Lab 252 to provide additional services, including provisions of drawings and documents to adjust phasing of construction, which triggered the redesign and re-submittal of Conditional Use Permit (CUP) documents to Development and Resource Management department (DARM) staff. The Fourth Amendment to the Agreement, in the amount of \$5,300, is recommended.

Design Lab 252's total cost is now \$104,220. The Third Amendment was brought to Council on February 25, 2010, unbeknownst to Staff at the time, that the project would need to be split into two phases. Splitting the project into two phases was done to allow for the project's construction timeline to be expedited, which triggered a partial redesign and an additional CUP review. The project is currently on hold, pending budget discussions, and staff has been directed to finalize the plans and shelve the project until funding becomes available to construct it. This request for additional fees is the final request. The plans will be 100% complete and the CUP and Building Permit Reviews will also be 100% complete.

### BACKGROUND

On January 20, 2009, the City of Fresno Public Works Department entered into an informal agreement with Design Lab 252 in the amount \$34,885 to prepare landscape design for Eaton Plaza Park. Their original scope of work included the updating of the original approved master plan and creating plans and specifications for construction of new turf, irrigation and pedestrian walkways. On June 15, 2009, a First Amendment to the Agreement with Design Lab 252 was approved in the amount of \$15,065 for the preparation of plans and specifications for the removal of two existing parking lots and the installation of new turf and irrigation. This scope was not included in their original agreement because it was decided later during City's labor negotiations with the Police Union that the parking lots would be eliminated. After Council adopted the revised Eaton Plaza Master Plan, various stakeholder groups voiced their concerns

about the removal of the Camphor tree grove and requested the City to incorporate the existing Camphor trees into the Eaton Plaza Master Plan. With direction from the City Manager's Office, staff requested Design Lab 252 to provide a fee proposal to highlight methods to preserve and incorporate the Camphor tree grove into the master plan. The Second Amendment to Agreement was approved on October 27, 2009 in the amount of \$22,410, which covered the Camphor tree impact analysis for the design and construction of Eaton Plaza. Design Lab 252 consulted with various stakeholder groups and conducted site meetings with an independent arborist to discuss best management and maintenance practices when designing and preserving ornamental shade trees of this size and age. The Third Amendment to the Agreement was approved by Council on February 25, 2010 in the amount of \$26,560, which covered the preparation of all work required to complete forms for the CUP applications, including the Environmental Assessment and assemble all drawings for the various reviews necessary at that time.

The Fourth Amendment to the Agreement is for \$5,300, bringing Design Lab 252's agreement to a total cost of \$104,220. The Fourth Amendment to the Agreement will increase the responsibilities of Design Lab 252 to include all work required to complete forms for the revised CUP applications, including the Environmental Assessment, and assemble all drawings for the various reviews.

Their responsibilities shall include:

- A. Work with City of Fresno Staff to complete package that meets CUP Application Requirements.
- B. Preparation of complete plans in accordance with the City's Conditional Use Permit (CUP).
- C. Submit one (1) copy of the Conditional Use Permit (CUP) Application Form
- D. Submit one (1) copy of the CUP Environmental Assessment Form
- E. After internal review, the City's redline changes shall be saved as pdf's and sent to Design Lab 252 for transfer onto a CD.
- F. Submit all documents necessary for the CUP review and a second/final submittal.
- H. Submit to the Public Works Department for record one (1) compact disk, in pdf format, depicting red line changes made to prior submitted documents.
- I. Provide the City of Fresno the most current electronic CAD file of Eaton Plaza on compact disk.

## **FISCAL IMPACT**

There is no impact to the General Fund; all funds for this project are appropriated within the Park Impact Fee Bond Fund.

Attachment: Fourth Amendment to Agreement  
Report to Council Third Amendment to Agreement  
Report to Council Second Amendment to Agreement  
First Amendment to Agreement

## FOURTH AMENDMENT TO AGREEMENT

THIS FOURTH AMENDMENT TO AGREEMENT ("Amendment") made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2010, amends the Agreement heretofore entered into between the CITY OF FRESNO, a municipal corporation, hereinafter referred to as "CITY", and Design Lab 252, a California Corporation, hereinafter referred to as "CONSULTANT".

### RECITALS

WHEREAS, CITY and CONSULTANT entered into an Agreement, dated January 20, 2009, for the design of plans and general construction documents and professional services for improvements for Eaton Plaza, hereinafter referred to as "Agreement;" and

WHEREAS, CONSULTANT has completed 99% of the drawings for the CUP submission of the Agreement for Eaton Plaza; and

WHEREAS, City now desires to modify the scope of work, therein, by requiring the additional services.

WHEREAS, the Third Amendment to Agreement, dated 25<sup>th</sup> day of February, 2010, increased the total compensation under the Agreement to \$98,920.00 shall now with the FOURTH Amendment increase an additional amount not to exceed \$5,300.00, increasing the total compensation to \$104,220.00 for performing additional work under this Agreement; and

WHEREAS, CITY now desires to modify the scope of services, therein, by requiring the additional services described in Attachment A.

### 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. CONSULTANT shall provide additional services as described in Attachment A, attached hereto and incorporated herein by reference. Such additional services require no additional days under the Agreement to complete the services herein. The additional services will be performed under the schedule originally set by the Agreement.

2. CONSULTANT'S sole compensation for satisfactory performance of all services required or rendered pursuant to this Forth Amendment shall be a total fee of \$5,300.00

3. In the event of any conflict between the body of this Amendment and any Exhibit or Attachment hereto, the terms and conditions of the body of this Amendment shall control and take precedence over the terms and conditions expressed within the Exhibit or Attachment. Furthermore, any terms or conditions contained within any Exhibit or Attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Amendment, shall be null and void.

4. Except as otherwise provided herein, the Agreement entered into by CITY and CONSULTANT, dated January 20, 2009, remains in full force and effect.

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

CITY OF FRESNO,

Design Lab 252, Inc,

a municipal corporation

By: \_\_\_\_\_  
Ken A. Nerland, Director,  
Department of General Services

ATTEST:

REBECCA E. KLISH  
City Clerk

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM  
JAMES SANCHEZ  
City Attorney

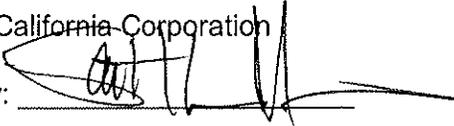
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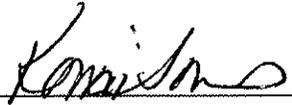
\_\_\_\_\_  
Kelly S. Riddle, Facilities & Major Project  
Manager, Department of General Services

City of Fresno  
Attention: Gary S Biglione  
Project Manager  
2101 "G" Street, Bldg. A  
Fresno, CA 93706  
Phone: (559) 621-1223

a California Corporation

By:  \_\_\_\_\_  
Name: Scott Mears

Title President

By:  \_\_\_\_\_

Name: Konni Jones

Title: Secretary

CONSULTANT: Design Lab 252  
Attention: Scott Mears, President  
P.O. Box 27616  
Fresno, CA 93729-7616  
Phone: (559) 999-4397

Attachment: Attachment "A" – Scope of Service

# EXHIBIT A

## SCOPE OF SERVICES

### EATON PLAZA, DOWNTOWN FRESNO

#### **Project Site Location:**

Eaton Plaza, 2430 Fresno St. Fresno, CA. APN# 46609305T

#### **Project Description:**

Design Lab 252 will provide the work required to meet the requests for additional features within Eaton Plaza by City staff and an adjustment of phasing which triggered redesign and re-submittal of CUP documents to City of Fresno, Planning staff. Designlab252 will make the required adjustments to the plans and revise CUP documents for the Eaton Plaza Project.

#### **Proposed Scope of Service:**

**Task 13: Conditional Use Permit (CUP)** – Work with City of Fresno Staff to complete package that meets CUP application requirements.

Assumptions: City staff shall provide:

1. Application Fees
2. Air Quality Permits

Designlab252 shall provide:

1. Application Form
2. Environmental Assessment Form

Designlab252 shall complete plans per the City of Fresno's, Conditional Use Permit (CUP) Submittal Requirements that will include the:

1. Operational Statement
2. Site Plan
3. Landscape Plan
4. Elevations & Floor Plans for restroom facilities
5. Update the project schedule and the probable cost of construction estimate

#### **Deliverables:** Forms:

1. One (1) copy of the CUP Application Form
2. One (1) copy of the CUP Environmental Assessment Form

Site Plan-

1. Four (4) copies of full size copies (folded)

Landscape Plan-

1. Four (4) copies of full size copies (folded)

Elevations & Floor Plans –

1. Four (4) copies of full size copies (folded)

After internal review the City's redlines shall be saved as pdf's and sent to designlab252 for transfer onto a CD.

This proposal covers the first submittal, changes per the CUP review and a second/final submittal. Any additional work and submittals shall be considered extra work.

**Price to  
Client:**

Work and deliverables for Task 13 will be provided for a fixed fee of not to exceed \$5,300.00