

**FIRST AMENDMENT TO  
MASTER AGREEMENT FOR CONSULTANT SERVICES  
BETWEEN  
THE CITY OF SAN JOSE  
AND  
GROUP 4 ARCHITECTURE RESEARCH + PLANNING, INC.  
FOR ARCHITECTURE AND ENGINEERING SERVICES  
FOR THE  
SAN JOSE ENVIRONMENTAL INNOVATION CENTER PHASE II PROJECT**

THIS FIRST AMENDMENT TO AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009 by and between the CITY OF SAN JOSE, a municipal corporation (hereinafter "CITY"), and **GROUP 4 ARCHITECTURE RESEARCH + PLANNING, INC.**, a California corporation (hereinafter "CONSULTANT").

**RECITALS**

WHEREAS, on September 24, 2009, CITY and CONSULTANT entered into an agreement entitled "Master Agreement for Consultant Services between the City of San José and Group 4 Architecture Research + Planning, Inc. for Architecture and Engineering Services for the San Jose Environmental Innovation Center Phase II Project" ("Agreement"); and

WHEREAS, CITY and CONSULTANT desire to amend the AGREEMENT to: (1) extend the term of the Agreement to November 30, 2010, (2) clarify limits on the scope of services, and (3) increase the amount of total compensation by \$500,000;

NOW, THEREFORE, the parties agree to amend the Agreement as follows:

**SECTION 1.** SECTION 2 of the Agreement, entitled "TERM OF AGREEMENT," is amended to read as follows:

San José Environmental Innovation Center Phase II Project  
First Amendment to Master Agreement 1

“The term of this AGREEMENT shall be from the date of execution of this AGREEMENT and continue through November 30, 2010, inclusive, subject to the provision of Section 12 of this AGREEMENT.”

**SECTION 2.** SECTION 4 of the Agreement, entitled “COMPENSATION,” is amended to read as follows:

“The compensation to be paid to the CONSULTANT, including both payment for professional services and reimbursable expenses, shall not exceed TWO MILLION DOLLARS (\$2,000,000). The rate and schedule of payment is set out in REVISED EXHIBIT D, entitled “COMPENSATION,” which is attached hereto and incorporated herein.”

**SECTION 3.** EXHIBIT C of the Agreement, entitled “SCHEDULE OF PERFORMANCE,” is amended to read as shown in REVISED EXHIBIT C, attached and incorporated into this First Amendment.

**SECTION 4.** Section 2 of EXHIBIT B of the Agreement, entitled “SCOPE OF SERVICES,” is amended to include the following:

“Notwithstanding the generality of the foregoing to the contrary, in no event shall CONSULTANT be authorized to perform services for the PROJECT beyond the completion of 100% construction documents without further amendment of this AGREEMENT.”

**SECTION 5.** EXHIBIT D of the Agreement, entitled “COMPENSATION,” is amended to read as shown in REVISED EXHIBIT D, attached and incorporated into this First Amendment.

**SECTION 6.** All of the terms and conditions of the original Agreement not modified by this First Amendment shall remain in full force and effect.

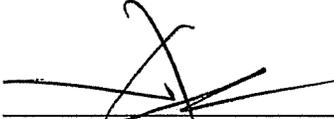
WITNESS THE EXECUTION HEREOF on the day and year first written above.

“CITY”

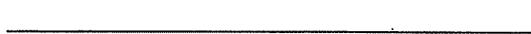
APPROVED AS TO FORM:

**CITY OF SAN JOSE, a Municipal Corporation**

By

  
Kenneth D. Johnson  
Sr. Deputy City Attorney

By

  
Lee Price, MMC  
City Clerk  
801 North First Street,  
San Jose, CA 95110

“CONSULTANT”

**GROUP 4 ARCHITECTURE RESEARCH +  
PLANNING, INC.,**  
a California Corporation

By

  
Wayne Gehrke, AIA  
Vice President  
211 Linden Avenue  
South San Francisco, CA 94080  
TAX ID# 94-2376500  
650-871-0709  
650-871-7911 fax

**REVISED EXHIBIT C**

**SCHEDULE OF PERFORMANCE**

EXHIBIT "C" of the AGREEMENT, entitled "SCHEDULE OF PERFORMANCE," is amended as follows:

"All work under this AGREEMENT shall be completed on or before November 30, 2010. Work shall be initiated on an as-needed basis at the request of the CITY, and work shall be pursuant to details defined in each specific Service Order, as set for in EXHIBIT B of this AGREEMENT.

At the discretion of the CITY, the term and of this AGREEMENT may be extended up to six months in order to complete specific project work that is authorized by Service Order prior to November 30, 2010. Extension of the term and the AGREEMENT shall be accomplished only by the written authorization of the Director of Public Works or the Director's designee, and only in the event that no other provision of this AGREEMENT are modified."

## REVISED EXHIBIT D

### COMPENSATION

#### **Section 1. Maximum Compensation for Master Agreement.**

**Maximum Amount:** The maximum amount of compensation the CITY will pay to the CONSULTANT under this Master Agreement, including both payment for professional services and reimbursable expenses, shall not exceed TWO MILLION DOLLARS (\$2,000,000). Any hours worked for which payment would result in a total exceeding this maximum amount shall be at no cost to the CITY.

**Manner of Payment:** Each SO will set forth whether the CITY will pay the CONSULTANT for work performed under such SO on a lump sum basis. Section 2 of this Exhibit applies to each SO where the CITY will pay the CONSULTANT a lump sum for the work performed.

#### **Section 2. Lump Sum Payment.**

**2.1 Lump Sum Amount:** The SO shall specify the lump sum amount the CITY will pay the CONSULTANT for performing the required work. The lump sum amount compensates the CONSULTANT for all its costs necessary to complete the work, including professional services and reimbursable expenses. CONSULTANT shall complete all work set forth in the SO for the lump sum amount.

**2.2 Progress Payments:** The SO may provide for the CITY to pay the lump sum amount by making progress payments. Under such circumstances, the SO shall specify appropriate tasks and the amount payable for each task. The CONSULTANT shall invoice based on payment per tasks against the sum total of the SO based on a percentage of completion per task. The CITY will make the appropriate progress payment to the CONSULTANT within thirty (30) days of the DIRECTOR's approval of the CONSULTANT's invoice.

**2.3 Lump-Sum Payment:** If the SO does not provide for the CITY to make progress payments, then the CITY shall make a single, lump-sum payment to the CONSULTANT upon completion of all the work to the DIRECTOR's satisfaction. Upon completion of the work to the DIRECTOR's satisfaction, the CONSULTANT shall invoice the CITY for the lump-sum amount. The CITY shall pay the lump-sum amount within thirty (30) days of the DIRECTOR's approval of the CONSULTANT's invoice.

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Mateo }

On 10-21-09 before me, Marta Jimenez  
Date Here Insert Name and Title of the Officer

personally appeared Wayne Gehrke  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Marta Jimenez  
Signature of Notary Public

Place Notary Seal Above

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Description of Attached Document

Title or Type of Document: Master Agreement for Consulting Services

Document Date: \_\_\_\_\_ Number of Pages: 5

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

- Signer's Name: \_\_\_\_\_
- Individual
  - Corporate Officer — Title(s): \_\_\_\_\_
  - Partner —  Limited  General
  - Attorney in Fact
  - Trustee
  - Guardian or Conservator
  - Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_

- Signer's Name: \_\_\_\_\_
- Individual
  - Corporate Officer — Title(s): \_\_\_\_\_
  - Partner —  Limited  General
  - Attorney in Fact
  - Trustee
  - Guardian or Conservator
  - Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_

**DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.**