

**AMENDMENT TO AGREEMENT  
FOR CONSULTATION AND OTHER SERVICES**

This Amendment is entered into this 5th day of February, 2008, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and Harris Design (hereafter referred to as "CONSULTANT").

**RECITALS**

WHEREAS, the parties entered into an Agreement for professional Engineering services for Park Master Plan project, (Project No. 5083), on August 7, 2007; and

WHEREAS, the parties desire to amend the Agreement to allow CONSULTANT to provide additional professional engineering and design services for the design of Calle Oriente Park.

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties agree to amend the Agreement as follows:

1. The first sentence in Subsection 1.1, entitled "Term of Services" is amended to read:

The term of this Agreement shall begin on the date first noted above and shall end on **December 31, 2009**.

2. Section 1, entitled "Services" is amended by adding Exhibit "A-1", which is attached hereto and incorporated by reference herein.
3. Section 2, entitled " Compensation " is amended to add Exhibit "A-1", which is attached hereto and incorporated by reference herein. Section 2 is further amended by adding the following to the end of the Section:

The compensation for the services set forth in Exhibit "A-1" is a "not to exceed" amount. The total maximum amount of compensation to be paid for tasks outlined in Exhibit "A-1" shall be **\$73,220.00**.

4. The Consultant agrees to maintain and pay for all insurance policies as stated in Section 4, entitled "Insurance Requirements" of the Agreement dated **August 7, 2007**, between **Harris Design** and the City of Milpitas. The Consultant shall provide the City with renewal certificates of the current policies upon the expiration of the current policy.

5. All other provisions of the Agreement shall remain in full force and effect.  
This Amendment is executed as of the date written above.

APPROVED BY:

CITY OF MILPITAS

CONSULTANT

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City Engineer as to content

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City Manager

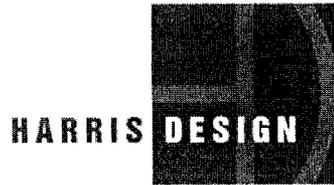
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City Attorney as to Form

ATTESTED BY:

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City Clerk

Exhibit A-1

Landscape Architecture • Park and Recreation Planning • Urban Design



January 18, 2008

Ms. Julie Waldron  
City of Milpitas  
455 East Calaveras Blvd.  
Milpitas, CA 95035

Subject: Calle Oriente Park  
Revised Proposal for Landscape Architectural Services

Dear Julie:

Thank you for requesting this proposal to provide landscape architectural services for a remodel of the Calle Oriente Park. We agree that the time is right for a makeover, as this park suffers from worn out pavement, inadequate facilities, a lack of green space, and a play area that does not meet ADA or CPSC standards.

This revised proposal is based on the following parameters:

- The park will be constructed in two phases
- The first phase will have a construction budget of approximately \$135,000.
- The construction scope for the first phase will include approximately 6,000 sq. ft. adjacent to Calle Oriente street with a 2 - 5 year old fenced playground with a shade structure, minor landscaping & park sign. This assumes that these improvements can be accomplished within the construction budget.
- The second phase should include a 5 - 12 year old playground with water element, lighting and drinking fountain.
- Other second phase improvements will be determined during the design process.

The scope of services has been modified in this revision to allow for preparation of two separate bid document packages, and to include the services of an electrical engineer. We also will include the services of a structural engineer if needed.

Based on this understanding, the following scope of services is proposed:

**Basic Services**

**1.0 Preliminary Design**

**1.02 Kick-off Meeting**

Meet with City Staff to verify project schedule and anticipated scope of construction. Confirm desired irrigation equipment, site furnishings and other City standard items. Walk the site with Staff to review and confirm the proposed improvements. Prepare written consultation minutes and distribute to City staff.

1.02 Horticultural Soils Testing and Analysis

Collect samples of in-place topsoil. Submit to Soil and Plant Laboratory for testing and analysis of physical and chemical properties, and for recommendation of soil preparation materials and procedures.

1.03 Site Reconnaissance

Visit the site, take photographs, and note existing conditions.

1.04 Prepare Electronic Base Sheets

Using the topographic survey as a base, prepare base sheets in AutoCAD format to define the proposed physical improvements.

1.05 Schematic Alternatives – Entire Park

Prepare two or three schematic design alternatives for the entire park for discussion with Staff. Plans to be in black and white.

1.06 Define First Phase Improvements

The schematic alternatives will include defining a first phase construction project with a construction budget of approximately \$135,000.

1.07 Playground Equipment and Site Furnishings Selection

Prepare a booklet of catalog cuts to illustrate options for the site furnishings and playground equipment.

1.08 Cost Estimate

An estimate of probable construction cost will be prepared. The cost estimate will be compared to the available funding. Should the cost estimate exceed available financial resources, appropriate project modifications such as phasing or additive alternate bid items will be reviewed with City Staff, and incorporated into the project design.

1.09 Staff Review

Present schematic alternatives to staff for review and comment.

2.0 Design Development (30% Construction Documents)

2.01 Design Development Drawings

Prepare the following plans to the 30% completion level:

- Schematic layout plan
- Schematic drainage and grading plan
- Schematic planting plan

#### 2.02 Preliminary Specifications and Cost Estimates

An outline of the technical specification sections, construction cost estimates, and the bid form will be prepared. Separate estimates and bid forms will be prepared for the two construction phases.

#### 2.03 Submittal – 30% PS&E

Up to three sets of hard-copy prints of plans, specifications, and estimates will be submitted to City Staff for review.

#### 2.04 Staff Review Meeting

The consultant will meet with City Staff to review the preliminary design (30% PSE). The consultant will prepare a meeting summary to document all comments and direction by City Staff for subsequent project stages.

### Phase 3.0 – Construction Documents

#### 3.01 90% Submittal

The consultant will prepare a 90% complete set of construction Plans, Specifications, and Construction Cost Estimates to include the following documents. All drawings will be in AutoCAD format. Two separate sets of documents will be prepared, one for each construction phase.

- Sheet 0                      Cover Sheet
- Sheet L1                     Demolition Plan
- Sheet L2                     Grading and Drainage Plan
- Sheet L3                     Construction Materials and Layout Plan
- Sheet L4                     Grading, Drainage, and Construction Details
- Sheet L5                     Irrigation Plan
- Sheet L6                     Irrigation Legend and Notes
- Sheet L7                     Irrigation Details
- Sheet L8                     Planting Plan
- Sheet L9                     Planting Details
- Sheet L-10                  Electrical Plan
- Sheet L-11                  Electrical Details
- Technical Specification Sections (general conditions by City Staff)
- Bid Form

#### 3.02 Cost Estimates

Prepare 90% estimate of probable construction costs for each phase.

3.03 Submittal – 90% Construction Documents

Up to three sets of hard-copy prints of plans, specifications, and estimates will be submitted to City Staff for their review.

3.04 Staff Review Meeting

The consultant will meet with Staff to review plan-check comments and desired modifications.

3.05 Final Bid Documents (100% completion)

The consultant will make any corrections noted, and submit the final construction documents to the City for their final approval and use as the Bid documents. The final submittal will be in the form of one set of reproducible drawings, one hard copy and one set of camera ready specifications, and electronic files in the City's format.

3.06 Final Cost Estimates

Prepare a final opinion of probable construction cost, advising the City of any adjustments to previous estimates/budgets due to changes in project requirements or general market conditions.

4.0 Bidding Assistance and Construction Review Services

NOTE: Phase 4.0 services are proposed for the first construction phase only. Phase 4.0 services for the second or other future construction phases will be provided as requested with additional compensation.

4.01 Bidding Assistance

Services to be provided during the bid period include:

- attendance at the pre-bid conference if any
- responding to contractors' questions
- preparation of addendum (or addenda) if any
- review of the bids received
- recommendation for award of contract.

4.02 Pre-construction Conference

The consultant will facilitate a pre-construction conference to review the contract requirements with the contractor and City. Minutes will be prepared and distributed.

4.03 Shop Drawings, Samples, and Submittals Review

Review and approve shop drawings, samples and other data which the Contractor is required to submit, but only for conformance with the design concept of the project and compliance with the information given in the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods,

techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.

- 4.04 Requests for Information (RFI's)  
In response to Contractor's requests, issue necessary interpretations and clarifications of the Construction Contract Documents.
- 4.05 Requests for Quotations (RFQ's)  
Prepare RFQ's and issue to Contractor for change order quotations of additional work as requested by the City.
- 4.06 Change Orders  
Prepare bulletins, work directive changes and change orders as required.
- 4.07 Substitutions  
Evaluate and determine the acceptability of substitute materials and equipment proposed by the Contractor to the extent provided in the General Conditions of the construction contract.
- 4.08 Site Visits  
Make visits to the site at intervals appropriate to the various stages of construction in order to observe the progress and quality of the various aspects of the Contractor's work. Based on information obtained during such visits and on such observations, Harris Design will endeavor to determine, in general, if such work is proceeding in accordance with the contract documents. Harris Design will prepare and distribute a site observation report for each site visit. For budgeting for this project, Harris Design's site visits will be limited to 8 visits. Additional site visits may be provided as additional services.
- 4.09 Rejection of Work  
On the basis of site observations, Harris Design will disapprove of or reject Contractor's work while it is in progress if Harris Design believes that such work will not produce a completed project that conforms generally to the contract documents or that it will prejudice the integrity of the design concept of the project as reflected in the Construction Contract Documents.
- 4.10 Recommend Acceptance of the Work  
Act as initial interpreter of the requirements of the contract documents, judge of the acceptability of the work, and render an opinion on all claims of City and Contractor relating to the acceptability of the work or the interpretation of the requirements of the contract documents pertaining to the execution and progress of the work.
- 4.11 Review Contractor-Supplied Verifications and Supplemental Information  
Receive and review maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests and approvals which are to be assembled

by the Contractor in accordance with the Construction Contract Documents. Such review will only be to determine that their content complies with the requirements of, and in the case of certificates of inspection, tests and approvals the results certified indicate compliance with, the Construction Contract Document.

4.12 Substantial Completion Review

Harris Design will conduct an inspection to determine if the work is substantially complete, and will prepare a punch list of uncompleted or unacceptable work items. Should the project be determined by Harris Design to be substantially complete, a notice of substantial completion will be prepared and issued to the Contractor. This notice shall give the Contractor authorization to begin the maintenance period.

4.13 Follow-Up Substantial Completion Review (if necessary)

Should the project not be determined to be substantially complete, the Contractor shall satisfactorily complete the punch list items and issue a notice that all punch list items have been completed. Upon receipt of this notice, a second review will be held to determine if the completed work is acceptable. Once the work has been deemed substantially complete, notice shall be given to the Contractor indicating authorization to begin the maintenance period.

4.14 Final Review

Upon completion of the maintenance period, a site review will be conducted to determine completion of the construction contract. Harris Design will recommend, in writing, final payment to Contractor and/or give written notice to the City and the Contractor that the work is acceptable.

4.15 Record Drawings

Prepare a set of reproducible record drawings showing significant changes in the work made during construction based on marked-up prints, drawings and other data furnished by the Contractor to Harris Design.

4.19 Project Close-Out

Compile all project construction documents and record drawings in electronic format and transfer to compact disc; submit to City. Compile all construction period documentation and records in electronic format and transfer to compact disc; submit to City. Close out and archive project files and records.

**Other Services**

We will be assisted by the following subconsultants who will contract directly with Harris Design:

- Allied Engineering, topographic surveyors and civil engineers
- GeoForensics, geotechnical engineers
- Alliance Engineering Consultants, electrical engineers
- Biggs Cardoso and Associates, Inc.

#### Topographic Survey

A topographic survey will be prepared for the park site. The survey will include 1 foot contour intervals and all necessary topographic and utility data.

#### Geotechnical Engineering

Drill borings in the existing basketball court and walkway areas to determine depth of existing pavement (for bidding purposes) and for development of recommendations for pavement thickness, section design, and reinforcing as necessary.

#### **Reimbursable Expenses for Calle Oriente Park Project**

Reimbursable expenses are excluded from Harris Design's basic compensation as described and the City shall, in addition to payment for the Basic Services, reimburse Harris Design for these expenditures made in the interest of the project, as allowed by City of Milpitas policy.

#### **Additional Services for Calle Oriente Park Project**

In addition to the above services, Harris Design would be pleased to provide Additional Services that are requested by the City. Labor and reimbursable expenses for services in addition to those described above, shall be compensated in accordance with Harris Design's Standard Fee and Reimbursement Schedule for the actual hours worked and costs incurred by Harris Design. Additional Services may include, but are not limited to, the following:

- Making presentations to City Commissions, Council, Committees, or other advisory or decision-maker bodies.
- Bidding assistance and construction review services for the second construction phase or other future construction phases.
- Providing services to investigate existing conditions of facilities or to make measured drawings thereof, or to verify the accuracy of drawings or other information, including survey information furnished by the City.
- Providing services to investigate the work of independent consultants or construction manager retained by the City.
- Revising drawings, specifications or other documents when the revisions are inconsistent with written approvals or instructions previously given; required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents; and/or due to other causes not solely within Harris Design's control.
- Preparing drawings, specifications, supporting data and providing other services in connection with change orders required due to causes not solely within Harris Design's control.

- Providing consultation regarding replacement of any work damaged by vandalism or other cause during construction, and furnishing services as may be required in connection with the replacement of such work.
- Providing services made necessary by the default of the Contractor, or by major defects or deficiencies in the work of the Contractor.
- Providing professional services for the field selection of plant material or other materials at their source.
- Providing services after issuance to the City of the final Certificate of Payment, or in the absence of a final Certificate for Payment, more than sixty days after the date of substantial completion of the work, provided the delay is not caused by Harris Design.
- Preparing perspectives, renderings, models prepared upon the City's request and not otherwise provided herein.

### **Exclusions**

Excluded Services may include, but are not limited to, the following:

- Testing during construction of the project
- Special inspections
- Continuous inspection (by City)
- Preparation of the General Conditions and boilerplate specifications

### **City Responsibilities**

- The City will prepare the general conditions of the specifications, and other City standard boilerplate.
- The City will provide promptly full information regarding the requirements for the project.
- The City will designate a single representative to act in its behalf relative to the project. The City's representative shall examine documents submitted by Harris Design and shall render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of Harris Design's services. Harris Design shall proceed with services only upon specific written request by the City's representative.
- The City agrees to report promptly in writing to Harris Design any fault or defect in Harris Design's services or nonconformance with the provisions of this contract.

- Any and all information, surveys, documents and all other services furnished by the City and the City's consultants and contractors shall be provided to Harris Design at the City's expense. The City agrees that Harris Design is entitled to rely upon the accuracy and completeness of the information provided to Harris Design by the City and the City's consultants and contractors. Accordingly, the City agrees, to the fullest extent permitted by law, to indemnify and hold Harris Design, its agents and employees, and Harris Design's subconsultants, harmless from any claim, liability or cost (including reasonable attorney's fees and costs of defense) for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the City and the City's consultants and contractors to Harris Design.
- Drawings and specifications prepared under this agreement shall be used only for the project for which they are made. Drawings and specifications shall not to be used by the City on other projects or extensions to this project without the prior written authorization by Harris Design. The City shall give appropriate acknowledgement that Harris Design shall be held harmless from any and all actions resulting from such use.
- The City will receive construction bids, prepare the final construction contract and execute the contract with the selected Contractor.
- The City will provide tests, inspections, and reports including, but not limited to, chemical and laboratory tests, as required by law or the Construction Contract Documents between the City and the Contractor during construction of the project.
- During the bidding and construction period, the City will be responsible for the following:
  - Advertising the project for bid
  - Issue bid documents to local plan reviewing rooms
  - Printing and distribution of bid sets
  - Distribution of addenda
  - Inspection for code compliance
  - Special inspections
  - Materials testing, compaction testing, and all other required tests
  - Acceptance of the work

#### **Additional Services for Parks Master Plan Project**

The City has requested Harris Design provide professional services related to additional meetings and presentations for the park master plan project. The project status and findings would be presented to the Planning Commission and the City Council, for a total of two additional meetings. The consultant will prepare a PowerPoint presentation for each meeting. This task assumes that Bill Harris will be making the presentations. Should the

City desire Lauren Livingston to attend/present, additional compensation would be required.

**Proposed Compensation**

The following fees and Reimbursable Expense Allowance are proposed for the services described in this proposal:

Calle Oriente

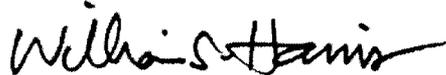
1.0 Preliminary Design (lump sum fee)	\$7,500.00
2.0 Design Development (lump sum fee)	\$10,000.00
3.0 Construction Documents (lump sum fee)	\$28,900.00
4.0 Bidding Assistance and Construction Review Services (hourly basis with a suggested budget of)	\$10,500.00
Topographic Survey (subconsultant services)	\$5,720.00
Geotechnical Report (subconsultant services)	\$5,000.00
<u>Reimbursable Expenses (Allowance for Direct Project Costs)</u>	<u>\$2,000.00</u>
Total Fees -- Calle Oriente	\$69,620.00

Parks Master Plan

Planning Commission and City Council Meetings (one each)	\$3,600.00
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Thank you very much for this opportunity to continue our service to the City of Milpitas. Once you have had a chance to review this proposal, please feel free to call me with any questions or concerns.

Sincerely,  
Harris Design



Bill Harris, ASLA  
Principal  
Enclosure: Standard Fee and Reimbursement Schedule