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**Title:** Approve the second amendment to the consultant agreement for Certified Access Specialist (CASp) Inspection Services with The Taylor Group Architects for a total contract value of \$210,000(Citywide)

**Sponsors:** Public Works Department

**Indexes:**

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**Attachments:** 1. 20-001521 The Taylor Group Architects Contract, 2. 20-001521 Taylor Group Architects First Amendment Agreement, 3. 20-001521 Taylor Group Architects Second Amendment

Date	Ver.	Action By	Action	Result
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**REPORT TO THE CITY COUNCIL**

**November 19, 2020**

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Public Works Department

**THROUGH:** ANDREW BENELLI, PE, City Engineer / Assistant Director  
Public Works Department, Traffic Operations and Planning Division

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**SUBJECT**

Approve the second amendment to the consultant agreement for Certified Access Specialist (CASp) Inspection Services with The Taylor Group Architects for a total contract value of \$210,000(Citywide)

**RECOMMENDATION**

Staff recommends that the City Council approve the second amendment with The Taylor Group Architects (consultant) for services for Accessible Fresno Small Business Initiative (Accessible Fresno).

**EXECUTIVE SUMMARY**

Staff recommends an amendment to extend the agreement for an additional one-year term, adding funding not to exceed \$105,000, and amending the Scheduled Fees and Expenses as outlined in the

second amendment. The original agreement with the Taylor Group was executed on August 9, 2018 for \$105,000 and the City desires to extend the current contract by another year.

Accessible Fresno is a proactive program to encourage businesses within the City of Fresno to take steps toward construction related accessibility compliance. Under the direction of the Accessible Fresno program administrator, the consultant will provide eligible small businesses with Certified Access Specialists (CASp) inspection services, report, disability access inspection certificate, and inspection support services. The City initially contracted with multiple qualified consultants for these services. However, staff is recommending that the City only extend the contract with one consultant, based on the program needs and the consultant's responsiveness. Funding for Accessible Fresno comes from Disability Access and Education (Government Code Section 4467) fees, which must only be used to increase the retention of CASps and for programs that facilitate construction related accessibility compliance for businesses.

## **BACKGROUND**

The Americans with Disabilities Act (ADA) is a federal civil rights law that prohibits discrimination of individuals with disabilities and requires all facilities used by the public (public accommodations) to be accessible to individuals with disabilities.

The ADA states that businesses must remove barriers to accessing goods and services that are easily accomplishable and able to be carried out without much difficulty or expense. This requirement is known as "readily achievable barrier removal."

A CASp is a professional who has passed an examination and has been certified by the State of California to have specialized knowledge of state and federal construction-related accessibility standards. A CASp can inspect a business site for compliance issues, provide an inspection report and Disability Access Inspection Certificate, and assist a business in establishing a reasonable compliance schedule. A CASp inspection provides legal benefits that may reduce a business' financial liability in a lawsuit.

Businesses that have had a CASp inspection prepared in accordance with Construction-Related Accessibility Standards Compliance Act (CRASCA) and are working toward compliance are eligible for "qualified defendant" status under CA state law. A business that is a "qualified defendant" may have their damages and legal fees reduced if they receive a lawsuit for accessibility violations. The business' commitment to achieving compliance is demonstrated by the adherence to the correction schedule they develop using the CASp inspection report. An inspection report provides "qualified defendant" status only if the client has not yet been served a summons and complaint of a construction-related accessibility claim for the property.

Accessible Fresno will provide eligible businesses with CASp inspection services at no cost to the business. Accessible Fresno is administered in-house by the ADA Coordinator (Program Administrator).

There is no cost to the business to apply or participate in Accessible Fresno. Interested businesses that apply are selected by the Program Administrator. Eligible businesses will meet the following criteria:

- Small for-profit business (\$1 million or less annual gross revenue) located in the City of Fresno

- Current valid business tax certificate
- Place of Public Accommodation, as defined in ADA Title III. Targeted places of public accommodations include:
  - Sales or rental establishment
  - Establishment serving food or drink
  - Service establishment
- Has not yet been served a summons and complaint of a construction related accessibility claim for the property site
- Business public use area is 4,000 square feet or less
- Individual business site (not a multi-business complex. Businesses that are located in a multi-business complex are eligible; however the multi-business complex itself is not eligible.)
- No outstanding code violations on record

Upon selection and agreement, the program administrator provides a list of businesses with whom to work to the consultant. The consultant provides eligible small businesses with Certified Access Specialists (CASp) inspection services, report, disability access inspection certificate, and inspection support services.

Under no circumstances shall the City receive or review the CASp inspection report of a business. These reports and findings must be kept confidential between the service provider and the business owner or their designated representative.

In August 2018, the Council approved contracts with three consultants, selected through the Request For Qualifications process. At the conclusion of the initial one-year contract term it was determined that multiple contracts would not be necessary, based on the program need. This consultant is a local firm and was found to be highly responsive to the contract requirements in the initial year.

In August 2019, the Council approved the First Amendment to extend the contract for one (1) year. The consultant continues to be highly responsive to the contract requirements.

The City Attorney's Office has reviewed and approved as to form. The Public Works Director or designee shall sign on behalf of the City. Funding for Accessible Fresno comes from Disability Access and Education fees.

Under California Government Code Section 4467, on January 1, 2013 the City began collecting an additional \$1 with each business tax certificate application or renewal; 30% of the funds are collected by the Division of the State Architect and 70% of the funds are retained by the City. AB 1379 increased the amount from \$1 to \$4 on and after January 1, 2018, through December 31, 2023. The amount of the fee will revert back to \$1 on and after January 1, 2024 and continue indefinitely. January 1, 2018 through December 31, 2023 the City will retain 90% of the fees collected. The amount retained reverts back to 70% on and after January 1, 2024. Only a portion of the total revenue collected and retained by the City is used for Accessible Fresno access inspection services; other uses are related to CASp services, training, and certification.

Under the State requirements, these funds can only be used for:

- Increasing CASp services/training and certification
- Programs to facilitate compliance with construction-related accessibility requirements
- Related administrative services (maximum 5% of revenue)

Funding for this initiative is bound by conditions and limitations of California Government Code Section 4467.

It is estimated that, within this budgeted amount and contract remainder, approximately 50 businesses may be able to be served through Accessible Fresno in the contract year. The City may have additional contract extensions for the consultant.

The City anticipates that from 2018 through 2023 the amount collected and retained annually under the Disability Access & Education Fund will be around \$170,000. This is factored based on the past five (5) years of collection totals and the increased collection amount mandated under AB 1379. This will provide sustainability for Accessible Fresno as well as the CASp training and certification program.

## **ENVIRONMENTAL FINDINGS**

This item is not a project as defined by the California Environmental Quality Act.

## **LOCAL PREFERENCE**

Local preference was not implemented because this is an amendment.

## **FISCAL IMPACT**

There will be no General Fund impact for this Citywide program. Funding for Accessible Fresno comes from Disability Access and Education fees, which must be used to facilitate access compliance and increase the retention of CASps. The annual budget for the access inspections is not to exceed \$105,000. Funds are appropriated in the adopted Public Works Department budget.

### **Attachments:**

The Taylor Group Architects Contract

The Taylor Group Architects First Amendment to Contract

The Taylor Group Architects Second Amendment to Contract