

**CITY OF SANTA FE  
AMENDMENT No. 1 TO  
AGREEMENT BETWEEN OWNER AND CONTRACTOR**

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE AGREEMENT BETWEEN OWNER AND ARCHITECT 18-0832, dated July 25, 2018 (the "Agreement"), between the City of Santa Fe (the "City") and Atkin, Olshin, Schade Architects, Inc. (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

**RECITALS**

A. Under the terms of the Agreement, the Contractor has agreed to provide Professional Design Services for the design of New Fire Station #2;

B. Pursuant to Article 10.19 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1 COMPENSATION:

Article 11 of the Agreement is amended to increase the total compensation dollar amount by \$188,491.50, to include provision for additional services per the attached proposal dated January, 30, 2019 (Exhibit 1,A), so that Article 11.1-11.5 reads as follows:

**ARTICLE 11 COMPENSATION**

§ 11.1 For the Design Professional's Basic Services described under Article 3, the Owner shall compensate the Design Professional as follows:

**Six hundred twenty one thousand, four hundred nine dollars and twenty three cents (\$621,409.23) inclusive of New Mexico Gross Receipts Tax for Professional Design Services as indicated in the terms of this agreement and in the Exhibits and ancillary documents (See Article 12.2). Should New Mexico Gross Receipts Tax rates increase during the contract period, the contract amount will be modified accordingly.**

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Design Professional as follows:

All fees listed below are not-to-exceed

4.1.1 - Multiple Preliminary Designs (Comprehensive Schematic Plans) in addition to basic services indicated in this Agreement and as indicated in Exhibit 1,A: 2.5% of Total Basic Compensation (each design)

4.1.5 - Architectural Interior Design and specification of nonessential aesthetic features in addition to basic services indicated in this Agreement and as indicated in Exhibit 1,A: up to 10% of associated approved construction estimate

4.1.8 – Coordination of Owner’s consultants and City Staff in addition to basic services indicated in this Agreement and as indicated in Exhibit 1,A: up to10% of associated approved construction estimate

4.1.10 – Fast-track Utility & Roadway design services in addition to basic services indicated in this Agreement and/or as indicated in Exhibit 1,A: as indicated under Section 11.5

4.1.11 – Design and specification of non-fixed furniture, furnishings and nonessential appliances and equipment in addition to basic services indicated in this Agreement and as indicated in Exhibit 1,A: up to10% of associated approved construction estimate

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Design Professional as follows:

not to exceed 10% of associated construction cost increase or 1% of Total Basic Compensation, if not construction related, with accompanying written justification and approval process.

§ 11.4 Compensation for Additional Services of the Design Professional’s consultants, when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Design Professional as stated below:

The amount approved by the City after review and any negotiation of the proposal for said services

§ 11.5 Compensation for Basic Services is based on a stipulated sum. Compensation for each phase of services shall be as follows:

Programming, Site evaluation and Planning Phase	\$20,038.25	(4.05%)
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Utilities and Utility Infrastructure Development Phase

Planning	\$5,740.18	(1.16%)
Construction Documents	\$9,000.00	(1.82%)
Bidding and Negotiation	\$672.14	(0.14%)
Construction Administration	\$2854.38	(0.58 %)

Roadway Development Phase

Planning	\$3,686.58	(0.74%)
Construction Documents	\$8,000.00	(1.62%)
Bidding and Negotiation	\$672.14	(0.14%)
Construction Administration	\$2,854.38	(0.58%)

Fire Station Building and Building Site Design Phase

Schematic Design	\$53,887.52	(10.89%)
Design Development	\$84,435.82	(17.06%)
Construction Documents	\$160,039.79	(32.34%)
Bidding and Negotiation	\$16,096.64	(3.25%)
Construction Administration	\$126,922.18	(25.65%)

<b>Basic Services Sub-Total</b>	<b>\$494,900.00</b>	<b>(100%)</b>
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<b>NMGRT on Basic Services (8.4375%)</b>	<b>\$41,757.19</b>
<b><u>Supplemental Services</u></b>	
Environmental Services	\$21,675.84
Geotechnical Services	\$5,000.00
Cost Estimating Services	\$14,745.00
Archeological Services	\$2,509.00
Surveying & Mapping Services	\$5,000.00
<b>Supplemental Services Sub-Total</b>	<b>\$48,929.84</b>
<b>Additional Services Sub-Total</b>	<b>\$10,000.00</b>
(\$4.1.11 Furniture, Furnishings, and Equipment Design)	
<b>NMGRT on Supplemental Services (8.4375%)</b>	<b>\$4,972.21</b>
Reimbursable Expenses (inclusive of NMGRT)	\$20,850.00
<b><u>Total Basic Compensation (inclusive of NMGRT)</u></b>	<b><u>\$621,409.23</u></b>


The Owner acknowledges that with an accelerated Project delivery or multiple bid package process, the Architect may be providing its services in multiple Phases simultaneously. Therefore, the Architect shall be permitted to invoice monthly in proportion to services performed in each Phase of Services, as appropriate.

**2. AGREEMENT IN FULL FORCE.**

Except as specifically provided in this Amendment, the Agreement remains and shall remain in full force and effect, in accordance with its terms.


IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the City of Santa Fe Agreement Between Owner and Contractor of the dates set forth below.

CITY OF SANTA FE:

  
 \_\_\_\_\_  
 ALAN WEBBER, MAYOR

DATE: 4/15/19

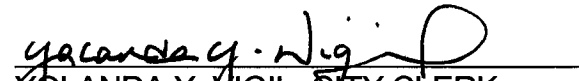
CONTRACTOR:

  
 \_\_\_\_\_  
 SHAWN EVANS, PRINCIPAL  
 AOS ARCHITECTS, INC.

DATE: 2.27.19

CRS# 03-043320-00-7  
 City of Santa Fe Business  
 Registration# 19-00004251

ATTEST:

  
YOLANDA Y. MIGIL, CITY CLERK  
cc mtg. 4/10/2019

APPROVED AS TO FORM:

  
ERIN K. MCSHERRY, CITY ATTORNEY 2/6

APPROVED:

  
MARY MCCOY, FINANCE DIRECTOR *BM*

**Business Unit/Line Item**

32825.572960 - EXP Fire Station #2, WIP Design: \$102,082.26

32125.572960 - EXP Municipal Facility Rep, WIP Design: \$86,409.24

30 January 2019

Jason Kluck  
Facilities Division Project Administrator  
2651 Siringo Rd. Bldg E  
Santa Fe, NM 87504-0909  
via email to: [jmkluck@ci.santa-fe.nm.us](mailto:jmkluck@ci.santa-fe.nm.us)

RE: City of Santa Fe Fire Station #2  
Contract Amendment for AOS Architects  
18-0832; CIP #333

Dear Jason,

This letter serves as a formal request to amend our contract for the Fire Station #2 project for additional service fees owing to the increased construction budget (MACC) as well as additional service fees for furniture selection. The original Request for Proposal (1829P), with a due date of 4/3/18, included Exhibit 10 "Project Scoping Document" that defined the MACC at \$4.1MM, including contingency reserve allowance.

Our current contract is comprised of two fees: Base Services of \$331,074.99 and Supplemental Services of \$48,929.84. Base services were initially calculated in our RFP response based on a total number of hours that resulted in a fee. For projects of this type, budget, and level of complexity, we typically require base service fees between 8.00% and 8.50% of the cost of construction. In this case our contracted base service fee is 8.07% of the \$4.1MM MACC. A detailed breakdown of our current contracts is included in the table on the following page.

#### **Budget Increase**

One of our earliest tasks in the programming phase of the project was to complete a budget confirmation. As detailed in our memo to you dated 9/21/18, we worked with our professional cost estimator, Balis & Co, to estimate the cost of a 13,000 GSF fire station and the necessary infrastructure on the site (roadways and utilities). We estimated that the building at Spring 2020 costs would be approximately \$390/GSF (including GRT), a significantly higher cost than the project budgets were based on. It was noted that project budgets were developed several years ago, and that escalating construction costs and the greatly clarified hot-warm-cool decontamination protocol had added complexity and cost to the project. With additional sustainability enhancements not included in the original scoping document, a construction budget for the building was approved by City Council at \$6.0MM, not including \$1.25MM in infrastructure costs. As documented in our meeting minutes #8 (11/8/18), AOS Architects was given the go-ahead for design with a total MACC of \$7.25MM. It should be noted that the \$7.25MM was to include costs for furnishings and commissioning, typically not included in a MACC. Removal of furnishings and commissioning results in a MACC of \$7.07MM.

#### **Updated Budget Calculations**

This 72% increase in budget represents a substantial change in the scoping document from which our fee proposal was based. Whereas the contracted base fees of \$331,074.99 represented 8.07% of the initial MACC, they represent just 4.68% of the updated MACC of \$7,070,000.00, far below industry standards. Owing to the increase in cost, which typically results in a reduced fee %, we propose lowering our fee percentage to 7.00% of the MACC. This would result in a total fee of \$494,900.00, an increase of \$163,825.01. As shown in the table below, we

**ATKIN OLSHIN SCHADE ARCHITECTS**

125 South Ninth Street, Suite 900 PHILADELPHIA, PA 19107 tel 215-925-7812  
1807 Second Street, Suite 34 SANTA FE, NM 87505 tel 505-982-2133

fee accordingly. Should the budget be reduced, any reduction in fees will only apply to the proportion of remaining unbilled fee. We propose to add this service to the list of supplemental services. See below.

<b>Revised Supplemental Services</b>				
Environmental Services	\$	21,675.84		\$ 21,675.84
Geotechnical Services	\$	5,000.00		\$ 5,000.00
Cost Estimating Services	\$	14,745.00		\$ 14,745.00
Archaeological Services	\$	2,509.00		\$ 2,509.00
Surveying and Mapping	\$	5,000.00		\$ 5,000.00
Furniture Selection	\$	-	\$ 10,000.00	\$ 10,000.00
<b>SUBTOTAL SUPPLEMENTAL</b>	<b>\$</b>	<b>48,929.84</b>	<b>\$ 10,000.00</b>	<b>\$ 58,929.84</b>
<b>NMGRT on Supplemental Services (8.4375%)</b>	<b>\$</b>	<b>4,128.46</b>	<b>\$ 843.75</b>	<b>\$ 4,972.21</b>

**Summary**

The following table summarizes the proposed fee increases to be provided in a contract amendment. There is no proposed increase in reimbursable expenses.

<b>Contract Amendment Summary</b>				
Subtotal Basic Services	\$	331,074.99	\$ 163,825.01	\$ 494,900.00
NMGRT on Basic Services (8.4375%)	\$	27,934.45	\$ 13,822.74	\$ 41,757.19
Subtotal Supplemental Services	\$	48,929.84	\$ 10,000.00	\$ 58,929.84
NMGRT on Supplemental Services (8.4375%)	\$	4,128.46	\$ 843.75	\$ 4,972.21
Reimbursable Expenses (inclusive of GRT)	\$	20,850.00	\$ -	\$ 20,850.00
<b>GRAND TOTAL</b>	<b>\$</b>	<b>432,917.74</b>	<b>\$ 188,491.50</b>	<b>\$ 621,409.23</b>

Please review and let me know if you have any questions. We appreciate your assistance in making the formal amendment to our contract.

Thank you.

Sincerely,



Shawn Evans, AIA  
Principal

propose to allocate these increased fees to the Fire Station Building Design and Building Site Design Phase, and proportion it out between the sub-phases.

<b>Redistributed Fees</b>	original contract fees		increase	revised total
Basic Services				
A. Programming, Site Evaluation, and Planning Phase	\$ 20,038.25		\$ -	\$ 20,038.25
B. Utilities and Utility Infrastructure Development Phase				\$ -
Planning	\$ 5,740.18		\$ -	\$ 5,740.18
Construction Documents	\$ 9,000.00		\$ -	\$ 9,000.00
Bidding and Negotiation	\$ 672.14		\$ -	\$ 672.14
Construction Administration	\$ 2,854.38		\$ -	\$ 2,854.38
C. Roadway Development Phase				\$ -
Planning	\$ 3,686.58		\$ -	\$ 3,686.58
Construction Documents	\$ 8,000.00		\$ -	\$ 8,000.00
Bidding and Negotiation	\$ 672.14		\$ -	\$ 672.14
Construction Administration	\$ 2,854.38		\$ -	\$ 2,854.38
D. Fire Station Building and Building Site Design Phase				\$ -
Schematic Design	\$ 33,886.42	12%	\$ 20,001.10	\$ 53,887.52
Design Development	\$ 53,096.30	19%	\$ 31,339.52	\$ 84,435.82
Construction Documents	\$ 100,638.81	36%	\$ 59,400.98	\$ 160,039.79
Bidding and Negotiation	\$ 10,122.15	4%	\$ 5,974.49	\$ 16,096.64
Construction Administration	\$ 79,813.26	29%	\$ 47,108.92	\$ 126,922.18
SUBTOTAL BASIC SERVICES	\$ 331,074.99	100%	\$ 163,825.01	\$ 494,900.00
NMGR on Basic Services (8.4375%)	\$ 27,934.45		\$ 13,822.74	\$ 41,757.19

**Base Services Fee Increase Justification**

- A substantial portion of the MACC increase arose from the increased sustainability ambitions for the project. The design team has been requested to plan for an approximately 7% increase in budget for the building related to sustainability enhancements. Items that are being explored include: roof-mounted photovoltaics, roof mounted solar hot water, permeable paving, grey water irrigation, enhanced indoor air-quality, high-performance exterior envelope, premium LED lighting, and solar tube skylights.
- Roadways have proven to be more complex than anticipated. We have tested numerous configurations to maximize effective and safe firefighter response and minimize quality of life impact on the adjacent parcel to the east. Planning and designing roadways on a parcel of land owned by the state and leased by the city has required considerable thought. While the roadways will essentially be private drives for now, they are likely to be developed in the future as public roads, thus extensive thought and planning has been required.
- Utility coordination has been more complex than anticipated. Numerous possibilities are being explored requiring more extensive coordination with PNM than typical. The utility effort is being compounded by the necessity to coordinate needs and designs with three adjacent parcels being concurrently developed. The design team is providing assistance to the City to develop mutually beneficial utility improvements among the various property owners and cost sharing arrangements.
- It is well understood that Architectural/Engineering fees should be proportionate to the construction budget. A fee of less than 5% for a project this complex is insufficient. Projects of greater budget require more time in design, documentation/coordination, bidding, and in construction administration. An increased fee of 7% (reduced from the original 8%) is within accepted fee standards.

**Furniture Selection**

Section 4.1.11 of the original Owner-Architect Agreement excludes furniture selection, which we have been requested to add to the contract as an additional service. Built-in millwork is already included in the construction budget and the design is included in our fees. As per our conversations to date, the city's overall project budget includes \$100,000.00 for moveable furnishings. As per section 11.2, design and specification of non-fixed furniture, furnishings and nonessential appliances and equipment is in addition to basic services and an additional service fee up to 10% of associated approved costs. Therefore, we request a \$10,000 additional service fee for services related to design and specification of furnishings. Should the budget for furnishings be adjusted, we will renegotiate this