



**ACTION SHEET  
CITY COUNCIL MEETING OF 05/28/08  
ITEM FROM FINANCE COMMITTEE MEETING OF 05/19/08**

**ISSUE:**

8. REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT – SANTA FE PLAZA – PHASE II DESIGN SERVICES; MORROW REARDON WILKINSON MILLER, LTD (CHIP LILIENTHAL)

**FINANCE COMMITTEE ACTION: APPROVED AS CONSENT ITEM**

Requested approval of amendment no. 2 to professional services agreement for Santa Fe Plaza Phase II design services with Morrow Reardon Wilkinson Miller, LTD in the amount of \$31,959.38. Budget is available in project fund.

**SPECIAL CONDITIONS OR AMENDMENTS:**

**STAFF FOLLOW UP:**

<b>VOTE:</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
COUNCILOR WURZBURGER	X		
COUNCILOR CALVERT	X		
COUNCILOR CHAVEZ	not present		
COUNCILOR DOMINGUEZ	X		
CHAIRPERSON ORTIZ			

**ACTION SHEET  
ITEM FROM THE  
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING  
OF  
MONDAY, MAY 12, 2008**

**ITEM 6**

**CIP PROJECT #427 – SANTA FE PLAZA – DESIGN SERVICES – PHASE II**

- **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 WITH MORROW REARDON WILKINSON MILLER, LTD. LANDSCAPE ARCHITECTS IN THE AMOUNT OF \$31,959.38 (CHIP LILIENTHAL)**

**PUBLIC WORKS COMMITTEE ACTION: No meeting due to lack of quorum**

**SPECIAL CONDITIONS OR AMENDMENTS:**

**STAFF FOLLOW UP:**

<b>VOTE</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
<b>CHAIRPERSON BUSHEE</b>			
<b>COUNCILOR CALVERT</b>			
<b>COUNCILOR CHAVEZ</b>			
<b>COUNCILOR ROMERO</b>			
<b>COUNCILOR TRUJILLO</b>			

# City of Santa Fe, New Mexico

# memo

**DATE:** May 12, 2008

**TO:** Public Works, CIP and Land Use Committee

**VIA:** Robert Romero, Public Works Department Director  
Chris A. Ortega, Engineering Division Director  
Martin A. Valdez, Community Facilities Section Manager

**FROM:** Chip Lilienthal, CFS Project Manager

**ISSUE:**

CIP #427 – Santa Fe Plaza – Design Services – Phase II

- Request approval of Amendment No. 2 with Morrow Reardon Wilkinson Miller, Ltd. Landscape Architects in the amount of \$31,959.38.

**SUMMARY:**

On February 6, 2008, the City Manager approved a Professional Services Agreement with Morrow Reardon Wilkinson Miller, Ltd. Landscape Architects to provide Phase I design for the Santa Fe Plaza. Phase I construction, which included the installation of new concrete was completed on April 7, 2008.

Phase II design services include Bid Documents, Bidding/Negotiation, and Construction Administration through the 11-month warranty period, for the following:

**SCOPE OF WORK:**

The scope of the project will include:

- 1) New low profile pathway lighting
- 2) Replace existing electrical outlet boxes at benches
- 3) Provide 4 new benches
- 4) Replace brick in walk ways

Memo – Public Works, CIP and Land Use Committee

Amendment No. 1

Santa Fe Plaza – Phase II Design

5/12/08

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- 5) New low water usage, high efficiency irrigation system
- 6) New potable lines for drinking fountains
- 7) Remove and replace damaged curb and gutter
- 8) Provide new plants, shrubs, mulch (pecan shell or bark), and gravel at Obelisk
- 9) Remove and replace existing flagstone and re-stucco banco at Obelisk
- 10) Remove and replace flagstone with squared edges with 1” minimum and 2” maximum joints with grass planted in the joints
- 11) Upgrade electrical transformer

**SCHEDULE:**

Delivery of Design Development Documents for City review - June 30, 2008.

City of Santa Fe Historic Design Review Board – July 2008.

State Historic Preservation Division – July 2008.

Delivery of 100% Construction Documents - July 15, 2008.

Construction is expected to begin September 30, 2008 with a 60 to 70 day construction time period.

**BUDGET:**

Funds will be available from the 2008 Parks Bond Initiative.

**ACTION:**

- Please approve Amendment No. 1 with Morrow Reardon Wilkinson Miller, Ltd. Landscape Architects in the amount of \$31,959.38.

Attachment: Amendment No. 1

Xc: Kathryn Raveling, Finance Director  
Project/Book File

**CITY OF SANTA FE  
AMENDMENT No. 2 TO  
PROFESSIONAL SERVICES AGREEMENT**

AMENDMENT No. 2 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated February 6, 2008 (the "Agreement"), between the City of Santa Fe (the "City") and Morrow Reardon Wilkinson Miller, Ltd. (the "Landscape Architect"). The date of this Amendment shall be the date when it is executed by the City.

**RECITALS**

A. Under the terms of the Agreement, Contractor has agreed to provide landscape architectural services to the City.

B. Pursuant to Article 18 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Landscape Architect agree as follows:

1. COMPENSATION.

Article 3, paragraph A of the Agreement is amended to increase the amount of compensation by a total of thirty one thousand nine hundred fifty nine dollars thirty eight cents (\$31,959.38), so that Article 3, paragraph A reads in its entirety as follows:

A. The City shall pay to the Landscape Architect in full payment for services rendered, a base fee of forty nine thousand eight hundred seventy six dollars and six cents (\$49,876.06), inclusive of applicable gross receipts tax.

Article 3, paragraph B is amended in its entirety so that Article 3, paragraph B now reads in its entirety as follows.

B. Payments for services shall be made monthly in proportion to services performed so that the compensation at the completion of each percent completion of the project, except when the compensation is on the basis of a Multiple of Direct Personnel Expense, shall equal

the following percentages of the total Basic Compensation:

Initial Scope of Services		\$12,649.88
Amendment #1		\$ 5,266.80
Amendment #2		\$31,959.38
TOTAL COMPENSATION	(100%)	<u>\$49,876.06</u>

2. AGREEMENT IN FULL FORCE.

Except as specifically provided in this Amendment and Amendment No. 1, 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 Professional Services Agreement as of the date set forth below.

CITY OF SANTA FE:

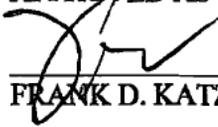
\_\_\_\_\_  
DAVID COSS, MAYOR

DATE: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
FRANK D. KATZ, CITY ATTORNEY

APPROVED:

\_\_\_\_\_  
KATHRYN L. RAVELING, DIRECTOR  
FINANCE DEPARTMENT

CONTRACTOR:  
MORROW REARDON WILKINSON  
MILLER, LTD.

By: \_\_\_\_\_  
(Name & Title)

CRS #01 164461 003

City of Santa Fe Business  
Registration #08-33324

CITY OF SANTA FE  
AMENDMENT No. 1 TO  
PROFESSIONAL SERVICES AGREEMENT

ITEM # 07-0109

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated July 23, 2006 (the "Agreement"), between the City of Santa Fe (the "City") and Morrow Reardon Wilkinson Miller, Ltd. (the "Landscape Architect"). The date of this Amendment shall be the date when it is executed by the City.

**RECITALS**

A. Under the terms of the Agreement, Contractor has agreed to provide landscape architectural services to the City.

B. Pursuant to Article 18 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Landscape Architect agree as follows:

1. COMPENSATION.

Article 3, paragraph A of the Agreement is amended to increase the amount of compensation by a total of five thousand two hundred sixty six dollars eighty cents (\$5,266.80), so that Article 3, paragraph A reads in its entirety as follows:

A. The City shall pay to the Landscape Architect in full payment for services rendered, a base fee of seventeen thousand nine hundred sixteen dollars and sixty eight cents (\$17,916.68), inclusive of applicable gross receipts tax.

Article 3, paragraph B is amended in its entirety so that Article 3, paragraph B now reads in its entirety as follows.

B. Payments for services shall be made monthly in proportion to services performed so that the compensation at the completion of each Phase, except when the compensation is on the basis of a Multiple of Direct Personnel Expense, shall equal the following

percentages of the total Basic Compensation:

Schematic Design Phase		\$12,649.88
Additional Services #1 (survey)		<u>\$ 5,266.80</u>
TOTAL COMPENSATION	(100%)	<u>\$17,916.68</u>

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.

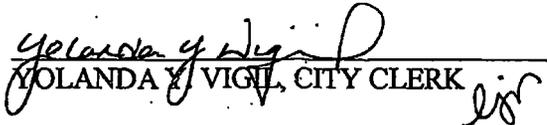
IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the City of Santa Fe Professional Services Agreement as of the date set forth below.

CITY OF SANTA FE:

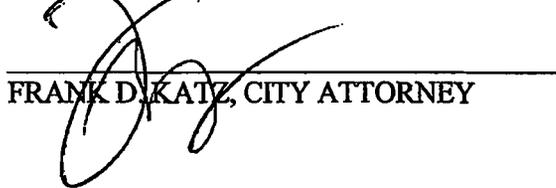
  
\_\_\_\_\_  
GALEN BULLER, INTERIM CITY  
MANAGER

DATE: 2/15/07

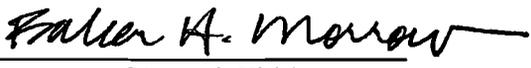
ATTEST:

  
\_\_\_\_\_  
YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
FRANK D. KATZ, CITY ATTORNEY

MORROW REARDON WILKINSON  
MILLER, LTD.

By:   
\_\_\_\_\_  
(Name & Title)  
President

APPROVED:

  
\_\_\_\_\_  
KATHRYN L. RAVELING, DIRECTOR  
FINANCE DEPARTMENT

CITY OF SANTA FE

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe (the "City") and Morrow Reardon Wilkinson Miller, Ltd., (the "Landscape Architect"). The date of this Agreement shall be the date when it is executed by the City.

1. SCOPE OF SERVICES

The Landscape Architect shall provide the following services for the City:

Landscape architectural services for the proposed renovation of the Santa Fe Plaza landscape. At a minimum, the Scope of Work includes; the provisions of schematic design for review and approval by the City, including drawings, options (if applicable), and a first opinion of probable cost.

2. STANDARD OF PERFORMANCE; LICENSES

A. The Landscape Architect represents that it possesses the experience and knowledge necessary to perform the services described under this Agreement.

B. The Landscape Architect agrees to obtain and maintain throughout the term of this Agreement, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives and subcontractors.

3. COMPENSATION

A. The City shall pay to the Landscape Architect in full payment for services rendered, a base fee of twelve thousand six hundred forty nine dollars and eighty eight cents (\$12,649.88), inclusive of applicable gross receipts taxes.

B. For additional services of the Landscape Architect, compensation shall be

computed as follows:

Principal	\$100.00/hr
Technician	\$82.50/hr

C. Payment of reimbursable expenses shall be made upon receipt and approval by the City of original receipts for the expenses in an amount not to exceed three thousand dollars (\$3,000.00), including all applicable gross receipts taxes @ 6.75%.

D. The Landscape Architect shall be responsible for payment of gross receipts taxes levied by the State of New Mexico on the sums paid under this Agreement.

E. Payment shall be made upon receipt and approval by the City of detailed statements containing a report of services completed. Compensation shall be paid only for services actually performed.

4. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City, this Agreement shall terminate upon written notice being given by the City to the Landscape Architect. The City's decision as to whether sufficient appropriations are available shall be accepted by the Landscape Architect and shall be final.

5. TERM AND EFFECTIVE DATE

This Agreement shall be effective when signed by the City and terminate on December 31, 2006, unless sooner pursuant to Article 6 below.

6. TERMINATION

A. This Agreement may be terminated by the City upon 7 days written notice to the Landscape Architect.

(1) The Landscape Architect shall render a final report of the services performed up to the date of termination and shall turn over to the City original copies of all work product, research or papers prepared under this Agreement.

(2) If compensation is not based upon hourly rates for services rendered, the City shall pay the Landscape Architect for the reasonable value of services satisfactorily performed through the date Landscape Architect receives notice of such termination, and for which compensation has not already been paid.

(3) If compensation is based upon hourly rates and expenses, then Landscape Architect shall be paid for services rendered and expenses incurred through the date Landscape Architect receives notice of such termination.

7. STATUS OF LANDSCAPE ARCHITECT; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Landscape Architect and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Landscape Architect, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement.

B. Landscape Architect shall be solely responsible for payment of wages salaries and benefits to any and all employees or subcontractors retained by Landscape Architect in the performance of the services under this Agreement.

C. The Landscape Architect shall comply with City of Santa Fe Minimum Wage Ordinance No. 2003-8 to the extent applicable, passed by the Santa Fe City Council on February 26, 2003, as well as any subsequent changes to the ordinance throughout the term of this contract.

8. CONFIDENTIALITY

Any confidential information provided to or developed by the Landscape Architect in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Landscape Architect without the prior written approval of the City.

9. CONFLICT OF INTEREST

The Landscape Architect warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Landscape Architect further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

10. ASSIGNMENT; SUBCONTRACTING

The Landscape Architect shall not assign or transfer any rights, privileges, obligations or other interest under this Agreement, including any claims for money due, without the prior written consent of the City. The Landscape Architect shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City.

11. RELEASE

The Landscape Architect, upon acceptance of final payment of the amount due under this Agreement, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Landscape Architect agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Landscape

Architect has express written authority to do so, and then only within the strict limits of that authority.

12. INSURANCE

A. The Landscape Architect, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City is notified no less than 30 days in advance of cancellation for any reason. The Contractor shall furnish the City with a copy of a Certificate of Insurance or other evidence of Landscape Architect's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

B. Landscape Architect shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for Contractor's employees throughout the term of this Agreement. Landscape Architect shall provide the City with evidence of its compliance with such requirement.

C. Landscape Architect shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage of one million dollars (\$1,000,000) per occurrence.

13. INDEMNIFICATION

The Landscape Architect shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Landscape

Architect's performance under this Agreement as well as the performance of Landscape Architect's employees, agents, representatives and subcontractors.

14. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

15. THIRD PARTY BENEFICIARIES

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Landscape Architect. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

16. RECORDS AND AUDIT

The Landscape Architect shall maintain, throughout the term of this Agreement and for a period of three years thereafter, detailed records that indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration, and the State Auditor. The City shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

17. APPLICABLE LAW; CHOICE OF LAW; VENUE

Landscape Architect shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the City of Santa Fe. In any action, suit

or legal dispute arising from this Agreement, the Landscape Architect agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

18. AMENDMENT

This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

19. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the services to be performed hereunder, and all such agreements, covenants and understandings have been merged into this Agreement. This Agreement expresses the entire Agreement and understanding between the parties with respect to said services. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

20. NON-DISCRIMINATION

During the term of this Agreement, Landscape Architect shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Landscape Architect hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

21. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and

enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

22. NOTICES

Any notices required to be given under this Agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

City of Santa Fe:  
Engineering Division  
PO Box 909  
Santa Fe, New Mexico 87504-0909

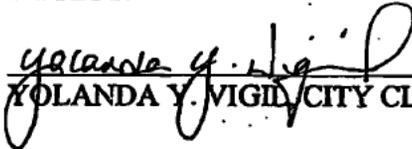
Landscape Architect:  
Morrow Reardon Wilkinson Miller  
210 La Veta NE  
Albuquerque, New Mexico 87508

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

CITY OF SANTA FE:

  
\_\_\_\_\_  
ASENATH KEPLER, CITY MANAGER  
DATE: 7/23/06

ATTEST:

  
\_\_\_\_\_  
YOLANDA Y. VIGIL, CITY CLERK

CONTRACTOR:  
MORROW REARDON WILKINSON  
MILLER, LTD

By:   
\_\_\_\_\_  
(Name & Title) PRINCIPAL

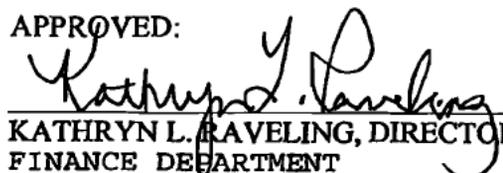
APPROVED AS TO FORM:

  
\_\_\_\_\_  
FRANK D. KATZ, CITY ATTORNEY

NM Taxation & Revenue  
CRS # 01 164461 003

City of Santa Fe Business  
Registration # 04 98100

APPROVED:

  
\_\_\_\_\_  
KATHRYN L. RAVELING, DIRECTOR  
FINANCE DEPARTMENT