

APPROVED AS TO FORM

GDW

Office of the City Attorney

Prepared By: GDW/ts  
Requested: Projects Cmte  
Presentation on: 01-17-2017  
Suspension of Rules: No

RESOLUTION

RESOLUTION AUTHORIZING MAYOR TO EXECUTE AMENDMENT NO. 3  
TO AGREEMENT BETWEEN THE CITY OF TUSCALOOSA  
AND WARD SCOTT ARCHITECTURE  
(A13-0623)

WHEREAS, the City of Tuscaloosa entered into an agreement for Ward Scott Architecture to provide professional architectural and related services for THE EDGE BUSINESS RESOURCE CENTER on or about the 15th day of April 2014; and,

WHEREAS, the parties now desire to enter into a Third Amendment to the contract for additional architectural and related services associated with the next phase of the project in the amount of \$12,047.00; and

NOW, THEREFORE, BE IT RESOLVED BY THE TUSCALOOSA CITY COUNCIL that the Mayor be, and he is hereby, authorized to execute this Third Amendment to the agreement between the City of Tuscaloosa and Ward Scott Architecture, and the City Clerk is hereby authorized to attest the same.

FUNDING REQUIRED:  Yes  No

\_\_\_\_\_  
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By: \_\_\_\_\_  
Finance Director

COUNCIL ACTION

Resolution ✓  
Ordinance \_\_\_\_\_  
Introduced \_\_\_\_\_  
Passed 1-17-17  
2<sup>nd</sup> Reading \_\_\_\_\_  
Unanimous \_\_\_\_\_  
Failed \_\_\_\_\_  
Tabled \_\_\_\_\_  
Amended \_\_\_\_\_  
Comments: \_\_\_\_\_

STATE OF ALABAMA )  
TUSCALOOSA COUNTY )  
CITY OF TUSCALOOSA )

**AMENDMENT NO. 3 TO AGREEMENT TO FURNISH ARCHITECTURAL AND RELATED SERVICES TO THE CITY OF TUSCALOOSA, ALABAMA FOR THE DESIGN AND CONSTRUCTION OF: THE EDGE BUSINESS RESOURCE CENTER  
Project No. A13-0623**

**THIS THIRD AMENDMENT** to that certain agreement, as amended, made and entered into by and between the parties on the 15th day of April 2014, is made and entered into by and between the firm of Ward Scott Architecture hereinafter referred to as the "Consultant" and the CITY OF TUSCALOOSA, a Municipal Corporation, hereinafter referred to as the "City," on this the \_\_\_\_ day of \_\_\_\_\_, 2017, as follows:

**W-I-T-N-E-S-S-E-T-H:**

**WHEREAS**, heretofore, the City of Tuscaloosa and Ward Scott Architecture ("Consultant") entered into a contract to provide architectural and related services to the City of Tuscaloosa for design and construction of a public works project known as the The Edge Business Resource Center; and,

**WHEREAS**, it is now necessary to amend the agreement to increase the basic compensation fee for architectural and related services for the project by \$12,047.00; and

**NOW, THEREFORE**, the City of Tuscaloosa and the Consultant do hereby enter into this amendment to the contract between the parties on the above date, for and in consideration of the mutual benefits moving each to the other as more particularly set forth herein as follows:

**SECTION ONE.** That ARTICLE 2, ARCHITECT'S SERVICES AND RESPONSIBILITIES, Section "B. ADDITIONAL SERVICES", items 22, 23 and 25 are hereby amended to read as follows:

**"B. ADDITIONAL SERVICES**

22. Architecture services. The estimated fee for this service is **\$7,760.00**
23. Interior design services. The estimated fee for this service is **\$840.00.**
25. Technology engineering services. The estimated fee for this service is **\$1,500.00.**

**SECTION TWO.** That ARTICLE 2, ARCHITECT'S SERVICES AND RESPONSIBILITIES, Section "B. ADDITIONAL SERVICES", is hereby amended to add item 30 to read as follows:

**"B. ADDITIONAL SERVICES**

30. Mechanical, electrical, and fire protection. The estimated fee for this service is **\$1,947.00.**

**SECTION THREE. Miscellaneous.**

**Capacity:** Each Party to this Agreement represents and warrants to the other as follows:

- A. That it is an individual of the age of majority or otherwise a legal entity duly organized and in good standing pursuant to all applicable laws, rules and regulations.
- B. That each has full power and capacity to enter into this Agreement, to perform and to conclude the same including the capacity, to the extent applicable, to grant, convey and/or transfer; areas, assets, facilities, properties, (both real and personal), permits, consents and authorizations and/or the full power and right to acquire and accept the same.
- C. That to the extent required, each Party has obtained the necessary approval of its governing body or board and a resolution or other binding act has been duly and properly enacted by such governing body or board authorizing this Agreement and said approval has been reduced to writing and certified or attested by the appropriate official of the Party.
- D. That each Party has duly authorized and empowered a representative to execute this Agreement on their respective behalf and the execution of this Agreement by such representative fully and completely binds the Party to the terms and conditions hereof.
- E. That absent fraud, the execution of this Agreement by a representative of the party shall constitute a certification that all such authorizations for execution exist and have been performed and the other Party shall be entitled to rely upon the same. To the extent a Party is a partnership, limited liability company or joint venture, the execution of this Agreement by any member thereof shall bind the Party and to the extent that the execution of Agreement is limited to a manager, managing partner or specific member then the person so executing this Agreement is duly authorized to act in such capacity for the Party.
- F. That each party represents and warrants to the other that there is no litigation, claim or administrative action threatened or pending or other proceedings to its knowledge against it which would have an adverse impact upon this transaction

or upon either's ability to conclude the transaction or perform pursuant to the terms and conditions of this Agreement.

- G. That each party has obtained any and all required permits, approvals and/or authorizations from third parties to enable it to fully perform pursuant to this Agreement.

**Third Party Beneficiaries:** It is the intent of the parties hereto that there shall be no third party beneficiaries to this Agreement.

**Final Integration:** This Agreement, together with any amendments, constitutes the entire agreement of the parties, as a complete and final integration thereof with respect to its subject matter. In the event of a direct conflict between the provisions hereof and any prior agreement or amendment, the latter shall supersede the former. All written or oral understandings and agreements heretofore had between and among the parties are merged into this Agreement, which alone fully and completely expresses their understandings. No representation, warranty, or covenant made by any party which is not contained in this Agreement or expressly referred to herein has been relied on by any party in entering into this Agreement.

**Force Majeure:** Neither party to this Agreement shall hold the other party responsible for damages or delay in performance caused by acts of God, strikes, lockouts or other circumstances beyond the reasonable control of the other or the other party's employees, agents or contractors.

**Amendment in Writing:** This Agreement may not be amended, modified, altered, changed, terminated, or waived in any respect whatsoever, except by a further agreement in writing, properly executed by all of the parties.

**Binding Effect:** This Agreement shall bind the parties and their respective personal representatives, heirs, next of kin, legatees, distributees, successors, and assigns. If any provision in this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**Captions:** The captions of this Agreement are for convenience and reference only, are not a part of this Agreement, and in no way define, describe, extend, or limit the scope or intent of this Agreement.

**Construction:** This Agreement shall be construed in its entirety according to its plain meaning and shall not be construed against the party who provided or drafted it.

**Mandatory and Permissive:** "Shall", "will", and "agrees" are mandatory; "may" is permissive.

**Governing Laws:** The laws of the State of Alabama shall govern the validity of this Agreement, the construction of its terms, the interpretation of the rights, the duties of the parties, the enforcement of its terms, and all other matters relating to this Agreement.

**Prohibition on Assignment and Delegation:** No party to this Agreement may assign or delegate its interests or obligations hereunder without the written consent of all other parties hereto obtained in advance of any such assignment or delegation. No such assignment or delegation shall in any manner whatsoever relieve any party from its obligations and duties hereunder and such assigning or delegating party shall in all respects remain liable hereunder irrespective of such assignment or delegation.

**Waiver:** Non enforcement of any provision of this Agreement by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remaining terms and conditions of the Agreement.

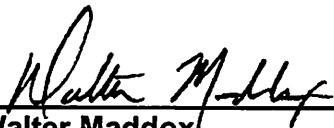
**Agreement Date/Counterparts:** The date of this Agreement is intended as and for a date for the convenient identification of this Agreement and is not intended to indicate that this Agreement was necessarily executed and delivered on said date. This instrument may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

**Use of Words and Phrases:** The following words and phrases, where used in this document, shall be given the following and respective interpretations: "Herein," "hereby," "hereunder," "hereof," and other equivalent words refer to this document as an entirety and not solely to the particular portion hereof in which any such word is used.

The definitions set forth in any portion of this Agreement unless the text or context indicates differently shall be deemed applicable whether the words defined are herein used in the singular or the plural. Wherever used herein any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

**IN WITNESS WHEREOF,** the parties hereto each herewith subscribe the same on the date first above written.

**CITY OF TUSCALOOSA, A Municipal Corporation**

BY:   
**Mayor Walter Maddox**

**ATTEST:**

  
**City Clerk**

CONSULTANT:  
WARD SCOTT ARCHITECTURE

BY: Kimberly McMuray

ATTEST:

Stacy DeLoach

STATE OF ALABAMA     )  
TUSCALOOSA COUNTY    )

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that Walter Maddox, whose name as Mayor of the City of Tuscaloosa, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the within instrument, he, as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 18th day of January, 2017.

Vickie Gilliland  
Notary Public.

My Commission Expires: 2/3/19

STATE OF ALABAMA     )  
COUNTY OF TUSCALOOSA    )

I, Christy L. Baker, a Notary Public in and for said State at Large, hereby certify that Kimberly McMuray, who is named as \_\_\_\_\_, is signed to the foregoing document, and,

- Who is known to me, or
- Whose identity I proved on the basis of \_\_\_\_\_, or
- Whose identity I proved on the oath/affirmation of \_\_\_\_\_, a creditable witness to the signer of the above document

and that being informed of the contents of the document, he/she, as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 24th day of January 2017.

Christy L. Baker  
Notary Public.

My Commission Expires: 5/17/20



December 13, 2016 (Revised 12/15/16)

Mr. Chris Casey  
Construction Manager  
Infrastructure and Public Service  
The City of Tuscaloosa  
2201 University Blvd.  
Tuscaloosa, Alabama 35401

RE: The EDGE, City Project # A13-0623

Dear Mr. Casey:

Thank you for the opportunity to provide the City of Tuscaloosa with a proposal for additional design services for The EDGE Business Resource Center. The scope as we understand will be to redesign the north wing of the building, removing the eight (8) enclosed offices in the center of the work area to create an open mobile office plan. This will include revisions of the drawings for architecture, interior design, mechanical, electrical, fire protection and communication construction documents.

Ward Scott Architecture proposes to provide architecture and engineering professional services to revise the construction documents for the above work description on an hourly compensation basis with a maximum not to exceed of Twelve Thousand Forty Seven Dollars (\$12,047). We will not exceed this amount without approval and direction from the City. The breakdown of our estimated man-hours and cost breakdown to provide the redesign scope is noted as follows:

Professional Services Breakdown for Redesign of the North Wing

Architecture	Principal	12 Hrs	\$230/Hr	\$ 2,760
	Project Architect	20 Hrs	\$175/Hr	\$ 3,500
	Asst. Project Manager	20 Hrs	\$75/Hr	\$ 1,500
Interior Design	Senior Interior Designer	8 Hrs	\$105/Hr	\$ 840
MEP				\$ 1,947
Communications				\$ 1,500
			<b>Total A/E Fee</b>	<b>\$12,047</b>

If you have any questions or clarifications, please don't hesitate to give me call at 205-345-6110.

Sincerely,  
Ward Scott Architecture, Inc.

Kimberly Newton McMurray, AIA, EDAC, MBA  
Principal

Copy to: Savannah Howell  
File