

STAFF REPORT



ITEM NO. 8 CITY OF OCEANSIDE

DATE: December 17, 2008

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department

SUBJECT: **APPROVAL OF AMENDMENT 3 IN THE AMOUNT OF \$10,000 TO THE PROFESSIONAL SERVICES AGREEMENT WITH JEFF KATZ ARCHITECTURE FOR CONSTRUCTION CLOSEOUT SERVICES FOR THE FIRE STATION 7 PROJECT**

SYNOPSIS

Staff recommends that the City Council approve Amendment 3 in the amount of \$10,000 to the Professional Services Agreement with Jeff Katz Architecture, of San Diego for the Fire Station 7 project, for construction closeout services, and authorize the City Manager to execute the agreement.

BACKGROUND

Fire Station 7 is built at 3350 Mission Avenue on the north side of Mission Avenue east of Fousat Road.

On December 15, 2004, the City Council approved a professional services agreement with Jeff Katz Architecture, of San Diego, in the amount of \$360,000 for design services for the Fire Station 7. In addition, on October 11, 2006, the City Council approved Amendment 1 in the amount of \$64,000 for construction administration services and on July 11, 2007, the City Council approved Amendment 2 in the amount of \$225,000 for construction management services.

On January 10, 2007, the City Council awarded a contract to EDGE Development, Inc., for the construction of Fire Station 7, which began on March 12, 2007, and was completed by August of 2008.

On August 22, 2008, a Notice of Completion for the project was filed with the San Diego County Recorder.

ANALYSIS

Jeff Katz Architecture designed the Fire Station 7 and Jeff Katz is personally providing construction review services for Fire Station 7. This Amendment provides Jeff Katz with final payment for the services provided beyond the funds available in the construction administration budget. These services include follow-up site visits and ongoing monitoring of punch list items.

FISCAL IMPACT

\$5.5 million has been budgeted for Fire Station 7 from the General Fund (503.835272) and \$3.5 million, from a Section 108 loan guarantee from U.S. Department of Housing and Urban Development (HUD), has been approved by HUD and accepted by the Council in October of 2007. Including the HUD funds of \$3.5 million, a total of \$9.0 million has been budgeted for this project. Estimated expenditures are as follows:

Construction	\$6,896,679
Change Orders 1 to 15	\$ 357,668
Construction Contingencies	\$ 332,010
Architect/Design/Construction support	\$ 659,000
Administration Cost	<u>\$ 654,654</u>
Total	\$8,900,011

Sufficient funding is available for this project.

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be met.

COMMISSION OR COMMITTEE REPORT

Prior to construction, the conceptual plans were approved by the Police and Fire Commission and the Planning Commission.

The conceptual plans were also presented to the Loma Alta Neighborhood Association, which provided a letter of support.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council approve Amendment 3 in the amount of \$10,000 to the Professional Services Agreement with Jeff Katz Architecture, of San Diego for the Fire Station 7 project, for construction closeout services, and authorize the City Manager to execute the agreement.

PREPARED BY:

SUBMITTED BY:

Abraham M. Chen

Abraham M. Chen
Associate Engineer

Peter Weiss

Peter Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

George Buell, Development Services Director

for Scott O. Smith, City Engineer

Terry Garrison, Fire Chief

Teri Ferro, Financial Services Director

MS
GB
SR
TG
TF

Attachments:

- Amendment 3
- Professional Services Agreement (dated December 15, 2007)
- Amendment 1 (dated October 11, 2006)
- Amendment 2 (dated July 11, 2007)

CITY OF OCEANSIDE

**AMENDMENT NUMBER 3 TO
PROFESSIONAL SERVICES AGREEMENT**

**PROJECT: AMENDMENT NUMBER 3 TO PROFESSIONAL SERVICES
AGREEMENT FOR ARCHITECTURAL SERVICES FOR THE FIRE
STATION NO. 7 PROJECT - 503.835272**

This AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT, dated December 10, 2008, for identification purposes, is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and Jeff Katz Architecture, a Sole Proprietorship, hereinafter designated as "CONSULTANT".

RECITALS

WHEREAS CITY and CONSULTANT entered into a professional services agreement dated December 15, 2004, and Amendment Numbers 1 and 2 to said agreement, to provide the design of a new Fire Station No. 7 on the northerly side of Mission Avenue easterly of Foussat Road.

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS AND CONDITIONS CONTAINED HEREIN, THE PARTIES HERETO AGREE AS FOLLOWS:

The Professional Services Agreement shall be further amended to read as follows:

- A. SECTION 1, SCOPE OF WORK, IS HEREBY AMENDED TO INCLUDE THE FOLLOWING ADDITIONAL WORK:**

The amendment continues the scope of the basic services under the contract through construction administration.

A detailed description of the additional scope of services is contained in the Revised Construction Phase Scope of Work and Fee Proposal attached as Exhibit "A" incorporated herein by reference.

- B. SECTION 13, COMPENSATION, IS HEREBY AMENDED BY ADDING AN AMOUNT NOT TO EXCEED \$10,000 FOR THE ADDITIONAL WORK SET FORTH IN SECTION A, ABOVE.**

The total amount of compensation for the work required by the Professional Services Agreement, including this amendment, shall not exceed \$659,000.

- C. ALL OTHER TERMS, CONDITIONS, COVENANTS AND PROVISIONS OF THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT. IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THE ORIGINAL AGREEMENT, AS AMENDED, AND THIS AMENDMENT, THE TERMS OF THIS AMENDMENT SHALL CONTROL.**

IN WITNESS WHEREOF of parties hereto, for themselves, their heirs, executors, administrators, successors, and assigns, do herein agree to the performance of this Amendment.

CITY OF OCEANSIDE
CITY

APPROVED AS TO FORM

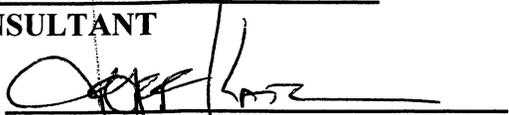
BY: _____

PETER WEISS
TITLE: CITY MANAGER

BY:  _____

CITY ATTORNEY

JEFF KATZ ARCHITECTURE
CONSULTANT

BY:  _____

NAME: JEFF KATZ _____

TITLE: PRINCIPAL _____

NOTARY ACKNOWLEDGEMENTS OF CONSULTANT MUST BE ATTACHED.

EXHIBIT A

A detailed description of additional work.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego }

On 11/26/08 before me, Mark F. Carolin
Date Here Insert Name and Title of the Officer

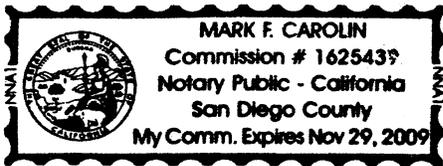
personally appeared JEFF KATZ
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Mark F. Carolin
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Amn #3 to PSC agreement

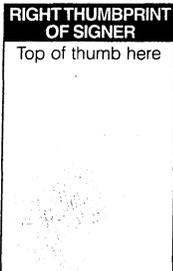
Document Date: 12/10/08 Number of Pages: 2

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: JEFF KATZ

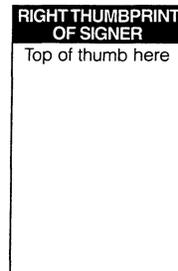
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: FIRM

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

" EXHIBIT A "

j e f f k a t z
ARCHITECTURE 

November 8, 2008

Abe Chen
City of Oceanside Public Works Department
300 North Coast Highway
Oceanside, California 92054-2885

RE: Architectural Services
City of Oceanside Fire Station No. 7
Revised Construction Phase Fee Proposal

Dear Abe:

As you are aware there is a significant amount of effort involved in overseeing the closeout of any construction project. Fire Station 7 is no exception. Due to repeated return visits to monitor progress on punchlist items we have exceeded the funds available in our construction administration budget for this project. I hereby request a modification to our contract to provide up to an additional Ten Thousand Dollars (\$10,000.00) to be billed hourly per our original agreement.

Please do not hesitate to call if you have any questions about this request.

Respectfully,

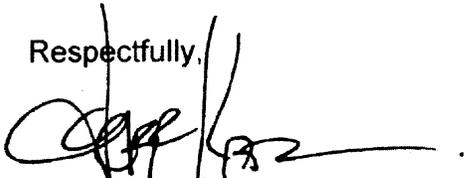

Jeff Katz, AIA

Exhibit "A"

HOURLY RATE SCHEDULE

The following rates apply to work performed on an hourly basis.

Principal Architect	\$ 140.00 per hour
Project Architect	\$ 110.00 per hour
Project Manager	\$ 100.00 per hour
Designer	\$ 90.00 per hour
Specification Writer	\$ 100.00 per hour
Construction Administrator	\$ 100.00 per hour
Drafter	\$ 70.00 per hour
Secretarial	\$ 50.00 per hour
Structural Engineer	\$ 140.00 per hour
Civil Engineer	\$ 140.00 per hour
Mechanical Engineer	\$ 140.00 per hour
Electrical Engineer	\$ 140.00 per hour
Landscape Architect	\$ 125.00 per hour

Reimbursable Expenses will be charged at 1.1 times the direct cost.

Note: These rates will remain in effect until December 31, 2006, at which time they may be adjusted as a result of salary reviews.

CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

PROJECT: FIRE STATION NUMBER 7 – 503-835272

THIS AGREEMENT is made and entered into this 15th day of December, 2004, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and Jeff Katz Architecture, a Sole Proprietorship, hereinafter designated as "CONSULTANT".

RECITALS

- A. CITY desires to obtain professional engineering services from an independent contractor for the above named project.
- B. CONSULTANT has submitted a proposal to provide engineering services for the CITY in accordance with the terms set forth in this Agreement.
- C. CITY desires to contract with CONSULTANT as an independent contractor and CONSULTANT desires to provide services to CITY as an independent contractor.
- D. CONSULTANT has demonstrated its competence and professional qualifications necessary for the satisfactory performance of the services designated herein by virtue of its experience, training, education and expertise.

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- 1.0 **SCOPE OF WORK.** The project is more particularly described as follows: Design a new Fire Station No. 7 on the northerly side of Mission Avenue easterly of Foussat Road. The proposed fire station will be about 14,000 square feet.
- 1.1 **PROFESSIONAL SERVICES PROVIDED BY CONSULTANT.** The professional services to be performed by CONSULTANT shall consist of but not be limited to the following: Provide architectural, civil, geotechnical, survey services for the design of Fire Station No. 7, as detailed in the scope of services in Attachment A.
 - 1.1.1 Work closely with the City Engineer in performing work in accordance with this Agreement in order to receive clarification as to the result which the CITY expects to be accomplished by CONSULTANT. The City Engineer, under the authority of the City Manager, shall be the CITY'S authorized representative in the interpretation and enforcement of all work performed in connection with this

Fire Station Number 7 – 503-835272

Agreement. The City Engineer may delegate authority in connection with this Agreement to the City Engineer's designees. For the purposes of directing the CONSULTANT'S performance in accordance with this Agreement, the City Engineer delegates authority to Jeanette Peck.

- 1.1.2 In compliance with Government Code section 7550, the CONSULTANT shall include a separate section in the proposal prepared pursuant to this Agreement, which contains a list of all the subcontractors and dollar amounts of all contracts and subcontracts required for the preparation of work described in this Agreement.
- 1.1.3 Visit and carefully examine the location of the project as often as necessary to become acquainted with all conditions which are visible or could reasonably be discovered, and which might have an impact upon the construction of the project.
- 1.1.4 Design, prepare and submit to the City Engineer, plans and specifications for the construction of the project as described in the Scope of Work, and in the time and manner set forth in this Agreement.
- 1.1.5 Prepare and submit to the City Engineer, concurrently with the design plans, the following:
 - a. A written estimate of probable construction costs.
 - b. A written list of submittals, which the construction contractor will be required to provide during the construction phase of the project.
- 1.1.6 Upon completion of construction, prepare, approve and sign a set of As-Built record drawings.
- 1.2 **SERVICES PROVIDED BY CITY.** The CITY shall perform the following services:
 - 1.2.1 Provide access to all public improvement plans and records and furnish one copy of drawings and reports requested.
 - 1.2.2 Obtain all necessary permits from other regulatory agencies and other Departments. CONSULTANT shall participate in the completion of such forms but CITY will submit these and pay for any applicable fees.
 - 1.2.3 Provide sample of title block for the plans and standard form Public Works Construction Contract Documents to be used with the General Provisions (Specifications).

Fire Station Number 7 – 503-835272

- 1.2.4 Upon request, verify the location of existing CITY owned utilities.
- 1.2.5 Provide all legal advertising mailings and postings required.
- 1.2.6 Duplicate all final plans and specifications.
- 1.2.7 Provide all necessary surveying and testing required for design, including geotechnical engineering services if required during construction.
- 1.2.8 Provide overall project management.
- 1.2.9 Provide coordination of all inquiries from prospective bidders during the bidding period.

2.0 **TIMING REQUIREMENTS**

- 2.1 Time is of the essence in the performance of work under this Agreement and the following timing requirements shall be strictly adhered to unless otherwise modified in writing as set forth in Section 2.6. Failure by CONSULTANT to strictly adhere to these timing requirements may result in termination of this Agreement by the CITY and the assessment of damages against the CONSULTANT for delays.
- 2.2 Phase I. CONSULTANT shall prepare and deliver a copy of the 40% preliminary design plans to the City Engineer within 90 calendar days of the execution of this Agreement. No work shall be performed by CONSULTANT beyond the Phase I stage until the City Engineer has given written approval of the preliminary design and authorization to perform Phase II.
- 2.3 Phase II. CONSULTANT shall prepare and deliver a copy of the 90% design plans to the City Engineer within 60 calendar days of the execution of this Agreement. No work shall be performed by CONSULTANT beyond the Phase II stage until the City Engineer has given authorization to perform Phase III.
- 2.4 Phase III. CONSULTANT shall prepare and deliver the final design plans to the City Engineer within 150 calendar days of the City Engineer's written authorization to perform Phase III.
- 2.5 Phase IV. CONSULTANT shall prepare and deliver the final As-Built plans for record drawings to the City Engineer within 50 calendar days of the City Engineer's written request.
- 2.6 CONSULTANT shall submit all requests for extensions of time for performance

Fire Station Number 7 – 503-835272

in writing to the City Engineer no later than ten (10) calendar days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. The City Engineer shall review all such requests and may grant reasonable time extensions for unforeseeable delays which are beyond CONSULTANT'S control.

2.7 For all time periods not specifically set forth herein, the CONSULTANT shall respond in the most expedient and appropriate manner under the circumstances, by either telephone, fax hand delivery or mail.

3.0 **DESIGN CRITERIA AND STANDARDS.** All work shall be performed in accordance with applicable CITY, state and federal codes and criteria. In the performance of its professional services, CONSULTANT shall use the degree of care and skill ordinarily exercised by CONSULTANT under similar conditions.

All plans shall be ink drawn on standard mylar sheets available from the CITY at no cost to CONSULTANT. Contract specifications shall conform to the CITY'S specification procedures and the format of the CITY'S standard form Contract Documents for Public Works Construction.

4.0 **INDEPENDENT CONTRACTOR.** CONSULTANT'S relationship to the CITY shall be that of an independent contractor. CONSULTANT shall have no authority, express or implied, to act on behalf of the CITY as an agent, or to bind the CITY to any obligation whatsoever, unless specifically authorized in writing by the City Engineer. The CONSULTANT shall not be authorized to communicate directly with, nor in any way direct the actions of, any bidder or the construction contractor for this project without the prior written authorization by the City Engineer. CONSULTANT shall be sole responsible for the performance of any of its employees, agents or subcontractors under this agreement.

CONSULTANT shall report to the CITY any and all employees, agents and consultants performing work in connection with this project, and all shall be subject to the approval of the CITY.

5.0 **CITY BUSINESS LICENSE.** Prior to the commencement of any work under this agreement, the CONSULTANT shall obtain and present a copy of an Oceanside City Business License to the City Engineer.

6.0 **WORKERS' COMPENSATION.** Pursuant to Labor Code section 1861, the CONSULTANT hereby certifies that the CONSULTANT is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and the CONSULTANT will

Fire Station Number 7 – 503-835272

comply with such provisions and provide certification of such compliance as a part of these Award Documents. The certification shall be in accordance with Subsections 7.3 through 7.8 of this Agreement.

7.0 LIABILITY INSURANCE.

7.1 CONSULTANT shall, throughout the duration of this Agreement, maintain comprehensive general liability and property damage insurance, or commercial general liability insurance, covering all operations of CONSULTANT, its agents and employees, performed in connection with this Agreement including, but not limited to, premises and automobile.

7.2.1 CONSULTANT shall maintain liability insurance in the following minimum limits:

Comprehensive General Liability Insurance
(bodily injury and property damage)

Combined Single Limit Per Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000*

Commercial General Liability Insurance
(bodily injury and property damage)

General limit per occurrence	\$ 1,000,000
General limit project specific	\$ 2,000,000

<u>Automobile Liability Insurance</u>	\$ 1,000,000
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*General aggregate per year, or part thereof, with respect to losses or other acts or omissions of CONSULTANT under this Agreement.

7.2.2 If coverage is provided through a Commercial General Liability Insurance policy, a minimum of 50% of each of the aggregate limits shall remain available at all times. If over 50% of any aggregate limit has been paid or reserved, the CITY may require additional coverage to be purchased by the CONSULTANT to restore the required limits. The CONSULTANT shall also notify the CITY'S Project Manager promptly of all losses or claims over \$25,000 resulting from work performed under this contract, or any loss or claim against the CONSULTANT resulting from any of the CONSULTANT'S work.

7.3 All insurance companies affording coverage to the CONSULTANT for the purposes of this Section shall add the City of Oceanside as "additional insured"

Fire Station Number 7 – 503-835272

under the designated insurance policy for all work performed under this Agreement. Insurance coverage provided to the CITY as an additional insured shall be primary insurance and other insurance maintained by the CITY, its officers, agents and employees shall be excess only and not contributing with insurance provided pursuant to this Section.

- 7.4 All insurance companies affording coverage to the CONSULTANT pursuant to this Agreement shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact business of insurance in the state or be rated as A-X or higher by A.M. Best.
- 7.5 All insurance companies affording coverage shall provide thirty (30) days written notice to the CITY should the policy be cancelled before the expiration date. For the purposes of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 7.6 CONSULTANT shall provide evidence of compliance with the insurance requirements listed above by providing a Certificate of Insurance, in a form satisfactory to the City Attorney, concurrently with the submittal of this Agreement.
- 7.7 CONSULTANT shall provide a substitute Certificate of Insurance no later than thirty (30) days prior to the policy expiration date. Failure by the CONSULTANT to provide such a substitution and extend the policy expiration date shall be considered a default by CONSULTANT and may subject the CONSULTANT to a suspension or termination of work under the Agreement.
- 7.8 Maintenance of insurance by the CONSULTANT as specified in this Agreement shall in no way be interpreted as relieving the CONSULTANT of any responsibility whatsoever and the CONSULTANT may carry, at its own expense, such additional insurance as it deems necessary.
- 8.0 **PROFESSIONAL ERRORS AND OMISSIONS INSURANCE.** Throughout the duration of this agreement and four (4) years thereafter, the CONSULTANT shall maintain professional errors and omissions insurance for work performed in connection with this Agreement in the minimum amount of Five Hundred Thousand dollars (\$ 500,000).

CONSULTANT shall provide evidence of compliance with these insurance requirements by providing a Certificate of Insurance.

- 9.0 **CONSULTANT'S INDEMNIFICATION OF CITY.** CONSULTANT shall indemnify and hold harmless the CITY and its officers, agents and employees

Fire Station Number 7 – 503-835272

against all claims or lawsuits for damages to persons or property arising out of the conduct, negligent acts, errors, omissions or wrongful acts of conduct of the CONSULTANT or its employees, agents, subcontractors or others in connection with the execution of the work covered by this Agreement, except for those claims arising from the willful misconduct, sole negligence or active negligence of the CITY, its officers, agents or employees. CONSULTANT'S indemnification shall include any and all costs, expenses, expert fees, attorneys' fees and liability assessed against or incurred by the CITY, its officers, agents or employees in defending against such claims or lawsuits, whether the same proceed to judgment or not. Further, CONSULTANT, at its own expense, shall, upon written request by the CITY, defend any such suit or action brought against the CITY, its officers, agents or employees resulting or arising from the tortuous acts or omissions of the CONSULTANT.

CONSULTANT'S indemnification of CITY shall not be limited by any prior or subsequent declaration by the CONSULTANT.

- 10.0 **ERRORS AND OMISSIONS.** In the event that the City Engineer determines that the CONSULTANT'S negligence, misconduct, errors or omissions in the performance of work under this Agreement has resulted in expense to CITY greater than would have resulted if there were no such negligence, errors or omissions in the plans or contract specifications, CONSULTANT shall reimburse CITY for the additional expenses incurred by the CITY, including engineering, construction and/or restoration expense. Nothing herein is intended to limit CITY'S rights under Sections 7, 8 or 9.
- 11.0 **NO CONFLICT OF INTEREST.** The CONSULTANT shall not be financially interested in any other CITY contract for this project. For the limited purposes of interpreting this section, the CONSULTANT shall be deemed a "City officer or employee", and this Section shall be interpreted in accordance with Government Code section 1090. In the event that the CONSULTANT becomes financially interested in any other CITY contract for this project, that other contract shall be void. The CONSULTANT shall indemnify and hold harmless the CITY, under Section 9 above, for any claims for damages resulting from the CONSULTANT'S violation of this Section.
- 12.0 **OWNERSHIP OF DOCUMENTS.** All plans and specifications, including details, computations and other documents, prepared or provided by the CONSULTANT under this Agreement shall be the property of the CITY. The CITY agrees to hold the CONSULTANT free and harmless from any claim arising from any use, other than the purpose intended, of the plans and specifications and all preliminary sketches, schematics, preliminary plans, architectural perspective renderings, working drawings, including details, computation and other

Fire Station Number 7 – 503-835272

documents, prepared or provided by the CONSULTANT. CONSULTANT may retain a copy of all material produced under this Agreement for the purpose of documenting their participation in this project.

13.0 COMPENSATION.

13.1 For work performed by CONSULTANT in accordance with this Agreement, CITY shall pay CONSULTANT in accordance with the schedule of billing rates set forth in Exhibit "A", attached hereto and incorporated herein by reference. No rate changes shall be made during the term of this Agreement without prior written approval of the City Engineer. CONSULTANT'S compensation for all work performed in accordance with this Agreement shall not exceed the total contract price of \$ 360,000.

No work shall be performed by CONSULTANT in excess of the total contract price without prior written approval of the City Engineer. CONSULTANT shall obtain approval by the City Engineer prior to performing any work which results in incidental expenses to CITY as set forth in Section 13.2.2.

13.2 CONSULTANT shall maintain accounting records including the following information:

13.2.1 Names and titles of employees or agents, types of work performed and times and dates of all work performed in connection with this Agreement which is billed on an hourly basis.

13.2.2 All incidental expenses including reproductions, computer printing, postage, mileage and subsistence.

13.3 CONSULTANT'S accounting records shall be made available to the City Engineer for verification of billings, within a reasonable time of the City Engineer's request for inspection.

13.4 CONSULTANT shall submit monthly invoices to CITY. CITY shall make partial payments to CONSULTANT not to exceed the total contract price within thirty (30) days of receipt of invoice, subject to the approval of the City Engineer, and based upon the following partial payment schedule:

13.4.1 Prior to submittal of the 40% preliminary design plans, partial payments shall not exceed \$ 144,500.

13.4.2 Prior to CITY approval of the plans and specifications, partial payments shall not exceed \$325,000.

Fire Station Number 7 – 503-835272

13.4.3 Final payment shall be made to CONSULTANT upon CONSULTANT's preparation of As-Built plans for record drawings to the satisfaction of the City Engineer.

14.0 **TERMINATION OF AGREEMENT.** Either party may terminate this Agreement by providing thirty (30) days written notice to the other party.

If any portion of the work is terminated or abandoned by the CITY, then the CITY shall pay CONSULTANT for any work completed up to and including the date of termination or abandonment of this Agreement, in accordance with Section 13. The CITY shall be required to compensate CONSULTANT only for work performed in accordance with the Agreement up to and including the date of termination.

15.0 **ASSIGNMENT AND DELEGATION.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT'S duties be delegated, without the express written consent of the CITY. Any attempt to assign or delegate this Agreement without the express written consent of the CITY shall be void and of no force or effect. A consent by the CITY to one assignment shall not be deemed to be a consent to any subsequent assignment.

This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

16.0 **ENTIRE AGREEMENT.** This Agreement comprises the entire integrated understanding between CITY and CONSULTANT concerning the work to be performed for this project and supersedes all prior negotiations, representations or agreements.

17.0 **INTERPRETATION OF THE AGREEMENT.** The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. The Agreement does not limit any other rights or remedies available to CITY.

The CONSULTANT shall be responsible for complying with all local, state and federal laws whether or not said laws are expressly stated or referred to herein.

Should any provision herein be found or deemed to be invalid, the Agreement shall be construed as not containing such provision and all other provisions, which are otherwise lawful, shall remain in full force and effect, and to this end the provisions of this Agreement are severable.

18.0 **AGREEMENT MODIFICATION.** This Agreement may not be modified orally or in any manner other than by an Agreement in writing, signed by the parties hereto.

19.0 **DISPUTE RESOLUTION.**

- a. Any controversy or claim arising out of or relating to this Agreement, or concerning the breach or interpretation thereof, shall be first submitted to mediation, the cost of which shall be borne equally by the parties.
- b. No suit shall be brought on this contract unless all statutory claims filing requirements have been met.

20. **NOTICES.** All notices, demands, requests, consents or other communications which this Agreement contemplates or authorizes, or requires or permits either party to give to the other, shall be in writing and shall be personally delivered or mailed to the respective party as follows:

TO CITY:

City of Oceanside
City Engineer
300 North Coast Highway
Oceanside, CA 92054

TO CONSULTANT:

Jeff Katz Architecture
7290 Navajo Road, Suite 106
San Diego, CA 92119

Either party may change its address by notice to the other party as provided herein.

Communications shall be deemed to have been given and received on the first to occur:

- a. Actual receipt at the offices of the party to whom the communication is to be sent, as designated above, or
- b. Three (3) working days following the deposit in the United States mail of registered or certified mail, postage prepaid, return receipt requested, addressed to the offices of the party to whom the communication is to be sent, as designated above.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego

On October 19, 2004 before me, Kris Meza, Notary Public
DATE NAME, TITLE OF OFFICER - E.G., "JANE/DOE, NOTARY PUBLIC"

personally appeared Jeffrey Katz
NAME(S) OF SIGNER(S)

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

[Handwritten Signature]

SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER

TITLE(S)

- PARTNER(S) LIMITED
- ATTORNEY-IN-FACT GENERAL
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

DESCRIPTION OF ATTACHED DOCUMENT

Contract
TITLE OR TYPE OF DOCUMENT

11
NUMBER OF PAGES

10/19/04
DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

Attachment A - Scope of Services

SCHEMATIC DESIGN PHASE 1

- Meet with City and Fire Department Design Committee to discuss examples which the committee has seen on their tour of existing stations in the County, to review areas which the Fire Department feels are examples of both good and poor design elements. Hold "Brainstorming" sessions with Fire Department personnel to discuss features of the new station design in order to understand and develop a detailed program for the project.
- Meet with Project Team to discuss budget, program and exterior design issues.
- Perform preliminary code and zoning review.
- Meet with Building and Planning Department to review all requirements including design review, environmental documentation and approval process.
- Develop Preliminary Building Floor Plans and Building Elevations.
- Develop conceptual site drawings indicating placement of structures and amenities on site. This will include the following:
 - Investigate existing site conditions.
 - Develop preliminary site and utility plans indicating building site orientation, site ingress and egress, and site utility information.
 - Prepare preliminary grading plans.
- Prepare an ALTA Survey of the entire 4.11 acre site.
- Develop Preliminary plans for all off-site improvements, including utilities.
- Prepare preliminary landscape and hardscape plans.
- Develop preliminary Cost Estimates based upon building systems. The estimates prepared at this phase will be generally square foot cost estimates for the various building components, and will include a design development contingency (to allow for potential increases as the design is refined further in the later stages of the project).
- Provide a written preliminary evaluation of the project, schedule and construction budget.
- Prepare a Traffic Study for the site.
- Coordinate Geotechnical Investigation and Phase 1 Environmental Studies for the site.
- Coordinate Biological and Cultural Resource Studies for the site.

- Make required submissions to City for preliminary project review and approvals. Drawings required for this submittal will include:
 - Site Plan
 - Schematic Floor Plan
 - Schematic Building Elevations
 - Conceptual Landscape Plans
 - Preliminary Grading and Drainage Plans
 - Exterior Color and Material Sample Boards
 - Prepare a colored rendering of the station exterior for display in the City Manager's office

These drawings will include color and material callouts, as well as a colored building elevation drawing and colored Landscape drawings. No models are included in this submittal.

- Make required presentations to various agency review organizations to review proposed design. Proposal assumes four design review meetings, one presentation to the City Council and one presentation to the Police and Fire Commission
- Make required modifications to Schematic Design to obtain Schematic Design approval.
- After obtaining written approval of Schematic Design we will proceed into Design Development.

DESIGN DEVELOPMENT PHASE 2

- Refine design of Floor Plan, Building Elevations and Site Plan.
- Coordinate building and site requirements with Geotechnical Engineer.
- Develop structural system consistent with design concept.
- Develop building mechanical, plumbing and electrical systems consistent with design concept.
- Coordinate with Owner systems for phone/data/cable and station alerting requirements.
- Prepare preliminary Interior Elevations, Building Sections, Reflected Ceiling Plan and Roof Plan.
- Prepare preliminary interior material and color boards for review and selection.
- Develop Preliminary fixture and furniture selections.

- Prepare preliminary SWPPP plan and Hydrology Report for the site.
- Develop Preliminary fixture and furniture selections.
- Prepare preliminary line item Construction Cost Estimate based on actual building components. This estimate will be more detailed than the systems estimate prepared during schematic design.
- Make required submittal to City for Design Development Review (35% submittal).
- After obtaining written approval of the information presented in the Design Development drawings, we will proceed into Construction Documents.

CONSTRUCTION DOCUMENTS PHASE 3

- Prepare drawings and specifications suitable for bidding to clearly delineate the Contractor's scope of work, including required civil, architectural, structural, mechanical, plumbing, electrical and landscape design. It is assumed for this proposal that the City will provide all required General and Supplementary Conditions and Bidding Information. Submittals will be made at 65%, 90% and 100% and will include plans, specifications and cost estimate.
- Construction Documents will incorporate Geotechnical requirements and recommendations for soils preparation, foundation and paving design.
- Provide documentation of "General Construction Activity Storm Water Pollution & Prevention Plans" and "Notice of Intent".
- Submit plans to local utility companies for review and approval. (Note: Any required Utility Company fees are not included).
- Submit plans to Building Departments for plan check, and perform all required revisions to construction documents based on Building Department's plan check comments (Note: plan check and permit fees are not included).
- Update Construction Cost Estimate.
- Meet with City and Fire Department as required to review final design and construction documents.

BIDDING PHASE 4

- Provide final original drawings (mylars) and specifications for use in bid packages. For this proposal it is assumed that the City will advertise, assemble and distribute bid packages.

- Interpret and clarify contract documents for contractors, and assist in issuing addenda as required.
- Attend a Pre-Bid walkthru at the site with all interested contractors.
- Participate in bid opening, review contractor's detailed cost breakdown, and assist the City in evaluation of the bids.

Exhibit "A"

HOURLY RATE SCHEDULE

The following rates apply to work performed on an hourly basis.

Principal Architect	\$ 120.00 per hour
Project Architect	\$ 105.00 per hour
Project Manager	\$ 95.00 per hour
Designer	\$ 85.00 per hour
Specification Writer	\$ 95.00 per hour
Construction Administrator	\$ 95.00 per hour
Drafter	\$ 65.00 per hour
Secretarial	\$ 45.00 per hour
Structural Engineer.....	\$ 120.00 per hour
Civil Engineer	\$ 120.00 per hour
Mechanical Engineer	\$ 120.00 per hour
Electrical Engineer	\$ 120.00 per hour
Landscape Architect	\$ 110.00 per hour

Reimbursable Expenses will be charged at 1.1 times the direct cost.

Note: These rates will remain in effect until December 31, 2004, at which time they may be adjusted as a result of salary reviews.

CITY OF OCEANSIDE

CC

**AMENDMENT NUMBER 1 TO
PROFESSIONAL SERVICES AGREEMENT**

**PROJECT: AMENDMENT NUMBER 1 TO PROFESSIONAL SERVICES
AGREEMENT FOR THE ARCHITECTURAL SERVICES FOR THE
FIRE STATION NO. 7 PROJECT - 503.835272**

This AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT is made and entered into this 13TH day of September 2006, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and Jeff Katz Architecture, a Sole Proprietorship, hereinafter designated as "CONSULTANT".

RECITALS

WHEREAS CITY and CONSULTANT entered into a professional services agreement to provide the design of a new Fire Station No. 7 on the northerly side of Mission Avenue easterly of Foussat Road.

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS AND CONDITIONS CONTAINED HEREIN, THE PARTIES HERETO AGREE AS FOLLOWS:

The Professional Services Agreement shall be amended to read as follows:

- A. SECTION 1, SCOPE OF WORK, IS HEREBY AMENDED TO INCLUDE THE FOLLOWING ADDITIONAL WORK DESCRIBED HEREIN:**

The amendment continues the scope of the basic services under the contract through construction administration.

A detailed description of the additional scope of services is contained in the Construction Administration Services Fee Proposal attached as Exhibit "A" incorporated herein by reference.

- B. SECTION 13, COMPENSATION, IS HEREBY AMENDED BY ADDING AN AMOUNT NOT TO EXCEED \$64,000 FOR THE ADDITIONAL WORK AS SET FORTH IN A.**

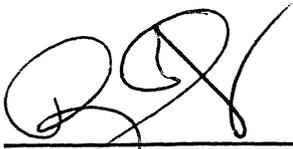
The total amount of compensation for the work required by the Professional Services Agreement, including this amendment, shall not exceed \$424,000.

- D. ALL OTHER TERMS, CONDITIONS, COVENANTS AND PROVISIONS OF THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT. IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THE ORIGINAL AGREEMENT AND THIS AMENDMENT, THE TERMS OF THIS AMENDMENT SHALL CONTROL.**

IN WITNESS THEREOF of parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do herein agree to the performance of this Amendment.

CITY OF OCEANSIDE
CITY

APPROVED AS TO FORM

BY: 

BARRY MARTIN
TITLE: INTERIM CITY MANAGER

BY: 

CITY ATTORNEY

JEFF KATZ ARCHITECTURE
CONSULTANT
BY: 

NAME: JEFF KATZ
TITLE: PRINCIPAL

NOTARY ACKNOWLEDGEMENTS OF CONSULTANT MUST BE ATTACHED.

EXHIBIT A

A detailed description of additional work.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of San Diego } ss.

On 8-7-06 before me, Corina Shonti Cauldren, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Jeff Katz
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

[Handwritten Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Professional Services Agreement
Document Date: 9-13-2006 Number of Pages: 5

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

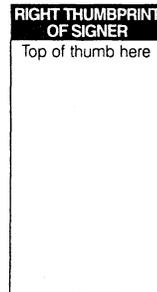


Exhibit A

Jeff Katz Architecture

July 2, 2006

Jeanette Peck
City of Oceanside Public Works Department
300 North Coast Highway
Oceanside, California 92054-2885

RE: **Architectural Services**
City of Oceanside Fire Station No. 7
Construction Administration Services Fee Proposal

Per your request we are please to offer this revised proposal for construction administration services for Fire Station No. 7. The scope of services is as follows:

CONSTRUCTION ADMINISTRATION PHASE

Construction contract administration services are based on a Twelve month construction period, from Authorization to Proceed through Punchlist Inspection. The following services will be provided:

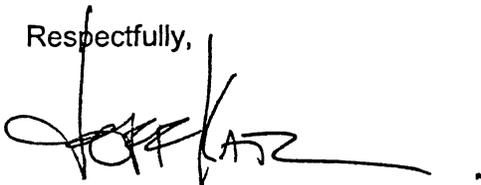
- Attend Pre-Construction conference.
- Review and approve or take other appropriate action upon Contractor's submittals and shop drawings as required by contract documents.
- Interpret contract documents (including all subconsultant disciplines) for proper execution and progress of construction, including responding to contractor's requests for information and clarification.
- Make one scheduled site visit every week during the course of construction (total of 52) to observe the project, and prepare site visit report. Site visit shall include meeting with contractor and City representative to review progress of construction, review pending RFI and Change Order information, and observe the construction to verify work is proceeding in accordance with construction documents.

- Provide two site visits per discipline (by the respective engineers) for civil, structural, electrical, mechanical and Landscape Architecture, to review progress of construction and conformance with construction documents.
- Make one additional site visit to perform Punchlist Inspection, and one additional visit to perform Final Inspection. Punchlist Inspection will include a detailed listing of all items remaining to be completed by the Contractor. Final Inspection will certify that all work has been completed in accordance with construction documents.
- Assist City in review of Contractor's initial and progress schedules.
- Assist in reviewing and processing contractor's progress payment requests, and certifying the amounts due to the Contractor.
- Process contractor's As-Builts, warranty information and related information by forwarding them to the District.
- Inspect the project as part of Post Construction Evaluation prior to completion of contractor warranty period.

I propose to provide the stated basic services for a fixed fee of Sixty Four Thousand Dollars (\$64,000.00). Invoices will be submitted monthly, in a format acceptable to the City, for the percentage of work completed during the month, on any particular phase.

I appreciate the opportunity to present this proposal. I am available to meet with you at any time to review and discuss the proposed scope of services and fee proposal. If you have any questions regarding this scope of work please do not hesitate to contact me at (619) 698-9177.

Respectfully,

A handwritten signature in black ink, appearing to read "JEFF KATZ", written over the word "Respectfully,".

Jeff Katz, AIA
Principal

Exhibit "A"

HOURLY RATE SCHEDULE

The following rates apply to work performed on an hourly basis.

Principal Architect	\$ 140.00 per hour
Project Architect	\$ 110.00 per hour
Project Manager	\$ 100.00 per hour
Designer	\$ 90.00 per hour
Specification Writer	\$ 100.00 per hour
Construction Administrator	\$ 100.00 per hour
Drafter	\$ 70.00 per hour
Secretarial	\$ 50.00 per hour
Structural Engineer	\$ 140.00 per hour
Civil Engineer	\$ 140.00 per hour
Mechanical Engineer	\$ 140.00 per hour
Electrical Engineer	\$ 140.00 per hour
Landscape Architect	\$ 125.00 per hour

Reimbursable Expenses will be charged at 1.1 times the direct cost.

Note: These rates will remain in effect until December 31, 2006, at which time they may be adjusted as a result of salary reviews.

CITY OF OCEANSIDE

**AMENDMENT NUMBER 2 TO
PROFESSIONAL SERVICES AGREEMENT**

**PROJECT: AMENDMENT NUMBER 2 TO PROFESSIONAL SERVICES
AGREEMENT FOR ARCHITECTURAL SERVICES FOR THE FIRE
STATION NO. 7 PROJECT - 503.835272**

This AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT is made and entered into this 11th day of July 2007, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and Jeff Katz Architecture, a Sole Proprietorship, hereinafter designated as "CONSULTANT".

RECITALS

WHEREAS CITY and CONSULTANT entered into a professional services agreement and Amendment Number 1 to said agreement to provide the design of a new Fire Station No. 7 on the northerly side of Mission Avenue easterly of Foussat Road.

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS AND CONDITIONS CONTAINED HEREIN, THE PARTIES HERETO AGREE AS FOLLOWS:

The Professional Services Agreement shall be further amended to read as follows:

- A. SECTION 1, SCOPE OF WORK, IS HEREBY AMENDED TO INCLUDE THE FOLLOWING ADDITIONAL WORK:**

The amendment continues the scope of the basic services under the contract through construction administration.

A detailed description of the additional scope of services is contained in the Revised Construction Phase Scope of Work and Fee Proposal attached as Exhibit "A" incorporated herein by reference.

- B. SECTION 13, COMPENSATION, IS HEREBY AMENDED BY ADDING AN AMOUNT NOT TO EXCEED \$225,000 FOR THE ADDITIONAL WORK SET FORTH IN SECTION A, ABOVE.**

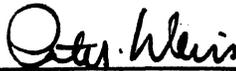
The total amount of compensation for the work required by the Professional Services Agreement, including this amendment, shall not exceed \$649,000.

- D. ALL OTHER TERMS, CONDITIONS, COVENANTS AND PROVISIONS OF THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT. IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THE ORIGINAL AGREEMENT, AS AMENDED, AND THIS AMENDMENT, THE TERMS OF THIS AMENDMENT SHALL CONTROL.**

IN WITNESS THEREOF of parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do herein agree to the performance of this Amendment.

CITY OF OCEANSIDE
CITY

APPROVED AS TO FORM

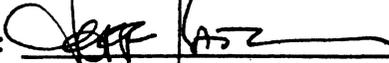
BY: 

PETER WEISS
TITLE: INTERIM CITY MANAGER

BY:  ASST.

CITY ATTORNEY

JEFF KATZ ARCHITECTURE
CONSULTANT

BY: 

NAME: JEFF KATZ

TITLE: PRINCIPAL

NOTARY ACKNOWLEDGEMENTS OF CONSULTANT MUST BE ATTACHED.

EXHIBIT A

A detailed description of additional work.