

**AMENDMENT NO. 3
TO AGREEMENT BETWEEN
SANTA FE COUNTY AND ELLIS/BROWNING ARCHITECTS, LTD
FOR ARCHITECTURAL DESIGN SERVICES**

THIS AMENDMENT is made and entered into as of this 25th day of April, 2016, by and between **Santa Fe County**, a political subdivision of the State of New Mexico (hereinafter referred to as "**Owner**"), **Ellis/Browning Architects, Ltd.**, 921 Paseo Del Sur, Santa Fe, NM 87501 (hereinafter referred to as "**Assignor**") and **Lloyd and Associates Architects**, 100 N. Guadalupe St. #201, Santa Fe, NM 87501 (hereinafter referred to as "**Assignee**").

WHEREAS, on December 17, 2012, the **Owner** and **Assignor** entered into Agreement No. 2013-0111-PW/MS (the Agreement) to provide for the **Assignor's** completion of an architectural design for renovations to the Santa Fe District Attorney's building located at 327 Sandoval Street, Santa Fe, New Mexico; and

WHEREAS, according to the Agreement, the **Assignor/Architect** was to complete design services that include the replacement of exterior windows, refurbish and/or replace exterior wood elements, study interior traffic flow and redesign of the building and other renovations; and

WHEREAS, Section 13 of the Agreement allows the **Owner** and **Assignor/Architect** to amend the Agreement by an instrument in writing and Section 10.3 requires the **Owner** to provide written consent to any assignment of the Agreement by the **Assignor/Architect**; and

WHEREAS, by Amendment Nos. 1 and 2, the Agreement was amended to authorize the Architect to complete additional design services relating to structural engineering services, secure consultant services for security recommendations for the building, and increase the Maximum Allowable Construction Costs (MACC); and

WHEREAS, the **Assignor/Architect** under the Agreement is unable to complete the scope of services of the Agreement and has proposed to assign its duties under the Agreement to the **Assignee**. The **Assignee** is willing to assume all the duties, responsibilities and liabilities of the **Assignor/Architect** under Agreement including Amendment Nos. 1 and 2; and

WHEREAS, this Amendment No. 3 will serve as an assignment and assumption agreement between the **Assignor** and **Assignee** that the **Assignor** is willing to assign its duties, responsibilities, rights, interests and liabilities in the Agreement to the **Assignee**, that the **Assignee** agrees to assume all the **Assignor's** duties, responsibilities, rights, interests and liabilities under the Agreement, and will evidence the **Owner's** written consent to such assignment and assumption under Section 10.3 of the Agreement.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. **Assignor** does transfer and assign to **Assignee** all of **Assignor's** rights, obligations, interests and liabilities under Agreement No. 2013-0111-PW/MS, including Amendment Nos. 1 and 2.

2. For and inconsideration of this Assignment, **Assignee** assumes all of **Assignor's** rights, obligations, interest and liabilities under Agreement 2013-0111-PW/MS as amended, to the same extent as if it had originally been named as the "Architect" in Agreement No. 2013-0111-PW/MS.
3. **Assignee** agrees to defend, indemnify and hold harmless **Assignor** and its affiliates, officers, employees, agents and representatives from and against all claims, demands, obligations, losses, liabilities, damages, recoveries and deficiencies, including interest, penalties and reasonable attorney's fees, costs and expenses arising out of, resulting from or related in any way whatsoever to the obligations under Agreement No. 2013-0111-PW/MS as amended, as assumed by **Assignee** under this Amendment No. 3, other than those obligations arising prior to the date of this Amendment No. 3 resulting from **Assignor's** gross negligence or willful misconduct.
4. **Assignor** agrees to defend, indemnify and hold harmless **Assignee** and its affiliates, officers, employees, agents and representatives from and against all claims, demands, obligations, losses, liabilities, damages, recoveries and deficiencies, including interest, penalties and reasonable attorney's fees, costs and expenses arising out of, resulting from or related in any way whatsoever to the obligations under Agreement No. 2013-0111-PW/MS as amended, as assumed by **Assignee** resulting from **Assignor's** gross negligence or willful misconduct which arose or accrued prior to the date of this Amendment No. 3.
5. The **Assignor** warrants that the Agreement is free of lien, encumbrance or adverse claim.
6. This Assignment shall be binding upon, and inure to the benefit of, **Assignor** and **Assignee**, and their respective successors and assigns.
7. This Assignment shall be governed and construed in accordance with the laws of the State of New Mexico without giving effect to conflict of law principles.
8. All provisions of Agreement No. 2013-0111-PW/MS as amended by Amendment Nos. 1 and 2 shall remain in full force and effect.
9. By its signature on this Amendment No. 3 and as provided in Section 10.3 of the Agreement, the **Owner** consents to the **Assignor's** assignment of the terms, conditions, obligations, liabilities, and the **Assignor's** rights and interests in the Agreement to the **Assignee** and the **Assignee's** agreement to assume such rights, interests, terms, conditions, obligations and liabilities under the Agreement.
10. This Assignment by **Assignor** does not constitute in any way a breach of Agreement No. 2013-0111-PW/MS by the **Assignor**.
11. This Assignment shall not be interpreted as requiring the **Owner** or **Assignee** to pay any licensing fee under Section 11.9 of the Agreement for the **Assignee's** continued use of the **Assignor's** Instruments of Service.

12. On Page 1 of the Agreement, reference to "Ellis/Browning Architects, Ltd. 921 Paseo Del Sur" is deleted and replaced with "Lloyd and Associates Architects 100 N. Guadalupe St. #201."

IN WITNESS WHEREOF, the parties have executed this Amendment No. 3 as of the date first written above.

ASSIGNOR:


Joe C. Browning, Vice President
Ellis Browning Architects, Ltd.


4/18/16
Date

ASSIGNEE:


Wayne S. Lloyd
Lloyd and Associates Architects


4-18-16
Date

OWNER - SANTA FE COUNTY


Katherine Miller
County Manager


4/25/16
Date

Approved as to form:


Gregory S. Shaffer
Santa Fe County Attorney

4/20/16
Date

Finance Department approval:


Carole H. Jaramillo
Finance Director

4/22/16
Date