



September 20, 2010

MEMORANDUM

TO: District Board of Trustees

FROM: Barbara R. Sloan, President *BRS*

SUBJECT: Revised Agreement between EMO Architects, Inc. and Tallahassee Community College

Item Description:

This item requests District Board of Trustee approval for the revised agreement with EMO Architects, Inc. for professional services related to the campus master plan project.

Overview:

EMO Architects, Inc. was selected in 2004 to provide professional services to complete the campus master plans for the TCC Main Campus and the Florida Public Safety Institute. Both master plans are now complete, but there are at least two additional tasks associated with this project. They are the update for the Master Development Agreement with the City of Tallahassee and the Comprehensive Plan Amendment with Gadsden County. This revised agreement changes the method that EMO charges for these services.

Salient Facts:

In June 2004, the District Board of Trustees selected EMO Architects, Inc. and approved an agreement with them to provide master plans services. The master plans are now completed and EMO has been paid in full for those services. There remains two specific projects that EMO needs to complete, the Master Development with the City of Tallahassee and the Com Plan Amendment with Gadsden County. This revised agreement requires EMO to furnish proposals for those services and receive approval from the TCC President or Designee before the work may begin. The agreement would end June 30, 2014 as in the original agreement.

Past Actions:

The District Board of Trustees approved the campus master plans for both TCC locations and has approved payment for those services in full.

Future Actions:

The District Board of Trustees will be asked to approve the Master Development Agreement with the City of Tallahassee and the Comp Plan Amendment with Gadsden County once completed by EMO.

Funding/Financial Matters:

Funding for the remaining tasks is available from the Capital Improvement fees.

Staff Resource:

Teresa Smith

Recommended Action:

Approve the revised agreement with EMO Architects, Inc. for the remaining work associated with the campus master plans.

AGREEMENT
between
EMO/ARCHITECTS, INC.
and
TALLAHASSEE COMMUNITY COLLEGE

This Agreement supercedes any prior agreements and is effective _____ between Tallahassee Community College ("TCC") ("Client") and EMO/Architects, Inc. ("EMO") for the performance of professional services related to the Comprehensive Facilities Master Plan for the Tallahassee Community College campuses and associated services. EMO will assist TCC in the coordination and updating of the Master Development Agreements with governmental authorities having jurisdiction. The term of service shall be for a period commencing on the date of execution of this Agreement, and ending on June 30, 2014. The scope of services shall be performed in multiple phases, and tasked as may be mutually defined and agreed by EMO and the Client. Each phase and/or task shall be incorporated into the Agreement by written amendments executed by both parties prior to the commencement of services.

1. Approval Process

For each of the projects discussed below, and any other projects, the process for initiation and approval of each project is as follows:

- a. TCC determines the necessity for the project and requests that EMO perform the tasks necessary to the project.
- b. EMO prepares a proposal for carrying out the services. Each proposal shall be broken down into subparts reflecting discrete activities to be carried out. Each discrete activity shall include all expense, including fees and costs, related to the discrete activity. The entire project shall have a cumulative total of all expenses, including fees and costs.
- c. EMO shall submit its proposal to the TCC President or Designee for review and approval. EMO shall not proceed until approval is provided.
- d. After review, TCC will authorize the project or request any necessary revisions to the project.

- e. Once the project is approved by TCC, EMO shall carry out the tasks related to each discrete activity and the overall project.
- f. EMO shall submit its invoices for services rendered on a monthly basis. Accompanying each invoice shall be an update of each project, including an update of any discrete activities related to the project.

2. Scope of Services

Upon execution of this Agreement, EMO shall perform the following services:

- TASK 1: Campus Development Agreement with City of Tallahassee.
- TASK 2: Comprehensive Plan Amendment with Gadsden County.
- TASK 3: Other Projects and Services as Requested by TCC, and as related to the Master Plan for TCC.

- 2.1 EMO shall perform the services in accordance with the standards of practice generally accepted in the profession of architecture for similar projects and services.
- 2.2 No warranties, expressed or implied, are given by EMO in connection with its performance of services on any project. Services performed on any project are based on EMO's understanding of applicable laws and regulations as interpreted and applied on the date of this Agreement.

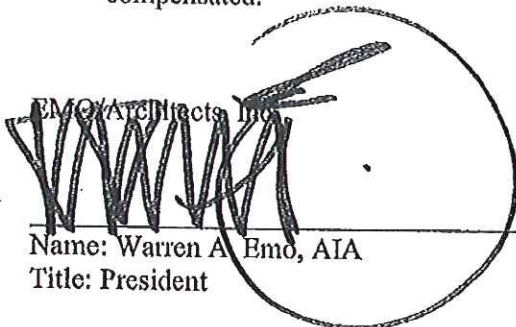
3. Compensation

- 3.1 TCC agrees to compensate EMO on the following basis:
Services shall be performed so as to not exceed the amount included in EMO's proposal and as approved by TCC. Subsequent amendments to the Agreement adding future phases and/or tasks shall include the basis of compensation associated with each defined phase and/or task which shall be added in Agreement, with written amendments executed by both parties and agreed to in advance.
- 3.2 TCC shall reimburse EMO for expenses incurred directly in connection with the project at a multiplier of 1.15 times actual cost.

4. Payment

- 4.1 The Client agrees to pay invoiced amounts upon approval by the District Board of Trustees. Amounts unpaid more than ninety days from the invoice date shall accrue interest at the rate of one percent (1%) per month until paid.
- 4.2 If payment is not made within ninety days of the invoice date, EMO shall have the right to suspend the performance of services under this Agreement pending payment. Such suspension of services shall not be considered a breach of this Agreement.
5. Construction Cost
- 5.1 Estimates of construction cost represent EMO's best judgment as a professional, but EMO does not warrant that bids, negotiated prices or completed construction costs will not vary from EMO's estimates or the project budget. No fixed limit of construction cost is established as a condition of this Agreement.
6. Client's Responsibilities
- 6.1 The Client shall provide EMO any reasonably requested information regarding the Project, including the program requirements, available plans, specifications and other documents describing the Project, as well as budget and schedule limitations.
- 6.2 The Client agrees to provide prompt written notice to EMO's Chief Operating Officer, in addition to the project manager, if the Client becomes dissatisfied with EMO's performance or is aware of any deficiency in EMO's service.
7. Ownership of Documentation of Services
- 7.1 Drawings, plans, specifications, studies, reports, memoranda, computation sheets or other documents prepared by EMO or its consultants under this Agreement shall remain EMO's property. However, the Client shall have the right to use such documents for the completion and maintenance of the Project, provided all payments under this Agreement have been made.
8. General Provisions
- 8.1 The Client agrees that EMO will have no involvement in or responsibility for the discovery, presence, removal or disposal of asbestos or other hazardous substances of any kind.
- 8.2 No third parties are intended to be beneficiaries of this Agreement.

- 8.3 This Agreement shall be deemed to be made in, and shall be construed in accordance with the laws of, the State of Florida.
- 8.4 This Agreement represents the entire agreement between EMO and the Client and may be amended only in writing with the signature of both parties. Neither the Client nor EMO shall assign this Agreement without the written consent of the other.
- 8.5 All claims, disputes and other matters in question arising out of, or relating to, this Agreement or the breach thereof shall be presented in writing to the other party and every reasonable effort shall be made to settle such claims and/or disputes before submitting them to the court of competent jurisdiction. EMO and the Client agree to submit disputes between them to nonbinding mediation prior to seeking relief through formal legal action. The mediator shall be agreed to by both parties. In the event either party breaches this Agreement and either party is required to take legal action to resolve the breach or to recover any monies, then, and in those events, the non-prevailing party shall pay all costs for such legal action or collection, including a reasonable attorney's fee.
- 8.6 The Client agrees not to solicit or hire EMO employees until one year after completion of the Project. Should the Client hire an EMO employee during this period, the Client agrees to pay EMO a sum equal to that employee's annual salary or wages.
- 8.7 This Agreement may be terminated by either party with or without cause upon thirty days' written notice. In the event of termination, EMO shall receive payment for services performed and expenses incurred prior to the effective date of termination, including all expenses directly attributable to termination for which EMO is not otherwise compensated.


Name: Warren A. Emo, AIA
Title: President

Tallahassee Community College

Name: Barbara R. Sloan
Title: President