

**AMENDMENT NO. 2
TO THE
PROFESSIONAL ARCHITECTURAL/ENGINEERING SERVICES
AGREEMENT
BETWEEN
THE TEXAS FACILITIES COMMISSION
AND
JAIME BEAMAN, AIA, INC., DBA CASABELLA ARCHITECTS**

This Amendment No. 2 to the Professional Architectural/Engineering Services Agreement (hereinafter referred to as “Amendment No. 2”) is entered into by and between the Texas Facilities Commission (hereinafter referred to as “TFC”), a state agency located at 1711 San Jacinto Boulevard, Austin, Texas 78701, as Owner (as defined in UGC, Section 1.28), and Jaime Beaman, AIA, Inc., dba Casabella Architects (hereinafter referred to as “A/E”), located at 3821 Juniper Trace, Suite 104, Austin, Texas 78738 (hereinafter referred to collectively as the “Parties”), to amend the original Professional Architectural/Engineering Services Agreement between the Parties, as amended.

RECITALS

WHEREAS, on August 10, 2016, the parties entered into that one certain *Professional Architectural/Engineering Services Agreement Between the Texas Facilities Commission and Jaime Beaman, AIA, Inc., dba Casabella Architects* (hereinafter referred to as the “Agreement”); and

WHEREAS, the parties entered into Amendment No. 1 dated April 11, 2017, to provide for Additional Services and Fees related to design, construction, documentation, bidding, construction administration and warranty services; and

WHEREAS, the parties now desire to amend the Agreement, as amended, to provide for Additional Services and Fees to provide for additional inspections services, as more particularly described below;

NOW THEREFORE, the parties hereby agree as follows:

1. Unless clearly provided otherwise herein, all terms and phrases in initial caps herein shall have the same meaning as the terms and phrases with initial caps in the Agreement.
2. The parties agree to modify ARTICLE II – SCOPE OF SERVICES to include the Additional Services set forth in A/E’s Additional Services Proposal and Fee Schedule dated October 18, 2017, “Exhibit A-2,” attached hereto and incorporated herein for all purposes.
3. The parties agree to modify ARTICLE III – TERM AND TERMINATION – SECTION 3.1 – DURATION, by deleting the paragraph in its entirety and replacing it with the following:

“3.1. Duration. This Agreement shall be effective as of the Effective Date and shall terminate on December 31, 2018, unless extended by the parties by amendment to this Agreement or terminated earlier, as provided below.”

4. The parties agree to modify ARTICLE IV – CONSIDERATION, SECTION 4.1 – CONTRACT LIMIT–FEES AND EXPENSES, SUBSECTION 4.1.1 – FIXED FEE, by reflecting additional compensation to the A/E for Additional Services to be provided under this Amendment No. 2 in the amount of Nineteen Thousand Five Hundred and No/100 Dollars (\$19,500.00), thus increasing the total amount of the Agreement from One Hundred Forty Three Thousand Five Hundred and No/100 Dollars (\$143,500.00), to a total not to exceed amount of One Hundred Sixty Three Thousand and No/100 Dollars (\$163,000.00).

5. All other terms and conditions of the Agreement not expressly amended herein shall remain in full force and effect.

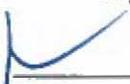
TEXAS FACILITIES COMMISSION

By: 

Kay Molina

General Counsel

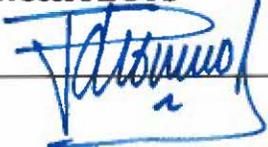
Date of execution: 11/23/15

G.C. 

Dir. YMW

D.E.D. 

**JAIME BEAMAN, AIA, INC., DBA
CASABELLA ARCHITECTS**

By: 

Jaime Palomo

Vice President

Date of execution: 01/22/18

TFC CONTRACT NO. 16-134-002

AMENDMENT NO. 2

EXHIBIT A-2

A/E'S ADDITIONAL SERVICES PROPOSAL AND FEE SCHEDULE

DATED OCTOBER 18, 2017



CasaBella
ARCHITECTS

October 18, 2017

Jason Nezamabadi
Project Manager, Facilities Design & Construction
Texas Facilities Commission
1711 San Jacinto, Austin, TX 78701

**Referenced: John H. Winters Complex
Water Intrusion & Remediation Project #15-025-4115
Fee Proposal for Additional Inspection Services - revised**

Dear Mr. Nezamabadi:

We appreciate the opportunity to submit this proposal to provide professional AE services for the above referenced project. This proposal is based on the need for additional inspections and project management anticipated during Sequence 2 & 3 of the ongoing project.

SCOPE OF WORK

- Provide eight (8) additional inspections during construction of Sequence 2. Inspections will be performed by Building Exterior Solutions (BES) in a similar manner as those performed during Sequence 1. See attached proposal from BES with additional information.
- Additional project management efforts required during the inspection and construction of Sequence 2. We have budgeted forty eight (48) hours of personnel time and associated efforts as required to perform the following tasks:
 - preparation of inspection reports with findings and recommendations
 - attendance to progress meetings
 - review of shop drawings and product data
 - review of mock-up and initial installations
 - issuance of recommendations for corrective actions
 - review of RFIs and pricing proposals as required
 - construction observation at critical stages of the work

FEE

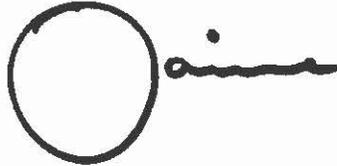
Our fee for this work is a lump sum amount of \$19,500 and is broken down as follows:

CasaBella Project Management (36 hours)	\$9,000
BES Project Management (12 hours)	\$2,500
Eight (8) Inspections	<u>\$8,000</u>
TOTAL	\$19,500

We will submit our invoice monthly based on percentage of completion.
Reimbursable expenses (ie.: copies and mileage) are included in the above fee.

Please do not hesitate to give us a call if you need additional information and thank
you very much for considering this proposal.

With warmest regards,

A handwritten signature in black ink, consisting of a large circle followed by a horizontal line with a small dot above it.

Jaime Palomo, AIA
Vice-President



Knowledge | Experience | Solutions

BUILDING EXTERIOR SOLUTIONS

A Terracorp COMPANY

TFC Contract No. 16-134-000 - Amendment 2

CasaBella - Exhibit A-2

6975 Portwest Dr Suite 100 Houston, Texas 77024

P 713 467 9840 F 713 467 9845

www.besgrp.com

October 17, 2017

Mr. Jaime Palomo
AIA, Principal
Casa Bella Architects
3821 Juniper Trace, Suite 104
Austin, TX 78738

Re: PROPOSAL FOR PROFESSIONAL SERVICES
John H. Winters Complex Water Intrusion Remediation (TFC)
Austin, TX
BES No. 8177P

Dear Mr. Palomo:

Building Exterior Solutions, INC (BES) is pleased to prepare this professional services proposal for the John H. Winters Complex Water Intrusion Remediation project in Austin, TX. This proposal was requested by Mr. Jaime Palomo and is based on an email request for additional services on October 13, 2017.

We are most interested in working with CasaBella Architects (Client) on this project and know that we are well-qualified to perform the type of services requested. This proposal includes project information, proposed scope of services, fee proposal, and the means for you to authorize us to perform the scope of services described.

PROJECT INFORMATION

The TFC John H. Winters Complex is an existing office campus including three buildings located in Austin, TX. The subject buildings were constructed in the early 1980s. The primary enclosure systems consists of precast concrete panels and sealant joints, aluminum-framed glazing systems, low-slope roofing, horizontal waterproofing and paver systems, and below-grade walls enclosing occupied spaces. Based on visual observations while on-site, the aluminum-framed glazing systems appear to have been wet-sealed.

BES completed our Phase I (Evaluation) services for this project with the submission of our report entitled "Window System and Grade-Level Water Intrusion Evaluation" dated May 12, 2016. BES is currently performing our Phase II (Design) and Phase III (Construction) services.

SCOPE OF SERVICES

We understand that the main purpose of our scope of services is to provide design phase and construction phase services to support the remediation of the enclosure systems as noted in our evaluation report. To properly accomplish our services, we recommend the following.

The following is a more detailed description of our scope of services for the above-noted phases.



Scope Definition

From the information obtained within the project documents, we have included the following building envelope systems within our scope

Wall Systems:

- Exterior joint sealants
- Metal flashings
- Aluminum-framed glazing systems
- Precast concrete panels

Waterproofing Systems:

- Horizontal waterproofing at paver systems
- Positive-side waterproofing of vertical walls

Additional Services

1. **Hourly Cost for Meeting Attendance** - It is BES' understanding that the Owner may request BES' presence at on-site project meetings. BES can attend these meetings at an hourly rate based on the BES Schedule of Hourly Time Charges. BES will not produce meeting minutes nor field reports during these meetings unless specifically requested. For budgeting purposes, BES has included up to 12 hours of meeting attendance, preparation time, and or associated work for a senior BES personnel.
2. **Additional Construction Observations (8)** - Perform periodic on site construction observations during the installation of the building envelope systems to determine if the installation(s) are in general conformance with the construction documents, and also to address a reasonable amount of building envelope related constructability issues. Documentation will be in the format of a written field observation report presenting conditions observed by BES at the time of our site visit and our general recommendations for BES Client consideration.

BES understands that the Client will be performing regular site observations to determine if construction is in general compliance with the Construction Documents and design intent. We understand that BES is requested to perform site observations on a periodic basis as requested by the Client. For budget purposes, we have estimated that up to 8 site visits will be required. If additional construction observation is necessary, BES can provide these additional services upon request. These site visits will be used to facilitate preconstruction meetings, mockups and initial installations, coordination meetings, and periodic site observations as required.

LUMP SUM FEE PROPOSAL

BES proposes to perform the Scope of Services outlined above for the lump sum fee and reimbursable expenses below.

If necessary, we can work with you to adjust this scope and fee proposal to help better meet your needs.

Our payment terms are based on progressive compensation for services rendered, and our invoices will be issued monthly. We will endeavor to inform you as the project progresses if it appears that the proposed services may need to be exceeded. This proposal is valid for 30 days after the date of this proposal. No services will be



performed beyond the approved total without prior approval by BES' Client.

If BES is requested to provide additional services outside of those listed above, we will either revise our services and fee proposal to extend the scope of our services or provide the additional services based upon actual hours worked at our standard hourly rate in effect at the time our services are performed. All expenses will be based upon the actual expense with our standard markup. All requests for additional services are to be made through BES' Project Manager listed below.

Additional Services

Additional Services

Hourly Cost for Meeting Attendance	\$ 2,500.00
Additional Construction Observations	\$ 8,000.00
<hr/>	
Total	\$ 10,500.00

AUTHORIZATION

Please provide us formal authorization by signing in the space on the last page of this proposal. We will perform the scope of services described in this proposal under the attached Terms and Conditions. We understand our contract will be with, and our invoices will be paid directly by BES' Client. Our payment terms are based on compensation for services rendered at the rates current when our services are performed. You can fax us a signed copy of this agreement to (713) 467-9845 to expedite authorization; however, we need to have an original signed copy returned to us for our files. Please provide us with any special procedures or P.O. numbers necessary for your authorization and any special invoicing requirements to help ensure efficient processing of our invoices. Until we have a mutually agreed signed contract, it is mutually understood that we are working under BES's Standard Terms and Conditions that are attached, for any services we are instructed to perform.

If Additional Insured(s) and Waiver of Subrogation are to be listed on the certificate of insurance, BES providers require they be included in the final Agreement. If this proposal is incorporated into the final Agreement, you may write in the complete name and address of the Additional Insured(s) in the area designated below. Please review any legal requirements you may have as the Additional Insured(s) will be copied into the certificate exactly as they are written.



CLOSING

Thank you for requesting BES to prepare this proposal for you. We look forward to the opportunity of serving you on this project. Once you have had an opportunity to review this proposal, we will contact you in a few days to see if we can answer any questions or be of any further assistance.

Very truly yours,

BUILDING EXTERIOR SOLUTIONS, INC

TBPE Firm Registration No. F-3272

Keith Simon, AIA, CPHC, LEED AP
Senior Architect
Project Manager

John Posenecker, PE
Project Principal

Encl.: BES Standard Terms and Conditions
BES Standard Fee Schedule

Agreed and Approved

Name: _____ (please print)

Authorized Signature: _____

Title: _____

As Agent or Principal For: _____

Date: _____

Additional Insured

Name: _____

Street Address: _____

Town, State, Zip Code: _____



TERMS AND CONDITIONS

These Terms and Conditions for Building Exterior Solutions, Inc (BES) are included with and part of the attached proposal and will continue in full force and effect during, and after the completion or termination of, the engagement of BES by the Client, and will control any conflicting term or condition unless BES agrees otherwise in writing. The Client is named on the "Client" line filled in by the Client on the attached proposal.

PERFORMANCE. BES and its employees will exercise the degree of skill and care expected by customarily accepted practices and procedures. NO WARRANTIES, EXPRESSED, IMPLIED OR STATUTORY, (INCLUDING ANY IMPLIED CONDITIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) ARE MADE WITH RESPECT TO BES'S PERFORMANCE, UNLESS AGREED TO IN WRITING. BES is not a guarantor of the project to which its services are directed, and its responsibility is limited to services described in the proposal and performed for the Client. BES may rely upon information supplied by the Client, or the contractors or consultants involved, or information available from generally accepted reputable sources, without independent verification. BES is not responsible for acts or omissions of the Client, nor for third parties not under its direct control. BES IS NOT LIABLE FOR ANY REASON FOR ANY PUNITIVE DAMAGES OR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF USE, POWER, REVENUE, PROFIT, OR BUSINESS GOODWILL, OR FOR BUSINESS INTERRUPTION) BES will take reasonable precautions to minimize any damage to the Client's property during conduct of any BES field work and testing. However, in the normal course of this type of work some damage may occur, and BES will have no liability for this damage. BES's services are performed solely for the Client's benefit. No contractor, subcontractor, supplier, fabricator, manufacturer, tenant, occupant, consultant, or other third party will have any claim against BES as a result of BES's services. BES may suspend performance of its services if the Client fails to make payment when due, and will have no liability to the Client for delay or damage caused the Client because of such suspension of services.

LIMITATIONS DURING FIELD WORK, CONSTRUCTION, OR REPAIR WORK. During, or as part of the process of, field work, construction, or repair work, BES will not control, have charge of, or be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and safety programs in connection with the project, these are solely the responsibility of others. BES is not responsible for the safety of other persons and property. BES is not responsible for, among other things, the contractor's schedules, performance of the work in general compliance with the contract documents, timeliness in the completion of the work, superintending the work, compliance with regulatory requirements, or failure to carry out the project in accordance with the contract documents. BES will not control or have charge of acts or omissions of the contractor, subcontractor, suppliers, or their agents or employees, or any other non-BES persons performing portions of the project. BES will perform field work only under conditions deemed safe by BES.

LIMITATION OF LIABILITY. To the fullest extent permitted by law, the Client agrees to limit BES's liability and hold harmless for any and all claims, losses, costs, expenses, or damages of any nature whatsoever, including reasonable attorney's and expert witness' fees and costs, from any cause or causes, (including without limitation, by reasons of negligence, warranty, strict liability, tort, contract, or otherwise), arising out of or in connection with BES's services associated with this project, to \$50,000 or fees actually paid for services, whichever is greater. If the Client wishes a greater limit, BES will attempt to obtain insurance, and Client will pay for the cost of the insurance. It is intended that this limitation apply to any and all liability or causes of action however alleged or arising, unless specifically prohibited by law.

PROPOSALS. Proposals expire 30 days after submission to the Client unless a different expiration limit is included in the proposal. BES may withdraw or modify a proposal at any time prior to acceptance by the Client.

FEES, EXPENSES, AND BILLING TERMS. Fees (time charges) for services will be accrued on an hourly basis unless other arrangements are made. Use of personal vehicles is billed at \$0.565 per mile. Expenses and subcontracted services are billed at cost plus 10%. BES equipment used in field work, such as cameras and tools, is billed at approximately 1% of its cost per day. The Client is responsible for payment of charges. Accumulated charges will be billed on an approximately monthly basis, and payment in full is due upon receipt of the invoice. Invoices which are not paid within 30 days from the invoice date are past due and will incur an interest charge of 1.5% per month, a \$50 per month administrative services charge, and related attorneys' fees and collection expenses. All fees and expenses quoted in proposals or listed in invoices are exclusive of taxes. Client shall be responsible for all taxes, levies, and assessments (excluding taxes based on BES's net income), and shall, upon notice from BES, promptly pay such taxes, levies, and assessments, or if BES has paid any such amounts, reimburse BES for all such all taxes, levies, and assessments.

INSURANCE. BES is protected for general, automobile, workers' compensation, and employers' liability coverage by policies written by national insurance companies rated by the A. M. Best Company. Coverage is subject to annual renewal. Limits and coverages are available upon request. Increased or additional coverages may be available, and their associated costs will be paid by the Client.

SUBPOENAS AND COURT ORDERS. The client is responsible for payment of time charges, attorneys fees, and other expenses resulting from a required response to subpoenas or court orders issued at the request of any party concerning any part of BES's work. Charges are based on billing rates in effect at the time of BES's response.



DISPUTE RESOLUTION. In any dispute that should arise between the Client and BES, the parties agree that as a condition precedent to any litigation/arbitration, the matter must first be submitted to mediation. The mediator will be mutually agreed upon and chosen from a list provided by the American Arbitration Association or other source of experienced professional mediators.

HAZARDOUS MATERIALS. BES's services do not include the identification of hazardous materials, and BES has no duty to identify or attempt to identify the same within the area of the project. "Hazardous materials" includes, but is not limited to, any substance, waste, pollutant (including mold and mildew) or contaminant, in whatever form, now or hereafter included with such terms under any federal, state, or local statute, code, rule, ordinance, or regulation which presently exist or may in the future be enacted or amended. Except as such liability may arise out of BES's sole gross negligence in the performance of services on this project or to the extent of insurance coverage available for the claim, the Client will hold BES harmless and indemnify and defend BES and its employees, subcontractors, and agents from and against any and all claims, lawsuits, damages, liability and costs, including but not limited to, costs of defense arising out of or in any way connected with the presence, discharge, release, or escape of hazardous materials.

INDEPENDENT CONTRACTOR. BES's relationship to Client is that of an independent contractor and not a partner, joint venture party, member, agent, or employee.

ASSIGNMENT. Neither the proposal nor these Terms and Conditions are assignable or transferable, in whole or in part, without the written consent of BES and Client.

COMMUNICATIONS. All notices and communications required to be given under the proposal and these Terms and Conditions shall be made in writing and deemed to have been made if mailed or hand-delivered to the other party at the address for such party listed in the proposal.

GOVERNING LAW. THE PROPOSAL AND THESE TERMS AND CONDITIONS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS, EXCLUSIVE OF ITS CHOICE OF LAW PROVISIONS.

END OF DOCUMENT



BES SCHEDULE OF HOURLY TIME CHARGES

for Key Project Personnel

**2016
R1**

Sr. Principal	\$ 240.00
Principal	\$ 220.00
Associate Principal	\$ 200.00
Senior Associate II	\$ 185.00
Senior Associate I	\$ 175.00
Project Manager	\$ 160.00
Associate III	\$ 160.00
Associate II	\$ 140.00
Associate I	\$ 130.00
Senior Specialist	\$ 140.00
Specialist	\$ 120.00
Senior Administration	\$ 105.00
Senior Technician	\$ 105.00
Technician	\$ 85.00
Administration	\$ 85.00