

**AMENDMENT NO. 2
TO THE
PROFESSIONAL ARCHITECTURAL/ENGINEERING
SERVICES AGREEMENT
BETWEEN
THE TEXAS FACILITIES COMMISSION
AND
PARKHILL SMITH & COOPER, INC.**

THIS AMENDMENT NO. 2 is entered into by and between the Texas Facilities Commission, a state agency located at 1711 San Jacinto Boulevard, Austin, Texas 78701, (hereinafter referred to as “TFC”), as Owner (as defined in UGC, Section 1.28) and Parkhill Smith & Cooper, Inc. (hereinafter referred to as “A/E”), located at 12301-B Riata Trace, Suite 100, Austin, Texas 78727, to amend the Agreement for professional architectural and engineering services between the parties signed on April 1, 2015, as amended (hereinafter referred to as the “Agreement”).

WHEREAS, on April 1, 2015, the Parties entered into that one certain *Professional Architectural/Engineering Services Agreement between the Texas Facilities Commission and Parkhill Smith & Cooper, Inc.*; and

WHEREAS, on April 20, 2017, the Parties entered into Amendment No. 1, for the purpose providing for Additional Services and compensation; and

WHEREAS, the Parties now desire to amend the Agreement for the purpose of providing for Additional Services and additional fees, and to make such other changes as may be required, including additional or amended provisions required by legislative and State Auditor’s actions subsequent to execution of the Agreement;

NOW, THEREFORE, the parties agree to amend the Agreement as follows:

1. The Parties agree to modify ARTICLE I – DEFINITIONS, by adding the following definition:

“*HUB Compliance Reporting System* means the Texas Facilities Commission Historically Underutilized Business (“HUB”) online reporting system located at <https://tfc.gob2g.com>. The *HUB Compliance Reporting System* is used to maintain business records documenting compliance with the HUB Subcontracting Plan (“HSP”) by submission of monthly Progress Assessment Reports. See Section 11.2, Historically Underutilized Businesses (“HUBs”).”

2. The Parties agree to modify ARTICLE II –SCOPE OF SERVICES, to reflect Additional Services required pursuant to the identification of additional deferred maintenance deficiencies in Guaranteed Maximum Price Package 5 (hereinafter referred to as “Package 5 Services”), by adding Section 2.1.12, as follows.

“2.1.12. Package 5 Services. A/E shall provide additional professional design services for the Texas School for the Blind and Visually Impaired (hereinafter referred to as “TSBVI”), as more particularly set forth in “Exhibit I-2,” A/E’s Proposal for Additional Services and Hourly Rate Schedule dated February 28, 2019. Additional professional design services shall include, but are not be limited to the following scope of services:

- 2.1.12.1. glazing replacement at Cottage 564, 565, 566, 567, 568, 569, and 570;
- 2.1.12.2. replacement of outside air units at Koen and Lewis Halls;
- 2.1.12.3. water intrusion repairs at Koen and Lewis Halls;
- 2.1.12.4. adding sump pumps to communication manholes;
- 2.1.12.5. campus-wide roof/gutter repair;
- 2.1.12.6. replacement of football fields sports lighting;
- 2.1.12.7. upgrade to football field scoreboard power;
- 2.1.12.8. renovate interior of Cottage 570; and

2.1.12.9. security upgrades at South Congress Entry Gate, Elizabeth Street Entry Gate, Clinger Gymnasium, Cottage 564, Kleberg Building, Operations Complex, Pease Administration Building, R. L. Davis Auditorium, CTE Ford Building and TFC Maintenance Building.

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 Section 3.1, Duration, as follows:

“3.1. Duration. This Agreement shall be effective as of the Effective Date and shall terminate on August 31, 2021, unless extended by the Parties by amendment to this Agreement or terminated earlier, as provided below.”

4. The Parties agree to modify ARTICLE III – TERM AND TERMINATION, Section 3.2, Early Termination, by adding Subsections 3.2.1 and 3.2.2., as follows:

“3.2.1. Rights Upon Termination or Expiration of Agreement. In the event that the Agreement is terminated for any reason, or upon its expiration, TFC shall retain ownership of all associated work products and documentation obtained from the A/E under this Agreement.

3.2.2. No Liability Upon Termination. If this Agreement is terminated for any reason, TFC and the State of Texas shall not be liable to A/E for any damages, claims, losses, or any other amounts arising from or related to any such termination absent an award of damages

pursuant to Texas Government Code, Chapter 2260.”

5. The parties agree to modify ARTICLE IV – CONSIDERATION, SECTION 4.1 – CONTRACT LIMIT-FEES AND EXPENSES, SUBSECTION 4.1.1 – FIXED FEES, by reflecting additional compensation to A/E for services provided under this Amendment No. 2 in the amount of Two Hundred Thirty-Four Thousand Three Hundred Eighty and No/100 Dollars (\$234,380.00), thus increasing the total amount from Four Million Four Hundred Fifty-One Thousand One Hundred Eighteen and No/100 Dollars (\$4,451,118.00), to a total not to exceed amount of Four Million Seven Hundred Seventy-Five Thousand Four Hundred Ninety-Eight and No/100 Dollars (\$4,775,498.00). Section 4.1.1, Fixed Fee, is therefore deleted in its entirety and replaced with Section 4.1.1. Fixed Fee, as follows:

“4.1.1. Fixed Fee. In exchange for the timely delivery of the Professional Services as specified by this Agreement, A/E shall be paid a fixed fee of Four Million Seven Hundred Seventy-Five Thousand Four Hundred Ninety-Eight and No/100 Dollars (\$4,775,498.00). Any Professional Services performed or delivered by A/E prior to the Effective Date of this Agreement or after its termination cannot be compensated.”

6. The parties agree to modify ARTICLE V – ACKNOWLEDGEMENTS, COVENANTS, AND AGREEMENTS, SECTION 5.2 - ACKNOWLEDGMENTS, COVENTANTS, AND AGREEMENTS OF A/E, SUBSECTION 5.2.8 – IDENTIFICATION OF A/E PROJECT MANAGER AND ALL SUBCONTRACTORS, by supplementing “Exhibit G,” List of A/E Project Manager and Subcontractors for the Agreement, and “Exhibit G-1,” List of A/E Project Manager and Subcontractors for Amendment No. 1, with “Exhibit G-2,” List of A/E Project Manager and Subcontractors for this Amendment No. 2, attached hereto and incorporated herein for all purposes.

7. The Parties agree to modify ARTICLE VI – WARRANTIES AND REPRESENTATIONS BY A/E, by adding Sections 6.1.14 through and including 6.1.20, which shall read in their entirety as follows:

“6.1.14. Certification Concerning Restricted Employment for Former State Officers or Employees Under Government Code § 572.069. A/E certifies that it has not employed and will not employ a former TFC or state officer who participated in a procurement or contract negotiation for TFC involving A/E within two (2) years after the state officer or employee left state agency employment or service. This certification only applies to former state officers or employees whose service or employment ceased on or after September 1, 2015.

6.1.15. Disaster Relief Contract Violation. Under Sections 2155.006 and 2261.053, Texas Government Code, A/E certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

6.1.16. No Conflicts. A/E represents and warrants that A/E has no actual or potential conflicts of interest in providing services to the State of Texas under this Agreement

and that A/E's provision of services under this Agreement would not reasonably create an appearance of impropriety.

6.1.17. Excluded Parties. A/E certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.

6.1.18. Suspension and Debarment. A/E certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration.

6.1.19. Prohibition Against Contracting with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organizations. In accordance with Section 2251.152 of the Texas Government Code, TFC is prohibited from entering into a governmental contract (as defined in Texas Government Code Section 2252.151(3)) with a company that is identified on a list prepared and maintained under Texas Government Code Section 806.051, 807.051, or 2252.153. If A/E is on the above-referenced list the Agreement will be considered void or voidable and TFC will not be responsible to pay A/E for any work performed.

6.1.20. Entities that Boycott Israel. Pursuant to Section 2270.002 of the Texas Government Code, A/E certifies that either (i) it meets an exemption criteria under Section 2270.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of this Agreement. A/E shall state any facts that make it exempt from the boycott certification.”

8. The Parties agree to modify ARTICLE X – INSURANCE, Section 10.2.1, Workers' Compensation and Employers' Liability Insurance, by deleting Subsection 10.2.1.1, in its entirety and replacing it with Subsection 10.2.1.1, as follows:

“10.2.1.1. Subcontractor's Certification. In accordance with Texas Labor Code §406.096(b), A/E shall require each Subcontractor to certify in writing to the A/E that said Subcontractor provides workers' compensation and employers' liability insurance for all of Subcontractor's employees employed on this public project. Owner shall be entitled, upon request and without expense, to receive copies of Subcontractor's written certifications.”

9. The Parties agree to modify ARTICLE X – INSURANCE, Section 10.3.3, Additional Policy Requirements, by deleting Subsection 10.3.3.2 in its entirety and replacing it with Subsection 10.3.3.2, as follows:

“10.3.3.2. the policy, or such other document(s) as may be acceptable to TFC, must obligate the insurer, or a third party acceptable to TFC, to notify the Texas Facilities Commission, Attention: Insurance Specialist, P. O. Box 13047, Austin, Texas 78711 (e-Email: Insurance@tfc.state.tx.us), of any (i) non-renewal; (ii) cancellation; or (iii) material changes, in writing, as soon as is reasonably possible prior to any such non-renewal, cancellation, or change.”

10. The Parties agree to modify ARTICLE XI – MISCELLANEOUS PROVISIONS, Section 11.2, Historically Underutilized Businesses (“HUBs”), by adding Subsection 11.2.1, Requirement to Utilize HUB Compliance Reporting System, as follows:

“11.2.1. Requirement to Utilize HUB Compliance Reporting System. Pursuant to Texas Administrative Code, Title 34 §§ 20.85(f)(1)(2) and 20.287(b), TFC administers monthly HUB Subcontracting Plan (“HSP”) to include the Progressive Assessment Report (“PAR”) compliance monitoring through a HUB Compliance Reporting System known as B2G. A/E and A/E’s Subcontractors/Subconsultants must submit required PAR information into the B2G system as a condition of payment. Any delay in the timely submission of PAR information into the B2G system will be treated as a deficiency and the payment request will be subject to suspension until such deficiency has been resolved.”

11. The Parties agree to modify ARTICLE XI – MISCELLANEOUS PROVISIONS, Section 11.7, Notices, by deleting the A/E contact information in its entirety and replacing it with A/E contact information, as follows:

“If to A/E: Parkhill, Smith & Cooper, Inc.
Attention: Jared A. Higgins, P.E., C.E.M., GGP, Principal, MEP Sector
12301-B Riata Trace Parkway, Suite 100
Austin, Texas 78727
Telephone: (512) 676-2100
Email: JHiggins@team-psc.com”

12. The Parties agree to modify ARTICLE XI – MISCELLANEOUS PROVISIONS, by inserting Sections 11.27 through and including 11.29, and re-numbering existing Section 11.27, Entire Agreement and Modification, so that the inserted Sections and the existing Section read in their entirety, as follows:

“11.27. False Statements; Breach of Representations. By signature to this Agreement, A/E makes all the representations, warranties, guarantees, certifications and affirmations included in this Agreement. If A/E signs this Agreement with a false statement or it is subsequently determined that A/E has violated any of the representations, warranties, guarantees, certifications or affirmations included in this Agreement, A/E shall be in default under this Agreement, and TFC may terminate or void this Agreement for cause and pursue other remedies available to TFC under this Agreement and applicable law.

11.28. Abandonment and Default. If A/E defaults on this Agreement, TFC reserves the right to cancel the Agreement without notice and either re-solicit or re-award the Agreement to the next best responsive and responsible respondent. The defaulting A/E will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work.

11.29. Antitrust and Assignment of Claims. A/E represents and warrants that neither A/E nor any firm, corporation, partnership, or institution represented by A/E, or anyone acting for such firm, corporation or institution has (i) violated the antitrust laws of the State of Texas under

TFC Contract No. 16-056-000
Amendment No. 2
Parkhill Smith & Cooper, Inc.
Project No. 16-001-8801

Tex. Bus. & Com. Code, Chapter 15, or the federal antitrust laws; or (ii) communicated directly or indirectly the proposal to any competitor or any other person engaged in such line of business during the procurement process for this Agreement. A/E assigns to the State of Texas all of A/E's rights, title, and interest in and to all claims and causes of action A/E may have under the antitrust laws of Texas or the United States for overcharges associated with the Agreement.

11.30. Entire Agreement and Modification. This Agreement and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Agreement specifically displays a mutual intent to amend a particular part of this Agreement, general conflicts in language between any such attachment and this Agreement shall be construed consistently with the terms of this Agreement. Unless otherwise expressly authorized by the terms of this Agreement, no modification, renewal, extension, or amendment to this Agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto."

Except as expressly amended above, the Agreement remains in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Amendment No. 2 to be effective as of the last date of a Party to sign.

TEXAS FACILITIES COMMISSION

PARKHILL SMITH & COOPER, INC.

By: DocuSigned by:
Mike Novak, Executive Director
B1C9FC0A8020417...

By: DocuSigned by:
Jared A. Higgins, PE, CEM, GGP, CPMP, Principal
A2E1492ED9E34B8...

Mike Novak

Jared A. Higgins, P.E., C.E.M., GGP

Executive Director

Principal, MEP Sector

Date of execution: 06/07/2019 | 10:50 AM CDT

Date of execution: 06/07/2019 | 10:08 AM CDT

GC NRG

Dir smw

DED jk

TFC Contract No. 16-056-000
Amendment No. 2
Parkhill Smith & Cooper, Inc.
Project No. 16-001-8801

EXHIBIT I-1

**A/E'S PROPOSAL FOR ADDITIONAL SERVICES
DATED JANUARY 24, 2017 AND HOURLY RATES**



PARKHILLSMITH&COOPER

12301-B Riata Trace Parkway, Suite 100

Austin, Texas 78727

512.676.2100

TFC Contract No. 16-056-000 Exhibit I-2

February 28, 2019

Mr. Daniel Yen, MBA, PMP, CTCM, RID, LEED AP
Texas Facilities Commission
Facilities Design & Construction
1711 San Jacinto Blvd.
Austin, TX 78701

Re: Proposal for Professional Services for the Texas School for the Deaf for Additional Scope of Work for GMP Package 5

Dear Mr. Yen:

Parkhill, Smith & Cooper, Inc. (PSC) is pleased to have the opportunity to provide architectural/engineering services to the Texas Facilities Commission (TFC) for the Texas School for the Deaf (TSD) additional scope of work identified for GMP Package 5. This proposal includes services for design, bidding/award, construction administration, and warranty closeout. Work included for GMP Package 5 was procured from an additional funding source not originally identified in the previous scope of work, with exception to roofing and waterproofing of the cottages.

GMP Package 5

We understand the Scope of Services you require to be:

Professional Services for design of the following scope of work:

- Glazing replacement at Cottage 564, 565, 566, 567, 568, 569, and 570.
- Replacement of outside air units at Koen and Lewis Halls
- Water intrusion repairs at Koen and Lewis Halls
- Adding sump pumps to communication manholes
- Campus wide roof/gutter repair including the following facilities: CTE Ford Building, High School/Middle School, Koen Hall, Lewis Hall, Columbo Swim Center, TSD Gymnasium, Cafeteria, Special Needs Boys and Girls Dormitories, and Elementary School
- Football field sports lighting replacement
- Football field scoreboard power upgrade
- Interior renovation of Cottage 570
- Security upgrades at S. Congress Entry Gate, Elizabeth St. Entry Gate, Clinger Gymnasium, Cottage 564, Kleberg Building, Operations Complex, Pease Administration Building, R.L. Davis Auditorium, CTE Ford Building, and TFC Maintenance Building.

Our fees for the services described above will be based on lump sum amount of \$234,380 shown in the breakout below.

Schematic Design	15%	\$35,157.00
Design Development	25%	\$58,595.00
Construction Documents	30%	\$70,314.00

TFC Contract No. 16-056-000 Exhibit I-2

Bidding & Award	5%	\$11,719.00
Construction Administration	20%	\$46,876.00
Warranty/Closeout	5%	\$11,719.00

Should the scope of services described above change during the Project, amount will be adjusted either up or down by a mutually agreed upon lump sum amount based on PSC's standard hourly rate schedule.

A tentative schedule for submitting our work for review is as follows:

- Notice to Proceed (NTP) issued by owner
- Develop Construction Documents – NTP + 8 weeks
- Bidding – 4 weeks
- Construction – To be determined

We appreciate the opportunity to provide professional services to you and look forward to the successful completion of your project. If you have any questions, please do not hesitate to contact us.

Sincerely,

PARKHILL, SMITH & COOPER, INC.

By Jared A. Higgins
 Jared A. Higgins, PE, CEM, GGP, CPMP
 Principal

IN DUPLICATE

cc: Jamie Zavodny, AIA

Parkhill, Smith & Cooper, Inc.**Hourly Rate Schedule**

January 1, 2019 through December 31, 2019

TFC Contract No. 16-056-000 Exhibit I-2

Client: Texas Facilities Commission**Project:** Professional Services for Texas School of the Deaf Additional
Scope of Work**Agreement Date:** February 28, 2019**Location:** Austin, Texas

CLASSIFICATION	HOURLY RATE	CLASSIFICATION	HOURLY RATE	CLASSIFICATION	HOURLY RATE
SUPPORT STAFF I	\$57.00	PROFESSIONAL LEVEL II		PROFESSIONAL LEVEL V	
Engineering Student		Mechanical & Electrical	\$126.00	Mechanical & Electrical	\$217.00
Design Student		Civil & Structural	\$125.00	Civil & Structural	\$213.00
Landscape Architect Student		Architect	\$121.00	Architect	\$198.00
Interior Design Student		Architect Intern		Senior Architect	
		Landscape & Interior	\$112.00	Landscape & Interior	\$163.00
		Design Intern Landscape		Project Manager	
SUPPORT STAFF II	\$98.00	Architect Intern		Senior Landscape Architect	
Engineering Technician		Technologist		Senior Interior Designer	
Engineering Student		Resident Project Representative		Resident Project Representative	
Design Technician		Clerical Supervisor			
CADD				PROFESSIONAL LEVEL VI	
Survey Technician				Mechanical & Electrical	\$245.00
Administrative Assistant		PROFESSIONAL LEVEL III		Civil & Structural	\$235.00
Project Assistant		Mechanical & Electrical	\$150.00	Architect	\$222.00
Word Processor		Civil & Structural	\$147.00	Landscape & Interior	\$197.00
File Specialist		Architect	\$137.00	Studio Leader	
		Architect Intern		Senior Project Manager	
SUPPORT STAFF III	\$108.00	Landscape & Interior	\$123.00	Senior Practice Leader	
Engineering Technician		Interior Design Intern		Surveyor	
Design Technician		Landscape Architect Intern		Resident Project Representative	
CADD		Technologist			
Administrative Assistant		Resident Project Representative		PROFESSIONAL LEVEL VII	
Project Assistant				Mechanical & Electrical	\$264.00
		PROFESSIONAL LEVEL IV		Civil & Structural	\$257.00
PROFESSIONAL LEVEL I		Mechanical & Electrical	\$178.00	Architect	\$246.00
Mechanical & Electrical	\$111.00	Civil & Structural	\$174.00	Landscape & Interior	\$221.00
Civil & Structural	\$111.00	Architect	\$162.00	Operations Director	
Architect	\$111.00	Professional Architect		Sector Director	
Architect Intern		Project Architect			
Landscape & Interior	\$107.00	Landscape & Interior	\$135.00		
Interior Design Intern		Professional Landscape Architect			
Landscape Architect Intern		Professional Interior Designer			
Planner		Project Landscape Architect			
Survey Technician		Project Interior Designer			
Technologist		Technologist			
Resident Project Representative		Resident Project Representative			

Expenses: Reimbursement for expenses as listed, but not limited to, incurred in connection with services, will be at cost plus 15 percent for items such as:

1. Maps, photographs, postage, phone, reproductions, printing, equipment rental, and special supplies related to the services.
2. Consultants, soils engineers, surveyors, contractors, and other outside services.
3. Rented vehicles, local public transportation and taxis, road toll fees, travel, and subsistence.
4. Special or job-specific fees, insurance, permits, and licenses applicable to work services.
5. Mileage at IRS-approved rate.

Rate for professional staff for legal proceedings or as expert witnesses will be a rate one-and-a-half times these Hourly Rates. Excise and gross receipt taxes, if any, will be added as an expense.

Foregoing Schedule of Charges is incorporated into the Agreement for Services provided, effective January 1, 2019 through December 31, 2019. After December 31, 2019, invoices will reflect the Schedule of Charges currently in effect.

TFC Contract No. 16-056-000
Amendment No. 2
Parkhill Smith & Cooper, Inc.
Project No. 16-001-8801

EXHIBIT G-2

LIST OF A-E PROJECT MANAGER AND SUBCONTRACTORS

**TFC Contract No. 16-056-000
Parkhill, Smith & Cooper, Inc.**

Amendment No. 2
Exhibit G-2

**LIST OF A/E PROJECT MANAGER
AND
SUBCONTRACTORS**

[Name, Company Name, Address & Contact Person (Project Manager)]

A. Program Manager:	Jared A. Higgins, P.E., CEM, GCP, Senior Associate Parkhill, Smith & Cooper, Inc. 12301-B Riata Trace Parkway, Suite 100 Austin, Texas 78727 Telephone: (806) 473-2200 Mobile: (806) 831-8504 E-Mail: jhiggins@team-psc.com
B. Project Manages:	Monte S. Hunter, AIA Parkhill, Smith & Cooper, Inc. 12301-B Riata Trace Parkway, Suite 100 Austin, Texas 78727 Telephone: (512) 676-2100 E-Mail: mhunter@team-psc.com
	Jamie Zavodny, AIA Parkhill, Smith & Cooper, Inc. 12301-B Riata Trace Parkway, Suite 100, Austin, Texas 78727 Telephone: (512) 676-2100 E-Mail: jzavodny@team-psc.com
C. Subcontractors	Not applicable