

**AMENDMENT NO. 6
TO THE
PROFESSIONAL ARCHITECTURAL/ENGINEERING SERVICES
AGREEMENT
BETWEEN
THE TEXAS FACILITIES COMMISSION
AND
STANLEY CONSULTANTS, INC.**

THIS AMENDMENT NO. 6 to the Professional Architectural/Engineering Services Agreement (hereinafter referred to as “Amendment No. 6”) 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 Stanley Consultants, Inc. (hereinafter referred to as “A/E”) located at 6836 Austin Center Boulevard, Suite 350, Austin, Texas, 78731, (hereinafter referred to collectively as the “Parties”) to amend the original Professional Services Agreement, between the parties, as amended.

RECITALS

WHEREAS, on July 29, 2017, the Parties entered into that one certain *Professional Services Agreement Architectural/Engineering Services Agreement Between the Texas Facilities Commission and Stanley Consultants, Inc.* (hereinafter referred to as the “Agreement”); and

WHEREAS, the Parties entered into Amendment No. 1 on April 27, 2018, Amendment No. 2 on June 19, 2018, Amendment No. 3 on September 27, 2018, Amendment No. 4 on December 24, 2018, and Amendment No. 5 on July 9, 2019; and

WHEREAS, the Parties now desire to provide for Additional Services and Fees, and to include certain provisions adopted by TFC subsequent to the execution of the Agreement and its Amendments numbered 1, 2, 3, 4, and 5, inclusive, in order to reflect the will of the Texas Legislature, and to comply with requirements promulgated by the State Auditor’s Office and the Comptroller of Public Accounts;

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 I – DEFINITIONS, by adding the following definition:

“*Standard of Care* means A/E’s Standard of Care defined in Section 6.1.22. ”

3. The parties agree to modify ARTICLE II – SCOPE OF SERVICES, 2.1.13, Additional Phase 2 Design/Construction Services for Building F, G and T, by adding subsection 2.1.13.8, which shall read in its entirety as follows.

“2.1.13.8. Provide deferred maintenance design and construction administration services requested by Department of State Health Services (“DSHS”) to accommodate architectural layout modifications in Buildings F, G4 State Medical Operation Center area, and Tower 8th Floor Suites. Services under this subsection 2.1.13.8 shall be performed in accordance with the Agreement, this Amendment No 6, and A-E’s Proposal dated February 10, 2020, attached hereto and incorporated herein as “Exhibit F-6,” to the extent it does not conflict with the provisions of the Agreement and this Amendment No. 6.”

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 services provided under this Amendment No. 6 in the amount of Seventy-Nine Thousand Two Hundred and No/100 Dollars (\$79,200.00), thus increasing the total amount from One Million Four Hundred Seventy-Six Thousand Six Hundred Ten and No/100 Dollars (\$1,476,610.00), to a total not to exceed amount of One Million Five Hundred Fifty-Five Thousand Eight Hundred Ten and No/100 Dollars (\$1,555,810.00). The resulting subsection 4.1.1, shall read in its entirety 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 One Million Five Hundred Fifty-Five Thousand Eight Hundred Ten and No/100 Dollars (\$1,555,810.00). Any Professional Services performed or delivered by A/E prior to the Effective Date of this Agreement or after its termination cannot be compensated.”

5. The Parties agree to modify ARTICLE VI – WARRANTIES AND REPRESENTATIONS BY A/E, by adding Sections 6.1.22 through and including 6.1.25, which shall read in their entirety as follows:

“6.1.22. Standard of Care. Pursuant to Section 2254.0031 of the Texas Government Code, which incorporates by reference Section 271.904(d) of the Texas Local Government Code, A/E shall perform services (1) with professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license, and (2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.

6.1.22.1. Pursuant to Texas Local Government Code Section 271.904(d), A/E hereby represents and warrants:

6.1.22.1.1. that it shall perform the Services with the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license;

6.1.22.1.2. that it shall perform the Services as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect; and

6.1.22.1.3. that each of the employees and agents assigned to perform A/E's obligations under this Agreement shall have the skill and training to perform the Services in accordance with the foregoing Standard of Care, and that all Deliverables shall be produced in a professional and workmanlike manner.

6.1.23. 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.

6.1.24. Human Trafficking Prohibition. Pursuant to Section 2155.0061 of the Texas Government Code, A/E certifies that it is not ineligible to receive this agreement and acknowledges that this Agreement may be terminated and payment withheld if A/E's certification in this matter is inaccurate. TFC may not award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year (5) period preceding the date of the award, has been convicted of any offense related to the direct support or promotion of human trafficking.

6.1.25. Use of State Property. A/E is prohibited from using State Property for any purpose other than performing services authorized under the Agreement. State Property includes, but is not limited to: TFC's office space, identification badges, TFC information technology equipment and networks (e.g., laptops, portable printers, cell phones, iPads, external hard drives, data storage devices, any TFC issued software, and the TFC Virtual Private Network (VPN client)), and any other resources of TFC. A/E shall not remove State Property from the continental United States. In addition, A/E may not use any computing device to access TFC's network or e-mail while outside of the continental United States. A/E shall not perform any maintenance services on State Property unless the Agreement expressly authorizes such services. During the time that State Property is in the possession of A/E, A/E shall be responsible for (i) all repair and replacement charges incurred by TFC that are associated with loss of State Property or damage beyond normal wear and tear; and (ii) all charges attributable to A/E's use of State Property that exceeds the scope of the Agreement. A/E shall fully reimburse such charges to TFC within ten (10) calendar days of A/E's receipt of TFC's notice of amount due. Use of State Property for a purpose not authorized by agreement shall constitute breach of contract and may result in termination of the Agreement and the pursuit of other remedies available to TFC under contract, at law, or in equity."

6. The Parties agree to modify ARTICLE XI – MISCELLANEOUS PROVISIONS, Section 11.1, Indemnification, by adding Subsection 11.1.4, as follows.

“11.1.4. ENGINEERING AND ARCHITECTURE. A/E SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND TFC, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED DAMAGES, COSTS, ATTORNEY FEES, AND EXPENSES TO THE EXTENT CAUSED BY, ARISING OUT OF, OR RESULTING FROM ANY ACTS OF NEGLIGENCE, INTENTIONAL TORTS, WILLFUL MISCONDUCT, PERSONAL INJURY OR DAMAGE TO PROPERTY, AND/OR OTHERWISE RELATED TO A/E’S PERFORMANCE, AND/OR FAILURES TO PAY A SUBCONTRACTOR OR SUPPLIER BY THE A/E OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, CONSULTANTS UNDER CONTRACT TO A/E, OR ANY OTHER ENTITY OVER WHICH THE CONTRACTOR EXERCISES CONTROL, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE AGREEMENT. THE DEFENSE SHALL BE COORDINATED BY A/E WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND A/E MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. A/E AND TFC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. THIS SECTION IS NOT INTENDED TO AND SHALL NOT BE CONSTRUED TO REQUIRE A/E TO INDEMNIFY OR HOLD HARMLESS THE STATE OR TFC FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF TFC OR ITS EMPLOYEES (TEX GOV’T CODE SECTION 2254.0031).”

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7. The Parties agree to modify ARTICLE XI – MISCELLANEOUS PROVISIONS, Section 11.9, Electronic and Information Resources Accessibility Standards, by adding Subsection 11.9.1, as follows.

“11.9.1. Cybersecurity Training Required. If A/E has “access,” as that term is defined in 1 Tex. Admin. Code § 202.1, to any state computer system or database, then, pursuant to Tex. Gov’t Code § 2054.5192, A/E and its subcontractors, officers, and employees shall complete a cybersecurity training program certified under Tex. Gov’t Code §2054.519. The cybersecurity training program must be completed by the A/E and its subcontractors, officers and employees during the term and any renewal period of the Agreement. A/E shall verify completion of the training program to TFC pursuant to, and in accordance with, Tex. Gov’t Code § 2054.5192.”

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

TEXAS FACILITIES COMMISSION

STANLEY CONSULTANTS, INC.

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By: Mike Novak, Executive Director
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By: Jesse Cabrera, P.E., Business Development Manager,
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Mike Novak

Jesse Cabrera, P.E.

Executive Director

Business Development Manager

Date of execution: 03/27/2020 | 10:58 AM CDT

Date of execution: 03/27/2020 | 10:41 AM CDT

GC CR

Dir MW

DED JR

TFC Contract No. 17-112-000
Stanley Consultants, Inc.
Amendment No. 6
RFQ No. 303-6-01016
Project Nos.: 16-019-2506, 16-019-5530, 19-006-2503

Exhibit F-6

A/E's Proposal dated February 10, 2020



Stanley Consultants INC.

A Stanley Group Company
Engineering, Environmental and Construction Services - Worldwide

February 10, 2020

Mr. Kevin Sandberg
Project Manager
Texas Facilities Commission
Design and Construction
1711 San Jacinto Boulevard
Austin, TX 78701

Re: **Additional Professional Engineering Services:** Design for Deferred Maintenance Projects in Four State Buildings in Austin (Project No. 16-019-5530, 16-019-2506); **Buildings F, G, & T**
F Building DM remodel
G4 SMOC remodel
T8 DSHS remodel

Dear Mr. Sandberg:

Stanley Consultants appreciates the opportunity to submit this proposal for additional professional engineering/architectural services on the above referenced project. As requested, this proposal has been developed as **Additional Professional Engineering Services** to our previous **Phase 2: Design/Construction Administration**, as described in our March 30, 2017 proposal; and, as accepted and incorporated into our TFC Contract No.17-112-000. It is Stanley Consultants understanding that the terms and conditions of this project assignment agreement will be defined by the standard form of TFC's Professional Architectural/Engineering Services Agreement.

I. General Project Information

The Project scope of work consists of engineering, architectural, and fire protection services for additional design and construction administration services for deferred maintenance (DM) items within the State of Texas DSHS Campus Buildings F, G, and T. The buildings are currently occupied, and the current SOW was phased to accommodate occupancy scheduling and project funding obligations. With additional design service requests by HHSC, the construction schedule for the SOW has now been extended beyond the original timeline.

II. Project Design Phase Services for Additional SOW

This additional scope of work (SOW) summary, as reviewed and discussed with you for each building, has been provided for reference below. The SOW includes: the DHF Building remodel, with the exclusion of the any/all MEP or architectural items related to the **Café**; additional remodel efforts on DHG 4th floor SMOC remodel; additional DHT 8th floor remodel; and, additional construction phase services for all buildings through November 2020. These additional service requests allow for the continued phasing of the project and the additional construction time required.

The EA design team will provide Construction Documents for:

1. Building F DM remodel
2. Building G, Room 400 SMOC remodel
3. Building T, entire eighth floor remodel

4. Coordination of remaining EA items related to construction phase services for Buildings F, G, & T through November 2020; and, to include coordinated closeout documents.

Upon written authorization from Texas Facilities Commission to proceed with the Design Services, Stanley Consultants, and its sub-consultants, (CONSULTANT) shall perform the same Basic Services as our current project design packages. In addition, the same exclusions as in our original proposal will also apply unless as modified within our TFC Contract.

Our intent is to incorporate this additional work into the current project schedule for the DHF, DHG, and DHT buildings. This design effort will require additional design meetings and discussions as well as the required Bidding and Award, and Construction Administration Services for DHF. All such tasks have been included in our proposed fee that follows.

III. Additional Services

All Professional Services are limited to the Basic Services in the named areas in the buildings above. Additional requests will be considered Additional Services and are at TFC's option. These services, if exercised by TFC and agreed to by CONSULTANT, shall be paid for in addition to compensation for Basic Services. CONSULTANT is not authorized to proceed with performance of any Additional Services unless they are duly authorized, in writing, by TFC.

IV. Compensation

CONSULTANT proposes to perform the **Additional Professional Services** for this project, as described above for the following **Fixed Fee**:

TOTAL FEE (All Buildings): \$ 79,200.00 (SEVENTY-NINE THOUSAND TWO HUNDRED)

Fee above are inclusive of all administrative and professional time and ordinary expenses for all parties to complete the work. Should the TFC request further additional services during this work, those further services would be provided at our standard hourly rates or negotiated fee at that time.

CONSULTANT will invoice monthly based on a percentage complete for the overall project, inclusive of all buildings.

We appreciate the opportunity to continue our working relationship with TFC and look forward to working with you on this important project. If you have any questions please contact me at 512.427.3600.

Sincerely,

Stanley Consultants, Inc.



Randy Schrecengost, P.E.
Senior Project Manager

cc: Marketing Files