

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

**AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES
DESIGN OF TRAFFIC SIGNALS IN RIVERSTONE**

THIS AGREEMENT is made and entered into by and between Fort Bend County, (hereinafter "County"), a body corporate and politic under the laws of the State of Texas, and Neel-Schaffer, Inc. (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas.

WITNESSETH

WHEREAS, County desires that Contractor prepare design plans and provide bid and construction services for traffic signal systems at certain locations in Fort Bend County, Texas, (hereinafter "Services") pursuant to SOQ 14-025; and

WHEREAS, County has determined Contractor is the most highly qualified provider of the desired Services on the basis of demonstrated competence and qualifications, and County and Contractor have negotiated to reach a fair and reasonable amount of compensation for the provision of such Services, as required under Chapter 2254 of the Texas Government Code; and

WHEREAS, Contractor represents that it is qualified and desires to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

AGREEMENT

Section 1. Scope of Services

Contractor shall render Services to County as described in Contractor's Proposal dated April 22, 2019 attached hereto as Exhibit "A" and included herein for all purposes.

Section 2. Personnel

2.1 Contractor represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Scope of Services required under this Agreement and that Contractor shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the Scope of Services when and as required and without delays.

2.2 All employees of Contractor shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Contractor who, in the

opinion of County, is incompetent or by his conduct becomes detrimental to the project shall, upon request of County, immediately be removed from association with the project.

Section 3. Compensation and Payment

3.1 Contractor's fees shall be calculated at the rates set forth in the attached Exhibit A. The Maximum Compensation for the performance of Services billed at the applicable rates as described in Exhibit A is ninety-five thousand four hundred ten dollars and 00/100 (\$95,410.00). In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without an amendment executed by the parties.

3.2 All performance of the Scope of Services by Contractor including any changes in the Scope of Services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by County.

3.3 County will pay Contractor based on the following procedures: Upon completion of the tasks identified in the Scope of Services, Contractor shall submit to County staff person designated by the County Engineer, one (1) electronic (pdf) copy and/or one (1) original hard copy of the invoice showing the services performed in a form acceptable to County. County shall review such invoices and approve them within 30 calendar days with such modifications as are consistent with this Agreement and forward same to the Auditor for processing. County shall pay each such approved invoice within thirty (30) calendar days. County reserves the right to withhold payment pending verification of satisfactory work performed.

Section 4. Limit of Appropriation

4.1 Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of ninety-five thousand four hundred ten dollars and 00/100 (\$95,410.00), specifically allocated to fully discharge any and all liabilities County may incur.

4.2 Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to and the total maximum sum that County may become liable to pay to Contractor shall not under any conditions, circumstances, or interpretations thereof exceed ninety-five thousand four hundred ten dollars and 00/100 (\$95,410.00).

Section 5. Time of Performance

Time for performance of the Scope of Services under this Agreement shall begin on Contractor's receipt of a notice to proceed and end no later than June 1, 2020. Contractor shall complete the tasks described in the Scope of Services, within this time or within such additional time as may be extended by the County.

Section 6. Modifications and Waivers

6.1 The parties may not amend or waive this Agreement, except by a written agreement executed by both parties.

6.2 No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition.

6.3 The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

Section 7. Termination

7.1 Termination for Convenience – County may terminate this Agreement at any time upon forty-eight (48) hours written notice.

7.2 Termination for Default

7.2.1 County may terminate the whole or any part of this Agreement for cause in the following circumstances:

7.2.1.1 If Contractor fails to perform services within the time specified in the Scope of Services or any extension thereof granted by the County in writing;

7.2.1.2 If Contractor materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.

7.2.2 If, after termination, it is determined for any reason whatsoever that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with Section 7.1 above.

7.3 Upon termination of this Agreement, County shall compensate Contractor in accordance with Section 3, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. Contractor's final invoice for said services will be presented to and paid by County in the same manner set forth in Section 3 above.

7.4 If County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Contractor.

Section 8. Ownership and Reuse of Documents

All documents, data, reports, research, graphic presentation materials, etc., developed by Contractor as a part of its work under this Agreement, shall become the property of County upon completion of this Agreement, or in the event of termination or cancellation thereof, at the time of payment under Section 3 for work performed. Contractor shall promptly furnish all such data and material to County on request.

Section 9. Inspection of Books and Records

Contractor will permit County, or any duly authorized agent of County, to inspect and examine the books and records of Contractor for the purpose of verifying the amount of work performed under the Scope of Services. County's right to inspect survives the termination of this Agreement for a period of four years.

Section 10. Insurance

10.1 Prior to commencement of the Services, Contractor shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. Contractor shall provide certified copies of insurance endorsements and/or policies if requested by County. Contractor shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Contractor shall obtain such insurance written on an Occurrence form (or a Claims Made form for Professional Liability insurance) from such companies having Best's rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

10.1.1 Workers' Compensation insurance. Substitutes to genuine Workers' Compensation Insurance will not be allowed.

10.1.2 Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.

10.1.3 Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.

10.1.4 Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.

10.1.5 Professional Liability insurance may be made on a Claims Made form with limits not less than \$1,000,000.

10.2 County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability. All Liability policies including Workers' Compensation written on behalf of Contractor, excluding Professional Liability, shall contain a waiver of subrogation in favor of County and members of Commissioners Court.

10.3 If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time that work under the Agreement is completed.

Section 11. Indemnity

CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS COUNTY AGAINST ALL LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, INCLUDING THE REIMBURSEMENT OF COUNTY'S REASONABLE ATTORNEYS FEES IN PROPORTION TO CONTRACTOR'S LIABILITY, ARISING FROM ACTIVITIES OF CONTRACTOR, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, INTENTIONAL TORT, ERROR, OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.

Section 12. Confidential and Proprietary Information

12.1 Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Contractor or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document; (b) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.

12.2 Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use its best efforts

to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Contractor shall advise County immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Contractor will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Contractor against any such person. Contractor agrees that, except as directed by County, Contractor will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Contractor will promptly turn over to County all documents, papers, and other matter in Contractor's possession which embody Confidential Information.

12.3 Contractor acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.

12.4 Contractor in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

12.5 Contractor expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Consultant shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed.

Section 13. Independent Contractor

13.1 In the performance of work or services hereunder, Contractor shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of contractor or, where permitted, of its subcontractors.

13.2 Contractor and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

Section 14. Notices

14.1 Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

14.2 Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County: Fort Bend County Engineering Department
Attn: County Engineer
301 Jackson Street
Richmond, Texas 77469

With a copy to: Fort Bend County
Attn: County Judge
401 Jackson Street, 1st Floor
Richmond, Texas 77469

Contractor: Neel-Schaffer, Inc.
Attn: Charles Smoak, Jr., P.E.
13430 Northwest Freeway, Suite 650
Houston, Texas 77040

14.3 A Notice is effective only if the party giving or making the Notice has complied with subsections 14.1 and 14.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

14.3.1 If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.

14.3.2 If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

Section 15. Compliance with Laws

Contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation,

Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Contractor shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

Section 16. Standard of Care

Contractor represents it shall perform the Services to be provided under this Agreement with the professional skill and care ordinarily provided by competent engineers practicing under the same or similar circumstances and professional license. Further, Contractor shall perform the Services as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer.

Section 17. Assignment

17.1 Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner.

17.2 Neither party may delegate any performance under this Agreement.

17.3 Any purported assignment of rights or delegation of performance in violation of this Section is void.

Section 18. Applicable Law

The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity.

Section 19. Successors and Assigns

County and Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

Section 20. Third Party Beneficiaries

This Agreement does not confer any enforceable rights or remedies upon any person other than the parties.

Section 21. Severability

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

Section 22. Publicity

Contact with citizens of Fort Bend County, media outlets, or governmental agencies shall be the sole responsibility of County. Under no circumstances whatsoever, shall Contractor release any material or information developed or received in the performance of the Services hereunder without the express written permission of County, except where required to do so by law.

Section 23. Captions

The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

Section 24. Conflict

In the event there is a conflict between this Agreement and the attached exhibits, this Agreement controls.

Section 25. Certain State Law Requirements for Contracts

25.1 Agreement to Not Boycott Israel Chapter 2270 Texas Government Code: By signature below, Contractor verifies Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.

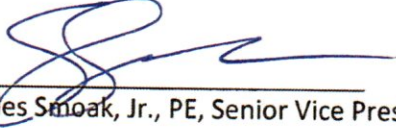
25.2 Texas Government Code Section 2251.152 Acknowledgment: By signature below, Contractor represents pursuant to Section 2252.152 of the Texas Government Code, that Contractor is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153.

IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the date signed by the last party hereto.

FORT BEND COUNTY

NEEL-SCHAFFER, INC

KP George, County Judge



Charles Smoak, Jr., PE, Senior Vice President

Date

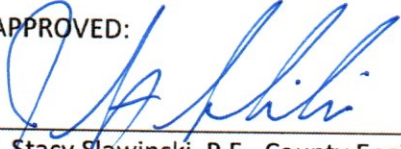
4-24-19

Date

ATTEST:

Laura Richard, County Clerk

APPROVED:



J. Stacy Slawinski, P.E., County Engineer

APPROVED AS TO LEGAL FORM:

Marcus D. Spencer, First Assistant County Attorney

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ _____ to accomplish and pay the obligation of Fort Bend County under this contract.

Robert Ed Sturdivant, County Auditor

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EXHIBIT A

April 22, 2019
Neel-Schaffer Proposal No. 29-2-1155

Fort Bend County Engineering
Attn: Chris Debaillon, P.E., PTOE
Assistant County Engineer - Traffic
301 Jackson Street
Richmond, TX 77469

Re: Riverstone Traffic Signal Designs

Dear Chris:

We are pleased to submit this proposal to prepare design plans as indicated in the attached scope (Exhibit A) for the above captioned project. A Level of Effort (Exhibit C) and sub-consultant Survey proposal (Exhibit D) are also attached for your review and approval. Based on the attached scope of work, we propose to provide these services for the following fees:

Surveying	\$ 21,200.00 (lump sum)
*Survey (Parcel Acquisition)	\$ 5,000.00 (lump sum)
Preliminary Design	\$ 19,970.00 (lump sum)
Final Design	\$ 42,530.00 (lump sum)
Bid/Construction Phases	\$ 6,710.00 (time & materials)

*Additional Services - assumes two (2) parcels to be acquired should the services be needed.

Neel-Schaffer, Inc. will bill Fort Bend County (FBC), monthly for our services based on work completed to date. We hold FBC as project representative responsible for payment of services. Our statements shall be due and payable within 30 days of statement date as per the prime contract. If payment is not made within 90 calendar days of statement date, the amounts due us may include a charge of one percent per month from the sixtieth day. Payment of these services will be performed in accordance with our attached General Terms and Conditions (Exhibit B).

(NOTE: This proposal does include surveying, but does NOT include support services such as environmental assessments, geotechnical investigations, etc.)

This letter, Exhibits A, B, and C (attached) will represent the entire understanding between FBC and Neel-Schaffer, Inc. with respect to the services we will provide for this project, and may be modified in writing signed by both parties.

April 22, 2019
Chris Debaillon, P.E., PTOE
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We are looking forward to working with you on this project. Should you have any questions or if I may be of further service to you in any way, please don't hesitate to call me at 713-783-7117 or 713-232-9050.

Sincerely,
NEEL-SCHAFFER, INC.



Charles "Sonny" Smoak, Jr., P.E.
Senior Vice President/Houston Office Manager

Enclosures



Riverstone Traffic Signal Designs Scope of Services

PROJECT DESCRIPTION

The project includes the design, bid and construction services for traffic signal systems including any necessary median nose adjustments at the following project locations:

1. LJ Parkway at Lake Riverstone
2. LJ Parkway at Winding Waters
3. University at Winding Waters

Design Criteria - applicable design criteria for the above projects include:

1. Municipal design criteria (i.e. City of Sugar Land) as it pertains to alternate bid items
2. Applicable Texas Department of Transportation design criteria (all County-maintained traffic signals, other items as applicable)
3. Relevant Fort Bend County standards including the most recently adopted approved equipment list

SCOPE OF SERVICES

Survey – See attached survey proposal

NSI shall prepare traffic signal design plans for the three (3) project intersections. The traffic signal designs will be based upon the design criteria as set forth by the County. PS&E will consist of plan sheets indicating the location of all signal equipment such as mast arm/span wire poles, controller/cabinet, junction boxes, conduit, power service/disconnect, detection devices, signs and signal heads. PS&E will also consist of basis of estimate, existing conditions layout, electrical schedule, electrical service data, loop detector schedule, primary sequence chart, requisite intersection striping, ADA-compliant pedestrian facilities (ramps), and applicable standard details.

Left turn evaluations will be conducted at each exclusive left turn facility to determine the feasibility of Flashing Yellow Arrow (FYA) indicators.

As the signals are not part

NOTE: Design plans will be presented such that two (2) separate bid alternates will be developed to differentiate support structure (mast arms and poles) material options.

DELIVERABLE FORMAT

PRELIMINARY DESIGN

"30 percent" plan sets shall be prepared to include the following:

- Signal concept exhibits
- Quantities and a cost estimate

Final Design

Prepare signal designs for the three (3) project intersections. The design deliverables will be submitted at 70%*, 95%* and 100%* complete and shall include the following:

1. Title
2. Summary
3. Summary of Estimate Quantities
4. Signal General Notes
5. Existing Condition Diagram
6. Proposed Signal Layout
7. Signal Signing and Details
8. Striping Plan & Permanent Signing
9. Electrical Schedule
10. Special Detail Sheets (if necessary)
11. Geometric Details (if necessary)
12. Graphical Grades & Joint Layouts (if necessary)

*(*Interim submittals shall be inclusive of all County-mandated items)*

Construction Phase

NSI will attend one (1) pre-bid and one (1) pre-construction meeting with County staff, Project Manager, general contractor, and construction materials testing contractor.

NSI will be responsible for reviewing contractor submittals and responding to Requests for Information related to the items presented in the Scope of Services listed above.

NSI will not be responsible for any construction observation/inspection tasks beyond that stated above.

EXHIBIT B
NEEL-SCHAFFER, INC. ("NSI")
GENERAL TERMS AND CONDITIONS
PROFESSIONAL CONSULTANT SERVICES

1. **Relationship between NSI and Owner.** NSI shall serve as the Owner's professional consultant in those phases of the Project to which this Agreement applies. The relationship is that of a buyer and seller of professional services and it is understood that the parties have not entered into any joint venture or partnership with the other. NSI shall not be considered to be the agent or fiduciary of the Owner. To the extent that Owner is a public entity or a person or entity obligated to repay some or all of an amount borrowed in a municipal securities offering, it is expressly understood and agreed that the Professional consultant is not acting as a municipal advisor to the Owner, as that term applies to the Dodd-Frank Wall Street Reform and Consumer Protection Act and its supporting regulations, that Professional consultant's services will not include the provision of advice or recommendations regarding municipal financial products or the issuance of municipal securities, and that the Owner is responsible for retaining an independent registered municipal advisor for such advice or recommendation.
2. **Responsibility of NSI.** NSI will perform services under this Agreement in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, warranty or guarantee, expressed or implied, is included or intended in this Agreement or in any report, opinion, document, or otherwise.
3. **Responsibility of the Owner.** Owner shall provide all criteria and full information as to his requirements for the Project, including budgetary limitations. Owner shall arrange for NSI to enter upon public and private property and obtain all necessary approvals required from all governmental authorities having jurisdiction over the Project.

Owner shall give prompt written notice to NSI whenever Owner observes or otherwise becomes aware of any development that affects the scope or timing of NSI's services.

The Owner shall promptly report to the Professional consultant any defects or suspected defects in the Professional consultant's services of which the Owner becomes aware, so that the Professional consultant may take measures to minimize the consequences of such a defect. The Owner further agrees to impose a similar notification requirement on all contractors in its Owner/Contractor contract and shall require all subcontracts at any level to contain a like requirement. Should legal liability for the defects exist, failure by the Owner and the Owners' contractors or subcontractors to notify the Professional consultant shall relieve the Professional consultant of any liability for costs of remedying the defects above the sum such remedy would have cost had prompt notification been given when such defects were first discovered.
4. **Designation of Authorized Representatives.** Each party shall designate one or more persons to act with authority in its behalf with respect to appropriate aspects of the Project. The persons designated shall review and respond promptly to all communications received from the party.
5. **Ownership of Documents.** All documents prepared by NSI in connection with any or all of the services furnished hereunder shall be and remain the property of NSI.
6. **Reuse of Documents.** All documents furnished by NSI pursuant to this Agreement, are intended for use on the Project only. Owner agrees they should not be used by the Owner or others on extensions of the Project or on any other project. Any reuse, without written verification or adaption by NSI, shall be at Owner's sole risk, and Owner shall indemnify and hold harmless Professional consultant from all claims, damages, losses and expenses, including attorney's fees arising out of or resulting therefrom. Owner further acknowledges that any reports or studies prepared by NSI are intended solely for the Owner's use and information, and the Owner shall defend and indemnify NSI from any liabilities arising out of other entities' reliance on such reports or studies.
7. **Changes.** Owner reserves the right by written change order or amendment to make changes in requirements, amount of work, or time schedule adjustments; and NSI and Owner shall negotiate appropriate adjustments in fee and/or schedule acceptable to both parties to accommodate any changes or Additional Services.
8. **Suspension of Services.** Owner may, at any time, by written order to NSI to stop all, or any part, of the services required by this Agreement. Upon receipt of such an order, NSI shall immediately comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the services covered by the order. Owner, however, shall pay all costs associated with suspension including all costs necessary to maintain continuity and the staff required to resume the services upon expiration of the suspension of work order. NSI will not be obligated to provide the same personnel employed prior to suspension when the services are resumed in the event the period of any suspension exceeds 30 days.
9. **Termination.** This Agreement may be terminated by either party upon 30 days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. This Agreement may be terminated by Owner, under the same terms, whenever Owner shall determine that termination is in its best interests. Cost of termination, including salaries, overhead and fee, incurred by NSI either before or after the termination date shall be reimbursed by Owner.
10. **Delays.** If NSI's services are delayed by the Owner, or for other reasons beyond NSI's control the fee provided for in this Agreement shall be adjusted equitably.

11. **Notices.** Any notice or designation required to be given by either party hereto shall be in writing and, unless receipt of such notice is expressly required by the terms hereof, it shall be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed and addressed to the party to whom such notice is directed at such party's place of business or such other address as either party shall hereinafter furnish to the other party by written notice as herein provided.

12. **Indemnification.** NSI shall indemnify and hold harmless Owner from Owner's loss or expense, including reasonable attorney's fees for claims for personal injury (including death) or property damage to the extent caused by the negligent act, error or omission of NSI.

Owner shall indemnify and hold harmless NSI from NSI's loss or expense, including reasonable attorney's fees, for claims for personal injuries (including death) or property damage to the extent caused by the negligent act, error or omission of Owner.

In the event of joint or concurrent negligence of NSI and Owner, each shall bear that portion of the loss or expense that its share of the joint or concurrent negligence bears to the total negligency (including that of third parties) which caused the personal injury or property damage.

Owner shall not be liable to NSI, and NSI shall not be liable to the Owner, for any special, incidental or consequential damages, including, but not limited to, loss of use and loss of profit, incurred by either party due to the fault of the other, regardless of the nature of this fault, or whether it was committed by the Owner or NSI or their employees, agents or subcontractors, by reason of services rendered under this Agreement.

Professional consultant's indemnification obligation as set forth herein is expressly subject to and limited by the limitation of liability provision agreed upon by the Owner and Professional consultant as set forth in Section 17 Risk Allocation of this Agreement.

Owner waives any rights or claims for damage to persons or property that it or any of its successors in interest or insurers may have against Professional consultant for any claim or action arising out of Professional consultant's scope of services related to the Project or this Agreement, but only to the extent that such rights or claims for damages are covered by a policy of liability, casualty, property or other insurance, regardless of who procures such insurance.

13. **Legal Proceedings.** In the event NSI's employees are at any time required by Owner to provide testimony, answer interrogatories or otherwise provide information ("testimony") in preparation for or at a trial, hearing, proceeding on inquiry ("proceeding") arising out of the services that are the subject of this Agreement, where NSI is not a party to such proceeding, Owner will compensate NSI for its services and reimburse NSI for all related direct costs incurred in connection with providing such testimony. This provision shall be of no effect if the parties have agreed in a separate agreement or an amendment to this Agreement to terms which specifically supersede this

provision, nor shall this provision apply in the event Owner engages NSI to provide expert testimony or litigation support, which services shall be the subject of a separate agreement or an amendment to this Agreement.

14. **Successors and Assigns.** The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns; provided however, that neither party shall assign this Agreement in whole or in part without the prior written approval of the other.

15. **Insurance.** NSI agrees to maintain the following insurance coverages with the following available limits of insurance during the performance of NSI's work hereunder:

- (a) Commercial General Liability insurance with standard ISO coverage and available limits of \$1,000,000 per occurrence and \$2,000,000 general aggregate;
- (b) Automobile Liability insurance with standard ISO coverage and available combined single limits of \$1,000,000 per accident;
- (c) Worker's Compensation insurance with limits as required by statute and Employer's Liability insurance with limits of \$1,000,000 per employee for bodily injury by accident/\$1,000,000 per employee for bodily injury by disease/\$1,000,000 policy limit for disease; and
- (d) Professional Liability insurance covering NSI's negligent acts, errors, or omissions in the performance of professional services with available limits of \$1,000,000 per claim and annual aggregate.

NSI shall provide evidence of procuring the above insurance coverages by delivering a certificate of insurance to Owner prior to the start of NSI's work and annually upon renewal of coverage. NSI shall cause Owner to be named as an additional insured on NSI's commercial general liability policy, which shall be primary and noncontributory.

16. **Information Provided by the Owner.** NSI shall indicate to the Owner the information needed for rendering of services hereunder. The Owner may elect to provide this information (including services by others) to NSI. In this case, the Owner recognizes that NSI cannot assure the sufficiency of such information. Accordingly, NSI shall not be liable for any claims for injury or loss arising from errors, omissions or inaccuracies in documents or other information provided by the Owner. In addition, the Owner agrees to compensate NSI for any time spent or expenses incurred in defending such claim or in making revisions to his work as a direct or indirect result of information provided by the Owner which is insufficient.

17. **Risk Allocation.** In light of the relative risks and rewards of the parties, Owner and NSI have allocated the risks such that the Owner agrees to limit NSI's liability to the Owner arising from this Agreement such that the total aggregate liability of NSI shall not exceed \$50,000 or NSI's total fee for the services rendered on this project, whichever is greater.

18. **Payment.** NSI shall submit monthly invoices, or invoice submittal will be as noted in the agreement, to the Owner. Payment in full shall be due upon receipt of the invoice. Payment of any invoices by the Owner shall be taken to mean

that the Owner is satisfied with the NSI's services to the date of the payment and is not aware of any deficiencies in those services. If payments are delinquent after 30 days from invoice date, the Owner agrees to pay interest on the unpaid balance at the rate of one percent (1%) per month. Payment will be credited first to any interest owed then to principal. If the Owner fails to make payments; then NSI, after giving seven (7) days written notice to the Owner, may suspend services until the Owner has paid in full all amounts due for services, expenses, and other related charges without recourse to the Owner for loss or damage caused by such suspension.. The Owner waives any and all claims against the NSI for any such suspension. Payment for NSI's services is not contingent on any factor, except the NSI's ability to provide services in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. Payment of invoices shall not be subject to any discounts, set-offs or back-charges unless agreed to in writing by both parties. If the Owner contests an invoice, the Owner may withhold only that portion so contested and pay the undisputed portion, after the Owner has notified the NSI in writing within 30 days of receiving the invoice and shall identify the specific cause of the disagreement and the amount in dispute.

If NSI brings any action at law or in equity to enforce or interpret the terms of this Agreement, or if NSI must either prosecute or defend any action related to the subject matter of the Agreement, and prevails in such action, then NSI shall be entitled to reasonable attorney's fees, expenses and costs, including expert witness fees, if applicable.

19. **Force Majeure.** Neither Owner nor NSI shall be liable for any fault or delay caused by any contingency beyond their control, including, but not limited to, acts of God, wars, strikes, walkouts, fires, natural calamities, or demands or requirements of governmental agencies.
 20. **Compliance with Laws.** To the extent they apply to its employees or its services, NSI shall exercise due professional care to comply with all applicable United States, state, territorial and commonwealth laws, including ordinances of any political subdivisions or agencies of the United States, any state, territory or commonwealth thereof.
 21. **Separate Provisions.** If any provisions of this Agreement are held to be invalid or unenforceable, the remaining provisions shall be valid and binding.
 22. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the state in which the work is performed.
 23. **Dispute Resolution.** All disputes, controversies or claims, of whatever kind or character, between the Parties, their agents and/or principals, arising out of or in connection with the subject matter of this Agreement shall be litigated only before a judge hearing the matter alone, as both finder of fact and law, without a jury.
- By entering into this agreement, the parties knowingly, purposefully and intelligently agree to waive their individual rights to have any dispute, controversy or claim amongst and between them, to include the Contractor's individual Shareholders, Directors and Officers, decided, heard or adjudged by a trial by jury.
24. **Additional Services.** Services resulting from significant changes in the general scope, extent or character of the Project designed or specified by Engineer or its design including, but not limited to, changes in size, complexity, Client's schedule, construction schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other causes beyond Engineer's control.
 25. **Amendment.** This Agreement shall not be subject to amendment unless another instrument is executed by duly authorized representatives of each of the parties.
 26. **Entire Understanding of Agreement.** This Agreement represents and incorporates the entire understanding of the parties hereto, and each party acknowledges that there are no warranties, representations, covenants or understandings of any kind, matter or description whatsoever, made by either party to the other except as expressly set forth herein. Owner and NSI hereby agree that any purchase orders, invoices, confirmations, acknowledgments or other similar documents executed or delivered with respect to the subject matter hereof that conflict with the terms of this Agreement shall be null, void and without effect to the extent they conflict with the terms of this Agreement.
 27. **Survival of Provisions.** The provisions of this Agreement shall continue to be binding upon the parties hereto notwithstanding termination of this Agreement for any reason.
 28. **Nonwaiver.** No waiver by a party of any provision of this Agreement shall be deemed to have been made unless in writing and signed by such party.
 29. **Identity of Project Owner.** Within ten (10) days of the entry of this Agreement, Owner, if Owner is not the Project Owner, shall provide to Professional Consultant the following information relative to the Project Owner: Project Owner's full legal name; Project Owner's physical address; Project Owner's mailing address; and the name, physical address and mailing address of the Owner's point of contact with the Owner for the Project.
 30. **Conflicting Terms.** In the event that there are multiple agreements with varying or conflicting terms and conditions between Owner and Professional Consultant, the Terms and Conditions contained in this Agreement shall supersede and have precedence over any other terms and conditions contained in any other written or oral agreement entered into between

Owner and Professional Consultant that either actually do or appear to conflict with the Terms and Conditions contained in this Agreement, regardless of when, in relationship to these Terms and Conditions contained in this Agreement, such other written or oral agreement was actually entered into between Owner and Professional Consultant.

31. **Course of Dealing.** Owner and Professional Consultant agree that these General Terms and Conditions establish a course of dealing between them and shall apply to this and all other services, projects, agreements or dealings between the them, unless Owner or Professional Consultant gives the other written notice of objection to any term or condition before commencement of performance in connection with any other provision of services or projects involving the two of them.

Exhibit C

FEE SCHEDULE
(LUMP SUM AND TIME & MATERIALS PAYMENT BASIS)

Fort Bend County
Riverstone Signal Designs

PRIME PROVIDER: Neal-Schaffer, Inc.

CONTRACT RATE PER HOUR	TASK DESCRIPTION	PROJECT MANAGER	SENIOR ENGINEER	PROJECT ENGINEER	DESIGN ENGINEER	ENGINEER IN TRAINING	SENIOR CAD OPERATOR	CAD OPERATOR	ADMIN/CLERICAL	TOTAL HRS. & COSTS	COST PER TASK	NO OF SHTS PER SHT	HRS PER SHT
	Preliminary Engineering Report (PER)												
	Signal Design Plans (30% submittals)	10		32	60	60				162	\$ 19,970.00		
	HOURS SUB-TOTALS	10	0	32	60	60	0	0	0	162			
	SUBTOTAL	\$1,850.00	\$0.00	\$4,320.00	\$7,800.00	\$6,000.00	\$0.00	\$0.00	\$0.00	\$19,970.00	\$19,970.00		
	PRELIMINARY DESIGN	10	0	32	60	60	0	0	0	162			
	SUBTOTAL	\$1,850.00	\$0.00	\$4,320.00	\$7,800.00	\$6,000.00	\$0.00	\$0.00	\$0.00	\$19,970.00	\$19,970.00		
FINAL DESIGN (LUMP SUM PAYMENT BASIS)													
	Signing Payment Meetings, Signals and Traffic Control Plan												
	HOURS SUB-TOTALS	0	0	0	0	0	0	0	0	0			
	SUBTOTAL	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		

FEE SCHEDULE
(LUMP SUM AND TIME & MATERIALS PAYMENT BASIS)

Fort Bend County
Riverstone Signal Designs

PRIME PROVIDER: Neal-Schaffer, Inc.

TASK DESCRIPTION	PROJECT MANAGER	SENIOR ENGINEER	PROJECT ENGINEER	DESIGN ENGINEER	ENGINEER IN TRAINING	SENIOR CAD OPERATOR	CAD OPERATOR	ADMIN/CLERICAL	TOTAL HRS. & COSTS	COST PER TASK	NO OF SHFTS	HRS PER SHFT
Final Design Phase												
Submittable (70%, 95%, 100%)												
Sign Design Plans (70%, 95% & 100% submittals)	10		48	140	160	0	0	0	368	\$ 42,530.00	0	
HOURS SUB-TOTALS	10	0	48	140	160	0	0	0	368		0	
SUBTOTAL	\$1,850.00	\$0.00	\$6,480.00	\$18,200.00	\$16,000.00	\$0.00	\$0.00	\$0.00	\$42,530.00		0	
SUBTOTAL FINAL DESIGN	\$1,850.00	\$0.00	\$6,480.00	\$18,200.00	\$16,000.00	\$0.00	\$0.00	\$0.00	\$42,530.00		0	
BID AND CONSTRUCTION PHASE SERVICES (TIME AND MATERIALS PAYMENT BASIS)												
Bid Phase												
Coordination (pre-bid meeting)			4						4	\$ 540.00		
HOURS SUB-TOTALS	0	0	4	0	0	0	0	0	4		0	
SUBTOTAL	\$0.00	\$0.00	\$540.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$540.00		0	
Construction Phase												
Coordination (Pre-construction meeting, material submittal reviews and RFI responses)	10		32						42	\$ 6,170.00		
HOURS SUB-TOTALS	10	0	32	0	0	0	0	0	42		0	
SUBTOTAL	\$1,850.00	\$0.00	\$4,320.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$6,170.00		0	
SUBTOTAL BID AND CONSTRUCTION PHASE SERVICES	\$1,850.00	\$0.00	\$4,960.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$6,710.00		0	
TOTAL HOURS	30	0	116	200	220	0	0	0	368			
CONTRACT RATE PER HOUR	\$ 185.00	\$ 160.00	\$ 135.40	\$ 130.00	\$ 100.00	\$ 100.00	\$ 90.00	\$ 65.00				
SUBTOTAL LABOR EXPENSES	\$ 5,550.00	\$ -	\$ 15,660.00	\$ 26,000.00	\$ 22,000.00	\$ -	\$ -	\$ -	\$89,210.00			
DIRECT EXPENSES												
TOTAL												



April 18, 2019

Mr. Charles "Sonny" Smoak, Jr. P.E.
Senior Vice President / Houston Office Manager
Neel-Shaffer, Inc.
10340 NW Freeway, Suite 650
Houston, Texas 770402

Reference: Revised Proposal to Perform Professional Surveying Services for
Signal Design/Intersection Improvements in Ft. Bend County Precinct 4
At LJ Parkway at Lake Riverstone Drive, LJ Parkway at Winding Waters Lane and
University Boulevard at Winding Waters Lane.

Dear Mr. Smoak:

IDS Engineering Group Inc. respectfully submits this revised proposal for the above referenced project to include the professional surveying services for the preparation of construction documents for proposed signal and intersection improvements in Ft. Bend County. The proposed improvements include traffic signal and roadway intersection improvements at the intersections of LJ Parkway at Lake Riverstone Drive, LJ Parkway at Winding Waters Lane and University Boulevard at Winding Waters Lane. The survey limits will be as defined on the exhibit provided in your email of April 12, 2019.

The Scope of Services is as follows:

1. Control

We will recover and verify existing control monuments, resolve correlation between monuments, and establish secondary and tertiary control for the approximate 2,850 linear feet of Right-of-Way.

2. Topographic Survey

We will topo the existing right-of-way of LJ Parkway at Lake Riverstone Drive and Winding Waters Lane, and University Boulevard and Winding Waters Lane. We will locate fences, power poles, manholes, valves, hydrants, and inlets along with other visible structures or utilities within the existing right-of-way necessary for design.

3. Right-of-Way Delineation

We will recover sufficient right-of-way monumentation to establish the right-of-way of LJ Parkway at Lake Riverstone Drive, Winding Waters Lane, and University Boulevard.

4. Control Sheets/Mapping products

We will prepare control sheets for control points established along the project. We will prepare the Index Sheets, Control Maps, Alignment Sheets, and a 3D surface-terrain model for plan submittal. These mapping products will be provided in Civil 3D.

5. Parcel acquisition documents

We will prepare the metes and bounds descriptions, parcel maps, area calculation sheets necessary for parcel acquisition. Assumes two parcels will be acquired per the exhibit provided.

Compensation:

IDS proposes to perform the services described above for the fees indicated below.

Control	\$ 1,500.00	Fee
Topographic Survey	\$ 7,000.00	Fee
Right of Way Delineation	\$ 2,700.00	Fee
Control Sheet/Mapping	\$10,000.00	Fee
Parcel Acquisition	\$ 5,000.00	Fee
Total	\$26,200.00	Fee

These services will be performed for the lump sum fee amount shown above, billed monthly based on the percentage of work completed and milestone schedule.

Reimbursable expenses for reproduction and deliveries are included in our basic services fee. Our fee does not include reimbursable expenses such as agency review fees, application fees, and permit fees which will be billed at cost.

We appreciate the opportunity to submit this proposal to you and look forward to working with you on this project. Should you have any questions, please do not hesitate to contact me.

Respectfully submitted,



Travis S. Sellers, P.E.
Senior Vice President

Attachments

\\fs3\PW\Proposals\2019-04-16 Survey Proposal for LJ Parkway 04-18-2019.docx