

STATE OF TEXAS                   §  
  §  
COUNTY OF FORT BEND       §

**AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES**

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 KCI Technologies, Inc., (hereinafter “Consultant”), a company authorized to conduct business in the State of Texas.

WITNESSETH

WHEREAS, County desires that Consultant provide professional engineering services for the South Fry Road Bridge Slope Paving Repairs at Willow Fork Project No. 17324x under the Fort Bend County Mobility Program (hereinafter “Services”) pursuant to SOQ 14-025; and

WHEREAS, County has determined Consultant is the most highly qualified provider of the desired Services on the basis of demonstrated competence and qualifications, and County and Consultant 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, Consultant 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**

Consultant shall render the professional engineering services as described in Consultant’s Scope of Services dated August 27, 2020, attached hereto as Exhibit A, and incorporated herein for all purposes.

**Section 2. Personnel**

2.1 Consultant 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 Consultant 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 Consultant shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Consultant 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 Consultant's fees shall be calculated at the rates set forth in the attached Exhibit A. The Maximum Compensation for the performance of Services within the Scope of Services described in Exhibit A is sixty-five thousand nine hundred sixty-seven dollars and no/100 (\$65,967.00) as set forth in Exhibit A. In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without a written agreement executed by the parties.

3.2 All performance of the Scope of Services by Consultant 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 Consultant based on the following procedures: Upon completion of the tasks identified in the Scope of Services, Consultant shall submit to County staff person designated by the County Engineer, one (1) electronic (pdf) copy of the invoice showing the amounts due for 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 Consultant 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 sixty-five thousand nine hundred sixty-seven dollars and no/100 (\$65,967.00) specifically allocated to fully discharge any and all liabilities County may incur.

4.2 Consultant does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Consultant may become entitled to and the total maximum sum that County may become liable to pay to Consultant shall not under any conditions, circumstances, or interpretations thereof sixty-five thousand nine hundred sixty-seven dollars and no/100 (\$65,967.00).

### **Section 5. Time of Performance**

Time for performance of the Scope of Services under this Agreement shall begin with receipt of the Notice to Proceed and end no later than December 31, 2022. Consultant 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 Consultant 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 Consultant 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 Consultant 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 Consultant 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. Consultant’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 Consultant.

## **Section 8. Ownership and Reuse of Documents**

All documents, data, reports, research, graphic presentation materials, etc., developed by Consultant 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. Consultant shall promptly furnish all such data and material to County on request.

## **Section 9. Inspection of Books and Records**

Consultant will permit County, or any duly authorized agent of County, to inspect and examine the books and records of Consultant 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, Consultant 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. Consultant shall provide certified copies of insurance endorsements and/or policies if requested by County. Consultant 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. Consultant 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 Consultant 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, Consultant 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 LOSSES, LIABILITIES, CLAIMS, AND 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 Consultant 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 Consultant 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 Consultant 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 Consultant) publicly known or is contained in a publicly available document; (b) is rightfully in Consultant'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 Consultant who can be shown to have had no access to the Confidential Information.

12.2 Consultant agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Consultant 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. Consultant 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, Consultant shall advise County

immediately in the event Consultant 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 Consultant will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Consultant against any such person. Consultant agrees that, except as directed by County, Consultant 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, Consultant will promptly turn over to County all documents, papers, and other matter in Consultant's possession which embody Confidential Information.

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

12.5 Consultant 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 Consultant**

13.1 In the performance of work or services hereunder, Consultant 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 Consultant 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, 1<sup>st</sup> Floor  
Richmond, Texas 77469

Consultant: KCI Technologies, Inc.  
15021 Katy Freeway, Suite 200  
Houston, Texas 77094

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**

Consultant 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, Consultant shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

**Section 16. Standard of Care**

Consultant represents 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, Consultant 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 Consultant 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 Consultant 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 2271 Texas Government Code: By signature below, Consultant verifies that if Consultant employs ten (10) or more full-time employees and this Agreement has a value of \$100,000 or more, Consultant 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, Consultant represents pursuant to Section 2252.152 of the Texas Government Code, that Consultant 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.

**Section 26. Human Trafficking**

BY ACCEPTANCE OF AGREEMENT, CONSULTANT ACKNOWLEDGES THAT THE COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.


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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

KCI TECHNOLOGIES, INC

\_\_\_\_\_  
KP George, County Judge

  
\_\_\_\_\_  
Authorized Agent – Signature

\_\_\_\_\_  
Date

Glenn D. Graham, P.E.  
\_\_\_\_\_  
Authorized Agent – Printed Name

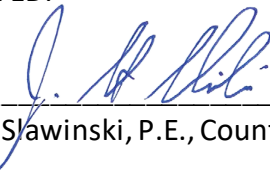
ATTEST:

Regional Practice Leader  
\_\_\_\_\_  
\_ Title

\_\_\_\_\_  
Laura Richard, County Clerk

September 23, 2020  
\_\_\_\_\_  
\_ Date

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

# EXHIBIT A



ISO 9001:2015 CERTIFIED

ENGINEERS • PLANNERS • SCIENTISTS • CONSTRUCTION MANAGERS

15021 Katy Freeway, Suite 200 • Houston, Texas 77094 • Phone 832-975-1565

August 27, 2020

Mr. J. Stacy Slawinski, PE  
County Engineer  
Fort Bend County  
301 Jackson Street  
Richmond, Texas 77469

Re: S Fry Road Bridge Erosion Repairs at Willow Fork  
Final Fee Proposal

Dear Mr. Slawinski:

Please find our enclosed proposal associated with the erosion repairs needed under the eastbound approach of the S Fry Rd at Willow Fork. Based upon the scope provided and discussions, we have identified the following:

Scope of Services

KCI shall perform the duties and tasks as outlined in the Attachment A for design services. We shall manage the team of sub-consultants performing the scope of work as outlined in their respective proposals.

Fee

KCI shall provide the scope of services entailed in this proposal at a not-to-exceed total cost of \$65,967.00, which includes all man hours for all team members and any equipment required to perform the duties needed for completion of design.

We appreciate the opportunity to present this proposal to Fort Bend County Engineering and look forward to completing this important assignment. If you need additional information in support of this proposal, please contact me at 832-975-1526.

Thank you,



Lee Shelton, P.E.

KCI Technologies Inc.

[lshelton@kci.com](mailto:lshelton@kci.com)

832-975-1526

Enclosed:      Attachment A - Design Services  
                    KCI Level of Effort  
                    Sub-Consultant proposals (JNS and Raba Kistner)  
                    Overall Project Schedule  
                    Preliminary Repair Cost Estimate

<b>Overall KCI Technologies Inc. Fee Summary</b>			
<b>S Fry Road Bridge Repair at Willow Fork Drainage Channel</b>			
Client: Fort Bend County			
Date:08/27/2020			
<b>Design Phase</b>			
<b>LABOR</b>			
<b>Classification</b>	<b>Hours</b>	<b>Billing Rate</b>	<b>Labor</b>
Senior Project Manager	57	\$225.00	\$12,825
Senior Project Engineer	29	\$204.00	\$5,916
Project Engineer	71	\$168.00	\$11,928
EIT Designer	179	\$105.00	\$18,795
Design Draftsman	0	\$93.00	\$0
Admin. (hrs)	16	\$78.00	\$1,248
<b>TOTAL LABOR</b>	352		\$50,712
<b>FEE</b>			<b>\$50,712</b>



## BASIC SERVICES

Project		S Fry Road Bridge Repair at Willow Fork Drainage Channel												
No. Sheets/ Item	Description / Task									Subtotal (hrs)	Subtotal (cost \$)			
		Senior Project Manager	Senior Project Engineer	Project Engineer	EIT Designer	Design Draftsman	Admin. (hrs)							
	Basic Services													
4.A	50% Submittal													
	Rate	\$ 225.00	\$ 204.00	\$ 168.00	\$ 105.00	\$ 93.00	\$ 78.00							
	<b>2</b>													
1	a	Fort Bend Cover Sheet			1		4					5	\$	588.00
1	b	Index of Drawings with Revision Date of Each Sheet Shown			2		4					6	\$	756.00
1	c	Project Vicinity Map			1		4					5	\$	588.00
1	d	General Notes			1		4					5	\$	588.00
1	e	Existing Conditions Layout					8					8	\$	840.00
1	f	Survey Control Sheet			1		4					5	\$	588.00
1	g	Project Layout 1"=200"/Soil Boring Locations		1	2		4					15	\$	2,145.00
1	h	Grading Layout 1"=100'		1	2		8					15	\$	2,145.00
1	i	Plan Layout (1"=40'H) & Point Table			2		16					18	\$	2,016.00
2	j	Cross Sections			2		24					34	\$	4,272.00
2	k	Appropriate standard detail sheets as required			1		8					9	\$	1,044.00
2	l	SWPPP Layout and Details/ Construction Access Plan			1		8					9	\$	1,008.00
	<b>3</b>	<b>Additional Items to Submit</b>											\$	-
	a	Prepare Construction Quantities/Opinion of Cost			4		8					16	\$	2,328.00
	b	Utility Corrd/Approvals (City of Katy, Fort Bend Drainage District, Utility Co.)		2								2	\$	450.00
	c	50% "Plan In Hand" Site Visit		2								4	\$	858.00
15		<b>Subtotal 50% Submittal</b>	\$1,350.00	\$2,448.00	\$4,536.00	\$11,340.00	\$0.00	\$0.00				153	\$	19,674.00
													\$19,674.00	





August 11, 2020

Fort Bend County Engineer  
c/o KCI Technologies Inc  
115021 Katy Freeway, Suite 200  
Houston, Texas 77094

Attention: Lee Shelton, P. E.  
Senior Project Manager

Reference: Fry Road at Willow Fork West side of E Bd Approach, Erosion and Slope Paving  
Fort Bend County Pct. 3  
JNS Job No. 262-10  
Proposal No. 20-08-01

Dear Mr Shelton:

JNS Engineers, LLC is pleased to present this proposal for the referenced project. The limits of the project as listed below:

Fry Road – Limits High Banks plus 50 feet  
Willow Fork Channel - Limits are 100 feet upstream and downstream from the bridges

The scope of services are as follows:

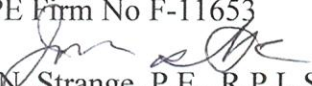
1. Topographic survey including slope paving, storm sewers, utilities (public and private), bridge features and limits of bridge structure, North Fort Bend Water Authority structures and lines, cross section of channel, and eroded areas. All Topographic information will be based on TSARP Monuments, 1988 NAVD, 2001 Adjusted datum. Topographic area will include the limits listed above.
2. Right of Way locations including any research necessary to adequately document the right of way of Fry Road and Willow Fork right of way.
3. Construction staking including right of way, corners, poles, controller foundation, detector-pull box locations, and meter pole locations. See attached scope markup. A survey control map will be prepared to be included in the construction plans for the project.

All surveying services shall be in accordance with the "Manual of Practice for Land Surveying in the State of Texas", prepared by the Texas Society of Professional Surveyors, latest edition, City of Houston Design Manual, chapter 2, Survey Requirements, and Guidelines for Engineers having engineering contract with Harris County, Texas, for the design of Roads, Bridges, and the preparation of plans and specifications, approved by Commissioners Court August 23, 1988, and February 5, 1999. Topographic data will be Category 6, Condition II, and the existing and proposed right of way shall be Category 1A, Condition II. A level B S.U.E. will be completed and a utility conflict table will be prepared for this project.

We will provide this Scope of services in Auto CADD Civil 3D 2018 for the engineering consultant. We can produce a 3D surface of the survey if required. This surface is not included in this proposal. We assume that the right of way is sufficient for the proposed improvements so no parcel descriptions will need to be prepared.

We propose to perform the Scope of Services for the "Not to Exceed" fee of \$10,355.00. Level of Effort are attached for the project for review and use in reviewing this proposal. We are attaching an aerial Google earth map as part of this proposal submittal.

We request authorization of \$10,355.00 to proceed with the work need by August 30, 2020. A level of effort is attached reflecting the man-hour projections. The schedule for completion of this work can be done within 15 calendar days (approximately September 15, 2020) from date of Notice to Proceed if NTP is given by August 30, 2020. We understand that a field verification walk through will be scheduled for 7 days after submittal to help facilitate the deadline. Please notify JNS of the approval of this proposal and the approximate date of the NTP, so we can begin scheduling this work for completion within the time mentioned above.

Sincerely,  
JNS Engineers, LLC  
TBPE Firm No F-11653  
  
Jon N. Strange, P.E., R.P.L.S.  
President

Attachments:

- Level of effort/man-hour projections
- Photos of area
- Google Earth Aerial Photo

**FRY ROAD @ WILLOW FORK BRIDGE**  
**LEVEL OF EFFORT**  
**MAN-HOUR PROJECTIONS**  
**August 11, 2020**

SHEET	PRINCIPAL IN CHARGE	PROJECT MANAGER	RPLS	SURVEY TECH	CADD TECH	3-MAN CREW	CLERICAL	SUB-CONSULTANT	SUBTOTAL	TOTAL
<b>Fry Road @ Willow Fork Bridge</b>										
Abstracting (by Others - Cost plus 10%) Control points a 100' feet intervals and one TBM (use TSARP reference monuments)			1	2	2	2		\$ 1,000.00	\$ 1,100.00	\$ 1,100.00
Existing ROW and Boundary			1	3	3	4			\$ 1,285.00	
Topographic Survey									\$ -	
Cross sections at 25' intervals - 50 feet outside high banks and 100 feet upstream and down stream of bridges Topographic features and area as noted in proposal letter			2	3	16	20			\$ 4,870.00	
Construction Staking N/A										
Right of Way Parcel Description N/A									\$ -	
Level B SUE		0	1	2	2	2			\$ 805.00	
Soil Borings		0	0	1	1	2			\$ 480.00	
Survey Control Map 1" = 40' scale sealed and signed, TSPS Category 1A, Condition II and Category 6, Condition II			2	4	4	0			\$ 1,010.00	\$ 9,255.00
<b>TOTAL HOURS</b>	<b>0.0</b>	<b>0.0</b>	<b>7.0</b>	<b>15.0</b>	<b>28.0</b>	<b>30.0</b>	<b>0.0</b>		<b>\$ 10,355.00</b>	
<b>HOURLY RATE</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 145.00</b>	<b>\$ 100.00</b>	<b>\$ 80.00</b>	<b>\$ 150.00</b>	<b>\$ -</b>			
<b>SUB TOTAL</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,015.00</b>	<b>\$ 1,500.00</b>	<b>\$ 2,240.00</b>	<b>\$ 4,500.00</b>	<b>\$ -</b>	<b>\$ 1,000.00</b>	<b>\$ 10,255.00</b>	<b>\$ 10,355.00</b>
<b>GRAND TOTAL</b>									<b>\$ 10,355.00</b>	<b>\$ 10,355.00</b>

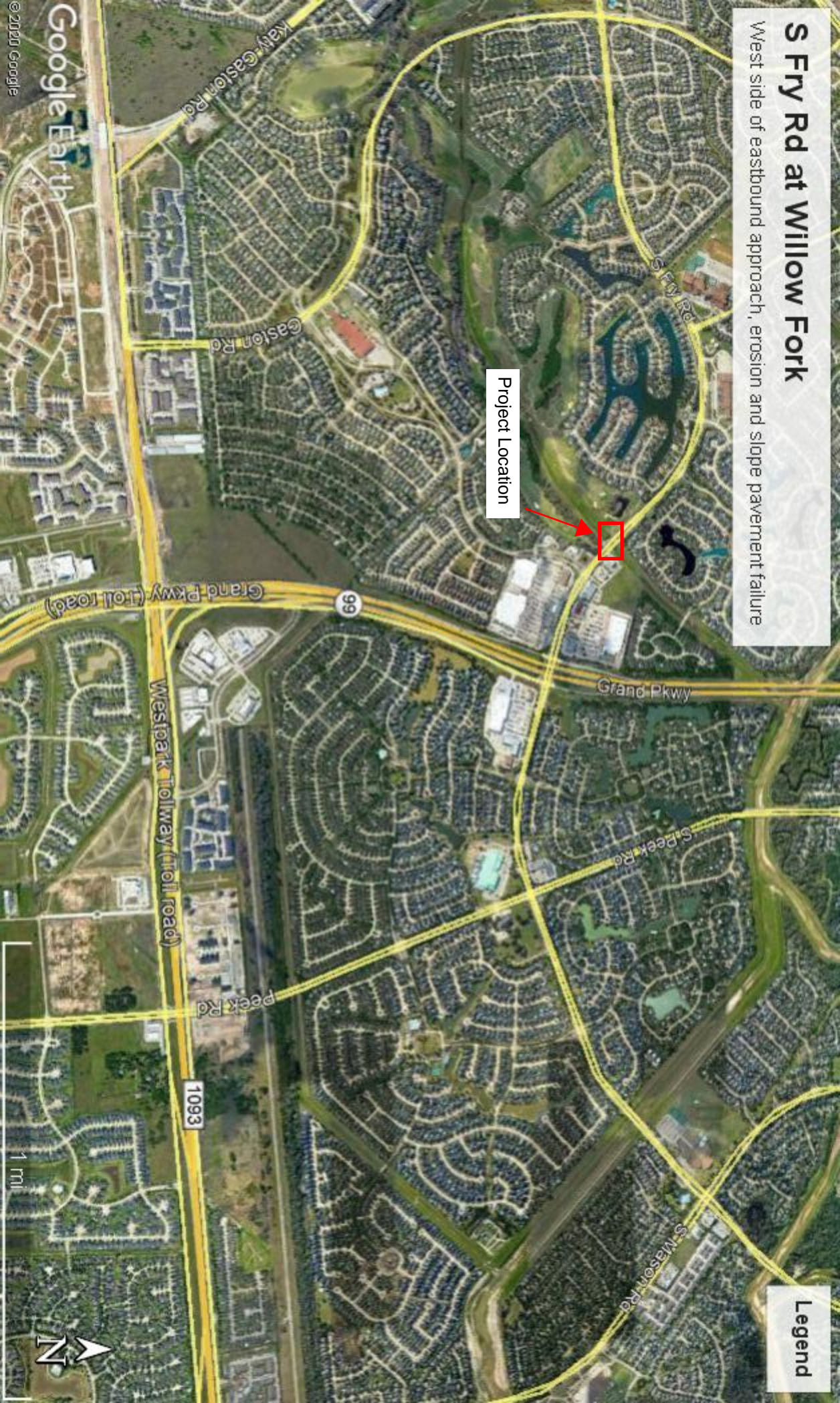
# S Fry Rd at Willow Fork

West side of eastbound approach, erosion and slope pavement failure

Project Location



Legend



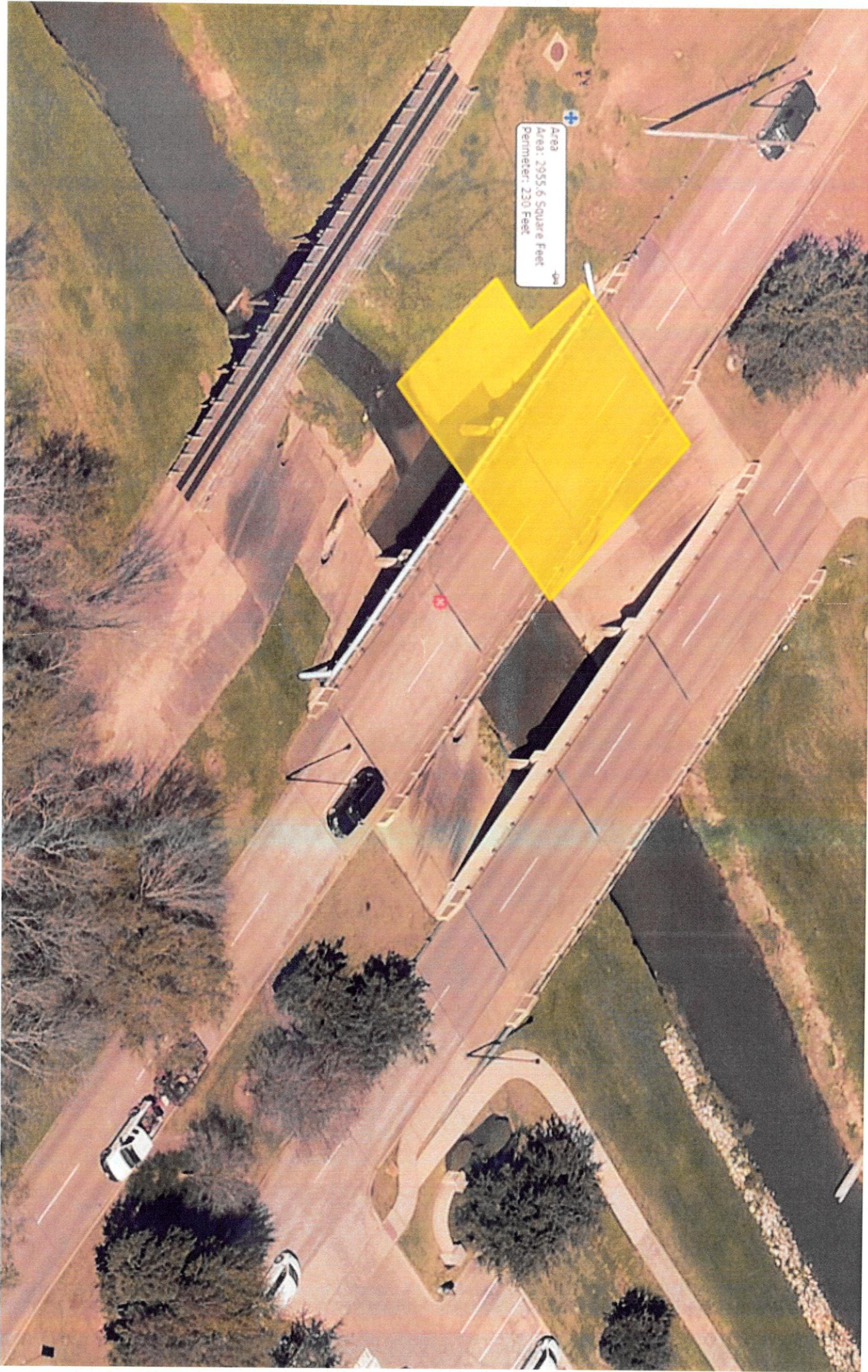
Google Earth

© 2020 Google

1 mi





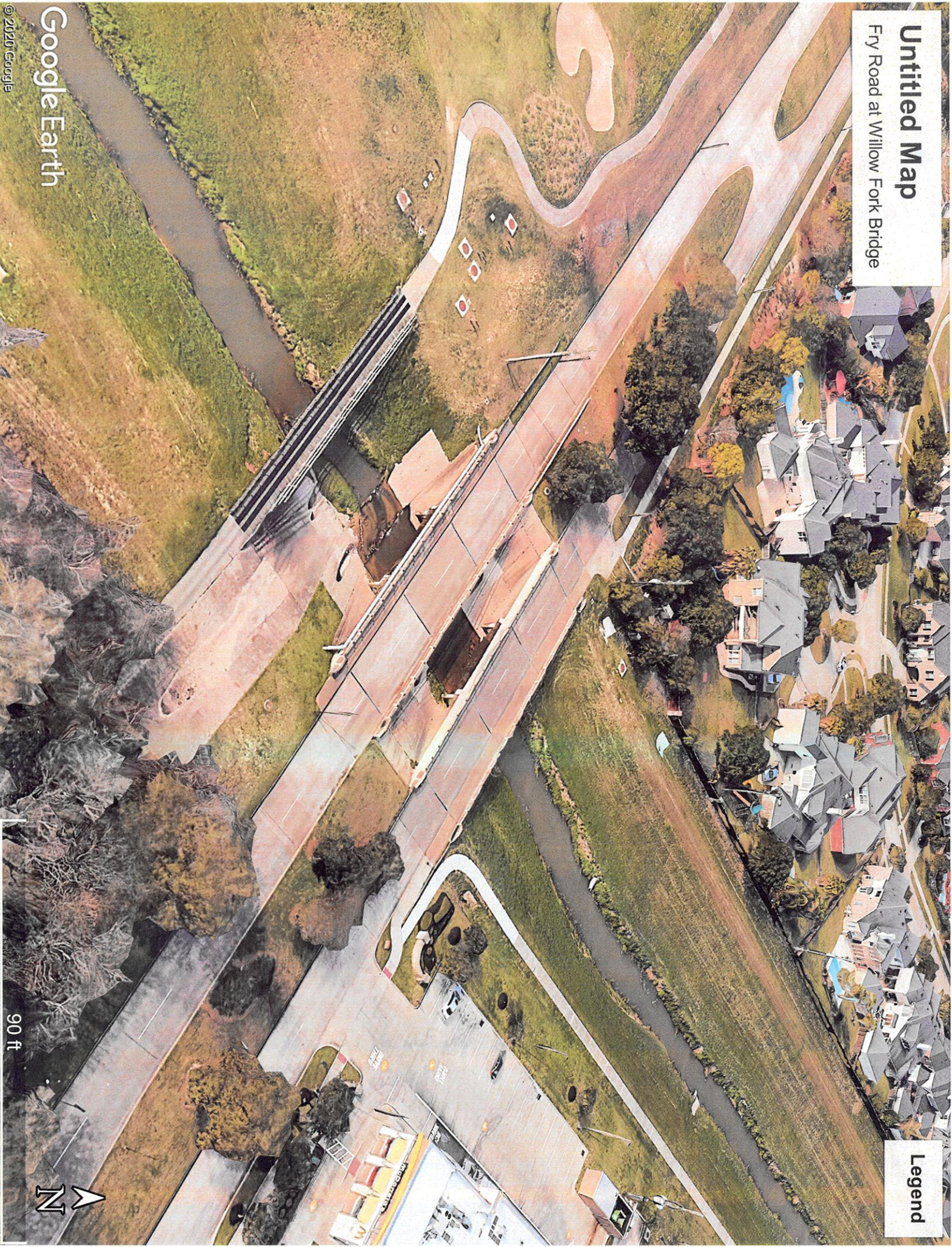


Area  
Area: 2955.6 Square Feet  
Perimeter: 230 Feet

# Untitled Map

Fry Road at Willow Fork Bridge

Legend



Google Earth

© 2020 Google

90 ft



Proposal No. PHA20-087-00  
August 11, 2020

Mr. Lee Shelton, P.E. – Sr. Project Manager  
KCI Technologies, Inc.  
15021 Katy Freeway, Suite 200  
Houston, TX 77094

**Re: Proposal for Geotechnical Engineering Services  
South Fry Road at Willow Fork– Slope Liner Failure  
Fort Bend County, Texas**

Dear Mr. Shelton:

On the basis of the electronic transmittal received from you on Thursday, August 6, 2020, **RABA KISTNER Consultants, Inc. (RKCI)** is pleased to submit this proposal for Geotechnical Engineering Services to KCI Technologies, Inc. (CLIENT) for the above-reference project. The broad objectives of our study will be to investigate the concrete liner failure underneath the existing bridge crossing at South Fry Road and Willow Fork, and to provide slope repair recommendations. Described in this letter are:

- our understanding of pertinent project characteristics;
- our proposed scope for field and laboratory study;
- our proposed scope for engineering evaluation and reporting;
- our tentative project schedule; and
- our lump sum study fee.

### **Project Description**

Based on the photographs provided by the client and our site reconnaissance conducted on Friday, August 7, 2020, the existing concrete liner on the west slope of Willow Fork drainage channel, located underneath the South Fry Road bridge crossing in Fort Bend County, Texas, experienced a failure. During our site visit, we observed a large and deep scour hole underneath the existing bridge crossing and situated on the west side of the channel, adjacent to the collapsed concrete liner. We further observed that the material removed by scour most likely resulted in the collapse of the concrete liner. The soil type exposed beneath the collapsed liner appeared to be a sandy clay/clayey sand.

### **Field Study**

We propose to utilize a hand auger to collect samples of the exposed subgrade soil from beneath the collapsed liner and on the exposed slope adjacent to the failed concrete liner. The borings will be augered to a depth of 3 to 5 feet below ground surface, or to a depth where groundwater is encountered, whichever comes first. We will also attempt to determine the depth of the scour hole.

We will call Texas One Call System to have underground utilities located; since this system does not locate water and sewer lines, please provide us with any information you have to assist us. We will relocate the boring if utility conflicts or other issues are identified.

Select portions of all samples will be sealed, packaged and transported to our laboratory.

Water levels will be measured in the boring during drilling and upon completion of drilling, at which time the boring will be backfilled utilizing auger cuttings generated during drilling operations. If free water is encountered during drilling, drilling operations will be stopped and water level measurements will be obtained in the open borehole at 5 minute intervals over a 15 minute time interval.

### **Laboratory Study**

Upon completion of the subsurface exploration, a testing program will be designed to define the classification characteristics of the subgrade soils. The laboratory testing program is anticipated to include moisture content tests, Atterberg Limits (plasticity) tests, and grain size analyses. However, the type and number of laboratory tests will be based on the subsurface conditions encountered in the borings. The laboratory testing will be performed in general accordance with applicable ASTM standards.

### **Engineering Analysis and Report**

The field and laboratory phases of the study will be reviewed by our staff of engineers and geologists. The results of our review, together with the supporting field and laboratory data, will be presented in a written engineering report. Included therein will be a discussion on the causes of the liner collapse followed by recommendations for repair. The Geotechnical Engineering Report may include the following information and recommendations, if applicable:

- A summary of the field and laboratory sampling and testing program;
- Boring logs and laboratory testing results;
- A review of the general site conditions including a description of each of the sites, the subsurface stratigraphy, groundwater conditions, and the presence and condition of fill materials, if encountered.
- Actions that caused the concrete liner to fail.
- Repair of the scour hole and concrete liner.

The final report will be reproduced electronically.

### **Tentative Project Schedule**

Based on our present workload and weather permitting, it is anticipated that the field exploration phase of this study can begin within three to five working days of receiving written authorization to proceed, provided that the site is accessible to truck-mounted drill rigs and the CLIENT has supplied us with all available information regarding existing utilities and below-grade structures on site (if any). The field exploration and laboratory testing phases of the study are expected to take approximately 5 working days to complete. The engineering report will be submitted within an additional 5 to 7 working days following completion of the

laboratory testing. The above schedule does not account for delays due to inclement weather. We will be pleased to provide the design team with verbal design information as the data becomes available.

**Lump Sum Cost**

The total lump sum cost for the study outlined herein is \$4,900 for geotechnical engineering services in support of this project. Should unusual subsurface conditions be encountered in the field indicating the desirability of significantly broadening the scope of study, we will contact you to receive written authorization before proceeding with any additional work. Additional services will be billed on a unit basis in accordance with our standard fees as indicated on the attached Schedule of Fees for Professional Services.

**RKCI** has visited the site and has obtained photographs of the collapsed soil liner and adjacent scour hole. Our scope of services and cost assumes that the boring location will be accessible to a truck-mounted drilling rig and that the Client will provide underground utility clearance. **RKCI** will assist in locating underground utilities, provided the Client submits documentation of existing utility locations.

Historically, the cost of our field services is about 45 percent of our total fee. These services are predominantly provided by subcontractors. In order to promptly pay our subcontractors and continue to be able to respond to your needs, we will send you an interim invoice for 45 percent as soon as the field exploration phase of our study is complete.

It should also be noted that our study scope (and project cost) do not include plan review or earthwork and waterline excavation observations during the construction of the project. However, plan review and construction observation costs should be included in the project budget.

**Acceptance**

We appreciate the opportunity of submitting this proposal and look forward to working with you in the development of this project, which will be carried out accordance with this letter and the following attachments:

<u>Attachment</u>	<u>Description</u>
I	Standard Terms and Conditions
II	Schedule of Fees

Please return one signed original of this contract to provide written authorization for our firm to commence work on the services outlined herein. Our invoices are due and payable upon receipt at P.O. Box 971037, Dallas, Dallas County, Texas 75397-1037.

Our invoices are due and payable upon receipt at P.O. Box 971037, Dallas, Dallas County, Texas 75397-1037.

**RKCI** considers the data and information contained in this proposal to be proprietary. This statement of qualifications and any information contained herein shall not be disclosed and shall not be duplicated or used in whole or in part for any purpose other than to evaluate this proposal.

**RABA KISTNER CONSULTANTS, INC.**



John D. Brown, P.E.  
Manager, Geotechnical Services

Accepted By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed or Printed Name)

\_\_\_\_\_  
(Title)

Date: \_\_\_\_\_

JDB/dar

Attachments



## STANDARD TERMS AND CONDITIONS

1. **SERVICES.** Raba Kistner, Inc., by and through one of its subsidiaries (Raba Kistner Consultants, Inc., Raba Kistner Environmental, Inc., Raba Kistner Facilities, Inc. or Raba Kistner Infrastructure, Inc.) (the relevant subsidiary, being engaged to provide the services to CLIENT in connection with the delivery of this instrument, is referred to as "RK" herein) is being engaged by the CLIENT to render professional services ("Services") involving only RK's advice, judgment and opinion. RK may subcontract all or a portion of the Services performed hereunder. RK shall apply professional judgment in determining the extent to which RK complies with any given standard identified in RK's instruments of professional services. CLIENT expressly acknowledges that RK makes no warranties or guarantees, expressed or implied, regarding the Services.
2. **INFORMATION PROVIDED BY CLIENT.** CLIENT may provide or direct RK to utilize or rely upon certain information ("CLIENT Information") in the performance of RK's services. RK shall be entitled to rely upon such CLIENT Information. RK will not conduct an independent evaluation of the accuracy or completeness of such CLIENT Information and shall not be responsible for any errors or omissions in such information. . RK's report, as well as any recommendations, findings, and conclusions made by RK, are dependent on information received from CLIENT. Changes or modifications to the information provided by CLIENT can affect RK's evaluation, recommendations, findings and conclusions, and CLIENT agrees—as a material term of this Agreement—to notify RK immediately, in writing, if CLIENT becomes aware of any such changes or modifications, including changes to the size, scope, location, or other material characteristics of CLIENT's project. The CLIENT shall be responsible for providing the location of all underground utilities and other structures in the vicinity of RK borings or excavations. RK will not accept responsibility and will not be liable for affecting or damaging any underground utility, underground storage tank, or other subsurface condition not previously identified and located, or improperly located, by the CLIENT, a utility, or a utility locating agency.
3. **SITE ACCESS AND SITE SAFETY.** CLIENT shall provide right-of-entry to the buildings and sites which are the subjects of RK's services. CLIENT represents that it possesses authority for such right-of-entry and that the building/site operator(s) possess the necessary permits and licenses for current activities at the site. RK shall be responsible for supervision and site safety measures of its own employees and subconsultants, but shall not be responsible for the supervision or health and safety precautions of any other parties, including CLIENT, CLIENT'S contractors, subcontractors, or other parties present at the site.
4. **SUBSURFACE EXPLORATIONS.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. CLIENT understands RK's layout of boring and test locations is approximate and that RK may deviate a reasonable distance from those locations. RK will take reasonable precautions to reduce damage to the site when performing services; however, CLIENT accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the scope of services.
5. **CHANGED CONDITIONS.** If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to RK are uncovered or revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, RK may call for renegotiation of appropriate portions of this Agreement. RK shall notify the CLIENT of the changed conditions necessitating renegotiation, and RK and the CLIENT shall promptly and in good faith enter into renegotiation of this Agreement to address the changed conditions. If changes cannot be agreed to with respect to changed conditions, the parties shall utilize the Dispute Resolution/Litigation procedures in this Agreement.
6. **TESTING AND OBSERVATIONS.** CLIENT understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. RK will provide test results and opinions based on tests and field observations only for the work tested. CLIENT understands that testing and observation are not continuous or exhaustive, and are conducted to reduce – not eliminate – project risk. CLIENT agrees to the level or amount of testing performed and the associated risk. CLIENT is responsible (even if delegated to contractor) for notifying and scheduling RK so RK can perform these services. RK shall not be responsible for the quality and completeness of contractor's work or their adherence to the project documents, and RK's performance of testing and observation services shall not relieve contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. CLIENT acknowledges that RK will not supervise or direct the work performed by contractor or its subcontractors and is not responsible for their means and methods.
7. **ESTIMATE OF FEES FOR CONSTRUCTION AND MATERIALS TESTING SERVICES.** If included as part of RK's proposal, RK will, to the best of its ability, perform the scope of services related to Construction and Materials Testing Services within the proposed fee estimate provided by RK. RK's proposal fees are based upon an estimate of the services required to meet the specifications for the project and following generally accepted engineering practices. The CLIENT recognizes that unforeseen circumstances along with changes in scope and project/contractor's schedules can influence the successful completion of the scope of services within the estimated proposed fees. Because the contractor has sole control over the project and determines the means and methods used to build/construct the project, RK's service fees are estimates and not lump sum or guaranteed maximum fees. The CLIENT is fully responsible for payment of all services provided, including retests of contractor's failed areas.
8. **REPORTS.** RK may provide CLIENT with written reports in connection with the Services performed. Such reports will present such findings and conclusions as RK may reasonably make with the information gathered while performing its services, and provided by CLIENT. The reports may be copied for inclusion in other documents related to the project provided it is reproduced in its entirety; however reports and other instruments of service are prepared for, and made available for, the sole use of the CLIENT, and the contents thereof may not be used or relied upon by others without the express written authorization of RK. Any unauthorized use or distribution shall be at the CLIENT's sole risk and without liability to RK..
9. **TOXIC AND HAZARDOUS MATERIALS.** CLIENT shall provide RK with all information within CLIENT'S possession or knowledge as to the potential or presence of toxic or hazardous materials or pollutants at the site. CLIENT agrees that RK neither created nor contributed to the creation or existence of any toxic or hazardous materials or pollutants. In no event shall RK be required to sign a

hazardous waste manifest or take ownership of any toxic or hazardous materials or pollutants. If unanticipated toxic or hazardous materials or pollutants are encountered while performing RK's services, RK reserves the right to stop field operations and notify the CLIENT and CLIENT assumes responsibility to notify appropriate regulatory agencies. RK and CLIENT must mutually agree to remobilize.

10. **NO THIRD-PARTY BENEFICIARIES.** The services and any report(s) prepared under this Agreement are for the sole benefit and sole use of CLIENT and are not for the use of any other party or person. Only CLIENT may rely upon the services and any report or work product. Nothing in this Agreement, or any subsequent amendments or modifications, or in any report issued under this Agreement, shall create a contractual relationship with or a cause of action in the favor of any third party against either RK or CLIENT. If CLIENT provides a copy of any report prepared by RK to others, it shall advise the recipient that the information contained in the report is provided for information only and is not to be relied upon by third parties.
11. **LEED PROJECTS.** Unless specifically addressed elsewhere in this agreement, RK has no responsibility or liability, including duty to defend or duty to indemnify, any party (including but not limited to CLIENT, owner, owner's agents, architects, engineers, contractors, construction managers, subcontractors) for the LEED certification process including: developing, producing, or retaining any documentation relating to the calculation of LEED points; and attainment of LEED certification points or LEED ratings.
12. **STANDARD OF CARE.** RK shall perform its professional services in accordance with the standard of care and diligence normally practiced by professional firms in performing services of a similar nature, in the same locality, under similar circumstances. CLIENT expressly acknowledges that RK makes no other warranties or guarantees, expressed or implied, regarding its professional services or its work product.
13. **RISK ALLOCATION.** RK will be responsible only for its own work, and that of its sub-consultants, and not for defects in the work designed or built by others.
14. **LIMITATION OF LIABILITY.** CLIENT AND RK HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING RK'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE RISKS SO, TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF RK (AND ITS RELATED ENTITIES, EMPLOYEES, OWNERS, AGENTS, AND REPRESENTATIVES) TO CLIENT (AND THIRD PARTIES GRANTED RELIANCE ON RK'S WORK PRODUCT, OR OTHERWISE SEEKING RECOVERY UNDER THIS AGREEMENT) IS LIMITED TO THE GREATER OF \$100,000 OR THE FEE PAID RK UNDER THIS AGREEMENT, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF RK'S SERVICES OR THIS AGREEMENT REGARDLESS OF CAUSE(S) OR THE THEORY OF LIABILITY,
15. **CONSEQUENTIAL DAMAGES.** Neither CLIENT nor RK will be liable to the other for any special, consequential, indirect, incidental or penal losses or damages of any kind, nor will CLIENT or RK be liable to the other for losses, damages, or claims, regardless of how defined, related to: lost profits; unavailability of property or facilities; shutdowns or service interruptions; loss of use, , revenue, opportunity, or inventory; use charges, carrying costs, cost of substitute facilities, goods, or services; cost of capital, or claims of any other party and/or its customers.
16. **SUSPENSION OF SERVICES.** If the CLIENT fails to make payments when due or otherwise is in breach of this Agreement, RK may suspend performance of services upon seven (7) calendar days' notice to the CLIENT. RK shall have no liability whatsoever to the CLIENT for any costs or damages as a result of such suspension. Upon payment in full by the CLIENT, RK may resume

services under this Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for RK to resume performance. Payment of invoices shall not be subject to any discounts or set-offs by the CLIENT unless agreed to in writing by RK. Payment to RK for services rendered and expenses incurred will be due and payable regardless of any subsequent suspension or termination of this Agreement by either party.

17. **WAIVER OF SUBROGATION.** To the extent damages are covered by property insurance, or any other available insurance coverage, CLIENT and RK waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages. CLIENT agrees that CLIENT shall procure, or cause to be procured builder's risk insurance or other property insurance for its project. RK and CLIENT waive all rights against each other and any of their consultants, contractors, subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, flood, or other causes of loss to the extent covered by CLIENT's or CLIENT's Contractor's builder's risk insurance, or other available insurance coverage. The policies shall provide waivers of subrogation by endorsement or otherwise. CLIENT shall require of its contractors, consultants, agents and employees similar waivers in favor of RK and its subconsultants. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.
18. **OWNERSHIP OF DOCUMENTS.** R-K's reports, drawings, plans, specifications, and other documents and deliverables are instruments of professional service ("Instruments of Service") developed by RK in contemplation of a wide array of project-specific variables, including how the documents will be used and by whom. RK shall be the author, owner and custodian of the Instruments of Service, and shall retain all common law, statutory, and other reserved rights, including copyright. By execution of this Agreement, RK grants to CLIENT a limited, nonexclusive license to use the Instruments of Service for purposes of constructing, using, and maintaining the project for which the services are performed, provided CLIENT substantially performs its obligations, including prompt payment of all sums when due, under this agreement.

Upon completion of the services, and payment in full of all monies due RK, CLIENT may retain copies of all such documents. **THE INSTRUMENTS OF SERVICE ARE NOT INTENDED NOR REPRESENTED TO BE SUITABLE FOR REUSE ON EXTENSIONS, MODIFICATIONS, OR ADAPTATIONS OF THE PROJECT, OR ANY OTHER PROJECT, ANY REUSE OF SUCH DOCUMENTS, WITHOUT WRITTEN VERIFICATION OR ADAPTATION BY RK FOR THE SPECIFIC PURPOSE INTENDED, WILL BE AT CLIENT'S SOLE RISK WITHOUT LIABILITY OR LEGAL EXPOSURE TO RK, AND CLIENT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY, DEFEND, AND HOLD HARMLESS RK, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND CONSULTANTS AGAINST ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES, DEFENSE COSTS, AND COURT COSTS) ARISING FROM OR ALLEGEDLY ARISING FROM OR IN ANY WAY CONNECTED WITH THE UNAUTHORIZED REUSE OR MODIFICATION OF THE DOCUMENTS BY CLIENT OR ANY PERSON OR ENTITY THAT ACQUIRES OR OBTAINS THE DOCUMENTS FROM OR THROUGH THE CLIENT WITHOUT THE WRITTEN AUTHORIZATION OF R-K REGARDLESS OF WHETHER SUCH CLAIMS, DEMANDS, OR ACTIONS ARE FOUNDED IN WHOLE OR IN PART UPON ALLEGED NEGLIGENCE OF RK, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR CONSULTANTS.**

Parties other than CLIENT and RK may apply to use an instrument, using a form prepared by RK for that purpose. Others' use of an instrument shall be permitted only when CLIENT and RK both so agree; either shall have the right to forbid use by others. In addition, R-K shall make its permission contingent upon the satisfaction of

certain conditions when, in RK's professional judgment, such a contingency is necessary.

19. **DISPUTE RESOLUTION/LITIGATION.** All claims, disputes, and other controversy between RK and CLIENT arising out of or in any way related to the services provided by RK shall be submitted to mediation, before and as a condition precedent to other remedies provided by law. If a dispute at law arises related to these services and that dispute requires litigation as provided above, the CLIENT assents to personal jurisdiction in the State of Texas; the claim will be brought and tried in Bexar County, the county where RK's principal place of business is located, and CLIENT waives the right to remove or transfer the action to any other county or jurisdiction. The prevailing party will be entitled to recovery of all court costs, attorneys' fees, and other legally recoverable claim-related expenses. As a condition precedent to mediation of any claim arising out of the services provided under this Agreement, CLIENT shall obtain the written opinion from a registered, independent, and reputable professional engineer that RK has violated the standard of care applicable to RK's performance of services, in a form that meets the requirements of Texas Civil Practice & Remedies Code Chapter 150.
20. **TERMINATION OF CONTRACT.** CLIENT and RK may terminate services at any time upon ten (10) calendar days' written notice. In the event of termination, CLIENT agrees to fully compensate RK for services performed including reimbursable expenses through the termination date, as well as reasonable demobilization expenses. RK will terminate services without waiving any claims or incurring any liability.
21. **STATUTE OF LIMITATIONS.** Any applicable statute of limitations will commence to run and any cause of action shall be deemed to have accrued not later than the earlier of the following: (1) the date of the report issued by RK giving rise to the cause of action; (2) the date on which RK issues its last report under this Agreement; or (3) if RK is retained to perform construction observation, the date of substantial completion of the project.
22. **FORCE MAJEURE.** Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control ("Force Majeure") including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected. Force Majeure may not be claimed as a cause for delay in payment of money due and payable hereunder.
23. **NO ASSIGNMENT.** Neither RK nor CLIENT shall assign, sublet, or transfer its interest in this Agreement without the express written consent of the other.
24. **SEVERABILITY.** Each provision of this Agreement is intended to be severable. If any terms or provisions of this agreement shall be held to be invalid, illegal, or unenforceable for any reason whatsoever, the validity, legality, and enforceability of the remaining provisions hereof shall remain in full force and effect and shall not in any way be affected or impaired thereby. Moreover, to the maximum extent allowed by law, the Parties hereto stipulate that any offending provisions will be modified or altered, as necessary, so as to give such provision the maximum permissible effect and application intended.
25. **ENTIRE AGREEMENT.** This Agreement, and all of its attachments, constitutes the entire, integrated Agreement between the Parties to it, and this Agreement supersedes all other Agreements, oral or written between the Parties, concerning the subject set forth in this Agreement. This Agreement may not be amended except in writing, with that amendment being signed by both Parties.

**SCHEDULE OF FEES FOR PROFESSIONAL SERVICES**

**PERSONNEL:**

Principal.....	\$135 to \$250/hour
Professional.....	\$70 to \$200/hour
Auto Cad Operator.....	\$65 to \$110/hour
Technical/Clerical/Administrative .....	\$40 to \$80/hour

The specific hourly rate within each classification listed above depends on the experience, special training, and qualifications of the personnel needed for the project. For projects requiring work at any hazardous waste site, there will be a \$10 per hour surcharge added to the normal billing rate for all personnel. Consultants to Raba Kistner (RK) will be charged according to their professional classification.

**EXPENSES:** Use of company automobiles will be charged at \$1.00 per mile. Automobiles and light trucks assigned to field sites will be charged at \$70.00 per day, plus \$1.00 per mile over 50 miles per day. Copies will be charged at \$0.25 per page.

Other project specific charges for use of RK equipment or for RK testing will be in accordance with established fee schedules. All other project specific, third-party costs will be charged at cost plus 15 percent.

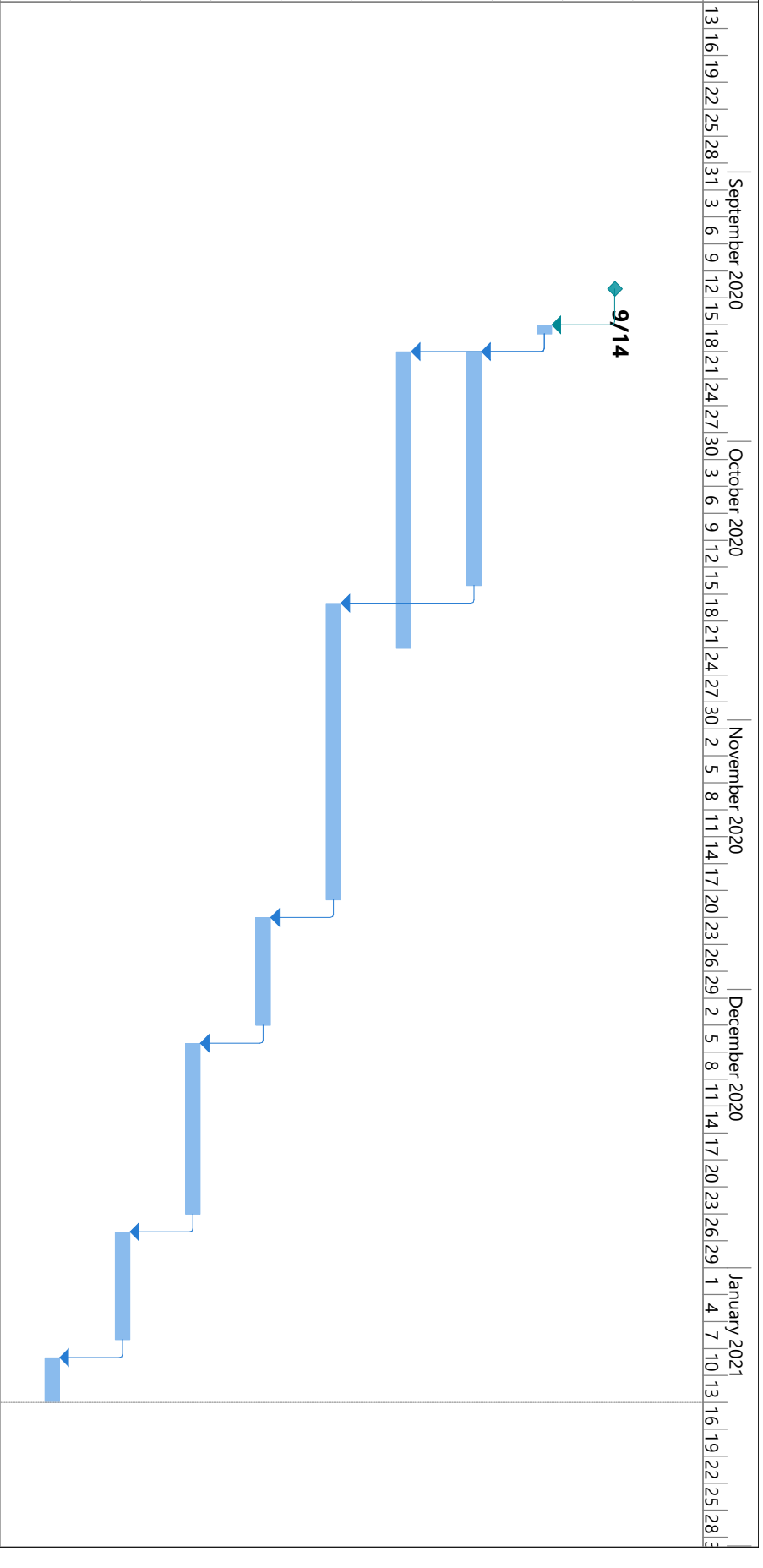
Invoices will be submitted monthly for work in progress in our standard format. They are due and payable upon receipt and become past due 30 days after the billing date. Past due invoices may be subject to late charges at the rate of 1-1/2 percent per month (18 percent per annum). In the event that the State of Texas legislates a sales tax on Professional Services, the amount of the tax will be PAYMENT added to the appropriate service rate charged. Our invoices are due and payable upon receipt at P.O. Box 971037, Dallas, Texas 75397-1037.

Preparation of non-standard invoice will be charged on a time and materials basis in accordance with the rates in this fee schedule.

**CONDITIONS:** Services will be performed in accordance with our Standard Terms and Conditions.

The proposal to which this schedule is an attachment is valid for 90 days from the date of the proposal.

ID	Task Mode	Task Name	Duration	Start	Finish
1					
2		NTP	0 days	Mon 9/14/20	Mon 9/14/20
3		Site Visit with All Team Members	1 day?	Fri 9/18/20	Fri 9/18/20
4		Topographic Survey	20 days	Mon 9/21/20	Fri 10/16/20
5		Geotechnical Investigation	25 days	Mon 9/21/20	Fri 10/23/20
6		50% Submittal	25 days	Mon 10/19/20	Fri 11/20/20
7		Fort Bend Review Plans	10 days	Mon 11/23/20	Fri 12/4/20
8		90% Submittal	15 days	Mon 12/7/20	Fri 12/25/20
9		Fort Bend Review Plans	10 days	Mon 12/28/20	Fri 1/8/21
10		100% Submittal	5 days	Mon 1/11/21	Fri 1/15/21



Project: S Fry Rd Repairs-Sched  
Date: Thu 8/13/20

Task	Project Summary	Manual Task	Start-only	Deadline
Split	Inactive Task	Duration-only	Finish-only	Progress
Milestone	Inactive Milestone	Manual Summary Rollup	External Tasks	Manual Progress
Summary	Inactive Summary	Manual Summary	External Milestone	

**FORT BEND ENGINEERING**  
**Standardized Construction Cost Estimate**  
**STANDARD PAY ITEMS**

Project ID: S Fry at Willow Fork  
 Submittal: PRELIMINARY SUBMITTAL  
 Date: 8/5/2020  
 Prepared By: KCI TECHNOLOGIES

<b>S FRY at WILLOW FORK BRIDGE REPAIR</b>						
<u>Pay Item ID</u>	<u>Number</u>	<u>Description</u>	<u>Unit (Words)</u>	<u>Bid Quantity</u>	<u>Unit Price</u>	<u>Ext Price</u>
1		SITE PREPARATION AND RESTORATION	LS	1	\$15,000.00	\$15,000.00
2		STABILIZED CONSTRUCTION ACCESS	SY	80	\$35.00	\$2,800.00
3		CONSTRUCTION FENCE	LF	100	\$3.50	\$350.00
4		REMOVE, STORE, AND REPLACE ACCESS BARRICADES AND GUARDRAIL (ALL TYPES)	LS	1	\$3,500.00	\$3,500.00
5		EXISTING WATER MANAGEMENT IN CHANNEL	LS	1	\$25,000.00	\$25,000.00
6		SAW CUT EXISTING SLOPE PAVEMENT	LF	150	\$18.00	\$2,700.00
7		REMOVE AND DISPOSE OF CONCRETE STRUCTURES (SLOPE PAVEMENT)	SY	140	\$25.00	\$3,500.00
8		EXCAVATION AND DISPOSAL	CY	100	\$20.00	\$2,000.00
9		RIPRAP, GRADATION NO. 2	TON	420	\$95.00	\$39,900.00
10		GRANULAR FILL (3"-5")	TON	200	\$65.00	\$13,000.00
11		IMPORTED SELECT FILL	CY	280	\$40.00	\$11,200.00
12		CEMENT STABILIZED SAND, 200 PSI, UNDER SLOPE PAVEMENT (6" DEPTH)	SY	150	\$25.00	\$3,750.00
13		PROPOSED 6" SLOPE PAVEMENT	SY	150	\$140.00	\$21,000.00
14		PROPOSED STRUCTURAL CONCRETE TOE WALL (8" THICK x 4' DEEP x 75' LONG)	CY	8	\$400.00	\$3,200.00
15		STORM WATER POLLUTION PREVENTION and MAINTENANCE	MO	3	\$2,500.00	\$7,500.00
16		ROCK FILTER DAM	LF	60	\$75.00	\$4,500.00
17		ANCHORED SODDING	SY	20.00	\$6.50	\$130.00
<b>Sub-total:</b>						<b>\$159,030.00</b>
<b>20% Contingency:</b>						<b>\$31,806.00</b>
<b><u>Total Project Estimate:</u></b>						<b>\$190,836.00</b>