

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 Neel-Schaffer, Inc., (hereinafter “Contractor”), a company authorized to conduct business in the State of Texas.

WITNESSETH

WHEREAS, County desires that Contractor provide professional engineering services for improvements to McKaskle Road under 2020 Mobility Bond Project No. 20408 (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 the professional engineering services as described in Contractor’s proposal dated July 19, 2021, attached hereto as Exhibit A, and incorporated 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 within the Scope of Services described in Exhibit A seven hundred three thousand three hundred nineteen dollars and no/100 (\$703,319.00) 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 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 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 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 seven hundred three thousand three hundred nineteen dollars and no/100 (\$703,319.00) 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 seven hundred three thousand three hundred nineteen dollars and no/100 (\$703,319.00).

### **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, 2025. 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 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 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 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, 1<sup>st</sup> Floor  
Richmond, Texas 77469

Contractor: Neel-Schaffer, Inc.  
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 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 2271 Texas Government Code: By signature below, Contractor verifies that if Contractor employs ten (10) or more full-time employees and this Agreement has a value of \$100,000 or more, 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.

**Section 26. Human Trafficking**

BY ACCEPTANCE OF AGREEMENT, CONTRACTOR 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.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

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

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

Charles D. Smoak, Jr.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Agent – Printed Name

ATTEST:

Sr. Vice President

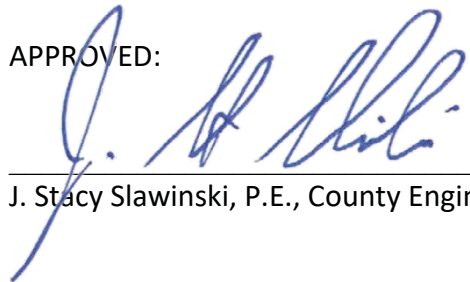
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Title

8/2/2021

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

\_\_\_\_\_  
Date

APPROVED:



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

#### 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

July 19, 2021  
Neel-Schaffer Proposal No. 29-1-1178

LJA Engineering  
Attn: Robert McBride, P.E.  
3600 W Sam Houston Parkway A  
Suite 600  
Houston, Texas 77042

**Re: 2020 Mobility Bond Program  
Fort Bend County, TX**

Dear Mr. McBride:

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), sub-consultant Survey proposal (Exhibit D), sub-consultant Geotechnical proposal (Exhibit E), and sub-consultant Traffic Signal Design proposal (Exhibit F) 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:

**Basic Services**

Contract Administration	\$ 31,260.00 (Lump Sum)
Survey	\$ 83,570.00 (Lump Sum)
Geotechnical Design	\$ 20,600.00 (Lump Sum)
Traffic Signal Design	\$ 40,854.00 (Lump Sum)
PER	\$ 190,270.00 (Lump Sum)
Final Design	\$ 235,150.00 (Lump Sum)
Bid Phase	\$ 5,580.00 (Time & Materials)
Construction Phase	\$ 35,180.00 (Time & Materials)
<b>Total Basic Services</b>	<b>\$ 642,464.00</b>

**Additional Services**

Detention Pond Design	\$ 60,855.00 (Lump Sum/Time & Materials)
<b>Grand Total</b>	<b>\$ 703,319.00</b>

The schedule for the above captioned project is shown in Exhibit G.

Neel-Schaffer, Inc. will bill Fort Bend County (FBC), monthly for our services based on work completed to date. We hold FBC as project owner responsible for payment of services. Our statements shall be due and payable within 30 days of statement date as per the prime contract. Payment of these services will be performed in accordance with our attached General Terms and Conditions (Exhibit B).

*(NOTE: This proposal does NOT include any other support services such as environmental assessments, Subsurface Utility Engineering (SUE), etc.)*

July 19, 2021  
Robert McBride, P.E.  
Page 2

This letter, Exhibits A through G (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.

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.

A handwritten signature in blue ink, appearing to read 'Charles Smoak, Jr.', with a long horizontal flourish extending to the right.

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

Enclosures



**2020 Mobility Bond Program  
Project 20408 (McKaskle Road)  
Scope of Services (Exhibit A)**

Project Description – the project includes reconstructing McKaskle Road from Old Richmond Road to State Highway 6, and roadside ditches to a curb and gutter system, new storm sewer, exclusive center left turn lane (two way), and the installation of a traffic signal at McKaskle Road and State Highway 6.

Scope of Services – the Engineer (Design Consultant) shall perform preliminary design, final design, and construction phase services according to the following detailed scope. The Engineer shall develop the project in collaboration with the Project Manager firm (LJA Engineering), who is also under contract with the County.

A full construction package including Plans, Specifications, and Cost Estimate (PS&E) will be developed for the project.

Design Criteria - applicable design criteria for the above projects include, in order of priority:

- 1) Any Fort Bend County Engineering or Drainage District criteria/standards, including the Fort Bend County Drainage Criteria Manual (Fort Bend County Drainage District, November 1987, revised April 1999)
- 2) Municipal design criteria if the project is located within the limits of a municipality and/or ETJ that has design criteria.
- 3) Fort Bend County Engineering Design Manual August 2020 Edition
- 4) Applicable Texas Department of Transportation design criteria (all County-maintained traffic signals, other items as applicable)
- 5) The Infrastructure Design Manual (City of Houston Department of Public Works and Engineering, current version, used for infrastructure for which design criteria do not exist in the preceding criteria documents).

**PRELIMINARY DESIGN**

*Survey – See attached survey scope (Exhibit D).*

*Geotechnical – See attached geotechnical scope (Exhibit E).*

*Traffic Signal Design – See attached traffic signal design scope (Exhibit F).*

**Drainage Design**

**Drainage Impact Study**

The Engineer will prepare a Drainage Report (Impact Study) for the planned drainage infrastructure improvements along McKaskle Road from Old Richmond Road to State Highway 6. The project length is approximately 3,330 feet. The existing roadway is a two-lane road drained via roadside ditches that outfall into Old Richmond Road and a linear detention channel maintained by the Fort Bend County MUD 119. The roadway is located within the Oyster Creek Watershed.

**2020 Mobility Bond Program  
Project 20408 (McKaskle Road)  
Scope of Services (Exhibit A)**

The planned roadway improvements consist of a three-lane road and include converting the roadside ditches to a curb and gutter storm sewer system sized for the Atlas 14 100-year event. The Engineer shall prepare a standalone drainage report (impact study) in accordance with the current FBCDD Guidelines, and to assure that this project will have no adverse impact to surrounding water surface elevations for the 10-, 25- and 100-year storm events.

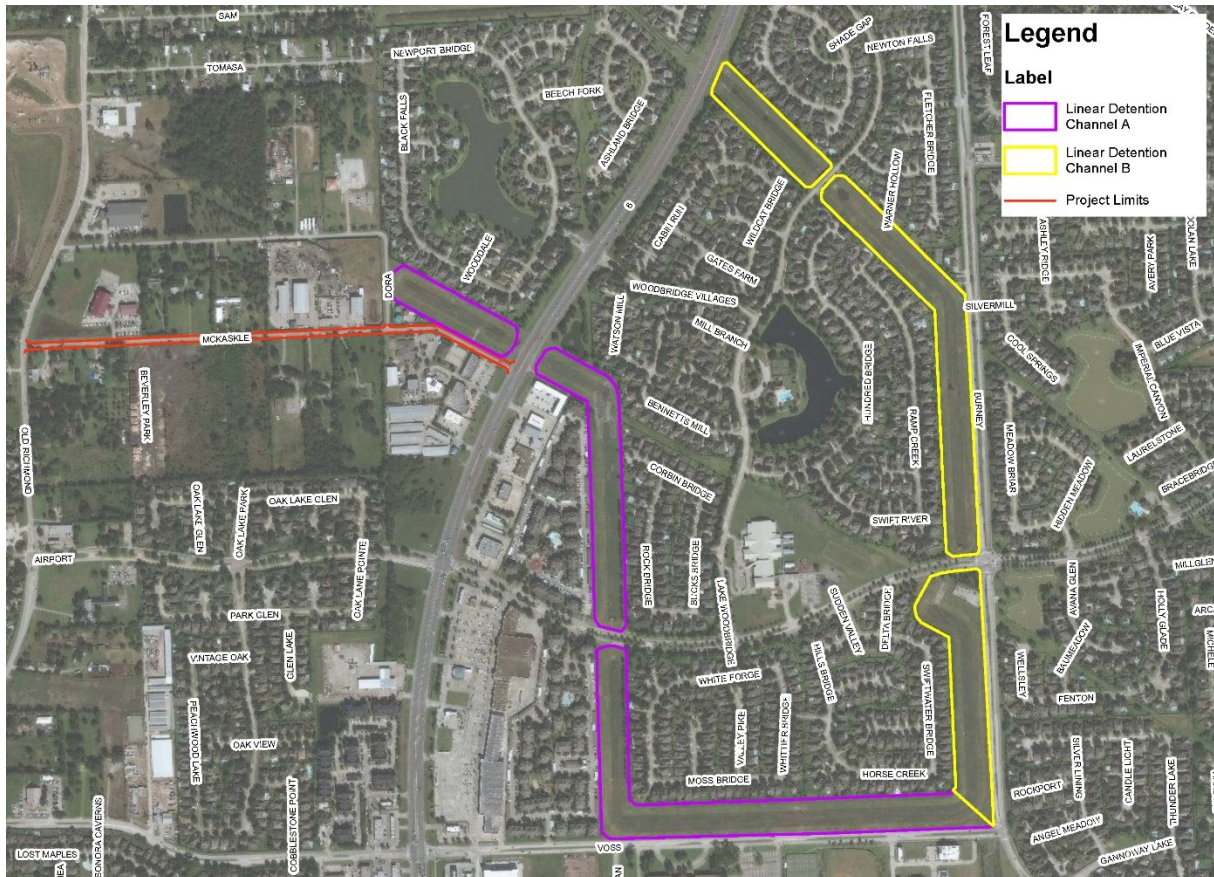
The following drainage services were identified:

H&H Services

- Data Collection
  - Research and Review Available Data. The Engineer shall collect, review, and evaluate all available information and data including, but not limited to, record construction plans, previous drainage studies, LiDAR DEM data, aerial maps, Fort Bend County watershed maps, hydrologic and hydraulic models, project survey data, and any other technical data. The Engineer will also perform a field visit.
- Impact Analysis - The impact analysis will be performed for the updated Atlas 14 10-, 25- and 100-year storm events based on existing and proposed conditions. The roadway impact analysis will be performed in accordance with the FBCDD Drainage Criteria Manual. The impact analysis will be performed for the proposed roadway and drainage improvements.
  - Drainage Area Map – The Engineer shall develop a drainage area map to identify the drainage areas contributing to the roadway for existing and proposed conditions.
  - Roadway Drainage Improvement Impacts – The Engineer shall compute the peak runoff rates and runoff hydrographs for the updated Atlas 14 10-, 25- and 100-year storm events for existing and proposed conditions. Peak runoff rates will be computed using the Rational Method ( $Q=C_iAC_f$ ). The Clark Unit Hydrograph Method in HEC-HMS will be used to compute the runoff hydrographs. An integrated 1D/2D PCSWMM model for the project area will be created to study the existing overland flow and roadside ditches and the impacts associated with the proposed drainage and roadway improvements. Peak flow impacts and runoff volume impacts for the roadway drainage systems will be computed based on the results of the hydraulic model at the existing outfalls into Old Richmond Road and the linear detention channel. The minimum detention volume for the project will be set equal to the difference between the existing and proposed hydrographs via all routes out of the project area including overland flow locations.
- Outfall Analysis – Linear Detention Channel – The Engineer will delineate a drainage area for the linear detention channels identified as Linear Detention Channel A and Linear Detention Channel B as shown in the figure below. Runoff hydrographs will be calculated for the 10-, 25- and 100-year storm events utilizing the HEC-HMS methodology established in the FBCDD Drainage Criteria Manual. A 1D PCSWMM model will be developed for the linear detention channels extending to the outfall across Voss Road into Gannoway Lake. The current

# 2020 Mobility Bond Program Project 20408 (McKaskle Road) Scope of Services (Exhibit A)

effective hydrologic and hydraulic models for Oyster Creek will be utilized to develop tailwater information that accounts for backwater from Oyster Creek. Cross section and cross culvert data will be developed utilizing a combination of LiDAR data, survey, and available as-built data. The 1D PCSWMM model will be utilized to establish the existing water surface elevations at the project outfall and analyze potential downstream impacts from the proposed project.



- **Mitigation Analysis** – The Engineer shall perform a mitigation analysis to ensure the proposed project does not adversely impact water surface elevations to and along the outfall ditches/channels for the 10-, 25-, and 100-year storm events utilizing the Atlas 14 rainfall data. The detention analysis will be performed in accordance with the FBCDD Drainage Criteria Manual. The Engineer will evaluate the potential for a detention pond, inline detention in oversized storm sewers, or a combination of the two to provide the necessary mitigation. The Engineer shall develop a preliminary detention layout and necessary outlet structures to mitigate the peak flows to the existing flows.
- **Meeting and QA/QC** - The Engineer shall perform a documented QA/QC process throughout the study. A quality plan will be developed that identifies designated reviewers with appropriate expertise for their review responsibility. All deliverables will be reviewed prior to submission. The Engineer will attend one (1) meeting to present the findings of the analysis to the client.

**2020 Mobility Bond Program  
Project 20408 (McKaskle Road)  
Scope of Services (Exhibit A)**

- Drainage Report – A drainage study report will be prepared to present our study findings and recommendations for the roadway impacts and mitigation for the project. The drainage study report will be signed and sealed by a Licensed Professional Engineer. Three (3) bounded original copies of the study report will be provided to the Client. The study report will also be provided in electronic PDF format as required by FBCDD for review and approval. The Engineer will respond to comments provided by FBCDD and revise the report accordingly.

**Preliminary Engineering Report (PER)**

The Engineer will prepare a Preliminary Engineering Report (PER) in the form of a concise technical memorandum with attachments as described in this scope. The PER deliverable is not intended to be a lengthy report, and multiple submission and revision cycles of the PER deliverable are not included. The purpose of the PER is to facilitate communication with the County about the goals for the project.

Prepare a single technical memorandum PER, and the primary goals are to (1) establish a typical cross sections including the signal support layout, (2) determine drainage system needs (drainage report and/or preliminary roadway drainage design), (3) determine approximate right-of-way acquisition needs, (4) determine potential conflicts with existing facilities, (5) identify critical path items, (6) identify problem areas and potential resolution(s), (7) outline permit and regulatory requirements, and (8) prepare a reasonable construction cost estimate.

A “30 percent” Conceptual Plan Roll Plot will be prepared and be comprised of a single roll plot and include proposed improvements in plan only with minor annotation. Existing features will also be included. The roll plot, along with a typical section sheet, are the only drawings that are necessary for inclusion in the PER.

A Preliminary Engineering Report (PER) will be prepared for preliminary design, and the purpose of the report is to document the eight goals stated above. It is not necessary to prepare a presentation-quality document, as the report will remain internal to Engineering staff. The report should be submitted as a technical memorandum and include as attachments a narrative, Conceptual Plan Roll Plot, a drainage report, and a construction cost estimate.

An electronic file (pdf) including the PER and supporting documentation will serve as the deliverable and provided to the County.

Upon preliminary review and approval of the PER, the Design Consultant and Project Manager will conduct a review meeting to include key County staff. This scope assumes that all approvals or change requirements are given at this meeting.

**Utility Coordination**

The Engineer shall research to determine the existence and location of underground

**2020 Mobility Bond Program  
Project 20408 (McKaskle Road)  
Scope of Services (Exhibit A)**

utilities (pipelines, duct banks, etc.). Any subsurface utility investigation (SUI) should be at the expense of the utility company. Utility company signatures will not be required on completed drawings. Any Subsurface Utility Engineering (SUE) is not included in this scope.

The Engineer will:

- Perform records research and field visits to determine the presence of underground or overhead private or public utilities during the Preliminary Design phase. The information will be based on surface features and information provided by the utility companies.
- Send records requests to utility companies and obtain I.D. numbers (CenterPoint and AT&T)
- Depict utilities to a reasonable degree of accuracy on the plan and profile drawings (based on available information)
- Prepare a conflict table during the Preliminary Design phase to highlight conflicts between existing utilities and proposed improvements, to be updated during the Final Design phase as required.
- Submit milestone drawings to applicable utility companies for their review.

The preliminary design efforts will be paid on a lump sum basis to be billed monthly on a percent complete basis by task. Major tasks of preliminary design (design, survey, etc.) should be itemized in invoices.

## **FINAL DESIGN**

### **Roadway Design**

The Engineer will prepare construction documents to reconstruct McKaskle Road as a three-lane concrete pavement curb and gutter road with storm sewer; center two way left turn lane. This scope assumes that the road will be reworked using the County's current standard concrete pavement section.

### **Final Design Plans - 60 Percent Submittal**

Interim submittals will be made at 60 percent and 90 percent completion, and should include drawings, a specification table of contents (and/or special specifications, as applicable), and a construction cost estimate.

The 60 percent submittal should include the following as applicable:

- Cover sheet (Fort Bend County name and seal, project name with limits, vicinity and location maps, names of County Judge and Commissioners, signature line for County Engineer, design firm name and registration number)
- Sheet Index
- Typical and non-standard cross sections (not-to-scale proposed sections with

**2020 Mobility Bond Program  
Project 20408 (McKaskle Road)  
Scope of Services (Exhibit A)**

station limits for each section; show pavement/subgrade material and thickness, right-of-way and roadway width, applicable dimensions, profile grade line, and general location of existing and proposed utilities)

- Overall project layout (scale as appropriate with sheet references left blank since they are subject to change in subsequent submittals)
- Survey control map
- Plan and profile sheets (1" = 20' plan scale but printed half-size for a 1" = 40' scale; all existing and proposed facilities correctly shown in plan and profile; separate drawings for roadway and storm sewer are not necessary; detailed callouts not required at 60%)
- Drainage Area Map
- Drainage Calculations
- Traffic control plan (phasing and traffic control; avoid detours unless approved by the County; use of construction zone standards is encouraged)
- Traffic Signal Layouts (details not required at 60%)
- Standard construction details
  - Roadway, Pavement, Curb
  - Driveway (schedule & details), Sidewalks, Ramps
  - Drainage, Manholes, Inlets, Outfalls
  - Signing & Striping
  - Slope Paving
  - Project Sign
- Storm Water Pollution Prevention Plan (drawings and text; drawings may consist of a layout and details)
- Specification table of contents (use Harris County Specifications)
- Bid form with estimated unit and total costs (spreadsheet based)
- Cost Estimate

Three copies of the 60 percent submittal will be required for County review, and drawings can be submitted on 11-inch by 17-inch sheets. A digital copy in Adobe Acrobat format (PDF) of the drawings, specifications and estimate will also be required.

**Final Design Plans - 90 Percent Submittal**

The 90 percent submittal should be considered complete, shall include a 90% interim seal, and shall include all of the 60 percent requirements plus the following as applicable:

- General notes sheet
- Signage and pavement marking plans (signs may be shown on plan and profile sheets and use of pavement marking standards is encouraged)
- Traffic Signal Plans and Details
- List of Specifications (bid documents and Project Manual being prepared by Project Management firm)
- Responses to 60 percent comments

**2020 Mobility Bond Program  
Project 20408 (McKaskle Road)  
Scope of Services (Exhibit A)**

Three copies of the 90 percent submittal will be required for County review, and drawings can be submitted on 11-inch by 17-inch sheets. A digital copy in Adobe Acrobat format (PDF) of the drawings, specifications and estimate will also be required.

**Final Design Plans - 100 Percent Submittal**

The 100 percent design submittal shall consist of one 22-inch by 34-inch sealed and signed set of drawings delivered to the County, along with a PDF submittal of the drawings, specifications and estimate sent to the Project Manager.

All final design efforts will be paid in a single lump-sum fee, to be billed monthly on a percent complete basis.

**BID AND CONSTRUCTION PHASE SERVICES**

**Bid Phase**

Upon completion of final design services, the County will determine an advertisement and bid opening schedule. All administrative project manual documents (cover page, Notice to Bidders, etc.) will be prepared by the County and provided to the Design Consultant in PDF format. The Design Consultant will compile a single project manual file in PDF format, consisting of:

- Administrative documents
- The bid form (prepared by the Design Consultant)
- A sealed specification table of contents
- Applicable specifications and documents

The Design Consultant will prepare a single file in PDF format for the entire drawing set. Except for the cover sheet, which contains approval signature(s), all drawings may be printed directly to Adobe Acrobat format with electronic seal and signature.

The Design Consultant will prepare 27 compact discs, each with one project manual file and one drawing file. Of these, 25 compact discs will be delivered to the County Purchasing Agent for advertising, and two discs will be provided to the Project Manager. Printed documents are not required.

The Design Consultant will attend a pre-bid meeting at the County Purchasing Office. It is not necessary to prepare for the meeting, other than to be able to briefly describe the project.

The Purchasing Agent will forward bidder questions to the Design Consultant. Answers to questions, as well as any other required changes, will be included in an addendum, prepared by the Design Consultant if necessary. The Purchasing Agent will distribute the addendum.

**2020 Mobility Bond Program  
Project 20408 (McKaskle Road)  
Scope of Services (Exhibit A)**

After the bid, the Project Manager will prepare a bid tabulation and provide a copy to the Design Consultant for filing.

**Construction Phase**

The Design Consultant will attend a pre-construction meeting with County staff, Project Manager, general contractor, and construction materials testing contractor. Prior to the meeting, the Project Manager will inform the Design Consultant of how many drawing and project manual sets are required, and the Design Consultant will provide these documents at the pre-construction meeting.

The Design Consultant will be responsible for reviewing contractor submittals and responding to Requests for Information.

Field visits and progress meetings will not be required. The Design Consultant will participate in a substantial completion walkthrough.

After project completion, the Design Consultant will prepare record drawings based on contractor as-built markups. The record drawings may be printed on paper and delivered to the County.

All bid and construction phase services will be paid on a time-and-materials basis. The not-to-exceed fee for these services will be determined by the County and/or its Project Manager and the Design Consultant. Monthly billing will include a breakdown of hours spent by personnel in the various employee categories, at billing rates agreed to by the County and the Design Consultant.

**CONTRACT ADMINISTRATION**

Manage professional contract, develop and maintain a project schedule, prepare and manage subconsultant contracts, perform project administration, progress reports, and correspondence. Coordinate with and attend meetings with the Project Management firm and the County. Prepare, distribute, and retain correspondence. Document project discussions via phone calls or conference calls as required.

**ADDITIONAL SERVICES**

The following items and tasks are excluded from the scope and may be added with a supplemental agreement:

- *Survey – See attached survey scope.*
- *Geotechnical – See attached geotechnical scope.*
- 60%, 90%, 100% construction drawings for a detention pond including specifications, Bid form, and cost estimate.

**2020 Mobility Bond Program  
Project 20408 (McKaskle Road)  
Scope of Services (Exhibit A)**

**EXCLUSIONS**

The following items and tasks are excluded from the scope and may be added with a supplemental agreement:

- Preliminary wetlands investigations and project notification to the Texas Historical Commission will be performed by the County on a program-wide basis.
- Phase 1 Environmental Site Assessment
- The following Utility Coordination:
  - SUE
  - Coordinate with utility companies during the Construction phase as required.
- All administrative project manual or frontend documents (cover page, Notice to Bidders, etc.)
- Project Manual (bid form, specification table of contents, any special specifications, or conditions; contract documents excluded) – to be prepared by Project Management firm.
- Pavement/concrete/asphalt mix design for construction phased services.
- Should drainage analyses during the PER phase indicate a need for a detention structure, detention design services will then be added to the contract for an additional lump sum fee.
- Any service that is not stated in the Scope of Services.

**EXHIBIT B**  
**GENERAL TERMS AND CONDITIONS**  
**PROFESSIONAL SERVICES**

1. **Relationship between Consultant and Client.** Neel Schaffer, Inc. ("Consultant") shall serve as the Client'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. Consultant shall not be considered to be the agent or fiduciary of the Client.
2. **Responsibility of Consultant.** Consultant 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 (the "Standard of Care"). No other representation, warranty or guarantee, express or implied, is included or intended in this Agreement or in any report, opinion, document, or otherwise.
3. **Responsibility of the Client.** Client shall provide all information and criteria as to its requirements for the Project, including budgetary limitations. Client shall arrange for Consultant to enter upon public and private property and obtain all necessary approvals required from all governmental authorities having jurisdiction over the Project. Client shall give prompt written notice to Consultant whenever Client observes or otherwise becomes aware of any development that affects the scope or timing of Consultant's services.  

The Client shall promptly report to the Consultant any defects or suspected defects in the Consultant's services of which the Client becomes aware, so that Consultant may take measures to minimize the consequences of such a defect. Should legal liability for the defects exist, failure by the Client to notify the Consultant shall relieve the 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. **Construction Phase Services.** If Consultant's scope of services includes the observation and monitoring of work performed by Client's separate contractors, Consultant shall provide personnel to observe and monitor the work in accordance with the Standard of Care in order to ascertain that it is being performed, in general, in accordance with the plans and specifications. Consultant shall not supervise, direct, or have control over the contractor's work. Consultant shall not have authority over or responsibility for construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the work of the contractor. Consultant does not guarantee the performance of the construction contract by the contractor and does not assume responsibility for the contractor's failure to furnish and perform its work in accordance with the plans and specifications.
5. **Designation of Authorized Representatives.** Each party shall designate one or more persons to act with authority on 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.
6. **Ownership of Documents.** All reports, notes, drawings, specifications, data, calculations, and other documents, including those in electronic form prepared by Consultant are instruments of Consultant's service that shall remain Consultant's property. The Client agrees not to use Consultant generated documents for projects other than the project for which the documents were prepared by Consultant, or for future modifications to the Project, without Consultant's express written permission. Any reuse or distribution to third parties without such express written permission or project-specific adaptation by Consultant will be at the Client's sole risk and without liability to Consultant or its employees, subsidiaries, and subconsultants.
7. **Opinion of Costs.** When required as a part of its scope of services, Consultant will furnish opinions or estimates of construction cost on the basis of Consultant's experience and qualifications, but Consultant does not guarantee the accuracy of such estimates. The parties recognize that Consultant has no control over the cost of labor, material, equipment, or services furnished by others or over market conditions or contractors' methods of determining prices.
8. **Changes or Delays.** In the event new developments or circumstances beyond the control of Consultant require a change in the scope of services or schedule, Consultant shall be entitled to an equitable adjustment to the fee and/or schedule. Such events include, but are not limited to, unreasonable delays caused by Client's failure to provide specified direction or information, delays caused by Client's other contractors or consultants, or if Consultant's failure to perform is due to any act of God, labor shortage, fire, inclement weather, act of governmental authority, failure of transportation, accident, power failure, or interruption or any other cause beyond the reasonable control of Consultant.

**EXHIBIT B**  
**GENERAL TERMS AND CONDITIONS**  
**PROFESSIONAL SERVICES**

9. **Suspension of Services.** Client may, at any time, by written notice, suspend further services by Consultant. Upon receipt of such notice, Consultant shall take all reasonable steps to mitigate costs allocable to the suspended services. Client, however, shall pay all reasonable and necessary costs associated with such suspension including the cost of assembling documents, personnel and equipment, rescheduling or reassignment costs necessary to maintain continuity and the staff required to resume the services upon expiration of the suspension. Consultant will not be obligated to provide the same personnel in the event the period of any suspension exceeds 30 days.
10. **Termination.** This Agreement may be terminated by either party upon 30 days' written to the other party. Upon such termination, Client shall pay Consultant for all services performed up to the date of termination. If Client is the terminating party, Client shall pay Consultant all reasonable cost and expenses incurred by Consultant in effecting the termination, including but not limited to non-cancellable commitments and demobilization costs, if any.
11. **Indemnification.** Consultant shall indemnify and hold harmless Client from and against those damages and costs (including reasonable attorneys' fees) that Client incurs as a result of third party claims for personal injury or property damage to the extent caused by the negligent acts, errors or omissions of Consultant.
- To the fullest extent permitted by law, Client shall indemnify and hold harmless Consultant from and against those damages and costs (including reasonable attorneys' fees) that Consultant incurs as a result of third party claims for personal injury or property damage to the extent caused by the negligent acts, errors or omissions of Client.
12. **Legal Proceedings.** In the event Consultant or its employees are required by Client to provide testimony, answer interrogatories, produce documents or otherwise provide information in relation to any litigation, arbitration, proceeding or other inquiry arising out of Consultant's services, where Consultant is not a party to such proceeding, Client will compensate Consultant for its services and reimburse Consultant for all related direct costs incurred in connection with providing such testimony or information. This provision shall not apply in the event Client engages Consultant to provide expert testimony or litigation support, which services shall be the subject of a separate agreement or an amendment to this Agreement.
13. **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;
14. **Insurance.** Consultant agrees to maintain the following insurance coverage with the following limits of insurance during the performance of Consultant'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 Consultant's negligent acts, errors, or omissions in the performance of professional services with available limits of \$1,000,000 per claim and annual aggregate.
- Consultant shall provide evidence of procuring the above insurance coverages by delivering a certificate of insurance to Client prior to the start of Consultant's work and annually upon renewal of coverage. Consultant shall cause Client to be named as an additional insured on Consultant's commercial general liability policy, which shall be primary and noncontributory.
15. **Information Provided by the Client.** Consultant shall be entitled to rely upon, without liability, the accuracy and completeness of any and all information provided by Client, without the obligation of independent verification.
16. **Consequential Damages.** Neither Client nor Consultant shall be liable to the other or shall make any claim for any special, incidental, indirect or consequential damages arising out of, or connected in any way to the Project or this Agreement. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of reputation, loss of business or diminution of property value and shall apply regardless of legal theory such damages are alleged including negligence, strict liability, breach of contract and breach of warranty.
17. **Payment.** Unless agreed to otherwise, Consultant shall submit monthly invoices to the Client. Payment in full

**EXHIBIT B**  
**GENERAL TERMS AND CONDITIONS**  
**PROFESSIONAL SERVICES**

shall be due upon receipt of the invoice. Payment of any invoices by the Client shall be taken to mean that the Client is satisfied with the Consultant'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 Client agrees to pay interest on the unpaid balance at the rate of one percent (1%) per month. If the Client fails to make payments; then Consultant, after giving seven (7) days written notice to the Client, may suspend services until the Client has paid in full all amounts due for services, expenses, and other related charges without recourse to the Client for loss or damage caused by such suspension. The Client waives any and all claims against the Consultant for any such suspension. Payment for Consultant's services is not contingent on any factor, except the Consultant's ability to provide services in a manner consistent with that Standard of Care. 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 Client contests an invoice, the Client may withhold only that portion so contested and shall pay the undisputed portion, after the Client has notified Consultant in writing within 30 days of receiving the invoice and shall identify the specific cause of the disagreement and the amount in dispute.

18. **Force Majeure.** Neither Client nor Consultant 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.
19. **Compliance with Laws.** To the extent they apply to its employees or its services, Consultant shall exercise due professional care to comply with all applicable laws, including ordinances of any political subdivisions or governing agencies.
20. **Invalid Terms.** If any provisions of this Agreement are held to be invalid or unenforceable, the remaining provisions shall be valid and binding as if the unenforceable provisions were never included in the Agreement.
21. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the state where the services are performed.
22. **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 in a court of competent jurisdiction.
23. **Additional Services.** Consultant shall be entitled to an equitable adjustment of its fee for services resulting from significant changes in the general scope, extent or

character of the Project 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 other 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 Consultant's control.

24. **Amendment.** This Agreement may only be amended in writing and where such amendment is executed by a duly authorized representatives of each party.
25. **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. Client and Consultant 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.
26. **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.
27. **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.
28. **Identity of Project Owner.** Within ten (10) days of the entry of this Agreement, Client, if Client is not the Project Owner, shall provide to Consultant the 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 Client's point of contact with the Owner for the Project.
29. **Conflicting Terms.** In the event that there are multiple agreements with varying or conflicting terms and conditions between Client and Consultant, the terms and conditions contained in this Agreement shall supersede and have precedence over any other conflicting terms and conditions contained in any other written or oral agreement.
30. **Course of Dealing.** Client and Consultant agree that these General Terms and Conditions establish a course of dealing between them and shall apply to this and all

**EXHIBIT B**  
**GENERAL TERMS AND CONDITIONS**  
**PROFESSIONAL SERVICES**

other services, projects, agreements or dealings between the them, unless Client or 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.

31. **PROFESSIONAL SERVICES IN FLORIDA.** IN THE EVENT ANY PROFESSIONAL SERVICES ARE PROVIDED WITHIN THE STATE OF FLORIDA, IT IS EXPRESSLY AGREED BY THE PARTIES THAT AN INDIVIDUAL DESIGN PROFESSIONAL WHO IS AN AGENT OR EMPLOYEE OF CONSULTANT MAY NOT BE HELD PERSONALLY OR INDIVIDUALLY LIABLE FOR ANY DAMAGES RESULTING FROM NEGLIGENCE ARISING OUT OF CONSULTANT'S PERFORMANCE OF THIS AGREEMENT, AS PROVIDED IN FLORIDA STATUTES SECTION 558.0035, AS AMENDED.

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

Fort Bend County 2020 Mobility Bond Program  
McKaskle Road Improvements  
McKaskle Rd from Old Richmond Rd to SH 6)  
Project No. 20409

PRIME PROVIDER: Neel-Schaffer, Inc.

TASK DESCRIPTION	PROJECT MANAGER	SENIOR ENGINEER	PROJECT ENGINEER	DESIGN ENGINEER	ENGINEER IN TRAINING	SENIOR CADD OPERATOR	CADD OPERATOR	ADMIN/CLERICAL	SUB CONSULTANT	TOTAL HRS. & COSTS	COST PER TASK	NO OF SHTS PER SHT	HRS PER SHT
<b>CONTRACT ADMINISTRATION (LUMP SUM PAYMENT BASIS)</b>													
Contract Administration													
Update Schedule	24										5,040.00		
Progress Reports	24	12									7,260.00		
Coordination Meetings	24	24									9,480.00		
Subconsultant Coordination & Contract Management	24	24									9,480.00		
											-		
<b>SUBTOTAL CONTRACT ADMINISTRATION</b>	<b>96</b>	<b>60</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>156</b>	<b>156</b>		
	\$20,160.00	\$11,100.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$31,260.00	\$31,260.00		

TASK DESCRIPTION	PROJECT MANAGER	SENIOR ENGINEER	PROJECT ENGINEER	DESIGN ENGINEER	ENGINEER IN TRAINING	SENIOR CADD OPERATOR	CADD OPERATOR	ADMIN/CLERICAL	SUB CONSULTANT	TOTAL HRS. & COSTS	COST PER TASK	NO OF SHTS PER SHT	HRS PER SHT
<b>PRELIMINARY DESIGN (LUMP SUM PAYMENT BASIS)</b>													
Preliminary Engineering Report (PER)													
Survey and Mapping											83,570.00		
Geotechnical											20,600.00		
Traffic Signal											40,854.00		
Drainage Study											-		
Meetings and QA/QC	10	8	16								6,300.00		
Data Collection			8		20						3,960.00		
Impact Analysis	8		48		92						21,800.00		
Outfall Analysis	4		40		80						18,040.00		
Mitigation Analysis	12		32		80						18,360.00		
Drainage Report	10		30		56			4			14,800.00		
Utility Coordination		2	4		24						8,970.00		
Technical Memorandum	2	8	16		80			16			24,700.00		
Attachments for the Technical Memorandum	2	8	16		80			80			37,120.00		
Design Plans (30% submittal)	2	8	16		80			80			36,220.00		
											-		
<b>SUBTOTAL PER</b>	<b>50</b>	<b>34</b>	<b>226</b>	<b>86</b>	<b>592</b>	<b>230</b>	<b>160</b>	<b>20</b>		<b>1398</b>	<b>1398</b>		
	\$10,500.00	\$6,290.00	\$38,420.00	\$12,900.00	\$76,960.00	\$27,600.00	\$16,000.00	\$1,600.00	\$145,024.00	\$335,294.00	\$335,294.00		

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

Fort Bend County 2020 Mobility Bond Program  
McKaskle Road Improvements  
McKaskle Rd from Old Richmond Rd to SH 6)  
Project No. 20409

PRIME PROVIDER: Neel-Schaffer, Inc.

TASK DESCRIPTION	PROJECT MANAGER	SENIOR ENGINEER	PROJECT ENGINEER	DESIGN ENGINEER	ENGINEER IN TRAINING	SENIOR CADD OPERATOR	CADD OPERATOR	ADMIN/CLERICAL	SUB CONSULTANT	TOTAL HRS. & COSTS	COST PER TASK	NO OF SHTS	HRS PER SHT
<b>Final Design</b>													
<b>Construction Plan Set (60% submittal)</b>													
Cover Sheet			1				4			7	\$ 830.00	1	
Index			1				4			7	\$ 830.00	1	
Vicinity Map			1				4			7	\$ 830.00	1	
Project Layout			1				4			13	\$ 1,650.00	1	
Drainage Area Map & Calculations			2				24			62	\$ 7,340.00	2	
Survey Control			2							10	\$ 1,300.00	3	
Soil Boring Locations						4				6	\$ 780.00	3	
Typical Sections		2	4			24	40			94	\$ 11,210.00	2	
Plan & Profile		4	8			50	72			204	\$ 25,000.00	6	
Traffic Control Plan			2			16	20			42	\$ 4,860.00	1	
Traffic Signal Layout			2			10				24	\$ 3,180.00	1	
SWPPP Plan & Details			2			30				72	\$ 9,480.00	2	
Standard Details						40	40			130	\$ 15,500.00	17	
Specification Table		2	8			24				50	\$ 7,250.00		
Bid Form		2	4			16				30	\$ 4,330.00		
Cost Estimate		4	16			40				84	\$ 12,260.00		
QA/QC		24				40				64	\$ 9,640.00		
<b>Construction Plan Set (90% submittal)</b>													
Address FBC 60% Comments													
General Notes				8		40	40			88	\$ 11,200.00		
Traffic Control Plan & Details			2			16	20			42	\$ 4,860.00	1	
Signage & Pavement Marking Plan			2			24				32	\$ 4,240.00	3	
Traffic Signal Plans & Details			2			8	80			10	\$ 1,300.00		
Cross Sections			16			60				220	\$ 26,720.00	6	
List of Specifications		2	8			24				50	\$ 7,250.00		
Cost Estimate		4	16			40				84	\$ 12,260.00		
QA/QC		4	24			40				64	\$ 9,640.00		
SW/PPP Deliverables		4	0			16				28	\$ 4,020.00		
<b>Construction Plan Set (100% submittal)</b>													
Address FBC 90% Comments													
List of Specifications		2	4			8	40			88	\$ 11,200.00		
Cost Estimate		4	16			24	40			84	\$ 12,260.00		
QA/QC		24				40				64	\$ 9,640.00		
										0	\$ -		
<b>SUBTOTAL FINAL DESIGN</b>	0	102	126	248	606	394	316	0		1792	\$ 235,150.00		
	\$0.00	\$18,870.00	\$21,420.00	\$37,200.00	\$78,780.00	\$47,280.00	\$31,600.00	\$0.00			\$ 235,150.00		

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

Fort Bend County 2020 Mobility Bond Program  
McKaskle Road Improvements  
McKaskle Rd from Old Richmond Rd to SH 6)  
Project No. 20409

PRIME PROVIDER: Neal-Schaffer, Inc.

TASK DESCRIPTION	PROJECT MANAGER	SENIOR ENGINEER	PROJECT ENGINEER	DESIGN ENGINEER	ENGINEER IN TRAINING	SENIOR CADD OPERATOR	CADD OPERATOR	ADMIN/CLERICAL	SUB CONSULTANT	TOTAL HRS. & COSTS	COST PER TASK	NO OF SHTS	HRS PER SHT
<b>BID PHASE SERVICES (TIME AND MATERIALS PAYMENT BASIS)</b>													
Bid Phase													
Complete Project Manual			2					8				18	\$ 2,020.00
Coordination (pre-bid meeting)			4					4				8	\$ 1,200.00
Addendum			4					8				20	\$ 2,360.00
												0	\$ -
												0	\$ -
												0	\$ -
<b>SUBTOTAL BID PHASE SERVICES</b>	\$ 0.00	0	10	0	20	0	0	16		46	\$ 5,580.00	46	\$ 5,580.00

<b>CONSTRUCTION PHASE SERVICES (TIME AND MATERIALS PAYMENT BASIS)</b>													
<b>Construction Phase</b>													
Pre-Construction Meeting			4					4				8	\$ 1,200.00
Submittals (10 Submittals)			40					80				120	\$ 17,200.00
RFI (8 RFI)			32					64				96	\$ 13,600.00
Substantial Completion Walkthrough			4					4				8	\$ 1,200.00
Record Drawings			2					4				14	\$ 1,820.00
												0	\$ -
<b>SUBTOTAL CONSTRUCTION PHASE SERVICES</b>	\$ 0.00	0	82	0	156	8	0	0		246	\$ 35,180.00	246	\$ 35,180.00

<b>ADDITIONAL SERVICES (LUMP SUM/TIME AND MATERIALS PAYMENT BASIS)</b>													
<b>Detention Pond Design</b>													
Survey and Mapping (TIME & MATERIALS)												0	\$ 34,345.00
Geotechnical (LUMP SUM)												0	\$ 12,750.00
Detention Pond & Details (LUMP SUM)			8	16	40	40						104	\$ 13,760.00
												0	\$ -
<b>SUBTOTAL DETENTION POND DESIGN SERVICES</b>	\$ 0.00	0	8	16	40	40	0	0		104	\$ 60,855.00	104	\$ 60,855.00
<b>TOTAL HOURS</b>	146	196	444	334	1,374	632	476	36		3,638			
<b>CONTRACT RATE PER HOUR</b>	\$ 210.00	\$ 185.00	\$ 170.00	\$ 150.00	\$ 130.00	\$ 120.00	\$ 100.00	\$ 80.00					
<b>SUBTOTAL LABOR EXPENSES</b>	\$ 30,660.00	\$ 36,260.00	\$ 75,480.00	\$ 50,100.00	\$ 178,620.00	\$ 75,840.00	\$ 47,600.00	\$ 2,880.00		\$ 497,440.00			
<b>SUBTOTAL SUBCONSULTANT</b>										\$ 145,024.00			
<b>TOTAL BASIC SERVICES</b>										\$ 642,464.00			
<b>SUBTOTAL ADDITIONAL SERVICES</b>										\$ 60,855.00			
<b>GRAND TOTAL</b>										\$ 703,319.00			

June 11, 2021

## Exhibit D

David Migl, P.E.  
Project Manager  
Neel-Schaffer, Inc.  
13430 Northwest Freeway, Suite 650  
Houston, TX 77040

**Subject:** Proposal for Professional Surveying Services  
Fort Bend County 2020 Mobility Projects - 20408 Mc Kaskle Road

Dear Mr. Migl,

Huitt-Zollars, Inc. (Huitt-Zollars) appreciates the opportunity to submit this proposal to perform professional surveying services to Neel-Schaffer, Inc. (Client) for the above listed project.

The scope of services and related deliverables is based on the information outlined in the Fort Bend county 2020 Engineering design manual and the Fort Bend County ROW Taking Area Digital Submittals to GIS documents provided to Huitt-Zollars by Client via email and subsequent discussions and field visits, the following represents our understanding of the requirements for this project.

Our proposal is based upon the following scope of services, compensation, schedule, terms and conditions and attachments contained herein.

### **SCOPE OF SERVICES**

#### **1.0 Basic Services**

- 1.1 **Topographic Survey** – A topographic survey of Mc Kaskle Road will be performed. The limits of the survey will be from the intersection of Mc Kaskle Road and Old Richmond Road (including 100 feet north and south of the intersection) east to the intersection of Mc Kaskle Road and State Highway 6 (including 500 feet north and 100 feet south of the intersection). Additionally, the survey will extend approximately 400 feet north of the intersection of Mc Kaskle Road and Dora Lane. The survey will include cross-sections and spot elevations taken at 50-foot intervals and at grade breaks, from fence line to fence line, in order to produce a topographic map with one-foot contours suitable for civil design. Visible above ground improvements such as pavement, utilities, low-hanging power lines, fences, gates, and trees (minimum of 6-inch DBH) will be located and shown on the survey. Flow-line and pipe size information will be obtained for existing underground utilities that are accessible through manholes and/or catch basins. A CADD-based topographic map will be prepared to show the results of the topographic survey.
- 1.2 **Boundary Survey** – Huitt-Zollars will survey the boundary of McKaskle Road and the adjoining properties. We will obtain the current recorded deeds and subdivision plats for all relevant properties. We will obtain existing easement documents referenced in the subject tract record deed and/or plat and plot existing easements. It is recommended that the client obtain a current title report for each property and provide it to Huitt-Zollars so that all encumbrances can be identified and shown on the survey. The record information along with the field survey will be reviewed and analyzed in order to establish property

Fort Bend County 2020 Mobility Projects - 20408 Mc Kaskle Road  
June 11, 2021

boundaries. No boundary survey can be completed without right-of-entry to the subject tract.

- 1.3 **Right-of-Entry** – Huitt Zollars will mail right-of-entry requests to all private landowners in the project area via certified mail, which will include a letter of introduction from the client. Huitt-Zollars surveyors will not enter private property without permission and access will be necessary for boundary surveys to take place.
- 1.4 **Right-of-Way Parcel Exhibits and Legal Descriptions** – Huitt-Zollars will prepare metes and bounds legal descriptions and exhibit maps (8 1/2" x 11") for each proposed right-of-way parcel. The parcels will be monumented on the ground and their descriptions will be referenced to the boundary corners of the parent tracts. No right-of-way parcels can be finalized without right-of-entry to the subject tract.
- 1.5 **Control Sheets & ROW Map** – Huitt-Zollars will prepare survey control sheets depicting individual control monuments and ties to planimetric features, and an overall project right-of-way map showing both the existing and proposed right-of-way, as related to a project baseline. The control traverse and baseline will be monumented at 1,000-foot intervals, as specified in the Fort Bend County Engineering Design Manual

## 2.0 Additional Services

- 2.1 **Interim Staking** - Baseline and ROW staking will be performed twice during design phase upon receipt of Notice to Proceed from Client. Recover and verify existing control previously established by Huitt-Zollars.Inc. Stake proposed Mc Kaskle Road baseline alignment and proposed east and west right-of-way lines
- 2.2 **Detention Pond Topographic & Boundary Survey** - A topographic and boundary survey of the proposed detention pond site up to 7.5-acre plot of land will be performed. The survey will follow the FBC design manual.
- 2.3 **ROW M&B for Detention pond site (2 parcels)** - Huitt-Zollars will prepare metes and bounds legal descriptions and exhibit maps (8 1/2" x 11") for each proposed right-of-way parcel. The parcels will be monumented on the ground and their descriptions will be referenced to the boundary corners of the parent tracts. No right-of-way parcels can be finalized without right-of-entry to the subject tract.

### SURVEY DATUM

Horizontal datum will be referenced to the Texas Coordinate System, South Central Zone (4204), North American Datum of 1983 (NAD83) (2011 adjustment) (Epoch 2010.0000) and based on existing National Geodetic Survey (NGS) monuments;

Vertical datum will be referenced to the North American Vertical Datum of 1988 (NAVD88) (GEOID12A) and based on existing National Geodetic Survey (NGS) monuments;

All survey data will be surface values in US Survey Feet;

### 3.0 Deliverables

Shall be provided to the Client:

- Copies of vesting deeds, subdivision plats and easement documents in pdf format;

Fort Bend County 2020 Mobility Projects - 20408 Mc Kaskle Road  
 June 11, 2021

- Survey Control map with horizontal and vertical data and reference sketches for each control point; Survey Control Maps will be 22x34 and signed & sealed by an RPLS.
- 2D design file with approximate location of existing right-of-way lines and property lines;
- 2D planimetric design file;
- 3D DTM design file and tin file;
- Overall project map showing existing and proposed right-of-way lines, ownership information, existing easements and other matters of record;
- Parcel plat and metes and bounds description of each parcel to be acquired;
- KMZ file showing existing right-of-way with ownership information, proposed takings and parcel numbers;

**ASSUMPTIONS**

This proposal and Huitt-Zollars agreement to perform the Services is based upon, and subject to, the following assumptions:

- Any proposed right-of-way changes after preparation of parcel plats and metes and bounds descriptions will be considered additional services;
- This proposal assumes that right of entry to private property has been obtained by Client or Fort Bend County prior to commencement of survey;
- Proposed right-of-way will be monumented once. Any restaking will be considered additional services;
- Control will be set once only and does not include any additional datum ties;
- No utilities outside of survey limits will be located;
- Bridge low chord elevations will be determined at outside beam only;
- No irrigation features will be located;
- No planting or landscaping features outside of project limits will be located or detailed;
- Client will extend existing sidewalk and roadway edges beyond survey limits for use in their plans;
- Sidewalks will be located only at proposed tie-in locations;
- This proposals includes one site visit for utilities. Any utilities placed or located after completion of the field surveys will be considered additional services;
- Only trees within the existing right-of-way will be located with caliper and type;

**COMPENSATION**

**1.0 Total Estimated Budget**

The Scope of Services above shall be completed for the following fees

**Basic Services (Lump sum)**

Item 1 Topographic Survey	\$ 18,540.00 (Lump sum)
Item 2 Boundary Survey	\$ 20,810.00 (Lump sum)
Item 3 ROW Parcel exhibits and legal descriptions (13 parcels)	\$ 34,880.00 (Lump sum)
Item 4 Control Sheets, ROW Map and GIS Submittal	\$ 7,340.00 (Lump sum)
<u>Item 5 Reimbursables</u>	<u>\$ 2,000.00</u>
<b>Basic Services Total</b>	<b>\$ 83,570.00</b>

Fort Bend County 2020 Mobility Projects - 20408 Mc Kaskle Road  
 June 11, 2021

**Additional Services (Hourly)**

Item 6 Interim Staking of ROW ( upto 2 times)	\$ 15,235.00 (Hourly)
Item 7 Topographic & boundary survey of Detention pond ( upto 7.5 acres)	\$ 11,795.00 (Hourly)
<u>Item 8 M&amp;B's of detention pond site( upto 2 parcels)</u>	<u>\$ 7,315.00 (Hourly)</u>
<b>Additional Services total</b>	<b>\$ 34,345.00</b>

**Total fee** **\$ 117,915.00**

**2.0 Additional Services**

Services not mentioned in the above Scope of Services can be completed on a “Time and Materials” basis in accordance with the attached Professional Fees and Charges Hourly Rate Sheet or a mutually agreed upon lump sum fee with prior written approval from the Client.

**CLIENT PROVIDED SERVICES**

The Client shall provide to Huitt-Zollars

- Client will provide the proposed Road alignment and right-of-way in electronic format prior to work beginning on project;
- Client will provide with existing construction drawings/plans of roadways and site work, storm sewer, sanitary sewer and waterlines within the project limits prior to commencement of field surveys;
- Client will provide with existing utility drawings/plans within the project limits prior to commencement of field surveys;
- Client will provide with CAD files of sheet borders for survey control map and parcel plats;
- Client will provide with examples of preferred formats of survey control map, parcel plats and metes and bounds descriptions;

**SCHEDULE**

The Scope of Services above shall be completed within 12 weeks from Notice to proceed.

**TERMS & CONDITIONS**

**Following are the Terms and Conditions that will apply to this AGREEMENT:**

**1. 1. AUTHORIZATION FOR WORK TO PROCEED**

Signing of this Letter Agreement for services shall be authorization by the Client for Huitt-Zollars, Inc. to proceed with the work. This Agreement represents the entire understanding of Client and Huitt-Zollars, Inc. as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be amended, modified or altered except in writing, signed by the Parties. This Agreement shall not be construed against the Party preparing it, but shall be construed as if both Parties prepared it.

**2. OPINION OF PROBABLE CONSTRUCTION COSTS**

It is recognized that neither Huitt-Zollars, Inc. nor its Client has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, Huitt-Zollars, Inc. cannot and does not warrant or represent that bids or negotiated prices to construct the part of the project for which it has provided services will not vary from the Client's budget for the Project or from an estimate of the Cost of the Work or evaluation prepared or agreed to by Huitt-Zollars, Inc.

Fort Bend County 2020 Mobility Projects - 20408 Mc Kaskle Road  
June 11, 2021

**3. STANDARD OF CARE**

Services performed by Huitt-Zollars, Inc. under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions (the "Standard of Care"). Huitt-Zollars, Inc. shall perform its services as expeditiously as is consistent with such Huitt-Zollars, Inc. skill and care and the orderly progress of the Project. No other representation, expressed or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document or otherwise. Notwithstanding any other representations made elsewhere in this Agreement or in the execution of the Project, this Standard of Care shall not be modified. Huitt-Zollars, Inc. shall act as an independent contractor at all times during the performance of its services, and no term of this Agreement, either expressed or implied, shall create an agency or fiduciary relationship.

**4. TAXES**

All taxes due for services rendered, including but not limited to gross receipts tax, sales tax, etc., required to be paid will be billed to the Client in addition to fees.

**5. BILLING AND PAYMENT**

The Client, recognizing that timely payment is a material part of the consideration of this Agreement, Client, shall pay Huitt-Zollars, Inc. for services performed in accordance with the rates and charges set forth herein. Invoices will be submitted by Huitt-Zollars, Inc. on a monthly basis and shall be due and payable within thirty (30) calendar days of invoice date. If the Client objects to all or any portion of an invoice, the Client shall so notify Huitt-Zollars, Inc. in writing within ten (10) calendar days of receipt of the invoice in question, but will pay, when due, that portion of the invoice not in dispute.

In the event any invoice or portion thereof is disputed by Client, Client shall notify Huitt-Zollars, Inc. within ten (10) calendar days of receipt of the invoice in question, and Client and Huitt-Zollars, Inc. shall work together to resolve the matter within forty-five (45) days of its being called to Huitt-Zollars, Inc.'s attention. If resolution of the matter is not attained within forty-five (45) calendar days, either party may terminate this Agreement.

**6. MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES**

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor Huitt-Zollars, Inc., their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the CLIENT and Huitt-Zollars, Inc. shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this Project. This mutual waiver shall survive termination or completion of this Contract.

**7. TERMINATION/SUSPENSION**

If the Client fails to make payments to Huitt-Zollars, Inc. in accordance with this Agreement, such failure shall be considered substantial breach and cause for termination or, at Huitt-Zollars, Inc.'s option, cause for suspension of performance of services under this Agreement. If Huitt-Zollars, Inc. elects to suspend services, Huitt-Zollars, Inc. shall give seven days' written notice to the Client before suspending services. In the event of a termination of this Agreement or suspension of services, Huitt-Zollars, Inc. shall have no liability to the Client or any third party for delay or damage caused by or related in any way to the Client because of such suspension of services. Before resuming services, the Client shall pay Huitt-Zollars, Inc.

Fort Bend County 2020 Mobility Projects - 20408 Mc Kaskle Road  
June 11, 2021

all sums due prior to suspension, interest at 1.5% per month and any expenses incurred in the interruption and resumption of Huitt-Zollars, Inc.'s services. Huitt-Zollars, Inc.'s fees for the remaining services and the time schedules shall be equitably adjusted.

If the Client suspends the Project, Huitt-Zollars, Inc. shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, Huitt-Zollars, Inc. shall be compensated for expenses incurred in the interruption and resumption of Huitt-Zollars, Inc.'s services. Huitt-Zollars, Inc.'s fees for the remaining services and the time schedules shall be equitably adjusted. If the Client suspends the Project for more than 90 cumulative days for reasons other than the fault of Huitt-Zollars, Inc., Huitt-Zollars, Inc. may terminate this Agreement by giving not less than seven days' written notice.

Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

#### **8. ADDITIONAL SERVICES**

Any services beyond those specified herein will be provided for separately under a mutually agreed upon Scope of Services, Additional Fees and Schedule and an additional written authorization from the Client.

#### **9. GOVERNING LAW AND JURISDICTION**

The laws of the State where the Project is located will govern the validity of this Agreement, its interpretation and performance without regard to any conflict of law's provisions, which may apply the laws of other jurisdictions.

#### **10. HAZARDOUS MATERIALS--SUSPENSION OF SERVICES**

Both parties acknowledge that Huitt-Zollars, Inc.'s scope of services does not include any services related to the discovery of or presence of any hazardous or toxic materials. In the event Huitt-Zollars, Inc. or any other party encounters any hazardous or toxic materials, or should it become known to Huitt-Zollars, Inc. that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of Huitt-Zollars, Inc.'s services, Huitt-Zollars, Inc. may, at its sole option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the Client retains appropriate consultants or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations.

#### **11. CONSTRUCTION OBSERVATION**

If Construction Phase Services are part of this Agreement, Huitt-Zollars, Inc. shall visit the site at intervals agreed to in writing by the Client and Huitt-Zollars, Inc. in order to observe the progress and quality of the portion of the Work that is the subject of this Agreement completed by the Contractor. Such visits and observation are not intended to be an exhaustive check or a detailed inspection of the Contractor's work but rather are to allow Huitt-Zollars, Inc. to become generally familiar with the Work in progress and to determine, in general, if the portion of the Work that is the subject of this Agreement is proceeding in accordance with the Contract Documents. Based on these general observations, Huitt-Zollars, Inc. shall keep the Client informed about the progress of the Work and shall endeavor to guard the Client against deficiencies in the Work.

If the Client desires more extensive project observation or fulltime project representation, the Client shall request that such services be provided by Huitt-Zollars, Inc. as Additional Services in accordance with the terms of this Agreement. Huitt-Zollars, Inc. shall not supervise, direct or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures

Fort Bend County 2020 Mobility Projects - 20408 Mc Kaskle Road  
June 11, 2021

selected by the Contractor nor for the Contractor's safety precautions or programs in connection with the Work. These rights and responsibilities are solely those of the Contractor in accordance with the Contract Documents. Huitt-Zollars, Inc. shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. Huitt-Zollars, Inc. does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

**12. JOBSITE SAFETY**

Neither the activities of Huitt-Zollars, Inc., nor the presence of Huitt-Zollars, Inc. or its employees and subconsultants at a construction/project site, shall relieve the General Contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the Work in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. Huitt-Zollars, Inc. and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. The CLIENT agrees that the General Contractor shall be solely responsible for jobsite safety, and warrants that this intent shall be carried out in the Client's contract with the General Contractor.

The Client also agrees that the Client, Huitt-Zollars, Inc. and Huitt-Zollars, Inc.'s subconsultants shall be indemnified by the General Contractor and shall be made additional insureds under the General Contractor's policies of general liability insurance. The Client shall furnish to Huitt-Zollars, Inc. certificates of insurance from the General Contractor evidencing the required coverage specified above. The certificates shall include a provision that Huitt-Zollars, Inc. shall receive thirty (30) days minimum written notification in the event of cancellation, non-renewal or material change of coverage. Proof of such insurance in the form of a standard Accord certificate shall be sent to the Client and Huitt-Zollars, Inc. prior to the General Contractor commencement of construction.

**13. RIGHT TO RELY ON CLIENT-PROVIDED INFORMATION**

Client shall be responsible for, and Huitt-Zollars, Inc. may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Client or any of its other consultants (collectively the Client) to Huitt-Zollars, Inc. Huitt-Zollars, Inc. may use such requirements, programs, instructions, reports, data, plans and information in performing or furnishing services under this Agreement. Any increased costs incurred by Huitt-Zollars, Inc. due to changes in or the incorrectness of information provided by the Client shall be compensable to Huitt-Zollars, Inc. as Additional Services.

**14. OWNERSHIP OF INSTRUMENTS OF SERVICE**

Huitt-Zollars, Inc. and its consultants shall be deemed the author and owner of the Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of Huitt-Zollars, Inc. and its consultants.

Huitt-Zollars, Inc. grants to the Client a nonexclusive license to use Huitt-Zollars, Inc.'s Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Client substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 5. The license granted under this section permits the Client to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Client's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If Huitt-Zollars, Inc.

Fort Bend County 2020 Mobility Projects - 20408 Mc Kaskle Road  
June 11, 2021

rightfully terminates this Agreement for cause, including but not limited to non-payment of all sums rightfully due, the license granted in this Article 14 shall terminate.

In the event the Client uses the Instruments of Service without retaining Huitt-Zollars, Inc. and its consultants, the Client releases Huitt-Zollars, Inc. and its consultants from all claims and causes of action arising from such uses. The Client, to the extent permitted by law, further agrees to indemnify and hold harmless Huitt-Zollars, Inc. and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Client's use of the Instruments of Service under this Article 14. The terms of this Article 10 shall not apply if the Client rightfully terminates this Agreement for cause under Article 7.

Except for the licenses granted in this Article 14, no other license or right shall be deemed granted or implied under this Agreement. The Client shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of Huitt-Zollars, Inc. Any unauthorized use of the Instruments of Service shall be at the Client's sole risk and without liability to Huitt-Zollars, Inc. and its consultants.

The provisions of this Article 14 shall survive the termination of this Agreement.

**15. SEVERABILITY**

Any term or provision of this Agreement found to be invalid under any applicable statute or rule of law shall be deemed omitted and the remainder of this Agreement shall remain in full force and effect.

**16. ASSIGNMENT**

Neither party to this Agreement shall transfer, sublet or assign any rights or duties under or interest in this Agreement, including but not limited to monies that are due or monies that may be due, without the prior written consent of the other party. Subcontracting to subconsultants, normally contemplated by Huitt-Zollars, Inc. as a generally accepted business practice, shall not be considered an assignment for purposes of this Agreement.

**17. INSURANCE**

Huitt-Zollars, Inc. shall maintain the following insurance until termination of this Agreement EXCEPT Professional Liability as defined below:

- Commercial General Liability with policy limits of One Million Dollars (\$1,000,000) for each occurrence and Two Million (\$2,000,000) in the aggregate for bodily injury and property damage.
- Automobile Liability covering vehicles owned, and non-owned vehicles used by Huitt-Zollars, Inc. with a policy limit of One Million Dollars (1,000,000) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.
- Workers' Compensation at statutory limits.
- Professional Liability covering negligent acts, errors and omissions in the performance of Huitt-Zollars, Inc. services with a limit of One Million Dollars (\$1,000,000) per claim and Two Million Dollars (\$2,000,000) in the aggregate. Huitt-Zollars, Inc. shall maintain this professional liability insurance during the term of this Agreement and, as reasonably commercially available, for three (3) years after the Date of Substantial Completion of the construction of the portion of the Work which is the subject of this Agreement, if applicable.

Fort Bend County 2020 Mobility Projects - 20408 Mc Kaskle Road  
June 11, 2021

- **Additional Insured Obligations.** To the fullest extent permitted by law, Huitt-Zollars, Inc. shall cause the policies for Commercial General Liability and Automobile Liability to include the Client as an additional insured for claims caused in whole or in part by Huitt-Zollars, Inc. negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Client's insurance policies and shall apply to both ongoing and completed operations.
- If requested, Huitt-Zollars, Inc. shall provide certificates of insurance to the Client that evidence compliance with the requirements in this Section 17.

**18. COMPLIANCE WITH LAWS**

Huitt-Zollars, Inc. shall exercise the reasonable standard of care to comply with requirements of all applicable codes, regulations, and current written interpretation thereof published and in effect during the performance of our services. In the event of changes in such codes, regulations or interpretations during the course of the Project that were not and could not have been reasonably anticipated by Huitt-Zollars, Inc. and which result in a substantive change to the construction documents, Huitt-Zollars, Inc. shall not be held responsible for the resulting additional costs, fees or time, and shall be entitled to reasonable additional compensation for the time and expense of responding to such changes.

**19. DISPUTE RESOLUTION**

If any claim or dispute cannot be resolved between the Project Managers for the parties, or through negotiations between the chosen executives of each of the parties, then the parties shall attempt to resolve the dispute through non-binding mediation and shall be administered by the American Arbitration Association in accordance with the Construction Industry Mediation Procedures in effect on the date of this Agreement. The non-binding mediation process is agreed to be a condition precedent to the right of either party to initiate litigation as a means of resolving any dispute under this Agreement.

The costs and expenses of the Mediator shall be shared equally by the parties. If the matter has not been resolved utilizing the processes set forth above and the parties are unwilling to accept the non-binding decision of the Mediator, either or both parties may elect to pursue resolution through litigation. **IT IS FURTHER AGREED THAT ANY LEGAL ACTION BETWEEN THE CLIENT AND HUITT-ZOLLARS, INC. ARISING OUT OF THIS AGREEMENT OR THE PERFORMANCE OF THE SERVICES SHALL BE BROUGHT IN A COURT OF COMPETENT JURISDICTION IN THE COURTS OF THAT STATE WITHOUT A JURY.**

**20. CONFIDENTIALITY**

Huitt-Zollars, Inc. recognizes Client's interests in its confidential financial, programming, operational, and strategic information. Accordingly, Client will designate documents or transmittals of such information as confidential or proprietary and Huitt-Zollars, Inc. shall segregate and not disclose such documents or transmittals or the specific content therein to any third parties except only as authorized by Client, required by law, for public health or safety, or after the information otherwise becomes publicly available through other sources.

**21. USE OF SUBCONSULTANTS**

Huitt-Zollars, Inc. may employ such consultants, engineers, or other subcontractors (collectively, "Subconsultants") as it deems necessary or advisable in the performance of its obligations hereunder; provided Huitt-Zollars, Inc. must obtain Client's prior written consent to the use of each Subconsultant, which consent shall not be unreasonably withheld. Huitt-Zollars, Inc. will require each Subconsultant to be bound to Huitt-Zollars, Inc. by the terms of this Agreement to the same extent that Huitt-Zollars, Inc. is bound to Client, and each subcontract will expressly incorporate the terms of this Agreement by reference.

Fort Bend County 2020 Mobility Projects - 20408 Mc Kaskle Road  
June 11, 2021

**23. THIRD-PARTY BENEFICIARIES**

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or Huitt-Zollars, Inc. Huitt-Zollars, Inc.'s services under this Agreement are being performed solely for the Client's benefit, and no other party or entity shall have any claim against Huitt-Zollars, Inc. because of this Agreement or the performance or nonperformance of services hereunder. The Client and Huitt-Zollars, Inc. agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this Project to carry out the intent of this provision.

**24. AUTHORITY TO EXECUTE THIS AGREEMENT:**

In executing this Agreement, Huitt-Zollars and Subconsultant each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate authority to execute this Agreement, and perform the Services described herein.

**25. COUNTERPARTS, ELECTRONIC SIGNATURES**

This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file or the like, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

**26. LIMITATION OF LIABILITY**

**TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY, IN THE AGGREGATE, OF HUITT-ZOLLARS, INC. AND ITS OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS, TO CLIENT, AND ANYONE CLAIMING THROUGH OR UNDER CLIENT, FOR ANY CLAIMS, LOSSES, COSTS, OR DAMAGES WHATSOEVER ARISING OUT OF, RESULTING FROM OR IN ANY WAY RELATING TO THIS PROJECT OR AGREEMENT, FROM ANY CAUSE OR CAUSES, INCLUDING BUT NOT LIMITED TO TORT (INCLUDING NEGLIGENCE AND HUITT-ZOLLARS, INC. ERRORS AND OMISSIONS), STRICT LIABILITY, BREACH OF CONTRACT, OR BREACH OF WARRANTY, SHALL NOT EXCEED THE COMPENSATION RECEIVED BY HUITT-ZOLLARS, INC.**

Fort Bend County 2020 Mobility Projects - 20408 Mc Kaskle Road  
June 11, 2021

**AUTHORIZATION:**

Should this proposal meet with your approval and acceptance, please sign and return this proposal for our signature. We will schedule the above services as soon as we receive your written authorization. If you have any questions, please call.

Sincerely,

**HUITT-ZOLLARS, INC.**



Chaitanya Kasturi, P.E. , PMP, ENV SP  
Project Manager / Vice President



Daniel R. Menendez, P.E., PWLF  
Vice President

Enclosure

**Accepted and Approved for  
Owner**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name)

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

\_\_\_\_\_  
(Date)

# HUNT-ZOLLARS PROJECT BUDGET WORKSHEET - Houston 2021

Client: Fort Bend County  
 Project Name: 20408 Mc Kaskie Road  
 Contract No.:  
 Project No.:  
 PM  
 PIC

Date: 6/11/2021  
 Project Number: #VALUE!  
 Project Template:  
 Labor Code Schedule: HO21

Labor Code	Labor Classification	Hourly Rate	Phase Number 1				Phase Number 2		RMB	TOTAL HOURS	TOTAL BUDGET
			Column Total	Column Total	Column Total	Column Total	Column Total	Column Total			
SPM	Sr. Project Manager	\$ 235.00	4	2	40	2	1	1	9	\$ 2,115.00	
SMX	Survey Manager	\$ 210.00	8	10	40	2	4	4	72	\$ 15,120.00	
SPS	Sr. Project Surveyor	\$ 190.00							0	\$ -	
PSX	Project Surveyor	\$ 150.00	16	16	60	12	24	16	160	\$ 24,000.00	
SIX	Surveyor Intern	\$ 115.00							0	\$ -	
STX	Survey Technician	\$ 120.00	20	52	96	40	16	8	232	\$ 27,840.00	
SCI	1-Person Survey Crew	\$ 100.00							0	\$ -	
SC2	2-Person Survey Crew	\$ 160.00					64	16	120	\$ 19,200.00	
SM2	2-Person Survey Member	\$ -							0	\$ -	
SC3	3-Person Survey Crew	\$ 180.00	60	48	26				134	\$ 24,120.00	
SM3	3-Person Survey Member	\$ -							0	\$ -	
GC1	1-Person Survey Crew-GPS	\$ -							0	\$ -	
GC2	2-Person Survey Crew-GPS	\$ -							0	\$ -	
GM2	2-Person Survey Member-GPS	\$ -							0	\$ -	
GC3	3-Person Survey Crew-GPS	\$ -							0	\$ -	
GM3	3-Person Survey Member-GPS	\$ -							0	\$ -	
PSS	Senior Project Support	\$ 100.00							0	\$ -	
PRO	Project Support	\$ 80.00	4	12	16	4	4	4	44	\$ 3,520.00	
	Total Manours per Phase/Task		112	140	238	58	97	77	771		
	HZ Labor per Phase/Task	\$ 18,540.00	\$ 20,810.00	\$ 34,880.00	\$ 7,340.00	\$ 15,235.00	\$ 11,795.00	\$ 7,315.00		\$ 115,915.00	
	Direct Expenses (Distribute among Phases/Tasks as applicable)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	
	Direct Consultants (Distribute among Phases/Tasks as applicable)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	
	RMB Expenses	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 2,000.00	
	RMB Consultants (Distribute among Phases/Tasks as applicable)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	
	Total Fee per Phase/Task	\$ 18,540.00	\$ 20,810.00	\$ 34,880.00	\$ 7,340.00	\$ 15,235.00	\$ 11,795.00	\$ 7,315.00		\$ 117,915.00	
	CONTRACT SUM									\$ 117,915.00	

# HUITT-ZOLLARS

## Houston

2021

### HOURLY RATE SHEET

#### Engineering/Architecture

Principal	\$ 255.00
Design Principal	\$ 235.00
Sr. Project Manager	\$ 235.00
QA Manager	\$ 230.00
Project Manager	\$ 205.00
Sr. Civil Engineer	\$ 205.00
Sr. Structural Engineer	\$ 205.00
Sr. Mechanical Engineer	\$ 190.00
Sr. Electrical Engineer	\$ 190.00
Civil Engineer	\$ 185.00
Structural Engineer	\$ 185.00
Mechanical Engineer	\$ 165.00
Electrical Engineer	\$ 165.00
Plumbing Engineer	\$ 150.00
Engineer Intern	\$ 140.00
Sr. Architect	\$ 195.00
Architect	\$ 160.00
Architect Intern 1	\$ 100.00
Architect Intern 2	\$ 120.00
Architect Intern 3	\$ 150.00
Sr. Landscape Architect	\$ 185.00
Landscape Architect	\$ 155.00
Landscape Architect Intern	\$ 110.00
Sr. Planner	\$ 250.00
Planner	\$ 160.00
Planner Intern	\$ 100.00
Sr. Designer	\$ 155.00
Designer	\$ 130.00
Sr. CADD Technician	\$ 140.00
CADD Technician	\$ 100.00

#### Interior Design

Sr. Interior Designer	\$ 150.00
Interior Designer	\$ 120.00
Interior Designer Intern	\$ 90.00

#### Survey

Survey Manager	\$ 210.00
Sr. Project Surveyor	\$ 190.00
Project Surveyor	\$ 150.00
Survey Technician	\$ 120.00

#### Survey Crews

1-Person Survey Crew	\$ 100.00
2-Person Survey Crew	\$ 160.00
3-Person Survey Crew	\$ 180.00

#### Construction

Construction Manager	\$ 190.00
Resident Engineer	\$ 185.00
Sr. Project Representative	\$ 135.00
Representative	\$ 100.00

#### Administrative

Sr. Project Support	\$ 100.00
Project Support	\$ 80.00

#### Reimbursable Expenses

Consultants	Cost + 10%
Other Direct Costs	Cost + 10%
Mileage	IRS Standard Business Mileage Rate

Proposal No. PHA21-067-00  
July 15, 2021

## Exhibit E

Mr. David Migl, P.E.  
Neel-Schaffer, Inc.  
13430 Northwest Freeway, Suite 650  
Houston, Texas 77040

**RE: Proposal for Geotechnical Engineering Services  
Fort Bend County – 2020 Mobility Bond Program  
Project 20408 – Mc-Kaskle Road Improvements  
From Old Richmond Road to State Highway 6  
Fort Bend County, Texas**

Dear Mr. Migl:

**Raba Kistner Consultants, Inc. (RKCI)** is thankful for having been selected by Fort Bend County (OWNER) as a member of the project's design team to provide Geotechnical Engineering Services to Neel-Schaffer, Inc., (CLIENT) for the above-referenced project. As such, **RKCI** is pleased to submit this proposal to CLIENT for the services described herein. The broad objectives of our study will be to explore subsurface conditions within the limits of the subject project and to provide foundation and pavement recommendations for the design and construction of a new traffic signal, rigid pavement and associated drainage. The geotechnical investigation will comply with the requirements in the *Fort Bend County Engineering Department Mobility Bond Program Design Manual* (Draft 2019). 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**

The overall project scope includes a study, design, and bid phase engineering services to be provided by CLIENT for the reconstruction of an approximately 3,400-foot long, existing 2-lane asphalt roadway into a new, 3-lane concrete pavement roadway with associated curb & gutter and storm sewer drainage project to be located along Mc Kaskle Road, From Old Richmond Road to State Highway 6. The project will also include intersection improvements at State Highway 6. In addition, drainage improvements could require a new inline detention basin on the south side of Mc Kaskle Road. The detention area will be approximately 7.5 acres. The geotechnical study for the proposed detention basin is included in this proposal as Additional Services.

The purpose of our geotechnical engineering study will be to determine subsurface conditions along the existing road alignment and to develop geotechnical engineering recommendations for the design of new rigid pavement and storm sewer lines (anticipated trench depth to be 10 to 15 ft below grade), as well as to provide foundation recommendations for a new T-shaped traffic signal at State Highway 6. The following sections of this proposal

Proposal No. PHA21-067-00  
July 15, 2021

further describe our proposed geotechnical scope of services. The Equivalent Single Axle Load (ESAL) value will be calculated based on Ft. Bend County's standard pavement design consisting of 8 inches of concrete underlain by 8 inches of lime-treated subgrade.

### Field Study

**RKCI** and the design team performed site reconnaissance on May 3, 2021. Based on the project's alignment, estimated storm sewer line depths, and new traffic signals, we propose to conduct the following drilling scheme in order to assess subsurface conditions along the proposed road alignment.

#### Basic Services

Proposed Improvements	Number of Borings	Depth, ft <sup>(1)</sup>	Total Depth, ft
New Road w/Storm Drainage	7	25	175
Traffic Signal	2	35	70
<b>Total Drilling Footage</b>			<b>245</b>

1. Below the existing ground surface elevation.

#### Additional Services

Proposed Improvements	Number of Borings	Depth, ft <sup>(2)</sup>	Total Depth, ft
Inline Detention Basin	6	15	90
<b>Total Drilling Footage</b>			<b>90</b>

2. Below the existing ground surface elevation.

The new road borings use a spacing interval of approximately 500-ft in accordance with Chapter 8 – Geotechnical Investigations (Fort Bend County Engineering Department *Engineering Design Manual* [Draft August 2020 Edition]).

**Additional Services** - The 7.5-acre detention tract is heavily wooded and clearing will be needed to access the boring locations. The cost for subcontracting a dozer is included in the fee estimate for Additional Services. The detention basin borings quantities and depths conform to Fort Bend County Engineering Department *Engineering Design Manual* (Draft August 2020 Edition) criteria.

**RKCI** will perform the necessary One-Call notifications prior to beginning the field drilling activities. The borings will be located in the field using recreational grade GPS and/or by pacing distances from known landmarks or reference points. Our scope of services and cost do not include surveying of the boring locations. However, **RKCI** recommends that the final boring locations be surveyed in the field by the CLIENT or their representative.

Traffic control will be required to safely route traffic around the drilling crew during the field work activities of the traffic signal boring. **RKCI** will provide off-duty police officers and/or other certified traffic subcontractor to perform traffic control duties.

Proposal No. PHA21-067-00

July 15, 2021

The field work will be conducted using standard geotechnical drilling and sampling procedures. The soil borings will be sampled continuously to 15 feet and at 5-ft intervals thereafter. Samples will be taken using conventional split-spoon and/or Shelby tube sampling techniques in general accordance with applicable American Society for Testing and Materials (ASTM) standards. Representative portions of the samples will be sealed, identified, packaged, and transported to our laboratory for subsequent testing and classification.

Water level readings will be recorded for the open boreholes during drilling and at drilling completion. If free water is encountered during drilling, the **RKCI** geologist will temporarily suspend drilling operations and obtain water level measurements in the open borehole at 5 minute intervals over a 15 minute time interval. Water level measurements will also be recorded at completion of drilling prior to backfilling the boreholes with the auger cuttings and spoils generated during the drilling operations. The pavement section will then be plugged and sealed with ready-mix concrete or non-shrink grout mixture and flushed with the adjacent ground/pavement surface elevation.

### **Laboratory Testing**

Upon completion of the subsurface exploration, a general testing program will be designed to define the moisture condition, classification, strength, and shrink/swell characteristics of the subsurface soil samples. The laboratory testing program is anticipated to include moisture content determinations, Atterberg Limits, percent passing No. 200 sieve, grain size analyses, unit dry weights, unconfined compressive strength tests, and corrosivity tests (to include electrical resistivity, pH, sulfate, and chloride content determinations). However, the actual 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 and samples will be kept for 30 days upon submittal of the final report.

### **Engineering Analyses and Report**

The results of the field and laboratory studies 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 draft geotechnical report which will be finalized after we receive CLIENT comments. The Geotechnical Engineering Report may also include the following information and recommendations:

- 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 the site, the subsurface stratigraphy, groundwater conditions, and the presence and condition of fill materials, if encountered.
- Signal foundation design considerations and recommendations, including:
  - expansive, soil-related movements using an empirical method for predicting Potential Vertical Rise (PVR) developed by TxDOT;
  - foundation recommendations for straight-sided drilled piers;
  - allowable axial capacity;
  - LPILE soil parameters for lateral response analysis (performed by others);
  - settlement estimations, where applicable; and
  - groundwater considerations.

Proposal No. PHA21-067-00

July 15, 2021

- Storm sewer line construction considerations, including
  - trench safety for open and braced excavations;
  - groundwater control; and
  - bedding and backfill requirements in accordance with Fort Bend County specifications.
- Pavement subgrade preparation and treatment;
- Rigid pavement design in accordance with the 1993 AASHTO Design Manual;
- Desktop fault review.
- Seismic region condition evaluations.

As mentioned previously, the ESAL value will be calculated based on Ft. Bend County's standard pavement design consisting of 8 inches of concrete underlain by 8 inches of lime-treated subgrade.

**Additional Services** - The Geotechnical Engineering Report may also include the following information and recommendations:

- Detention pond side slopes gradient and erosion control
- Slope stability analyses if basin depth is greater than 5 feet
- Soil dispersion potential
- Desktop fault study

Our scope of work does not include a geologic fault study nor does it include conducting test pits at the site. Since site grading plans can result in changes in the foundation and pavement subgrade conditions, final site grading plans will be helpful information in the preparation of engineering recommendations. In the absence of final site grading information, we will prepare recommendations based on the existing ground surface elevations. Also, specific information concerning anticipated traffic loadings and frequencies to be provided by the CLIENT for the pavement areas will be critical in the computation of the pavement sections.

Electronic copies of the draft geotechnical report and final geotechnical report will be provided.

### **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 five working days of receiving written authorization to proceed, provided that the site is accessible to our truck-mounted drill rigs and the CLIENT has supplied us with all available information regarding existing utilities and below-grade structures along the existing road alignment (if any). The field exploration and laboratory testing phases of the study are expected to take approximately ten working days to complete. The engineering report will be submitted within an additional ten 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.

**Additional Services** - The field exploration phase of this study can begin within five working days of receiving written authorization to proceed. Clearing access paths to the boring locations will require one day complete and drilling using an all-terrain buggy-mounted drill rig will require two days to complete. The laboratory testing phase of the study is expected to take approximately ten working days to complete. The engineering report will be submitted within an additional ten working days following completion of the laboratory testing. The above schedule does not account for delays due to inclement weather.

Proposal No. PHA21-067-00  
July 15, 2021

### **Lump Sum Cost**

The total lump sum cost for the Road improvements (**Basic Services**) study outlined herein is \$20,600. The lump sum cost to conduct the study for a new detention pond (**Additional Services**) is \$12,750. Should unusual subsurface conditions be encountered in the field that indicates the desirability of significantly broadening the scope of the 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 the attached Schedule of Fees for Professional Services.

**RKCI** has been provided with an illustration of the limits of the subject project. Our scope of services and cost assumes that the boring locations will be accessible to truck-mounted drilling rigs with the vehicles and crew protected by a subcontracted traffic control firm consisting of lane closures and utilizing standard warning signs, cones, and/or off-duty law enforcement personnel to alert the traveling public of work ahead.

Further, **RKCI** will take reasonable efforts to locate underground utilities prior to performing any underground exploration activities by contacting the local "one call" utility locating service for commercial utility companies (such as natural gas, electric, water, etc.) to locate and mark in the field all utilities within the limits of the subsurface exploration activities. **RKCI** will not be responsible for any damage to utilities not properly located by the aforementioned method or to any utility not located by the aforementioned method but encountered and damaged during the subsurface exploration process. If during project execution **RKCI** feels that there exists a possibility of un-located or improperly located utilities, **RKCI** will notify CLIENT and discuss additional utility locating services and processes to reduce the probability of encountering a utility to acceptable levels. The cost of such additional utility locating services will be an additional charge and will not be done until approved by the CLIENT via additional work by supplemental agreement.

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

It should also be noted that our study scope (and project cost) do include up to 8 hours of professional time for participation in design team meetings. If additional participation time is needed, the additional professional time will be billed at our standard billing rates for professional time plus expenses.

### **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:

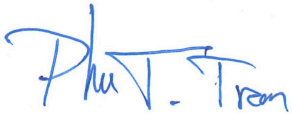
<u>Attachment</u>	<u>Description</u>
I	Standard Terms and Conditions
II	Schedule of Fees

Proposal No. PHA21-067-00  
July 15, 2021

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.

**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 of any purpose other than to evaluate this proposal.

Very truly yours,  
**RABA KISTNER CONSULTANTS, INC.**



Phu Tran, P.E.  
Project Engineer



John D. Brown  
Manager, Geotechnical Services

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

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

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

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

Copies submitted:      Above (1)

Attachments

PT/JDB/dar



## STANDARD TERMS AND CONDITIONS

### 1. Definitions.

**1.1 RK.** Raba Kistner, Inc., and / or one of its subsidiaries (Project Control of Texas, Inc. or PC Sports, Inc.) that is being engaged to provide the services to CLIENT in connection with the delivery of the proposal to which these Standard Terms and Conditions relate.

**1.2 CLIENT.** Person, entity or organization for which RK is rendering services regarding the Project.

**1.3 PROJECT.** The activity, venture, plan, building, site or investigation for which CLIENT has engaged RK to provide professional services.

**1.4 CONTRACTOR.** Person, entity or organization providing construction services, including labor and material for the Project.

**1.5 SERVICES.** The professional services to be performed by RK as set forth in the proposal or Agreement to which the Standard Terms and Conditions are attached.

**1.6 AGREEMENT.** RK's proposal accepted by CLIENT and these Standard Terms and Conditions which are incorporated into and made a part of the Agreement.

2. **SERVICES.** RK 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.

3. **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.

4. **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.

5. **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.

6. **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 require 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 attempt to renegotiate the terms of the agreement affected by the changed conditions. If changes cannot be agreed to with respect to the changed conditions, the parties shall utilize the Dispute Resolution/Litigation procedures in this Agreement.

7. **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 CLIENT delegates such responsibility to Contractor) for notifying and scheduling RK to perform these services. RK shall not be responsible for the quality and completeness of contractor's work or Contractor's adherence to the project plans,

specifications and other related documents. RK's performance of testing and observation services shall not relieve Contractor in any way from responsibility for defects discovered in Contractor's work or create a warranty or guarantee on the part of RK. 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.

8. **ESTIMATE OF FEES FOR SERVICES.** If included as part of RK's proposal, RK will, to the best of its ability, perform the scope of 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 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 for all services provided, including retests of areas or samples that failed to meet Project specifications. The Estimate of Fees is valid for a period of 60 days after RK's proposal is submitted to CLIENT. If RK's proposal is not accepted by CLIENT within 60 days after it is submitted to CLIENT, RK may modify the Estimate of Fees.
9. **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 they are reproduced in their entirety. 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 of RK's reports shall be at the CLIENT's sole risk and without liability to RK.
10. **TOXIC AND HAZARDOUS MATERIALS.** CLIENT shall provide RK with all information within CLIENT's possession or knowledge related to the potential or presence of toxic or hazardous materials or pollutants at the Project 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 RK is performing its services, RK reserves the right to stop field operations and notify CLIENT and CLIENT assumes responsibility to notify appropriate regulatory agencies. RK and CLIENT must mutually agree to remobilize.
11. **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.

12. **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.
13. **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.
14. **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.
15. **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.
16. **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.
17. **SUSPENSION OF SERVICES.** If 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 CLIENT. RK shall have no liability whatsoever to CLIENT for any costs or damages as a result of such suspension. Upon payment in full by 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 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. CLIENT shall not make any changes to RK's banking and deposit information or payment instructions unless CLIENT communicates the requested changes to RK orally and in writing and obtains written confirmation from an RK officer that the requested changes are legitimate and authorized by RK. If CLIENT makes a payment to a third party instead of to RK based on an unauthorized request to CLIENT for a change to RK's banking and deposit information or payment instructions and without obtaining written confirmation of the change from RK, CLIENT will remain liable to RK for payment of the amount of the unauthorized payment.

18. **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.
19. **OWNERSHIP OF DOCUMENTS.** RK'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. 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 CLIENT WITHOUT THE WRITTEN AUTHORIZATION OF RK 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, RK shall make its permission contingent upon the satisfaction of certain conditions when, in RK's professional judgment, such a contingency is necessary.

20. **DISPUTE RESOLUTION/LITIGATION.** All claims, disputes, and other controversies 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. Any litigation related to the Agreement or RK's performance of its professional services shall be commenced in a court in Bexar County, Texas. CLIENT consents to personal jurisdiction in the State of Texas and agrees that venue of any litigation shall be in Bexar County, the county where RK's principal place of business is located. CLIENT waives any objection to personal jurisdiction in Texas or to venue in Bexar County. The prevailing party in such litigation will be entitled to recover all court costs, attorneys' fees, and other legally recoverable claim-related expenses. As a condition precedent to mediation and / or litigation related to any claim arising out of the services provided under this Agreement, CLIENT shall obtain a written affidavit from a registered, independent, and reputable professional engineer describing any error, omission or other act by RK that allegedly failed to comply with the professional standard of care applicable to RK's performance of services and provide such affidavit to RK. The affidavit shall comply with the requirements of Texas Civil Practice & Remedies Code Chapter 150.
21. **TERMINATION OF CONTRACT.** CLIENT and RK may terminate RK's 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 its services without waiving any claims against or incurring any liability to CLIENT.
22. **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.

23. **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.
24. **NO ASSIGNMENT.** Neither RK nor CLIENT shall assign or transfer its interest in this Agreement without the express written consent of the other.
25. **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 provisions the maximum permissible effect and application intended.
26. **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.

## Exhibit F

May 11, 2021

**PROPOSAL**

David Migl, PE  
Neel-Schaffer, Inc.  
13430 Northwest Freeway, Suite 650  
Houston, Texas 77040

Re: Mckaskle Road Signal Design and Signal Warrant Analysis  
LJA Proposal No. 21-2970

Dear Mr. Migl,

LJA Engineering, Inc. ("LJA") is pleased to provide this proposal to prepare and submit traffic signal design for the McKaskle Road at Old Richmond Road intersection in Ft Bend County, TX. This proposal includes the design services for signalization of the the proposed traffic signal and conducting a signal warrant analysis for SH 6 and Old Richmond Road intersections along McKaskle Road.

### **SCOPE OF SERVICES**

The scope of this project will be as follows:

#### **1. TRAFFIC SIGNAL DESIGN**

LJA shall prepare traffic signal design plans for McKaskle Road and Old Richmond Road intersection. Traffic signal plans shall be signed and sealed by a Professional Engineer, licensed in the State of Texas. Plan layouts shall be prepared at 1"= 100" scale, on 11"x17" drawings. The Engineer shall develop all quantities, general notes, specifications, and incorporate the appropriate agency standards required to complete construction.

The following information shall be provided in the Traffic Signal Plans:

1. Estimate and quantity sheet
  - (1) List of all traffic signal items and equipment
  - (2) Traffic signal items quantities
2. General notes and specification data
3. Plan sheet(s)
  - (1) Existing traffic control
  - (2) Existing utilities
  - (3) Proposed roadway plans

- (4) Proposed signing and pavement marking plans at the approaches to the intersection to be modified
- (3) Proposed illumination attached to signal poles
- (5) Location of the proposed power source
- (6) Proposed traffic signal equipment
- (7) Temporary Traffic Control (if applicable)
4. Proposed traffic signal details
  - (1) Signal equipment locations
  - (2) Signal phasing diagram
  - (3) Signal sequence table
  - (4) Signal wiring diagram
5. Construction detail sheets
  - (1) Poles
  - (2) Detectors
  - (3) Pull box and conduit
  - (4) Electrical details
  - (6) Traffic signal poles foundations

## **2. SIGNAL WARRANT ANALYSIS**

LJA will collect 12 hour turning movement counts at the for SH6 at McKaskle Road and at McKaskle Road /Old Richmond Road intersections and prepare and submit traffic signal warrant analysis. LJA will gather additional data such as crash data, etc. to aid the signal warrant analysis. LJA will coordinate with the TxDOT on behalf of the County to gather consensus.

## **3. COORDINATION AND AGENCY APPROVAL**

LJA will coordinate with the client, and Ft Bend County for approval of the traffic signal plan sheets. LJA will complete the project within twelve (12) weeks after the notice to proceed and a signed copy of the proposal is received from the client. The Ft Bend County review duration time varies, however, LJA anticipates receiving comments from them within eight (8) weeks after submitting the plans. LJA will revise the plans to address the comments within two (2) weeks and will submit a final signed and sealed copy of the plan set for Ft Bend County approval.

## **COMPENSATION**

Based upon the Scope of Work listed above, LJA proposes to provide these services for a lump sum price of \$40,854.00. The level of effort does not include obtaining a topographic survey of the two intersections and the roadway segment.

If this proposal meets with your approval, your signature below and on the attached Professional Services Agreement (PSA) will be sufficient authorization to commence the stated work.

LJA appreciates the opportunity to submit this proposal and look forward to working with you on completion of this project. If you have any questions, please feel free to call me at any time at 713.953.5053.

Sincerely,



Thirulokesh Krishnan, PE  
Senior Project Manager

TK/pa

Attachment:

**ACCEPTED BY NEEL-SHAFFER, INC.**

By: \_\_\_\_\_

Title: \_\_\_\_\_

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



## PROFESSIONAL SERVICES AGREEMENT

This Agreement prepared on May 11, 2021 is by and between Neel-Schaffer, Inc. with address at 13430 Northwest Freeway, Suite 650 ("Client") and LJA Engineering, Inc. ("LJA"), who agree as follows:

Client engages LJA to perform professional services (the "Services") for the compensation set forth in one or more proposals or work authorizations (the "Proposal(s)") for one or more projects (the "Project(s)"). LJA shall be authorized to commence the Services upon execution of the Proposal(s) by the Client. Client and LJA agree that this Agreement, the Proposal(s), and any attachments herein incorporated by reference (the "Agreement") constitute the entire agreement between them.

**I. LJA'S RESPONSIBILITIES:** LJA shall perform or furnish the Services described in the Proposals, which shall be combined and attached as part of this Agreement. Where the terms or conditions of any Proposal conflict with those of Parts I-III contained herein, the Proposal shall control for the Services performed under that Proposal only.

**II. CLIENT'S RESPONSIBILITIES:** Client, at its expense, shall do the following in a timely manner so as not to delay the Services:

**1. INFORMATION/REPORTS:** Furnish LJA with all information, reports, studies, site characterizations, advice, instructions, and similar information in its possession relating to the Project.

**2. REPRESENTATIVE / ACCESS:** Designate a representative for the Project who shall have the authority to transmit instructions, receive information, interpret and define Client's policies, and make decisions with respect to the Services, and provide LJA safe access to any premises necessary for LJA to provide the Services.

**3. DECISIONS:** Provide all criteria and full information as to requirements for the Project, obtain (with LJA's assistance, if applicable) necessary approvals and permits, attend Project-related meetings, provide interim reviews on an agreed-upon schedule, make decisions on Project alternatives, and participate in the Project to the extent necessary to allow LJA to perform the Services.

**III. COMPENSATION, BILLING, & PAYMENT:** Client shall pay LJA for Services as denoted in the applicable Proposal and in accordance with the standard rate schedule – Attachment B.

**IV. STANDARD TERMS AND CONDITIONS:** Attachment A.

The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing and each of the undersigned parties has caused this Agreement to be duly executed. This Agreement contains a limitation of liability clause and the Client has read and consents to all terms.

**APPROVED FOR "CLIENT"**  
**NEEL-SCHAFFER, INC**

**APPROVED FOR "LJA"**  
**LJA ENGINEERING, INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_ 

Printed Name: \_\_\_\_\_

Printed Name: Daniel J. C. Copps III, PE

Title: \_\_\_\_\_

Title: Senior Vice President

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

Attachments:  
A – Standard Terms and Conditions  
B – Standard Rate Schedule

## ATTACHMENT A STANDARD TERMS AND CONDITIONS

**1. STANDARD OF CARE.** Services shall be performed in accordance with the standard of professional practice ordinarily exercised by the applicable profession at the time and within the locality where the Services are performed. Professional services are not subject to, and LJA cannot provide, any warranty or guarantee, express or implied, including those contained in any uniform commercial code, proposal, work authorization, or requisition, except as provided herein.

**2. CHANGE OF SCOPE.** The scope of Services set forth in any Proposal is based on facts known at the time of execution of the Proposal, including, if applicable, Client Data (defined below). As the Project progresses, facts discovered, including, but not limited to, site conditions or the existence of differing subsurface or physical conditions, may indicate that the scope, pricing, or other terms must be redefined, and the parties shall reasonably cooperate to equitably adjust the scope, pricing, or terms of this Agreement accordingly.

**3. SAFETY.** LJA has established and maintains corporate programs and procedures for the safety of its employees. Unless included as part of the Services, LJA specifically disclaims any authority or responsibility for general job site safety and safety of persons other than LJA employees.

**4. DELAYS.** Where LJA is prevented from completing any part of the Services within the schedule provided under the Agreement due to delay beyond its reasonable control, the schedule will be extended in an amount of time equal to the time lost due to such delay so long as LJA provides written explanation of the delay to Client. Except with regard to payment of any amounts due LJA from any Services, neither party shall be liable to the other for any delays or failure to act, due to unforeseeable causes reasonably beyond the control of the party claiming such circumstances.

**5. TERMINATION/SUSPENSION.** Either party may terminate this Agreement upon thirty (30) days written notice to the other party. In the event of termination, Client shall pay LJA for all Services, including profit relating thereto, rendered prior to termination, plus any expenses of termination. In the event either party defaults in its obligations under this Agreement (including Client's obligation to make the payments required hereunder), the non-defaulting party may suspend performance under this Agreement. In the event of a suspension of Services, LJA shall have no liability to the Client for delay or damage caused the Client because of such suspension of Services. Before resuming Services, LJA shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of LJA's Services. LJA's fees for the remaining Services and the time schedules shall be equitably adjusted. Obligations under this Agreement, which by their nature would continue beyond the suspension or termination of this Agreement (e.g., indemnification), shall survive such suspension or termination.

**6. RELATIONSHIP WITH CONTRACTORS / REVIEW.** LJA shall serve as Client's professional representative for the Services, and may make recommendations to Client concerning actions relating to Client's contractors, but LJA specifically disclaims any authority to direct or supervise the means, methods, techniques, security or safety activities, personnel, compliance, sequences, or procedures of construction selected by Client's contractors. For Projects involving bid preparation, LJA may supply standard contract forms, templates, or other documents that will be executed between the Client and contractor(s). It is the Client's responsibility to review those documents and to obtain legal advice thereto. For Projects involving construction, Client acknowledges that under generally accepted professional practice, interpretations of construction documents in the field are normally required, and that performance of construction-related services by the design professional for the Project permits errors or omissions to be

identified and corrected at comparatively low cost. Evaluations of Client's budget for construction and estimates prepared by LJA represent LJA's judgment as a design professional. It is recognized, however, that neither LJA nor Client have control over the cost of labor, materials, or equipment, the contractor's methods of determining bid prices, or competitive bidding, market, or negotiating conditions. Accordingly, LJA cannot and does not warrant or represent that bids or negotiated prices will not vary from Client's budget or from any estimate of costs prepared or agreed to by LJA. Client agrees to hold LJA harmless from any claims resulting from performance of construction-related services by persons other than LJA and LJA shall not be responsible for the contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. In fulfilling its duties pursuant to the Agreement, Client permits LJA to elect to subcontract to others certain tasks in its scope of Services.

**7. INSURANCE.** LJA will maintain insurance coverage for Professional Liability, Commercial Liability, Auto, and Workers' Compensation in amounts in accordance with legal and business requirements. Certificates evidencing such coverage will be provided to Client upon request. For Projects involving construction, Client agrees to require its construction contractor, if any, to include LJA as an additional insured on its policies relating to the Project. LJA's coverages referenced above shall, in such case, be excess over any contractor's primary coverage. Client shall require its construction contractor to include LJA as an indemnitee under any indemnification obligation of contractor to Client to the fullest extent allowed by law.

**8. PROJECTS WITH MULTIPLE CLIENTS.** When LJA undertakes a Project for multiple Clients, each Client on the Project is jointly and severally liable for payments for LJA's Services. If any Client fails to make timely payment to LJA, and the remaining Clients wish to continue the Project, the remaining Clients will promptly notify LJA in writing to continue the Project and their joint and several obligations shall remain the same. LJA, at its option, may suspend the remaining performance under this Agreement until all past due payments are made and authorization to proceed and pay from all non-defaulting Clients is received, or continue work on the Project and invoice and collect from the remaining Clients any payment (including damages) of amounts past due and that become due.

**9. SITE CONDITIONS.** Hazardous, archaeological, paleontological, cultural, biological, or other materials, protected resources, unknown underground facilities, or other conditions ("Conditions") may exist at a site where there is no reason to believe they could or should be present. The Parties agree that the discovery of unanticipated Conditions constitutes a changed condition that may mandate a renegotiation of the scope of Services. LJA shall notify Client should unanticipated Conditions be encountered. Client retains title to all Conditions and shall report to the appropriate public agencies, as required, any Conditions that may present a potential danger to the public health, safety, or the environment. Client shall execute any manifests in connection with avoidance, containment, transportation, storage, or disposal of Conditions resulting from the site. Client waives any claim against LJA and shall indemnify, defend, and hold LJA harmless from or by reason of claims for injury or death to persons or damage to property to the extent arising from such Conditions, substance, element, material, or any combination of the foregoing produced, emitted, or released from the site or Project.

**10. INDEMNITY.** LJA shall indemnify and hold harmless Client from claims, costs, losses, or damage sustained by Client or its employees provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property, but only to the extent actually and

directly caused by LJA's failure to adhere to the standard of care described herein.

**11. LIMITATION OF LIABILITY.** No employee or agent of LJA shall have individual liability to Client. Client agrees that, to the fullest extent permitted by law, LJA's total liability to Client for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any causes including, but not limited to, LJA's negligence, errors, omissions, strict liability, or breach of contract, and whether claimed directly or by way of contribution, shall not exceed the total compensation received by LJA for the relevant work authorization or proposal under this Agreement. If Client desires a limit of liability greater than that provided above, Client and LJA shall include in Part III of this Agreement the amount of such limit and the additional compensation to be paid to LJA for assumption of such additional risk.

**12. CONSEQUENTIAL DAMAGES.** IN NO EVENT WILL LJA BE LIABLE TO THE CLIENT FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, SPECIAL, OR EXEMPLARY DAMAGES, INCLUDING LOST REVENUES, LOSS OF USE, LOSS OF FINANCING, LOSS OF REPUTATION, LOST PROFITS, DELAYS, OR OTHER ECONOMIC LOSS ARISING FROM ANY CAUSE INCLUDING BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER CAUSE WHATSOEVER, NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY. REGARDLESS OF LEGAL THEORY, LJA SHALL BE LIABLE ONLY TO THE EXTENT THAT ANY DAMAGES SPECIFIED HEREIN ARE FOUND BY A FINAL COURT OF COMPETENT JURISDICTION TO HAVE BEEN THE SEVERAL LIABILITY OF LJA. TO THE EXTENT PERMITTED BY LAW, ANY STATUTORY REMEDIES THAT ARE INCONSISTENT WITH THIS PROVISION ARE WAIVED.

**13. REUSE OF PROJECT DELIVERABLES.** Reuse of any documents or other deliverables, including electronic media, pertaining to the Project by Client for any purpose other than for which they were originally prepared, or alteration of such without the written verification or adaptation by LJA for the specific purpose intended, shall be at the Client's risk. All title blocks and the engineer's seal, if applicable, shall be removed if Client provides deliverables in electronic media to any third party. Any modification of the plans will be evidenced on the plans and be signed and sealed by a licensed professional prior to re-use of modified plans. Client agrees that relevant analyses, findings, and reports provided in electronic media shall also be provided in hard copy and that the hard copy shall govern in the case of a discrepancy between the two versions, and shall be held as the official set of drawings, as signed and sealed. Client shall be afforded a period of thirty (30) days to check the hard copy against the electronic media. In the event that any error or inconsistency is found during that time, LJA shall be advised and the inconsistency shall be corrected at no additional cost to Client. Following the expiration of this notice period, Client shall bear all responsibility for the care, custody, and control of the electronic media. In addition, Client represents that it shall retain the necessary mechanisms to read the electronic media. Client agrees to indemnify and hold harmless LJA from all claims, damages, and expenses (including reasonable litigation costs) arising out of such reuse or alteration by Client or others acting through Client.

**14. CLIENT DATA.** Client or any third party designated by Client may provide information, reports, studies, site characterizations, advice, instructions, and similar information in its possession relating to the Project ("Client Data"). LJA may reasonably and in good faith rely upon the accuracy of Client Data and unless described as part of the Services, LJA is not required to audit, examine, or verify Client Data. However, LJA will not ignore the implications of information furnished to LJA and may make reasonable inquiries if Client Data as furnished appears to be incorrect or incomplete. LJA makes no representations or warranties (express or implied) as the quality, accuracy, usefulness, or completeness of any Services to the extent LJA relies on Client Data. LJA, its affiliates, its officers, directors, and employees shall have no liability whatsoever with respect to the use of unreliable, inaccurate, or incomplete Client Data.

**15. ASSIGNMENT/BENEFICIARIES.** Neither party may assign this Agreement without the written consent of the other party. With the exception of such assignments, nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall inure to the benefit of, any third party, including Client's contractors, if any.

**16. AMENDMENT, NO WAIVER, SEVERABILITY.** This Agreement can be amended in writing and signed by the parties. No waiver by either party of any default by the other party in the performance of this Agreement shall invalidate any other section of this Agreement or operate as a waiver of any future default. The various terms, provisions, and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.

**17. INDEPENDENT PARTIES.** Each party is an independent entity and is not a partner, agent, principal, or employee of the other party, unless otherwise agreed to by the parties in writing. Nothing in this Agreement shall restrict or otherwise prohibit either party or their respective affiliates in the conduct of their businesses.

**18. STATUTE OF LIMITATION.** To the fullest extent permitted by law, the parties agree that, except for claims for indemnification, the time period for bringing claims under this Agreement shall expire one (1) year after Project completion.

**19. DISPUTE RESOLUTION.** The parties shall attempt to settle all claims, disputes, and controversies arising out of or in relation to the performance, interpretation, application, or enforcement of this Agreement, including, but not limited to, breach thereof, by discussion between the parties' management. If any dispute cannot be resolved in this manner, within five (5) business days, the parties agree to refer such claims, disputes, and controversies to mediation by a mediator mutually agreed to and equally paid for by the parties before, and as a condition precedent to, the initiation of any adjudicative action or proceeding, including arbitration. The mediator shall convene the mediation within ten (10) business days of the request of either party, and the mediation will last at such times and as long as the mediator reasonably believes agreement is probable. The parties agree that an officer of each entity with complete authority to resolve the dispute shall attend the mediation. Notwithstanding the foregoing, prior to or during negotiation or mediation, either party may initiate litigation that would otherwise become barred by a statute of limitation, and LJA may pursue, at any time and without invoking dispute resolution as provided herein, any property liens or other rights it may have to obtain security for the payment of its invoice. In the event any actions are brought to enforce this Agreement, the prevailing party shall be entitled to collect its litigation costs and reasonable attorney's fees from the other party.

**20. LITIGATION SUPPORT.** LJA will not be obligated to provide expert witness or other litigation support related to its Services, unless expressly agreed in writing. In the event LJA is required to respond to a subpoena, inquiry, or other legal process related to the Services in connection with a proceeding to which LJA is not a party, Client will reimburse LJA for its costs and compensate LJA at its then standard rates for the time it incurs in gathering information and documents and attending depositions, hearings, and the like.

**21. GOVERNING LAW.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Texas without giving effect to any conflict or choice of law rules or principles under which the law of any other jurisdiction would apply. Each party hereby submits to the jurisdiction of the federal and state courts located in the county of LJA's address and agrees that such courts shall be exclusive forum and venue for resolving any legal suit, action or proceeding arising out of or relating to this Agreement.

Ver.21JUL2020

