



City of League City, TX

300 West Walker
League City TX 77573

Text File

File Number: 17-0393

Agenda Date: 6/27/2017

Version: 1

Status: Consent Agenda

In Control: Public Works

File Type: Agenda Item

Agenda Number: 10E.

Title

Consider and take action on a resolution authorizing a professional services agreement with Jackson & Ryan Architects to perform the Engineering Design and Construction Phase Services related to the Animal Shelter Project (PD1502) in an amount not to exceed \$650,000 (Director of Public Works)

..Background:

Approval of this resolution will authorize a professional services agreement with Jackson & Ryan Architects to perform the Engineering Design and Construction Phase Services related to the Animal Shelter Project (PD1502) in an amount of \$650,000.

The scope of this project includes engineering design, construction phase services, geotechnical engineering services, and surveying services associated with the construction of a new Animal Shelter on an 8.06-acre tract of land immediately southwest of the Public Safety Building.

Jackson & Ryan Architect's proposal to perform the preliminary engineering, engineering design, and construction phase services not to exceed \$650,000, includes the following:

Attachments:

1. Data Sheet
2. Proposed Resolution
3. Exhibit A - Professional Services Agreement
4. Proposal with Attachments
5. CIP Program Sheet
6. Aerial Map

CONTRACT ORIGINATION: The resolution and professional services agreement have been reviewed and approved as to form by the City Attorney.

FUNDING

{ } NOT APPLICABLE

{X} Funding is available from 2017 Certificates of Obligation with expenses charged to PD1502-PLAN DESIG-DESIGN 2-2017 CO

{ } Requires Budget Amendment to transfer from Account # _____ to Account # _____

Resolution No. 2017-107

APPROVED

JUN 27 2017

CITY COUNCIL

RESOLUTION NO. 2017-107

A RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH JACKSON & RYAN ARCHITECTS TO PERFORM THE ENGINEERING DESIGN AND CONSTRUCTION PHASE SERVICES RELATED TO THE ANIMAL SHELTER PROJECT (PD1502) IN AN AMOUNT NOT TO EXCEED \$650,000

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LEAGUE CITY, TEXAS, as follows:


Section 1. The City authorizes a professional services agreement in substantially the same form as Exhibit A, which is attached and incorporated herein, with Jackson & Ryan Architects to perform the Engineering Design and Construction Phase Services related to the Animal Shelter Project (PD1502) in an amount not to exceed \$650,000.

Section 2. The City Manager or his designee is authorized to execute all documents necessary to complete this transaction.

Section 3. All resolutions and agreements and parts of resolutions and agreements in conflict herewith are hereby repealed to the extent of the conflict only.

Section 4. It is hereby found and determined that the meeting at which this resolution was passed was open to the public and that advance public notice of the time, place and purpose of said meeting was given as required by law.

PASSED AND APPROVED the 27th day of June, 2017.


PAT HALLISEY
Mayor

ATTEST:


DIANA M. STAPP
City Secretary

APPROVED AS TO FORM:


NGHIEM V. DOAN
City Attorney

AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF GALVESTON §

This agreement ("Agreement") entered into by and between Jackson & Ryan Architects (hereinafter "Professional") and the City of League City, Texas (the "City"), a Texas home-rule city.

1. Scope of Services/Professional Fees/Reimbursable Costs

This Agreement authorizes the Professional to perform professional architectural services for the New Animal Shelter, PD1502, ("Work") for and on behalf of the City. The following exhibits and appendix are attached to this Agreement and made a part hereof for all purposes.

Exhibit "A" - Professional's proposal dated 6/14/17 which discusses Professional's project understanding, scope of services, preliminary opinion of cost, schedule of hourly rates, schedule of reimbursable expenses, fee breakdown, and project schedule.

Professional shall not exceed the estimated cost or fees for any phase of the Work, including reimbursable costs, without written authorization from the City.

2. Professional's Personnel and Sub-Consultants

b. Project Manager

Professional shall designate Martha Seng, FAIA to serve as Project Manager for the Work performed under this Agreement. Any change of Project Manager shall require thirty days' advance written approval from the City's Representative.

b. Licensed and Registered Architects

Professional shall keep a full-time registered architect licensed in the state of Texas on staff for the duration of its performance of the Work.

c. Professional's Employees

Prior to beginning the Work, Professional shall forward to the City, detailed resumes of the personnel to be assigned to the Work.

b. Rejection of Professional's Employees

The City reserves the right to approve or reject from the Work any employees of the Professional.

e. **Professional's sub-consultants**

Copies of all proposed contracts with sub-consultants and/or subcontractors shall be given to the City before execution of such contracts.

3. **Designation and Duties of the City's Representative**

- a. The City's Deputy City Manager, or his designee, shall act as the City's Representative.
- b. This City's Representative shall use his best efforts to provide non-confidential City records for Professional's usage on the Work and to provide access to City's property and easements.

4. **Standards of Performance**

- a. The Professional shall perform all services under this Agreement in accordance with the generally accepted architectural practice per specialized discipline.
- b. Codes and Standards
 - (1) All references to codes, standards, environmental regulations and/or material specifications shall be to the latest revision, including all effective supplements or addenda thereto, as of the date that the order for any necessary equipment is made by the City or that the construction specified is bid by the City.
 - (2) If any such equipment is specially manufactured, it shall be identified to the City, and the Contractor and the Seller shall present sufficient data to the City to support the design and the suitability of the equipment.
 - (3) All materials furnished on any City project shall be in accordance with ASTM specifications, or with other recognized standards. Proprietary material or other materials for which no generally recognized standards exist may be used provided there has been at least five years of proven experience in the field, and such satisfactory documentation has been approved by the City's Representative.
 - (4) The Work shall be designed and furnished in accordance with the most current codes and/or standards adopted by City, State or Federal government or in general custom and usage by the profession.

- (5) The codes and standards used in the profession set forth minimum requirements. These may be exceeded by the Contractor or the Professional if superior designs or materials are available for successful operation of equipment and/or for the construction project on which the Work is performed. Any alternative codes or regulations used shall have requirements that are equivalent or better than those in the above listed codes and regulations. The Professional shall state the alternative codes and regulations used.
- (6) Professional agrees the services it provides as an experienced and qualified professional architect will reflect the professional standards, procedures and performances common in the industry for this project. Professional further agrees that the design, preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel and the performance of other services under this contract, will be pursuant to the standard of performance common in the profession.
- (7) Professional shall promptly correct any defective designs or specifications caused by Professional at no cost to City. The City's approval, acceptance, use of or payment for all or any part of Professional's services hereunder or of the Work itself shall in no way alter Professional's obligations or the City's rights under this Agreement.

5. **Notice to Proceed**

Professional shall not proceed with the Work or any stage thereof until written notice to proceed is provided by the City's Representative.

6. **Insurance**

- a. Professional shall procure and maintain insurance in the amounts listed below for protection from claims under workers' compensation, claims for damages because of bodily injury, including personal injury, sickness or disease or death of any and all employees or of any person other than such employees and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom.

Coverage

Limit of Liability

Workers' Compensation

Statutory for Worker's Compensation

Employer's Liability

Bodily Injury by Accident:
\$500,000 (Each Accident)

Bodily Injury by Disease:
\$500,000 (Policy Limit)
\$500,000 (Each Employee)

Commercial General:
(Including Broad Form
Coverage, Contractual
Liability, Bodily and
Personal Injury, and
Completed Operations)

Bodily Injury and Property
Damage, Combined:
Limits of \$500,000 each
Occurrence and \$1,000,000
aggregate (defense costs
excluded from face amount of
policy)

- b. Professional shall maintain professional liability (errors and omissions/malpractice) insurance in the amount of \$1,000,000. Professional shall provide a copy of its Certificate of Insurance to the City within ten days of contract execution or this contract shall be null and void. A deductible is acceptable for professional liability insurance and the deductible limits shall not exceed \$50,000.
- c. Professional shall give the City thirty days' written notice prior to any change or cancellation of these insurance policies.

7. Indemnification

Professional agrees to DEFEND, INDEMNIFY and HOLD HARMLESS the City, its employees, agents, officers and assigns from any and all suits, actions, claims, causes of action, damages and losses, including, without limitation, reasonable attorneys' fees and expenses, brought for or on account of any injuries or damages, real or asserted, received or sustained by any person or property, on account of any negligence or gross negligence, or any negligent act or omission of Professional, its contractors, subcontractors, sub-consultants, agents or employees arising directly or indirectly or in any way connected with the work performed by Professional under this Agreement.

8. Ethics Acknowledgement

Any vendor or contractor entering into this contract or agreement with the City of League City, Texas expressly acknowledges that it has familiarized itself with the provisions of Section 2-34(i) of the Code of Ordinances of the City of League City which provides, among other things, that if within two years after the commencement of this contract or agreement the vendor or contractor hires a city official, former city official, appointed city officer, former appointed city officer, appointed city executive employee, or former appointed city executive employee or a city employee who, while acting in such capacity, had substantial and personal involvement with the negotiation of this contract or agreement, then this contract or agreement shall, at the option of the City Manager, be cancelled and/or the vendor or contractor shall be barred from additional contracting with the City of League City for a period of three years.

9. Termination of Professional

The City retains the right to terminate this Agreement "at will" and to pay only for the professional services and sub-consultant's and subcontractor's costs that were provided for and/or committed to and to that the City approved of prior to the date of termination. All architectural drawings, specifications and files shall be given to the City at the time of termination. Professional shall not be responsible for the City's misuse of completed drawings, specifications and files; nor shall Professional be responsible for any work by others used to complete partial documents.

10. Records

At the City's request, the City will be entitled to review and receive a copy of all documents that indicate work on the project that is the subject of this Agreement.

11. Supervision of Professional

Professional shall be subject to the direction and supervision of the City's Representative. However, it is agreed and stipulated that Professional is an independent contractor and that the City neither reserves nor possesses any right to control the details of the Work performed by Professional under the terms of this Agreement.

12. Billings

The City shall have thirty (30) days to pay Professional's bills from the date of receipt of such bills. All bills must identify with specificity the work or services performed and the date(s) of such work or services.

13. Reputation in the Community

Professional shall retain a high reputation in the community for providing professional architectural services. Professional shall forward a copy of any current petition or complaint in any court of law against Professional's League City Office which (a) asserts a claim for \$50,000 or more for errors or omissions in providing architectural services and/or (b) seeks to deny the Professional the right to practice architectural services or to perform any other services in the state of Texas.

14. Payroll and Basic Records

- a. Professional shall maintain payrolls and basic payroll records during the course of the work performed under this Agreement and shall preserve them for a period of three years from the completion of the work called for under this Agreement for all personnel working on such work. Such records shall contain the name and address of each such employee, social security number, correct classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions made and actual wages paid.

- b. Professional shall make the records required to be maintained under the preceding subsection (a) of this section available to the City for inspection, copying or transcription or its authorized representatives. Professional shall permit such representatives to interview Professional's employees during working hours on the job.

15. Default of Professional

- a. If Professional refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this Agreement (including any extension) or fails to complete the work within that time period, the City may, by written notice to Professional, terminate the right to proceed with the work (or the separable part of the work) that has been delayed. In such an event, the City reserves the right to take over the work and complete it by contract or otherwise, and may take possession of and use any records necessary for completing the work. Professional shall be liable for any damage to the City resulting from Professional's refusal or failure to complete the work within the specified time, whether or not Professional's right to proceed with the work is terminated. This liability includes any increased costs incurred by the City in completing Professional's work.
- b. Professional shall not be charged with damages under the preceding subsection if:
 - (1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the professional. Examples of such causes include (i) acts of God or of the public enemy, (ii) acts of the Government in either its sovereign or contractual capacity, (iii) acts of another Contractor or Professional in the performance of a contract with the Government, and/or extended review or approvals by government agencies out of the-control of the Professional, (iv) acts of fire, (v) floods, (vi) epidemics, (vii) quarantine restrictions (viii) strikes, (ix) freight embargoes, (x) unusually severe weather, or (xi) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of the professional; and
 - (2) Professional, within ten days from the beginning of any delay (unless extended by the City's Representative), notifies the City's Representative in writing of the causes of delay. The City's Representative shall ascertain the facts and the extent of delay. If, in the judgment of the City's Representative, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the City's Representative shall be final and conclusive on the parties, but subject to appeal to the City's City Council.
- c. The rights and remedies of the City in this section are in addition to any other rights and remedies provided by law or under this Agreement.

16. Governing Law

This Agreement has been made under and shall be governed by the laws of the state of Texas. The parties further agree that performance and all matters related thereto shall be in Galveston County, Texas.

17. Notices

Notices required under this Agreement shall be mailed to the addresses designated below or such other addresses as the either of the parties may designate in writing from time to time, and unless otherwise indicated in this Agreement, shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

For the City:

City of League City, Texas
300 West Walker Street
League City, Texas 77573
Attention: John Baumgartner

For the Professional:

Jackson & Ryan Architects
2370 Rice Boulevard
Suite 210
Houston, Texas 77005
Attention: Martha Seng, FAIA

18. Waiver


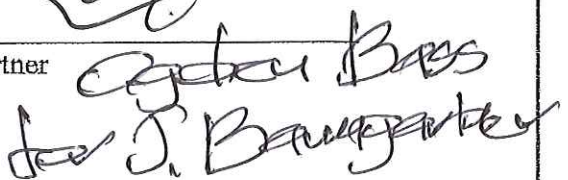
No waiver by either party to this Agreement of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

19. Complete Agreement

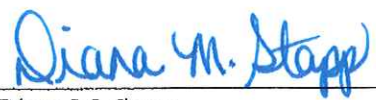
This Agreement represents the entire and integrated agreement between the City and Professional in regard to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either whether written or oral, on the subject matter hereof. This Agreement may only be amended by written instrument approved and executed by both of the parties. The City and Professional accept and agree to these terms.

FOR THE CITY OF LEAGUE CITY:

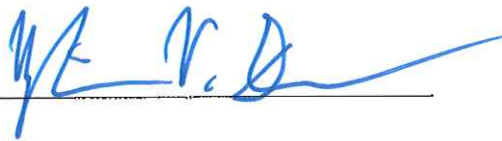
SIGNED ON THE 28th day of JUNE, 2017.


John Baumgartner
City Manager


ATTEST:


Diana M. Stapp
City Secretary

Approved as to form, City Attorney:



FOR COMPANY NAME:

SIGNED ON THE 28TH day of JUNE, 2017.


Martha Seng, FAIA
Principal

ATTEST:


Guy Jackson
President

JACKSON & RYAN
ARCHITECTS

EXHIBIT A
Architectural Proposal
June 19, 2017

A. Project Understanding

The League City new animal shelter and adoption center will be located on an 8.067 acre tract of land immediately southwest of the Public Safety Building at 555 W. Walker St. in League City, Texas. The building will be 19,000 square feet and will house approximately 110 dogs and 70 cats. Other design elements are described in the Needs Assessment dated December 2015. The Construction Budget is \$6,850,000 which will cover all costs associated with the building, furniture, fixtures, equipment and technology necessary for opening a fully functional animal shelter and adoption facility. The anticipated procurement for the project is the conventional Design/Bid/Build method. The system designs will be as energy efficient as possible, but no LEED certification is required or included.

B. Scope of Services

The scope of work includes usual and customary services for the following phases of work:

- Program Verification
- Schematic Design
- Design Development
- Construction Documentation
- Bidding or Negotiation
- Construction

During construction, the administration of the Contract between the Owner and the Contractor will be according to AIA Document A201 2007 General Conditions of the Contract for Construction. Site visits from the Architect will not exceed 20 over the course of construction. Materials testing is not included in this fee, but will be an owner's contingency item included in the construction budget.

Furniture, fixtures and equipment (FF&E) will be included in the design scope of work. This list will be prepared during the Design Development phase and monitored throughout the remainder of the project. Specifications of the FF&E will be issued with the construction documents.

The disciplines of work consist of the following:

- Architect of Record - Jackson & Ryan Architects
- Mechanical, Electrical, Plumbing, Fire Protection - Telios
- Structural Engineering - Matrix
- Civil Engineering, Surveying - Shelmark Engineering
- Landscape Architecture - Griffith & Associates
- Cost Estimating - Costing Services
- Geotechnical Engineering - PSI

The scope of work of each discipline is further defined in the sub-consultants' proposals which are attached to this Architectural Proposal.

We will establish a clear and concise means of communication between the City and the User Group, our consultant team, and ourselves. We will lead this effort through meetings, conferences, electronic correspondence and data sharing networks. In addition to the normal project meetings, we will participate in 3 public meetings and 3 citizen group meetings. We will also attend 3 City Council meetings and the workshops that precede them the evening before.

C. Schedule

The durations of the design phases of work are anticipated to be the following:

Schematic Design - 8 weeks

Review - 4 weeks

Design Development - 8 weeks

Review - 4 weeks

Construction Documentation - 8 weeks

Review - 4 weeks

Bidding or Negotiation

Bid documents issued after 1 cycle of permit review comments - 4 weeks

D. Compensation

Basic Services will be performed for a lump sum fee of \$625,000 and are broken down by discipline per the chart below:

Architect	MEP	Structure	Civil	Landscape	Cost Est	Geotech	TOTAL
JRA	Tellos	Matrix	Shelmark	Griffith	Costing Services	PSI	
\$350,000	\$110,000	\$45,000	\$55,000	\$45,000	\$15,500	\$4,500	\$625,000

E. Reimbursable Expenses

Expenses incurred on behalf of the project are estimated to not exceed \$25,000 and are defined in our attached Schedule of Reimbursable Expenses.

F. Level of Service

The categories of work will be defined by phase and will total the amounts shown below for each:

Phase	Percentage	Amount
Schematic Design	20%	\$125,000
Design Development	15%	\$93,750

Phase	Percentage	Amount
Construction Documentation	40%	\$250,000
Bid or Negotiation	5%	\$31,250
Construction	20%	\$125,000
TOTAL	100%	\$625,000

G. Additional Services

For additional services that may arise during the course of the Project, compensation shall be based on a previously agreed to amount and paid to the Architect on an hourly basis per the attached Schedule of Hourly Rates.

H. Payments

Payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid 30 days from receipt of the invoice shall bear interest at 10% per annum.

I. List of Attachments

Schedule of Reimbursable Expenses

Schedule of Hourly Rates

Fee Proposals from Telios, Matrix, Shelmark, Griffith, Costing Services, PSI

END OF EXHIBIT A

JACKSON & RYAN
ARCHITECTS

SCHEDULE OF REIMBURSABLE EXPENSES
January 2017

1. B&W Small Format	\$.10	per sheet
2. Color Small Format	\$.54	per sheet
3. B&W Large Format	\$.50	per sq. ft.
4. Color Large Format	\$.54	per sq. ft.
5. CD w/ Jewel Case*	\$2.00	each
6. DVD w/ Jewel Case*	\$4.00	each
7. AIA Forms	\$1.50	each
8. Automobile Travel	\$.535	per mile

*Man hours creating and burning disk will be billed according to the Schedule of Hourly Rates

Rates are subject to adjustment based on cost for printing and materials and will be maintained in accordance with commercially available industry standard rates.

JACKSON & RYAN
ARCHITECTS

SCHEDULE OF HOURLY RATE CATEGORY
January 2017

1. Principal	\$270.00
2. Project Architect	\$210.00
3. Associates	\$150.00
4. Architectural Staff	\$105.00
5. Financial Manager	\$105.00
6. Marketing	\$ 70.00
7. Clerical	\$ 60.00



06.13.2017

Martha Seng, FAIA
Principal
Jackson & Ryan Architects
2370 Rice Blvd., Suite 210
Houston, Texas 77005

Reference: **League City Animal Shelter – League City, Texas**
Mechanical, Electrical and Plumbing Engineering Proposal Agreement

Dear Martha,

TELIO S Corporation ("TELIO S") is pleased to submit the following proposal to Jackson & Ryan Architects (hereinafter refer to as the "Client") to perform professional engineering services for the referenced Project. Upon execution by the Client, this document shall become the entire written agreement between TELIO S and the Client concerning the above referenced matter ("the Agreement"). The project consists of an approximately 19,000sf animal shelter with a construction budget of approximately \$6.9 million.

I. Basic Design Services

A. Basic HVAC Design Services

1. TELIO S shall conduct an HVAC load analysis.
2. TELIO S shall select and layout HVAC units. Units' weight, dimensions and opening requirements shall be coordinated with the design team.
3. TELIO S shall layout and size ductwork.
4. TELIO S shall design the air change rates for ventilation and exhaust and specify the associated equipment.
5. TELIO S shall conduct energy analyses to be submitted to the Authorities Having Jurisdiction.

B. Basic Electrical Design Services

1. TELIO S shall conduct an electrical load analysis.
2. TELIO S shall design an electrical one-line diagram, including branch circuiting to HVAC equipment, general receptacles, service receptacles, and general and egress lighting.
3. A photometric analysis shall be conducted of strategic locations to produce site lighting and an interior lighting design. The interior lighting design shall include layouts of egress, exit and general lighting. Fixtures shall be specified and the associated control and branch circuiting shall be engineered.
4. A fire alarm device layout shall be engineered.

MEP ENGINEERING • COMMISSIONING • TECHNOLOGY • ENERGY MODELING

146 Payne Street, Dallas, Texas 75207 | Phone 214-744-6199 | Fax 214-744-0770
101 Parklane Boulevard Suite 101, Sugar Land, Texas 77478 | Phone 281-265-1636 | Fax 281-265-1608
www.teliospc.com

5. TELIOS shall conduct an energy analysis to be submitted to the Authorities Having Jurisdiction.

C. Basic Plumbing Design Services

1. TELIOS shall size and route domestic water, sanitary sewer, vent, condensate, roof drainage, and natural gas (if applicable) piping. Routings shall be coordinated with the design team. The design shall extend to 5'-0" outside of the building.
2. TELIOS shall engineer and specify the hot water heating and the water cooler systems.
3. TELIOS shall select and schedule plumbing fixtures.

D. Basic Fire Protection Design Services

1. A fire protection performance specification will be provided.
2. Fire protection service, main distribution piping size, and routing shall be provided by Others.

E. Additional Basic Design Services

1. Attendance at six (6) design meetings.
2. Construction Administration.
 - a) Phone responses to pre-bid questions.
 - b) TELIOS anticipates the construction schedule to be approximately twelve (12) months and has included attendance at no more than ten (10) on-site construction meetings or punch list visits.
 - c) Submittal reviews on equipment designated by TELIOS.
3. Commissioning.
 - a) The general contractor shall hire an independent 3rd party commissioning agent. TELIOS shall write a commissioning specification, review commissioning submittals, and shall witness a final confirmation test confirming that all systems have been fully commissioned and are functioning properly.

II. Basic Design Services – Deliverables

A. The MEP documentation shall include:

1. Site Plan:
 - a) The site plan shall indicate electric utility equipment location, primary electrical conduits, secondary electrical conductors and conduit, telephone service conduits, site lighting and its associated branch circuiting, plumbing piping extending 5'-0" outside of the building.
2. Roof Plan:
 - a) The plan shall denote the location of keyed mechanical rooftop equipment, service receptacles, keyed service lighting (if required) branch circuiting, and primary and secondary keyed roof drains.
3. Floor Plans:
 - a) Mechanical – Ductwork routing and sizing, and rooftop equipment penetrations.

MEP ENGINEERING • COMMISSIONING • TECHNOLOGY • ENERGY MODELING

146 Payne Street, Dallas, Texas 75207 | Phone 214-744-6199 | Fax 214-744-0770

101 Parklane Boulevard Suite 101, Sugar Land, Texas 77478 | Phone 281-265-1636 | Fax 281-265-1608

www.teliospc.com

- b) Mechanical – Terminal box locations and associated thermostats. Terminal boxes shall be keyed to a terminal box schedule and denote heating and air volumes.
 - c) Mechanical – Supply, return and exhaust air diffuser locations. Diffuser locations shall include air volume, neck size information and shall be keyed to a diffuser schedule.
 - d) Electrical – Receptacle layout, disconnect locations with sizing to equipment, electrical switchgear layouts, circuiting with homerun circuit designations.
 - e) Electrical – TELIOS shall denote telephone / data outlets for rough-in locations only. Others shall determine locations of the outlets. All telephone / data wiring and connections shall be provided by others.
 - f) Plumbing – Domestic water, sanitary sewer, vent, storm, condensate, and natural gas piping size and routings.
 - g) Plumbing – Fixtures shall be keyed to a fixture schedule.
 - h) Plumbing – Location of hot water heating system, and water coolers.
 - i) Plumbing – Equipment shall be keyed to an equipment schedule.
4. Reflecting Ceiling Plan:
- a) Electrical – Egress, exit and general lighting layouts, keyed to a fixture schedule. Layouts shall include branch circuiting and control information.
 - b) Electrical – Fire alarm device and control panel layouts.
5. Schedule and Detail Sheets:
- a) Mechanical – Schedules shall be provided for equipment, terminal boxes, and diffusers.
 - b) Mechanical – TELIOS may include details, of connections, dampers, supports, wall penetrations, equipment mounting.
 - c) Electrical – Schedules shall be provided for light fixtures, and panelboards.
 - d) Electrical – TELIOS may include a summary of the energy analyses and details of generators, switchgear, electrical rooms, grounding, one line diagram, and connections.
 - e) Plumbing – Schedules shall be provided for roof drains, equipment and fixtures.
 - f) Plumbing – TELIOS may include details of connections, supports, clean outs, traps, primers, isometrics.
6. Specifications:
- a) Specifications shall be provided in book format.

III. Basic Design Services - Qualifications

- A. TELIOS requires AutoCAD V2006, REVIT V2011 or later compatible backgrounds of the building's plan and surrounding site.
- B. TELIOS requires record documents of the structural and civil engineering plans in a timely manner to complete the design services noted herein.

- C. TELIOS shall receive fixed backgrounds, models, and information a minimum of five (5) business days prior to any scheduled issue or such backgrounds, models or information may not be included or coordinated with TELIOS' Basic Design or Additional Services for the issue.
- D. In an effort to seek quality, TELIOS requires the following number of coordination meetings:
 - 1. A minimum of three (3), in-person, design meetings.
 - 2. An in-person coordination meeting two (2) days prior to any scheduled issue.
- E. TELIOS shall be provided, in a timely manner a written description of the Owner's project objectives, schedule, requirements, information, and limitations for TELIOS' Basic Design or Additional Services.
- F. The Client shall identify a single, individual representative to act on the Client's behalf with respect to TELIOS' Basic Design or Additional Services. Such identified representative shall render decisions, directives and schedules in a timely manner to not encumber TELIOS from completing its Basic and Additional Design Services. The Client shall not replace its identified representative without the approval of TELIOS, which shall not be unreasonable withheld.
- G. Information that is not provided in a timely manner will require the Project design schedule to be revised.
- H. Unless otherwise stated, TELIOS will have access to the site for activities necessary for the performance of any Basic or Additional Design Services.

IV. Basic Design Service – Fees

- A. In accordance with the Payment sub-paragraph found within Additional Terms and Conditions set forth below, TELIOS shall be paid the following fees for the aforementioned Basic Design Services:
\$98,000.00.
- B. In accordance with the Payment sub-paragraph found within Additional Terms and Condition set forth below, TELIOS shall be paid on an hourly basis at our normal hourly rates for Additional Services.

Hourly Rate Schedule

Personnel	Rate
Principal	\$215.00
Project Manager	\$170.00
Project Engineer	\$145.00
Senior Designer	\$145.00
Designer	\$130.00
CAD Technician	\$70.00
Administration	\$70.00

V. Reimbursable Expenses

- A. In accordance with the Payment sub-paragraph found within Additional Terms and Condition set forth below, TELIOS shall be reimbursed for all expenses incurred in the normal course of completing both Basic and Additional Design Services. Expenses include, but are not limited to:

1. Plotting (large format)	\$15.00/Sheet
2. Hardcopy Reproductions (large format)	\$10.00/Sheet
3. Electronic Scanning (large format)	\$15.00/Sheet
4. Generating and distributing electronic files for review or plotting by a third party	\$150/Issue
5. Automobile mileage, from the office of which the TELIOS employee typically works	Current IRS Rate
6. Air travel, hotels, meals, and rental cars	Actual Rate

VI. Additional Terms and Conditions

- A. The following services shall be considered above and beyond the aforementioned Basic Design Services and will require additional fees. Additional Design Services are as follows, but not limited to:
1. Changes of completed or partial designs by reason of project scope change.
 2. In the event the Owner or Client has not provided budgets, evaluating alternates or substitutions proposed by the Contractor and making subsequent meetings, or revisions to drawings, specifications or other documentation.
 3. Providing any services in connection with a public hearing, litigation, mediation, arbitration or other legal proceedings.
 4. Construction administration above and beyond that expressly stated in the Basic Design Services.
 5. Additional effort caused by other design team members not in attendance at the aforementioned Coordination Meetings.
 6. Additional effort caused by backgrounds, models, and information not provided in the noted time, in the aforementioned Design Qualifications.
 7. MEP design modifications required because other design team members did not provide information in a timely manner for MEP design schedule to be met.
 8. Design schedule that extends six (6) months after execution of this document or the design is placed on hold for more than one (1) month.
 9. Design of micro-processor based lighting control systems.
 10. Design of kitchen equipment.
 11. Provide LEED related calculations, considerations, and/or applications.

12. Energy analyses of building envelope for the purposes of evaluating energy savings alternatives or estimating energy usage.

VII. Additional Terms and Conditions

- A. The provisions of this Agreement shall control, and provide, further that the Basic Design Services to be performed by TELIOS are limited to those set forth in this agreement.
- B. TELIOS shall act as and provide services as an independent contractor using ordinary standard of care exercised by registered engineers under similar conditions and similar localities. TELIOS and the Client acknowledge and agree that the services provided by TELIOS under this agreement are in the nature of professional services, the essence of which are the provision of advice, judgment, opinion and professional skill. TELIOS and the Client further acknowledge and agree that, notwithstanding any language, in term or condition to the contrary, TELIOS makes no warranties, express or implied, including warranties of fitness for any purpose, regarding the services contemplated under this agreement, and the Client hereby expressly waives all such warranties, and TELIOS expressly disclaims all such warranties.
- C. TELIOS makes no warranty, express or implied that any construction cost estimates provided will not differ from bids received from contractors or the negotiated cost of construction work. The Client understands that TELIOS' construction cost estimate is based on TELIOS' professional judgment and experience and that TELIOS has no control over the price or availability of labor, equipment, materials or any other element of the construction work that may affect the negotiated cost of the construction work or bids received from contractors.
- D. The Client or Owner shall provide prompt written notice to TELIOS, if the Client or Owner becomes aware of any fault or defect in the Project, including errors, omissions, or inconsistencies in TELIOS' documents.
- E. TELIOS shall make visits to the site at intervals appropriate to the various stages of completed construction as TELIOS deems necessary in order to observe the progress and quality of the various aspects of the Contractor's completed work of Contract Documents generated by TELIOS. Based on such observations, TELIOS shall develop an opinion in general if such completed work is proceeding in accordance with the Contract Documents, and to keep the Client informed about the progress of the completed construction.

It is hereby understood by the Client, that such visits and observations are NOT intended to be exhaustive or detailed inspections. If the Client desires more extensive visits or detailed inspections, such services are available as Additional Services at the Client's written request.

TELIOS shall not, during such visits or as a result of such observations, supervise, direct or have control over Contractor's work nor shall TELIOS have authority over or responsibility of the means, methods, techniques, sequences or procedures or for the safety precautions and programs of the construction selected by the Contractor. Accordingly, TELIOS does not guarantee the performance of the construction contract by the Contractor, does not warrant that the construction will be in accordance with the Contract Documents, and shall not be responsible for the Contractor's failure to furnish and perform its work in strict accordance with the Contract Documents or applicable laws, rules, regulations, ordinances, codes or orders.

The Client hereby agrees that the Contractor shall be solely responsible for jobsite safety and warrants that the Contractor shall be required to name TELIOS Corporation as an additional insured under the Contractor's general liability insurance policy or policies.

MEP ENGINEERING • COMMISSIONING • TECHNOLOGY • ENERGY MODELING

146 Payne Street, Dallas, Texas 75207 | Phone 214-744-6199 | Fax 214-744-0770

101 Parklane Boulevard Suite 101, Sugar Land, Texas 77478 | Phone 281-265-1636 | Fax 281-265-1608

www.teliopc.com

- F. To the extent that TELIOS' services include the review of Contractor's submittals, such as shop drawings, samples, mock-ups or product data, such review is limited to checking for conformance with the design concept and the information shown in the Construction Documents. In acknowledging its review or approval of such submittals, et al, TELIOS does not warrant the accuracy or completeness of information contained in submittals or the products described therein, such being the sole responsibility of the Contractor.
- G. TELIOS will take reasonable precautions to minimize damage due to its access to the site and surveying as necessary to conduct the Basic and Additional Design Services, but has not included in any fee the cost of restoration of any resulting damage.
- H. HAZARDOUS MATERIALS: It is acknowledged by both parties that TELIOS' scope of service does not include any services related to asbestos or hazardous or toxic materials. In the event that TELIOS or any other party encounters asbestos or hazardous or toxic materials at the job-site, or should it become known in any way that such materials may be present at the job-site or in any adjacent areas that may affect the performance of TELIOS' service, TELIOS may, at our option and without liability for consequential or other damages, suspend performance of services on the project until the Client and/or Owner retains appropriate specialist consultants or contractors to identify, abate and/or remove the asbestos, hazardous or toxic materials and warrant that the job-site is in full compliance with applicable laws and regulations. TELIOS shall give written notice to the Client and/or owner of the discovery of hazardous materials before TELIOS suspends performance of services on the project.
- I. 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 Owner or TELIOS.
- J. The Client hereby acknowledges and agrees that TELIOS is not acting in the capacity of a fiduciary to the Client, the Contractor or the Owner and owes no such fiduciary responsibility to either the Client, the Contractor or the Owner. Any such fiduciary obligation or responsibility that may be implied or inferred is hereby disclaimed by TELIOS.
- K. ACCELERATED PROJECT DELIVERY ADVISORY AND ACKNOWLEDGMENT: In the event the Client and/or Owner chooses to take advantage of the time and cost savings benefits of an accelerated project delivery process, the Client and/or Owner acknowledges that it has been advised that the Project will be affected by such a process. Some of the effects of an accelerated project delivery process include the necessity of making early or premature commitments to design decisions and the issuance of incomplete and uncoordinated construction documents for permitting, bidding, and construction purposes in order to maintain a fast track or accelerated schedule, or the actual progress of the work of the Contractor. The Client and/or Owner acknowledges that it has been advised that the Project, if developed on an accelerated project delivery basis, may require associated coordination, design, and redesign of parts of the Project after construction documents are issued and the construction contract is executed, and may require removal of work in place, all of which events may cause an increase in the cost of the work and/or an extension of the project construction schedule. Therefore the Client and/or Owner acknowledges and understands that change orders arising from the accelerated project delivery process should be expected as a part of and related to this process; and the Client and/or Owner understands the necessity of including sufficient contingencies in the budget for the cost of the work to account for additional costs and construction schedule extensions arising from this process and agrees to include such contingencies in the project construction budget commensurate with industry standards for projects of similar scope and quality of this project.
- L. All claims, disputes and other matters in question arising out of, or relating to, this Agreement or the breach thereof, as well as any other dispute between TELIOS and Client, shall be decided by arbitration

in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association (in Houston, Texas) then in effect, unless the parties mutually agree otherwise. Notice of the demand for arbitration of any dispute shall be filed in writing with the other party and such demand shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, but in no event shall demand be made by institution of legal or equitable proceedings which would be barred by the applicable statute of limitations. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law, and any award rendered by the arbitrator shall be final and judgment may be entered upon and in accordance with applicable law in any court having jurisdiction thereof. TELIOS and the Client agree to include a similar arbitration provision in their agreements with all contractors, subcontractors, sub-consultants, suppliers and fabricators, thereby providing for arbitration as the primary method for dispute resolution between all parties.

- M. TELIOS shall not be required to execute any document that would result in its-certifying, guaranteeing or warranting the existence of conditions whose existence TELIOS cannot ascertain.
- N. **IN RECOGNITION OF THE RELATIVE RISKS, REWARDS AND BENEFITS OF THE PROJECT TO BOTH THE CLIENT AND TELIOS, THE RISKS HAVE BEEN ALLOCATED SUCH THAT THE CLIENT AGREES THAT, TO THE FULLEST EXTENT OF THE LAW, TELIOS' TOTAL LIABILITY TO THE CLIENT FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, EXPENSES, DAMAGES, CLAIM EXPENSES, INCLUDING ATTORNEY'S FEES AND COSTS AND EXPERT-WITNESS FEES AND COSTS ARISING OUT OF THE THIS AGREEMENT FROM ANY CAUSE OR CAUSES, SHALL NOT EXCEED \$1,000,000.00. SUCH CAUSES INCLUDE, BUT ARE NOT LIMITED TO, TELIOS' NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, AND BREACH OF CONTRACT OR WARRANT.**
- O. For the purpose of establishing Date Certain, the date of this document shall be used for purposes of calculating Statute of Repose or Statute of Limitation.
- P. The Client and TELIOS agree that neither the Client nor TELIOS nor the respective directors, officers, partners or employees shall in any event be liable under this agreement to the other for consequential damages arising out of the or relating to this agreement, all such claims being hereby expressly waived. This waiver includes, without limitation damages incurred by the Client or TELIOS for principal office expenses, finance expenses, lost business opportunity, loss of use, and loss of business reputation. This waiver of consequential damages shall apply to all such damages regardless of cause, including but not limited to, breach of contract, delay, tort (including sole or concurrent negligence) strict liability, or otherwise.
- Q. This Agreement and the scope, qualifications, fee, reimbursement schedule, terms and conditions noted herein shall supersede all submitted or executed general, scope-specific or master agreements previously submitted, regardless if such language of other document is in contradiction to that noted herein.
- R. All documents produced by TELIOS under this agreement shall remain the property of TELIOS and may not be used by the Client for any other endeavor without the prior written consent of TELIOS.
- S. TELIOS shall have the right to include photographic or artistic representations of the design of the Project among TELIOS' promotional and professional materials. TELIOS shall be given reasonable access to the completed Project to make such representations. TELIOS' material shall not include the Owner's confidential or proprietary information, if the Owner has previously advised TELIOS in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner and Client shall provide professional credit for TELIOS in their respective promotional materials for the Project.

MEP ENGINEERING • COMMISSIONING • TECHNOLOGY • ENERGY MODELING

146 Payne Street, Dallas, Texas 75207 | Phone 214-744-6199 | Fax 214-744-0770

101 Parklane Boulevard Suite 101, Sugar Land, Texas 77478 | Phone 281-265-1636 | Fax 281-265-1608

www.teliospc.com

T. Payment

1. Invoices will be submitted for each significant design issue, including but not limited to internal design team reviews, schematic design, design development, permit, bid or construction documents, or addenda, but no less than monthly for all Basic Services, based on the estimated percentage of completion and shall be due within thirty (30) days after the date of invoice. Reimbursable expenses and Additional Service Fees shall be due within thirty (30) days after the date of invoice. All invoices shall be due and payable at TELIOS' offices located at 146 Payne Street, Dallas, TX 75207.
2. Invoices not paid within 30 days of the date rendered will be assessed a finance charge of one percent per month, or fraction thereof, for each month beyond 30 days past due. Invoices not paid within 60 days will result in TELIOS stopping work until such invoices rendered are paid in full. In the event this Agreement is placed in the hands of an attorney, the Client agrees to be liable for all expenses incurred by TELIOS in the enforcement thereof, including but not limited to the collection of any unpaid invoices, actual attorneys' fees and collection cost incurred by both TELIOS and its agents.
3. If TELIOS has stopped work because outstanding invoices have not been paid in full, TELIOS shall be indemnified and held harmless by the Client any delay in design or construction of the Project.

U. As a due course and process to protect our rights to lien for delinquent payments, we may at our discretion, file affidavits for mechanics and material man's lien to Owners as scheduled by the Texas Property Code §53.052 or as required in other states.

V. This Agreement may be terminated by TELIOS or Client for any reason by giving seven (7) days written notice, delivered to the other party by certified mail, return receipt requested, at the addresses shown herein. In the event of termination by either party, or in the event the Project is abandoned or work is otherwise stopped, the Client shall pay TELIOS, in accordance with the Payment sub-paragraph noted in Additional Terms and Conditions Section above, for all services rendered through the date of termination, all reimbursable expenses incurred, additional service fees, and costs incurred by reason of such termination, along with reasonable overhead and profit.

TELIOS Corporation appreciates this opportunity to submit this proposal for design services for the mechanical, electrical, and plumbing systems. We hope you recognize TELIOS' ability to effectively manage the engineering of these systems and thus prove that we can save you both time and money.

If this proposal is acceptable, please so signify by signing an Authorization to Proceed below.

If you have any questions, please do not hesitate to call.

Cordially,
TELIOS CORPORATION



Brian D. Peterson, P.E., LEED AP
Vice President

Q:\Proposals\Brian\Jackson Ryan\League City Animal Shelter\2017.06.13 Proposal.docx

I hereby authorize TELIOS Corporation to proceed as described by the Basic Design Services, and agree to the Design Qualifications, and the Terms and Conditions and will pay the Basic Design Service Fees and all project-related reimbursables.

Signed

Name

Title

Date

Rev. 11.17



June 8, 2017

Martha Seng
Jackson & Ryan Architects
2370 Rice Blvd., Suite 210
Houston, TX 77005

RE: TECHNOLOGY/ LOW VOLTAGE SYSTEMS CONSULTING SERVICES FOR LEAGUE CITY ANIMAL SHELTER

Martha,

TELIO S Corporation ("TELIO S") is pleased to submit the following proposal to Jackson & Ryan, (hereinafter referred to as the "Client") to perform professional engineering services for the referenced Project. Upon execution by the Client, this document shall become the entire written agreement between TELIO S and the Client, concerning the above referenced matter ("the Agreement"). TELIO S' project scope consists of new construction of the following:

1. 19,000 square foot, single level office area, single level shelter:
 - a. Full services office area
 - b. Shelter area with security, wireless LAN, and video surveillance
 - c. Wireless capabilities in shelter for handheld devices
 - d. Security access control
 - e. Scalable for future expansion

I. Basic Design Services

A. Basic Data and Telecom Design Services

1. TELIO S shall layout data outlets in coordination with the Owner, and the Design Team.
2. TELIO S shall layout data switch locations for cable termination. Switches shall be specified and furnished by others.
3. TELIO S shall specify cabling from data outlet to switch locations.
4. TELIO S shall layout and specify cable support methods as needed.
5. TELIO S shall layout telephone outlets and/or combination data/voice outlets in coordination with the Owner, and the Design Team.
6. TELIO S shall layout equipment locations within the Telecommunication Rooms, including patch panels, wire management, and grounding bussbars.

B. Basic Audio-Visual Design Services

1. TELIO S shall specify installation practices for flat screen monitors or projectors as required in specified areas.
2. TELIO S shall specify mounting brackets and cable routing to aforementioned monitors.
3. Monitors, TV's, Projectors and other electronics devices shall be furnished by others.

C. Basic Security Design Services

1. In coordination with the Owner, and the Design Team, TELIO S shall layout controlled access points of exterior entries, and within the building.

MEP Engineering • Technology Services • Energy Modeling • LEED Consultation • Commissioning

146 Payne Street, Dallas, Texas 75207 | Phone 214-744-6199 | Fax 214-744-0770

101 Parklane BLVD, Suite 101, Sugar Land, Texas 77478 | Phone 281-265-1636 | Fax 281-265-1608

HT17-023

www.teliospc.com

2. In coordination with the Owner, and the Design Team, TELIOS shall layout monitoring camera locations of exterior entries, and within the building.
 3. TELIOS shall specify performance specifications and rough-in details for access control, intrusion detection, security monitoring system, including video storage, and associated cabling for each.
- D. Additional Basic Design Services
1. Attendance at design meetings.
 - a) Attendance in no more than (4) in person design meetings
 2. Construction Administration.
 - a) Attendance at two (2) pre-bid/Bid meetings.
 - b) E-mail responses to pre-bid questions.
 - c) TELIOS has included attendance at no more than four (4) on-site construction meetings.
 - d) Up to two (2) submittal reviews per equipment that is noted and/or scheduled on the contract documents generated by TELIOS.

II. Basic Design Services – Deliverables

A. The Technology/ Low Voltage documentations shall include:

1. Floor Plans:
 - a) Data – Outlet and equipment location, and cable routing as needed.
 - b) Telephone – Outlet and equipment location.
 - c) Audio-visual – Equipment locations.
 - d) Security – Access Control points, security camera, and equipment locations.
2. Detail Sheets:
 - a) Data – Outlet rough-in shall be detailed as needed.
 - b) Data – Cable support details may be provided.
 - c) Telephone - Outlet rough-in shall be detailed, including combination Voice/Data outlets.
 - d) Audio-visual – Outlet and rough-in details
 - e) Security – Rough-in details shall be provided for each type of access points (proximity, access card, etc); rough-in detail for security cameras.
3. Specifications:
 - a) Specifications shall be provided in book format.

III. Basic Design Services - Qualifications

1. TELIOS requires AutoCAD V2006, REVIT V2011 or later compatible backgrounds/models of the building's plan and surrounding site.
2. TELIOS requires record documents of the civil and structural engineering plans in a timely manner to complete the design services noted herein.

3. TELIOS shall receive fixed backgrounds, models, and information a minimum of five (5) business days prior to any scheduled issue or such backgrounds, models or information may not be included or coordinated with TELIOS' Basic Design or Additional Services for the issue.
4. In an effort to seek quality, TELIOS requires the following number of coordination meetings:
 - a) A minimum of two (2) in-person, design meetings with the architect, structural, civil and landscape architect.
 - b) An in-person coordination meeting two (2) days prior to any scheduled issue with the architect, structural, civil and landscape architect.
5. TELIOS shall be provided, in a timely manner a written description of the Owner's project objectives, schedule, requirements, information, and limitations for TELIOS' Basic Design or Additional Services.
6. The Client shall identify a single, individual representative to act on the Client's behalf with respect to TELIOS' Basic Design or Additional Services. Such identified representative shall render decisions, directives and schedules in a timely manner to not encumber TELIOS from completing its Basic and Additional Design Services. The Client shall not replace its identified representative without the approval of TELIOS, which shall not be unreasonably withheld.
7. Information that is not provided in a timely manner will require the Project design schedule to be revised.
8. Unless otherwise stated, TELIOS will have access to the site for activities necessary for the performance of any Basic or Additional Design Services.

IV. Basic Design Service Fees

- A. In accordance with the Payment sub-paragraph found within Additional Terms and Conditions set forth below, TELIOS shall be paid the following fees for the aforementioned Basic Design Services **\$12,000.00**
- B. In accordance with the Payment sub-paragraph found within Additional Terms and Conditions set forth below, TELIOS shall be paid on an hourly basis at our normal hourly rates:

Hourly Rate Schedule:

Principal	\$260.00
Project Manager	\$205.00
Project Engineer	\$170.00
Senior Designer	\$155.00
Designer	\$135.00
CAD Technician	\$85.00
Administration	\$70.00

V. Reimbursable Expenses

- A. In accordance with the Payment sub-paragraph found within Additional Terms and Conditions set forth below, TELIOS shall be reimbursed for all expenses incurred in the normal course of completing both Basic and Additional Design Services. Expenses include, but are not limited to:
 1. Plotting (large format).....\$15.00/Sheet
 2. Hardcopy Reproductions (large format).....\$10.00/Sheet
 3. Electronic Scanning (large format).....\$15.00/Sheet
 4. Generating and Distributing Files for Plotting by a Third Party, \$150/Issue
 5. Automobile Mileage 50 miles from the office
of which the TELIOS employee typically works..... Current IRS Rate
 6. Air travel, hotels, meals, and rental cars. Actual Rate

VI. Additional Design Services

- A. The following services shall be considered above and beyond the aforementioned Basic Design Services and will require additional fees. Additional Design Services are as follows, but not limited to:
1. Changes of completed or partial designs by reason of project scope change.
 2. In the event the Owner or Client has not provided budgets, evaluating alternates or substitutions proposed by the Contractor and making subsequent meetings, or revisions to drawings, specifications or other documentation.
 3. Providing any services in connection with a public hearing, litigation, mediation, arbitration or other legal proceedings.
 4. Construction administration above and beyond that expressly stated in the Basic Design Services.
 5. Additional effort caused by other design team members not in attendance at the aforementioned Coordination Meetings.
 6. Additional effort caused by backgrounds, models, and information not provided in the noted time, in the aforementioned Design Qualifications.
 7. Design schedule that extends six (6) months after execution of this document or the design is placed on hold for more than one (1) month.
 8. Public Address System design of any kind.
 9. Rear projection screen design of any kind.
 10. Sound system design of any kind.
 11. White noise system design of any kind.
 12. Design for the future LAB area.

VII. Additional Terms and Conditions

- A. The provisions of this Agreement shall control, and provide, further that the Basic Design Services to be performed by TELIOS are limited to those set forth in this Agreement.
- B. TELIOS shall act as and provide services as an Independent contractor using ordinary standard of care exercised by registered engineers and consultants under similar conditions and similar localities. TELIOS and the Client acknowledge and agree that the services provided by TELIOS under this agreement are in the nature of professional services, the essence of which are the provision of advice, judgment, opinion and professional skill. TELIOS and the Client further acknowledge and agree that, notwithstanding any language, in term or condition to the contrary, TELIOS makes no warranties, express or implied, including warranties of fitness for any purpose, regarding the services contemplated under this agreement, and the Client hereby expressly waives all such warranties, and TELIOS expressly disclaims all such warranties.
- C. TELIOS makes no warranty, express or implied that any construction cost estimates provided will not differ from bids received from contractors or the negotiated cost of construction work. The Client understands that TELIOS' construction cost estimate is based on TELIOS' professional judgment and experience and that TELIOS has no control over the price or availability of labor, equipment, materials or any other element of the construction work that may affect the negotiated cost of the construction work or bids received from contractors.
- D. The Client or Owner shall provide prompt written notice to TELIOS, if the Client or Owner becomes aware of any fault or defect in the Project, including errors, omissions, or inconsistencies in TELIOS' documents.
- E. TELIOS shall make visits to the site at intervals appropriate to the various stages of completed construction as TELIOS deems necessary in order to observe the progress and quality of the various aspects of the Contractor's completed work of Contract Documents generated by TELIOS. Based on such observations, TELIOS shall develop an opinion in general if such completed work is proceeding in accordance with the Contract Documents, and to keep the Client informed about the progress of the completed construction.

It is hereby understood by the Client, that such visits and observations are NOT intended to be exhaustive or detailed inspections. If the Client desires more extensive visits or detailed inspections, such services are available as Additional Services at the Client's written request.

TELIOŠ shall not, during such visits or as a result of such observations, supervise, direct or have control over Contractor's work nor shall TELIOŠ have authority over or responsibility of the means, methods, techniques, sequences or procedures or for the safety precautions and programs of the construction selected by the Contractor. Accordingly, TELIOŠ does not guarantee the performance of the construction contract by the Contractor, does not warrant that the construction will be in accordance with the Contract Documents, and shall not be responsible for the Contractor's failure to furnish and perform its work in strict accordance with the Contract Documents or applicable laws, rules, regulations, ordinances, codes or orders.

The Client hereby agrees that the Contractor shall be solely responsible for jobsite safety and warrants that the Contractor shall be required to name TELIOŠ Corporation as an additional insured under the Contractor's general liability insurance policy or policies.

To the extent that TELIOŠ' services include the review of Contractor's submittals, such as shop drawings, samples, mock-ups or product data, such review is limited to checking for conformance with the design concept and the information shown in the Construction Documents. In acknowledging its review or approval of such submittals, et al, TELIOŠ does not warrant the accuracy or completeness of information contained in submittals or the products described therein, such being the sole responsibility of the Contractor.

TELIOŠ will take reasonable precautions to minimize damage due to its access to the site and surveying as necessary to conduct the Basic and Additional Design Services, but has not included in any fee the cost of restoration of any resulting damage.

- F. **HAZARDOUS MATERIALS:** It is acknowledged by both parties that TELIOŠ' scope of service does not include any services related to asbestos or hazardous or toxic materials. In the event that TELIOŠ or any other party encounters asbestos or hazardous or toxic materials at the job-site, or should it become known in any way that such materials may be present at the job-site or in any adjacent areas that may affect the performance of TELIOŠ' service, TELIOŠ may, at our option and without liability for consequential or other damages, suspend performance of services on the project until the Client and/or Owner retains appropriate specialist consultants or contractors to identify, abate and/or remove the asbestos, hazardous or toxic materials and warrant that the job-site is in full compliance with applicable laws and regulations. TELIOŠ shall give written notice to the Client and/or owner of the discovery of hazardous materials before TELIOŠ suspends performance of services on the project.
- G. 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 Owner or TELIOŠ.
- H. The Client hereby acknowledges and agrees that TELIOŠ is not acting in the capacity of a fiduciary to the Client, the Contractor or the Owner and owes no such fiduciary responsibility to either the Client, the Contractor or the Owner. Any such fiduciary obligation or responsibility that may be implied or inferred is hereby disclaimed by TELIOŠ.
- I. **ACCELERATED PROJECT DELIVERY ADVISORY AND ACKNOWLEDGMENT:** In the event the Client and/or Owner chooses to take advantage of the time and cost savings benefits of an accelerated project delivery process, the Client and/or Owner acknowledges that it has been advised that the Project will be affected by such a process. Some of the effects of an accelerated project delivery process include the necessity of making early or premature commitments to design decisions and the issuance of incomplete and uncoordinated construction documents for permitting, bidding, and construction purposes in order to maintain a fast track or accelerated schedule, or the actual progress of the work of the Contractor. The Client and/or Owner acknowledges that it has been advised that the Project, if developed on an accelerated project delivery basis, may require associated coordination, design, and redesign of parts of the Project after construction documents are issued and the construction contract is executed, and may require removal of work in place, all of which events may cause an increase in the cost of the work and/or an extension of the project construction schedule. Therefore the Client and/or Owner acknowledges and understands that change orders arising from the accelerated project delivery process should be expected as a part of and related to this process; and the Client and/or Owner understands the necessity of including sufficient contingencies in the budget for the cost of the work to account for additional costs and construction schedule extensions arising from this process and agrees to include such contingencies

in the project construction budget commensurate with industry standards for projects of similar scope and quality of this project.

- J. All claims, disputes and other matters in question arising out of, or relating to, this Agreement or the breach thereof, as well as any other dispute between TELIOS and Client, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association (in Dallas, Texas) then in effect, unless the parties mutually agree otherwise. Notice of the demand for arbitration of any dispute shall be filed in writing with the other party and such demand shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, but in no event shall demand be made by institution of legal or equitable proceedings which would be barred by the applicable statute of limitations. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law, and any award rendered by the arbitrator shall be final and judgment may be entered upon and in accordance with applicable law in any court having jurisdiction thereof. TELIOS and the Client agree to include a similar arbitration provision in their agreements with all contractors, subcontractors, sub-consultants, suppliers and fabricators, thereby providing for arbitration as the primary method for dispute resolution between all parties.
- K. TELIOS shall not be required to execute any document that would result in its certifying, guaranteeing or warranting the existence of conditions whose existence TELIOS cannot ascertain.
- L. **IN RECOGNITION OF THE RELATIVE RISKS, REWARDS AND BENEFITS OF THE PROJECT TO BOTH THE CLIENT AND TELIOS, THE RISKS HAVE BEEN ALLOCATED SUCH THAT THE CLIENT AGREES THAT, TO THE FULLEST EXTENT OF THE LAW, TELIOS' TOTAL LIABILITY OF THE CORPORATION, EMPLOYEES, OFFICERS, DIRECTORS, OR SHAREHOLDERS TO THE CLIENT FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, EXPENSES, DAMAGES, CLAIM EXPENSES, INCLUDING ATTORNEY'S FEES AND COSTS, AND EXPERT-WITNESS FEES AND COSTS ARISING OUT OF THIS AGREEMENT FROM ANY CAUSE OR CAUSES, SHALL NOT EXCEED \$12,000.00. SUCH CAUSES INCLUDE, BUT ARE NOT LIMITED TO, TELIOS' NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, AND BREACH OF CONTRACT OR WARRANTY.**
- M. For the purpose of establishing Date Certain, the date of this document shall be used for purposes of calculating Statute of Repose or Statute of Limitation.
- N. The Client and TELIOS agree that neither the Client nor TELIOS nor the respective directors, officers, partners or employees shall in any event be liable under this agreement to the other for consequential damages arising out of or relating to this agreement, all such claims being hereby expressly waived. This waiver includes, without limitation damages incurred by the Client or TELIOS for principal office expenses, finance expenses, lost business opportunity, loss of use, and loss of business reputation. This waiver of consequential damages shall apply to all such damages regardless of cause, including but not limited to, breach of contract, delay, tort (including sole or concurrent negligence) strict liability, or otherwise.
- O. This Agreement and the scope, qualifications, fee, reimbursement schedule, terms and conditions noted herein shall supersede all submitted or executed general, scope-specific or master agreements previously submitted, regardless if such language of other document is in contradiction to that noted herein.
- P. All documents produced by TELIOS under this agreement shall remain the property of TELIOS and may not be used by the Client for any other endeavor without the prior written consent of TELIOS.
- Q. TELIOS shall have the right to include photographic or artistic representations of the design of the Project among TELIOS' promotional and professional materials. TELIOS shall be given reasonable access to the completed Project to make such representations. TELIOS' material shall not include the Owner's confidential or proprietary information, if the Owner has previously advised TELIOS in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner and Client shall provide professional credit for TELIOS in their respective promotional materials for the Project.
- R. Payment
 - 1. Invoices will be submitted for each significant design issue, including but not limited to internal design team reviews, schematic design, design development, permit, bid or construction documents, or addenda, but no less than monthly for all Basic Services, based on the estimated percentage of completion and shall be due within thirty (30) days

after the date of invoice. Reimbursable expenses and Additional Service Fees shall be due within thirty (30) days after the date of invoice. All invoices shall be due and payable at TELIOS' offices located at 146 Payne Street, Dallas, Texas 75207.

2. Invoices not paid within 30 days of the date rendered will be assessed a finance charge of one percent per month, or fraction thereof, for each month beyond 30 days past due. Invoices not paid within 60 days will result in TELIOS stopping work until such invoices rendered are paid in full. In the event this Agreement is placed in the hands of an attorney, the Client agrees to be liable for all expenses incurred by TELIOS in the enforcement thereof, including but not limited to the collection of any unpaid invoices, actual attorneys' fees and collection cost incurred by both TELIOS and its agents.
3. If TELIOS has stopped work because outstanding invoices have not been paid in full, TELIOS shall be indemnified and held harmless by the Client any delay in design or construction of the Project.
- S. As a due course and process to protect our rights to lien for delinquent payments, we may at our discretion, file affidavits for mechanics and material man's lien to Owners as scheduled by the Texas Property Code §53.052 or as required in other states.
- T. This Agreement may be terminated by TELIOS or Client for any reason by giving seven (7) days written notice, delivered to the other party by certified mail, return receipt requested, at the addresses shown herein. In the event of termination by either party, or in the event the Project is abandoned or work is otherwise stopped, the Client shall pay TELIOS, in accordance with the Payment sub-paragraph noted in Additional Terms and Conditions Section above, for all services rendered through the date of termination, all reimbursable expenses incurred, additional service fees, and costs incurred by reason of such termination, along with reasonable overhead and profit.

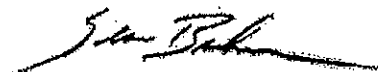
TELIOS Corporation appreciates this opportunity to submit this proposal for design services for the low voltage systems. We hope you recognize TELIOS' ability to effectively manage the engineering of these systems and thus prove that we can save you both time and money.

If you have any questions, please do not hesitate to call.

If this proposal is acceptable, please so signify by signing the Authorization to Proceed below.

Respectfully submitted,

TELIOS CORPORATION



Sean E. Brehmer, RCDD
Director of Technology

AUTHORIZATION TO PROCEED:

I hereby authorize TELIOS Corporation to proceed as described by the Basic Design Services, and Basic Design Service - Qualifications, and the Terms and Conditions, and will pay the Basic Design Service Fees and all project-related reimbursables.

Signed _____

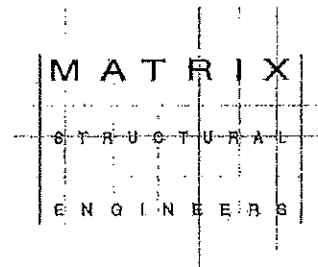
Name _____

Title _____

Date _____

June 13, 2017

Jackson & Ryan Architects
2370 Rice Blvd., Suite 210
Houston, Texas 77005



Attn: Ms. Martha Seng, FAIA

Re: Proposal for Structural Engineering Service
League City Animal Shelter
League City, Texas

Dear Martha:

We are pleased to submit this proposal to provide the structural engineering services for the above referenced project. This proposal is presented in order to establish a basis for commencement of our portion of the Work. We anticipate that this letter and any attachments will remain in effect until such time as a formal contract is executed for the services. If no contract is executed, the terms stated in this letter will serve as our entire agreement. This proposal will be valid for a period of ninety (90) days beginning on the date of this proposal.

SCOPE OF PROJECT

We understand that the project consists of a one story animal shelter that will cover approximately 19,000 square feet of framed area. We also understand the structure will be framed with conventional steel, masonry and concrete foundation. The total construction budget will be approximately \$6.85M.

BASIC SERVICES

It is our understanding that services to be performed area as follows:

1. Furnish construction documents for structural items.
2. Review any pertinent shop drawings. Respond to RFI's during construction phase.
3. Attend consultants meeting as required.
4. Perform periodic site visits to review the progress of work. For purpose of this proposal, we will assume maximum four (4) site visits.

In order for us to proceed with the work we will need the following Information.

1. A signed copy of this agreement.

FEE BASIS

We propose to perform the engineering services described above for a lump sum fee of \$45,000.

The fee will be allocated to the phases approximately as follows:

Schematic Design Phase	10%
Design Development Phase	20%
Construction Document Phase	50%
Bidding Phase	2%
Construction Administration Phase	18%
Post Construction	0%

6177 RICHMOND AVENUE
SUITE 870
HOUSTON, TEXAS 77056
713.664.0130
FAX 713.664.1370
www.matrixstructural.com

Ms. Martha Seng
June 13, 2017
Page 2

Proposal
League City Animal Shelter
League City, Texas

ADDITIONAL SERVICES

Additional services will include but are not limited to the following:

1. Significant changes to the scope of the project.
2. Changes to substantially completed work.

Any additional services and site visits beyond the scope of services above required and authorized by you, will be performed on a time card basis. See Appendix A for a breakdown of hourly rates.

REIMBURSABLE EXPENSES

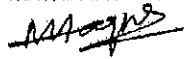
Plotting, reproduction, and delivery will be billed and paid at cost plus 10%. Mileage will be charged at fifty three and half cents (53.5) per mile..

PAYMENT SCHEDULE

Invoices will be prepared and presented on a monthly basis based on Engineer's percent complete to date. Payment will be due 30 days from billing date.

We want to thank you for the opportunity to present this proposal and we look forward to working with you on this project. If this proposal letter meets with your approval, please sign below and return a copy for our files. Your signature will be authorization for us to proceed with work of this agreement. If you have any questions, please feel free to call.

Very truly yours,
MATRIX STRUCTURAL ENGINEERS



Moyeen Haque, Ph.D., P.E.
President

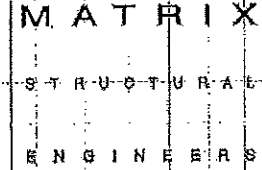
ACCEPTED:

Company: _____

By: _____

Title: _____

Date: _____



APPENDIX A

HOURLY BILLING RATES – 2017

<u>Category</u>	<u>Rates</u>
Principal	\$240.00/hour
Vice-President	\$180.00/hour
Engineering Associate Vice-President	\$160.00/hour
Project Manager	\$150.00/hour
Senior Associate	\$150.00/hour
CAD Vice-President	\$130.00/hour
CAD Associate Vice-President	\$120.00/hour
CAD Senior Associate	\$110.00/hour
Associate	\$130.00/hour
Senior CAD Designer	\$105.00/hour
Graduate Engineer	\$110.00/hour
CAD Designer	\$ 95.00/hour
Senior CAD Operator	\$ 90.00/hour
CAD Operator	\$ 75.00/hour
Clerical	\$ 50.00/hour

5177 RICHMOND AVENUE
SUITE 670
HOUSTON, TEXAS 77056
713.684.0130
FAX 713.684.1370
www.matrixstructural.com

SHELMARK

ENGINEERING, L.L.C.
CIVIL | MARINE | PLANNING | STRUCTURAL

TX Firm No. F-2115

921 FM 517 Road East, Dickinson, Texas 77539

June 14, 2017

Ms. Martha Seng,
Jackson and Ryan Architects
2370 Rice Boulevard, Suite 210
Houston, Texas 77005

RE: Proposal for Engineering Services
League City Animal Shelter
League City, Texas
SME Proposal 17-288

Dear Ms. Seng,

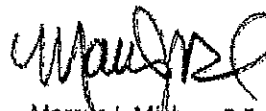
We are pleased to submit this proposal and thank you for the opportunity to be considered for the work. It is our hope this proposal reflects the effort we will also take for the successful completion of your project. Based on the information you have provided to our staff, we have put together this engineering services agreement which includes a detailed scope of work and the related fees. Do not hesitate to contact us if there are any questions once you have reviewed the proposal.

Should you find our agreement satisfactory, please sign, initial and date all Exhibits and return to our office. These are required for the project to be initiated.

In the event this proposal is not executed within a 30 day time frame from the date received, Shelmark retains the right to modify the fees and project schedule based on our workload.

Again thank you for the opportunity to prepare this proposal. Whether we are chosen to assist you or not, we wish you well in your future endeavors and hope you consider us for future opportunities should they exist.

Best Regards,



Marcus J. Michna, P.E.
President

MJM/clo

Attachments: Engineering Services Agreement with Exhibits

S:\Projects\2017 Projects\17-288 RFQ - LC Animal Shelter\Contracts\Cover - Standard.wpd

EXHIBIT "A"
ENGINEERING SERVICES AND FEE SCHEDULE

The following is a list of the engineering services to be provided by SHELMARK as basic services. In the event the Parties agree to expand the Agreement to include any additional services, SHELMARK shall prepare an amendment to Exhibit "A".

1. RESEARCH & DEVELOPMENT PHASE

- a. Obtain and review available documentation (i.e. site plans, studies, reports, permits, etc.) relevant to the site and the project.
- b. *Site Evaluation:* Conduct initial site inspection to assess conditions for development, availability of existing utilities, drainage patterns, accessibility issues, etc.
- c. *Water and Sanitary Utilities:* Obtain information from City of League City for connections to existing water and sanitary sewer systems.
- d. *Storm Water:* Obtain information from the City of League City for connections to existing storm drainage systems and detention requirements.
- e. Provide property survey information including boundary information, topography taken on a 50 foot grid extending a minimum of 50 feet beyond the subject site boundary in all directions, utility information, and base flood information from Land Surveyor.

2. CONSTRUCTION DOCUMENTS

- a. Prepare sanitary sewer and water utility plans for connection to existing City of League City utilities to within five (5) feet of the building.
- b. Prepare drainage plan showing storm sewer and outfall features including storm water detention requirements and calculations.
- c. Prepare grading plan showing existing and proposed vertical control on pertinent features (i.e. streets, manholes, and building finished floors).
- d. Prepare overall grading plan showing existing and proposed flows for lots, streets, drainage systems, and green space/parks and easements.
- e. Prepare overall paving plan including curbs, construction/expansion joint layout and driveways.
- f. Prepare Storm Water Pollution Prevention Plan showing best management practices using temporary erosion and sediment control measures for construction activities (**Administration and inspection by others**).
- g. Prepare site details for utilities and paving.
- h. Coordinate with and attend review meetings with the City of League City to obtain approval of construction plans.

3. STORM WATER QUALITY MANAGEMENT SERVICES

- a. Prepare a Storm Water Quality Management Plan for showing best management practices using permanent erosion and sediment control measures for post construction activities and obtain approval from the City of League City.
- b. Prepare a Storm Water Management Narrative for post construction activities and obtain approval from the City of League City.
- c. **Administration and inspections by others.**

4. CONSTRUCTION PHASE SERVICES

- a. Review submittals and shop drawings from Contractor.
- b. Provide periodic project representation to observe and report on work progress and the quality of the executed work in accordance with the construction plans and specifications.
- c. Coordinate final inspection and approval of work for OWNER.
- d. Prepare Engineer's Certificate of Completion of Work.

5. RATES FOR PERFORMING ENGINEERING SERVICES

SHELMARK agrees to furnish all labor, equipment, supervision, insurance, accounting, documentation reports, and all other things necessary to perform the work complete, in strict compliance with the terms and conditions of the Agreement based on the following schedule of values.

ENGINEERING SERVICE AGREEMENT

a. SCHEDULE OF VALUES

i. Surveying Services	\$ 6,325.00
ii. Civil Construction Documents	\$ 33,500.00
iii. Storm Water Quality Management Services	\$ 3,500.00
iv. Construction Phase Services	\$ 10,675.00
v. <u>Reimbursements (Mileage, copies, deliveries)</u>	<u>\$ 1,000.00</u>
Total Project Fees	\$ 55,000.00

b. ADDITIONAL SERVICES

In the event the Parties agree to expand the Agreement to include any additional services based on time and expenses, Client agrees to pay SHELMARK for the actual time worked in connection with the additional services at the fixed unit rates stated herein.

I. HOURLY RATES

<u>Consultant Description</u>	<u>Hourly Rate</u>	<u>Consultant Description</u>	<u>Hourly Rate</u>
Principal *	\$ 250.00	Sr. CAD Designer	\$ 95.00
Principal Engineer *	\$ 200.00	CAD Designer	\$ 75.00
Senior Project Manager *	\$ 150.00	CAD Draftsman	\$ 60.00
Project Manager II *	\$ 135.00	Administrative Assistant	\$ 75.00
Project Manager I *	\$ 125.00	Clerical Support	\$ 60.00
Senior Project Engineer *	\$ 115.00	Project Site Representative	\$ 110.00
Project Engineer *	\$ 95.00	Construction/Field Inspector	\$ 90.00
Graduate Engineer *	\$ 75.00	inspector	\$ 65.00

II. REIMBURSABLE EXPENSES

<u>Expense Description</u>	<u>Rates</u>	<u>Reproduction Charges</u>
Automobile Mileage	\$0.56/mile.	\$1.00 - 17"x11" Copies
Field Equipment Rentals	Cost + 15%	\$4.00 - 36" x 24" Sheet (Bond)
Sub-Consultant Services	Cost + 15%	\$10.00 - 36" x 24" Sheet (Vellum)
Permit/Development Review Fees	Cost + 15%	\$25.00 - 36" x 24" Sheet (Mylar)
Delivery Services	Cost + 15%	Outside Reproduction charges: Cost plus 15%

The above hourly rates do not apply to fixed fee projects.

** Court or Expert Witness Testimony is billed at a \$50 per hour surcharge for all time involvement above rate. Rates in effect through December 2017 and are subject to annual revision thereafter.*

ENGINEERING SERVICE AGREEMENT

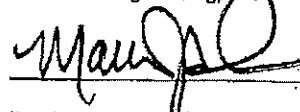
IN WITNESS WHEREOF, the Parties hereto execute this Agreement as of entered this _____ day of _____, 2017
(the "Effective Date").

AGREED AND ACCEPTED:

CLIENT:

SHELMARK:

Shelmark Engineering, LLC



By: _____

By: Marcus J. Muchna, P.E.

Title: _____

Title: President

Billing Information:

Accountants Payable Contact: _____

Company: _____

Address: _____

City: _____ State: _____ Zip: _____ Phone: (____) _____

Email Address: _____

We except American Express, Discover, Master Card and Visa for your convenience

EXHIBIT "B"

ENGINEERING SERVICES TERMS AND CONDITIONS

This Engineering Services Agreement (the "Agreement") is entered between **Shelmark Engineering, LLC**, a Texas limited liability company, ("SHELMARK") and **CLIENT** noted in Section 16 ("CLIENT"). SHELMARK and CLIENT are each a Party and may sometimes be collectively referred to as the Parties.

WHEREAS, CLIENT has requested that SHELMARK provide basic engineering services described in Exhibit "A".

WHEREAS, SHELMARK is willing to provide such basic engineering services in connection with the Project on the terms and conditions as follows:

1. **SERVICES PROVIDED BY SHELMARK:** In connection with the Project, SHELMARK shall provide, or cause to be provided, the basic services listed on the attached Exhibit "A" (collectively, the "Services"). In the event CLIENT desires to expand the scope of services, or request changes to previously approved documents, SHELMARK shall provide CLIENT with a cost estimate of the added services ("Extra Work") and, if such cost estimate is acceptable to CLIENT, the Parties shall amend the attached Exhibit "A" to reflect the additional scope of services. SHELMARK shall not perform any Extra Work without first having secured written approval from CLIENT. Should SHELMARK perform any Extra Work without advance written authorization, such Extra Work shall be at SHELMARK'S expense and risk.
2. **CLIENT RESPONSIBILITIES:** CLIENT shall be responsible for all requirements, programs, instructions, reports, data, and other information furnished by CLIENT to SHELMARK pursuant to this Agreement. SHELMARK may use such requirements, programs, instructions, reports, data, and information in performing or furnishing Services.
3. **COMPENSATION:**
 - a. **Compensation for Services:** The estimated cost of the engineering fees shall be noted on attached Exhibit "A". CLIENT understands and agrees that such amount is merely an estimated cost and CLIENT agrees to pay SHELMARK for Services rendered in connection with the Project as set forth on the attached Exhibit "A".
 - b. **Invoices:** SHELMARK shall, at its sole election, submit to CLIENT either (a) monthly invoices for Services rendered and reimbursable expenses incurred in the preceding month, or (b) invoices upon the completion of any phase or Project. CLIENT agrees to promptly pay such invoice within thirty (30) days of the date on such invoice.
 - c. **Reimbursable Expenses:** If not included in Compensation for Services, CLIENT also agrees to pay SHELMARK for the reimbursable expenses at the accompanying rates listed on the attached Exhibit "A". Reimbursable expenses other than those listed on Exhibit "A", including without limitation any marketing expenses, will be billed at cost and SHELMARK may, at its sole discretion, elect to separately invoice such reimbursable expenses.
 - d. **Retainer:** Upon execution of this Agreement, CLIENT shall deposit with SHELMARK the amount noted in Exhibit "C" as a retainer (the "Retainer"). SHELMARK shall apply the Retainer to any invoices sent to CLIENT. Once the Retainer has been fully exhausted, CLIENT shall pay any SHELMARK invoices as set forth below.
 - e. **Suspension of Work:** If CLIENT fails to pay any invoice within sixty-one (61) days and there are insufficient funds in the Retainer to pay such invoice, SHELMARK may, at its sole discretion and after giving seven (7) days written notice to CLIENT, suspend Services under this Agreement until CLIENT has paid in full all amounts owed by CLIENT as of the date of such notice of suspension. CLIENT hereby irrevocably waives any and all claims against SHELMARK for any such suspension.
 - f. **Failure to Pay:** If CLIENT fails to pay any invoice after ninety-one (91) days and does not provide written communication regarding payment, SHELMARK at its sole discretion, may pursue legal proceedings.
4. **SCHEDULE:** SHELMARK shall begin the work upon receipt of this signed Agreement and Retainer (if applicable) and proceed diligently to complete the work as soon as possible. CLIENT required data/documents may affect our schedule and we will attempt to notify you promptly of delays which may affect our anticipated schedule. If the CLIENT has a particular schedule or contract deadline, SHELMARK must be informed of this prior to the start of work.
5. **STANDARD OF CARE:** The standard of care for all professional engineering and related services performed or furnished by SHELMARK under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. SHELMARK makes no warranties, express or implied, under this Agreement or otherwise, in connection with the Services. SHELMARK may retain such consultants as SHELMARK deems necessary to assist in the performance or furnishing of the Services, subject to reasonable, timely, and substantive objections by CLIENT.
6. **INDEMNIFICATION:**
 - a. **Indemnification by SHELMARK:** SHELMARK shall indemnify and hold CLIENT, and its respective officers, directors, employees, partners, agents and representatives, harmless from and against any and all claims, costs, losses, damages and expenses (including, without limitation, all reasonable fees and charges of architects, engineers, attorneys and

other professionals, all court, arbitration or other dispute resolution costs) arising out of or relating to the Services, provided that any such claim, cost, loss, damage and expense is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property, including to the extent such claims, costs, losses, damages, and expenses are caused by SHELMARK'S negligent acts, errors or omissions.

- b. **Indemnification by CLIENT:** CLIENT shall indemnify and hold SHELMARK harmless, and its respective officers, directors, employees, partners, agents and representatives, from and against any and all claims, costs, losses, damages and expenses (including, without limitation, all reasonable fees and charges of architects, engineers, attorneys and other professionals, all court, arbitration or other dispute resolution costs) arising out of or relating to: (i) the Project, provided that any such claim, cost, loss, damage and expense is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property, including to the extent such claims, costs, losses, damages, and expenses are caused by CLIENT's negligent acts, errors or omissions, (ii) the condition of any real property (together with any improvements thereon) owned or controlled by CLIENT, including without limitation the presence on such property of any substance, product, waste or other material of any nature whatsoever which is listed, regulated or addressed pursuant to any federal, state or local statute, law, rule regulation, ordinance, resolution, code, order or decree, (iii) the reuse or modification of any Document (as that term is defined below) by CLIENT or any other entity or individual acting by or through CLIENT.
 - c. **Joint or Contributory Negligence:** To the fullest extent permitted by law, a Party's total liability to the other Party and anyone claiming by, through or under the other Party for any claim, cost, loss, damage or expense caused in part by the negligence of the Party and in part by the negligence of the other Party or any other negligent entity or individual shall not exceed the allocable percentage share that the Party's negligence bears to the total negligence of CLIENT, SHELMARK and all other negligent entities and individuals.
 - d. **Mutual Waiver of Certain Damages:** To the fullest extent permitted by law, the Parties hereto waive against each other and the other's officers, directors, employees, partners, agents and representatives any and all claims for or entitlement to special, incidental, indirect, punitive, or consequential damages arising out of, resulting from, or in any way related to the Project.
7. **DISPUTE RESOLUTION; ARBITRATION:** The Parties agree to negotiate in good faith to resolve all disputes between them for a period of at least thirty (30) days. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach thereof, that cannot be resolved within such thirty (30) day period shall be settled by binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Any such arbitration shall be held in Galveston County, Texas.
 8. **TERMINATION OF AGREEMENT:** This Agreement may be terminated by SHELMARK or CLIENT by providing seven (7) days written notice to the other party. In the event of such termination, SHELMARK will prepare an invoice for all work performed, on the task underway, up to the date of termination. The total of this work will be deducted from the advance payment (if any) and any balance remaining will be reimbursed back to CLIENT. In addition, SHELMARK may terminate this Agreement with seven (7) days written notice if SHELMARK'S Services have been suspended for CLIENT'S failure to pay invoice past due more than 60 days.
 9. **OWNERSHIP OF DOCUMENTS:** All data, reports, drawings, specifications, record drawings and other deliverables prepared (regardless of format) or furnished by SHELMARK pursuant to this Agreement (collectively, the "Documents") are instruments of SHELMARK'S professional service, and SHELMARK shall retain an ownership and property interest therein, including the copyright and the right of reuse at the sole and absolute discretion of SHELMARK, whether or not the Project is completed. CLIENT shall not rely in any way on any Document unless it is in printed form, signed or sealed by SHELMARK. SHELMARK grants CLIENT a license to use such signed or sealed Documents for the purpose of constructing, occupying and maintaining the Project. CLIENT agrees not to reuse or modify any Documents without SHELMARK'S written permission. Any such reuse or modification shall be at CLIENT'S sole risk.
 10. **USE OF ELECTRONIC MEDIA:** Copies of Documents that may be relied upon by CLIENT are limited to print copies (hard copies) that are signed and sealed by SHELMARK. Files in electronic media format or text, data, graphic or other types that are furnished by SHELMARK to CLIENT are only for convenience of CLIENT. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring Documents in electronic media format, SHELMARK makes no representations as to long-term compatibility, usability, or read-ability of documents resulting from the use of software application packages, operating systems or computer hardware differing from those in use by SHELMARK at the beginning of this Agreement. CLIENT agrees that SHELMARK shall have no liability of any kind for any viruses, worms, Trojan horses, or other similar harmful components that may enter CLIENT'S computer, network or other equipment or property by downloading information, attachments software, or other materials from SHELMARK.
 11. **CONSTRUCTION PHASE SERVICES:**
 - a. If the Services include any construction phase services by SHELMARK, it is understood that the contractor of such construction phase (the "Contractor"), not SHELMARK, is responsible for the construction of this Project, and that SHELMARK is not responsible for the acts and omissions of any Contractor, any of Contractor's subcontractors or material supplier; for safety precautions, programs of enforcement; or for construction means, methods, techniques, sequences and procedures employed by the Contractor.


- b. *Additional observations by SHELMARK due to reasonably unforeseen issues during construction including requests for inspections of uncompleted work, contractor errors, or Client allowed product substitutions shall constitute additional services. SHELMARK shall notify CLIENT in writing and provide an invoice for additional site visit(s).*
- c. If the Services do not include any construction phase services by SHELMARK, then SHELMARK'S services under this Agreement shall be deemed complete no later than the end of the final design phase or bid or negotiating phase. CLIENT assumes all responsibility for the application and interpretation of any contract documents, contract administration, construction observation and review and hereby waives any claims against SHELMARK that may be connected in any way thereto.
12. **OPINIONS OF COST:** When included in SHELMARK'S scope of services, opinions or estimates of probable construction cost are prepared on the basis of SHELMARK'S experience and qualifications and represent SHELMARK'S judgment as a professional generally familiar with the industry. Shelmark shall use its best professional efforts to prepare such opinions or estimates of probable construction costs in accordance with CLIENT'S budget. However, since SHELMARK has no control over the cost of labor, materials, equipment or services furnished by others, SHELMARK cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions or estimates of probable construction cost.
13. **INSURANCE:** SHELMARK maintains Commercial General Liability Insurance, Automobile Liability Insurance, Worker's Compensation Insurance, and Professional Liability Insurance. CLIENT shall maintain general liability and property insurance in a commercially reasonable amount of coverage for the Project and any real property related thereto and shall add SHELMARK as an additional named insured on such coverage. Each Party shall deliver to the other Certificates of Insurance evidencing such coverage upon request.
14. **SUCCESSORS AND ASSIGNS:** Neither Party may assign, sublet or transfer any rights under or interest in this Agreement without the prior written consent of the other. Unless specifically stated to the contrary in any written consent to assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
15. **MISCELLANEOUS PROVISIONS:**
- a. **Survival:** All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- b. **Severability:** Any provision or part of the Agreement held to be void or unenforceable under any applicable laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the Parties, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- c. **Governing Law:** This Agreement and the legal relations between the parties shall be governed by and construed in accordance with the laws of the State of Texas without regard to its conflicts of law principles.
16. This Agreement, together with the exhibits identified herein constitutes the entire agreement of the Parties and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented or modified in writing signed by both Parties. IN WITNESS WHEREOF, the Parties hereto execute this Agreement as of entered this _____ day of _____, 2017 (the "Effective Date").

AGREED AND ACCEPTED:**CLIENT:**

 By: _____
 Title: _____

SHELMARK:

Shelmark Engineering, LLC


 By: _____
 Title: **Marcus J. Michna, P.E.
 President**

S:\Projects\2017 Projects\17-288 RFQ - LC Animal Shelter\Contracts\Exhibit B - Terms Agreement.wpd
 June 15, 2017

Lauren Griffith Associates
Landscape Architecture and Planning
5252 Westchester Street, Suite 170
Houston, Texas 77005
(713) 838-7120/Fax: (713) 839-7778
lgriffith@laurengriffithassociates.com

June 15, 2017

Ms. Martha Seng
Jackson & Ryan Architects
2370 Rice Blvd, Suite 210
Houston, TX 77005

Dear Ms. Seng:

We are pleased to present this proposal for landscape architectural services for
League City Animal Shelter

SCOPE OF SERVICES

Schematic Design:

We understand that you will prepare the site plan for the facilities. We will develop the site features further, including the parking lot, entry plaza, landscaped and outdoor gathering areas, "Get to Know" yard, and detention pond. We will develop a Schematic Design Plan that illustrates proposed pedestrian hardscape, fences, site structures such as pergolas or gazebos, site furnishings, and planting. We will present the plan, along with a preliminary cost estimate, to you and the Owner for review. After receiving comments, we will prepare a final Schematic Design Plan and updated cost estimate. We will present this in one additional meeting.

We will work from AutoCAD files provided by you. No survey work or base map preparation is included in this proposal.

Design Development:

Upon receiving approval of the Schematic Design drawings, we will proceed with the design development package for Phase One, including:

1. Pedestrian hardscape layout plans and details
2. Site structure plans and design details (no structural engineering)
3. Fencing plans and details
4. Landscape plans and details
5. Irrigation plan (meter and mainline only)
6. Technical specifications

We will coordinate with your consultants as required for grading, paving, retaining walls, and lighting. Any site walls, site structures such as gazebos or pergolas or fences requiring structural

engineering will be engineered by your consultant. Any water features will be engineered by your consultants. We will make one submittal for the DD phase.

Construction Documents

Upon receiving approval of the Design Development drawings, we will proceed with the construction documents necessary to implement the phase one improvements, including:

1. Pedestrian hardscape layout plans and details
2. Site structure plans and design details (no structural engineering)
3. Fencing plans and details
4. Landscape plans and details
5. Irrigation plan (meter and mainline only)
6. Technical specifications

We will make up to 3 submittals in the CD phase.

Bidding:

We will be available during the bidding period to answer any questions that arise and prepare any necessary addenda during the bidding of Phase One. .

Construction Administration:

We will make up to 8 periodic visits to the site to determine whether the work is progressing on schedule and in accordance with the design intent of the drawings and specifications. We will review submittals, applications for payment, changes orders and field layout. We will inspect the project for Substantial Completion. The landscape architect will not be responsible for the contractors' schedule, safety measures, materials or means or methods of construction. Construction administration services will be provided for the phase one only.

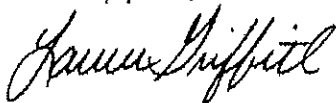
COMPENSATION

We propose to be compensated for the services described above by a lump sum fee:

Schematic Design	\$ 4,500
Design Development	\$12,000
Construction Documents	\$24,000
Bidding	\$ 500
Construction Administration	<u>\$ 4,000</u>
	\$45,000

Reimbursable expenses such as mileage, plots, prints, photocopies, and deliveries will be billed at cost plus 10%.

Sincerely yours,



Lauren Griffith, ASLA



COSTING SERVICES GROUP, INC.

Suite 3
1270 West Peachtree Street, NW
Atlanta, Georgia 30309
PHONE: (404) 815-9556
Fax: (404) 815-9666
www.costingservicesgroup.com

- COST CONSULTING
- BUDGET VERIFICATION
- VALUE ENGINEERING
- SCHEDULING

June 9, 2017

Martha Seng
Jackson & Ryan Architects
2370 Rice Blvd. Suite 210
Houston, TX 77005

Regarding: League City Animal Shelter

Dear Martha,

Thank you for the opportunity of proposing costing services for the League City Animal Shelter. Based on the information gathered from the RFP and our conversation, we propose the following fee to prepare estimates in our standard expanded component format.

Schematic Design Estimate	\$4,000
Design Development Estimate	\$7,500
50% Construction Documents Estimate	\$4,000
Total	\$15,500

Please note that the above fee does not include an allowance for additional services. If any additional services are requested a new or amended proposal will be presented before any additional services are performed.

If acceptable, please sign and date this proposal at the bottom and return a copy to us. We look forward to working with you again. Please call if you have any questions concerning this proposal.

Sincerely,

James E. Greiner, CPE
Operations Manager
Senior Cost Analyst

Accepted _____ Date _____

June 16, 2017

Jackson & Ryan Architects
2370 Rice Blvd, Suite 210
Houston, TX 77005

Attn: Ms. Martha Seng, FAIA
Ph: 713-526-5436
Email: mseng@jacksonryan.com

Re: Proposal for Geotechnical Engineering Services
League City Animal Shelter
NEC Center Pointe Drive and West Walker Street
League City, Texas
PSI Proposal No.: 286-214278

Dear Ms. Seng:

Professional Service Industries, Inc. (PSI) is pleased to submit this proposal for providing geotechnical engineering services for the above referenced project located in League City, Texas.

This proposal outlines our understanding of the project as well as the scope for the geotechnical exploration program. Additionally, we present herein our intended scope for laboratory testing, geotechnical analysis and reporting.

Given the opportunity, PSI is prepared to assign project oriented, experienced geotechnical professionals to meet the project needs and requirements in an efficient, high quality and timely manner.

We have included the following in this proposal:

- Project Information
- Scope of Services
- Project Schedule
- Lump Sum Fee and Terms
- Closing

Project Information

Ms. Martha Seng, FAIA provided the project information to PSI through emails dated June 7th to June 13th, 2017. A Conceptual Site Plan for the proposed development was included in the email. The site is located near the northeast corner (NEC) of the intersection of Center Pointe Drive and West Walker Street in League City, Texas.

PSI understands that a new building with footprint of about 19,000 square feet and associated paved parking plans to be constructed at this site. Area of the tract is about 8 acres and is located southwest of the Public Safety Building located at 555 W. Walker Street.

Final grade elevations were not available to PSI at the time of this proposal submittal; however, PSI anticipates that the finished grade for the proposed structures will be within two feet of the existing site grades.

If any of the above information should change significantly, or be in error, it should be brought to the attention of PSI so that any changes in the scope can be made if required.

Scope of Services

The proposed scope of services for this project will require the collection of subsurface data, laboratory testing, and geotechnical analyses. The proposed geotechnical exploration activities are detailed below.

Field Exploration: The field exploration will consist of drilling and sampling the subsurface materials by performing soil borings and observation of groundwater levels in the borings at the time of drilling.

- **Site Access:** Prior to entering the site area, it is assumed that the client will arrange for the right-of-entry. PSI will schedule drilling/sampling operations after obtaining the right-of-entry to access the site area. PSI will notify the public utility clearance company Texas 811; however, it is our understanding that the notified utility companies do not clear utilities within private property. Private underground utility information should be provided to PSI by client or client's representative and all private utilities should be clearly marked in the field prior to PSI mobilizing to the site.
- **Soil Borings:** PSI is planning to perform drilling and sampling a total of eight (8) soil borings to depths ranging from 6 to 20 feet below the existing ground surface and described in the table below:

Proposed Structure	Boring Depths (feet)	No. of Borings	Drilling Total (feet)
Animal Shelter	20	4	80
Parking and Driveway	6	4	24
	Total	10	104 feet

The soil borings will be sampled continuously to a depth of 10 feet and at 5-foot intervals thereafter to the maximum planned exploration depths. Samples of granular soil will be collected through the Standard Penetration Test (SPT) method performed in accordance with ASTM D 1586 using a standard 2-inch diameter split-barrel sampler. Undisturbed samples of cohesive soil will be recovered with pushed thin-walled tubes in accordance with ASTM D 1587. Observations of groundwater levels in the borings will be made at the time of drilling. Upon completion of drilling, the boring will be backfilled with auger cuttings.

During the field exploration, if unusual or soft soil conditions are found, or if the site layout or grading plans were to significantly change, deeper or additional of borings may be required to evaluate the subsurface conditions. If such conditions are noted, PSI will determine the necessary change in scope and will proceed with the work after prior authorization.

Laboratory Testing: Laboratory-testing program will be designed to classify the subsurface soils and determine the design soil parameters for use in the engineering analyses and in support of the conclusions and recommendations. Anticipated geotechnical laboratory testing may include moisture content, unit weight, percent finer than US Standard Sieve No. 200, Atterberg limits, unconfined compression strength tests, and unconsolidated undrained triaxial tests.

Geotechnical Recommendations and Report(s): The results of the field exploration and laboratory tests will be used in the engineering analyses and in the formulation of the recommendations. The recommendations for the site will be presented in a written report prepared by a professional engineer. The Geotechnical Services Report will include:

- Description of subsurface conditions as observed in the borings and groundwater information;
- Boring logs, laboratory test results;
- Discussion about swell/shrink potential & recommendations to reduce PVR to less than 1 inch;
- Site Preparation recommendations;
- Recommendations for foundations, and estimated settlement;
- Rigid and flexible pavement recommendations; and,
- Discussions of the factors that may impact the proposed construction.

General: The scope of services does not include a fault study, a detailed geologic study and any kind of environmental site assessment. PSI's scope of services does not include drilling and sampling of contaminated soil samples. If contaminated soils are encountered, PSI will contact the client to discuss about specific training requirements and associated fees for contaminated soil sampling.

PROJECT SCHEDULE

PSI will proceed with the field exploration within one week after receiving the authorization to proceed. The fieldwork is anticipated to take about two (2) rig days to complete the drilling operations. The laboratory testing is expected to take about two (2) weeks to complete. The reporting will be completed within two (2) weeks from the completion date of the laboratory testing. The estimated duration of the project is about four (4) weeks from the completion date of the field exploration, to the submittal of the geotechnical exploration report.

The above schedule reflects good weather days and smooth flow of work. It does not include mechanical or other work stoppages beyond the control of PSI.

LUMP SUM FEE AND TERMS

The work will be performed pursuant to PSI's General Conditions which are attached to and made part of this proposal. PSI proposes a lump sum fee of **\$4,500.00** to complete the outlined scope of work.

The cost is based on the following assumptions:

1. The fee assumes that borehole locations are accessible to our truck-mounted drilling equipment, and that all required permits will be provided to us.



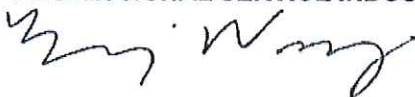
2. The above cost estimate does not include any fees associated in backfilling the bore holes with bentonite-cement grout. If requested, PSI can backfill the bore holes with bentonite-cement with an additional charge of \$6.00 per foot.
3. If work stoppages occur beyond PSI's control an additional fee on \$240.75 per hour will be assessed and notice provided to the client. This does not to include stoppages due to PSI or PSI equipment.
4. The above fee estimates assume that no special safety training or safety equipment is required, other than standard PPE such as safety goggles, gloves and steel toe boots, for the drilling crews to perform drilling at the project site.

CLOSING

PSI will proceed with the work when a signed copy of this proposal is received intact. When returning the proposal, please complete the attached Project Data Sheet so that PSI may best serve your project.

PSI appreciates this opportunity to submit this proposal and looks forward to working with you on this project. If you have any additional questions concerning our proposal or if PSI can be of additional services, please contact our office.

Respectfully submitted,
PROFESSIONAL SERVICE INDUSTRIES, INC.



Jane Wang, P.E.
Project Engineer



Ather Mohiuddin, P.E.
Department Manager



Shallendra N. Endley, Ph.D., P.E.
Chief Engineer

ENCLOSED: PROJECT DATA SHEET
GENERAL CONDITIONS

AGREED TO THIS ON THE _____ **DAY OF** _____, 2017

BY: _____

PRINT NAME: _____

TITLE: _____

FIRM: _____



PROJECT DATA SHEET

1.	PROJECT NAME:		
2.	PROJECT LOCATION:		
3.	YOUR JOB NO.:		
4.	PURCHASE ORDER NO.:		
5.	PROJECT MANAGER:		
6.	PHONE NO.:		
7.	DISTRIBUTION OF REPORTS:		
NAME AND ADDRESS		NUMBER OF COPIES	
8.	INVOICING ADDRESS		
ATTN:			
ADDRESS:			
PHONE:		FAX:	CELL:
9.	SITE CONTACT INFORMATION:		
PHONE:		FAX:	CELL:
10.	OTHER PERTINENT INFORMATION (SITE CONDITION):		



GENERAL CONDITIONS

1. **PARTIES AND SCOPE OF WORK:** Professional Service Industries, Inc. ("PSI") shall include said company or its particular division, subsidiary or affiliate performing the work. "Work" means the specific service to be performed by PSI as set forth in PSI's proposal. Client's acceptance of the proposal and these General Conditions. Additional work ordered by Client shall also be subject to these General Conditions. "Client" refers to the person or business entity ordering the work to be done by PSI. If Client is ordering the work on behalf of another, Client represents and warrants that it is the duly authorized agent of said party for the purpose of ordering and directing said work. Unless otherwise stated in writing, Client assumes sole responsibility for determining whether the quantity and nature of the work ordered by the client is adequate and sufficient for Client's intended purpose. Client shall communicate these General Conditions to each and every third party to whom Client transmits any part of PSI's work. PSI shall have no duty or obligation to any third party greater than that set forth in PSI's proposal, Client's acceptance thereof and these General Conditions. The ordering of work from PSI, or the reliance on any of PSI's work, shall constitute acceptance of the terms of PSI's proposal and these General Conditions, regardless of the terms of any subsequently issued document.
2. **TESTS AND INSPECTIONS:** Client shall cause all tests and inspections of the site, material, and work performed by PSI or others to be timely and properly performed in accordance with the plans, specifications and contract documents and PSI's recommendations. No claims for loss, damage or injury shall be brought against PSI by Client or any third party unless all tests and inspections have been so performed and unless PSI's recommendations have been followed. Client agrees to indemnify, defend and hold PSI, its officers, employees and agents harmless from any and all claims, suits, losses, costs and expenses, including, but not limited to, court costs and reasonable attorney's fees in the event that all such tests and inspections are not so performed or PSI's recommendations are not so followed.
3. **PREVAILING WAGES:** This proposal specifically excludes compliance with any project labor agreement, labor agreement, or other union or apprenticeship requirements. In addition, unless explicitly agreed to in the body of this proposal, this proposal specifically excludes compliance with any state or federal prevailing wage law or associated requirement, including the Davis Bacon Act. It is agreed that no applicable prevailing wage classification or wage rate has been provided to PSI, and that all wages and cost estimates contained herein are based solely upon standard non-prevailing wage rates. Should it later be determined by the Owner or any applicable agency that in fact prevailing wage applies, then it is agreed that the contract value of this agreement shall be equitably adjusted to account for such changed circumstance. Client will reimburse, defend, indemnify and hold harmless PSI from and against any liability resulting from a subsequent determination that prevailing wage regulations cover the Project, including all costs, fines and attorney's fees.
4. **SCHEDULING OF WORK:** The services set forth in PSI's proposal and Client's acceptance will be accomplished by PSI personnel at the prices quoted. If PSI is required to delay commencement of the work or if, upon embarking upon its work, PSI is required to stop or interrupt the progress of its work as a result of changes in the scope of the work requested by Client, to fulfill the requirements of third parties, interruption in the progress of construction, or other cause beyond the direct reasonable control of PSI, additional charges will be applicable and payable by Client.
5. **ACCESS TO SITE:** Client will arrange and provide such access to the site and work as is necessary for PSI to perform the work. PSI shall take reasonable measures and precautions to minimize damage to the site and any improvement located thereon as the result of its work or the use of its equipment.
6. **CLIENT'S DUTY TO NOTIFY ENGINEER:** Client warrants that it has advised PSI of any known or suspected hazardous materials, utility lines and pollutants at any site at which PSI is to do work, and unless PSI has assumed in writing the responsibility of locating subsurface objects, structures, lines or conditions, Client agrees to defend, indemnify and save PSI harmless from all claims, suits, losses, costs and expenses, including reasonable attorney's fees as a result of personal injury, death or property damage occurring with respect to PSI's performance of its work and resulting from contact with subsurface or latent objects, structures, lines or conditions where the actual or potential presence and location thereof were not revealed to PSI by Client.
7. **RESPONSIBILITY:** PSI's work shall not include determining, supervising or implementing the means, methods, techniques, sequences or procedures of construction. PSI shall not be responsible for evaluating, reporting or affecting job conditions concerning health, safety or welfare. PSI's work or failure to perform same shall not in any way excuse any contractor, subcontractor or supplier from performance of its work in accordance with the contract documents. Client agrees that it shall require subordination to be waived against PSI and for PSI to be added as an Additional Insured on all policies of insurance, including any policies required of Client's contractors or subcontractors, covering any construction or development activities to be performed on the project site. PSI has no right or duty to stop the contractor's work.
8. **SAMPLE DISPOSAL:** Test specimens will be disposed immediately upon completion of the test. All drilling samples will be disposed sixty (60) days after submission of PSI's report.
9. **PAYMENT:** The quantities and fees provided in this proposal are PSI's estimate based on information provided by Client and PSI's experience on similar projects. The actual total amount due to PSI shall be based on the actual final quantities provided by PSI at the unit rates provided herein. Where Client directs or requests additional work beyond the contract price it will be deemed a change order and PSI will be paid according to the fee schedule. Client shall be invoiced once each month for work performed during the preceding period. Client agrees to pay each invoice within thirty (30) days of its receipt. Client further agrees to pay interest on all amounts invoiced and not paid or objected to for valid cause in writing within said thirty (30) day period at the rate of eighteen (18) percent per annum (or the maximum interest rate permitted under applicable law), until paid. Client agrees to pay PSI's cost of collection of all amounts due and unpaid after thirty (30) days, including court costs and reasonable attorney's fees. PSI shall not be bound by any provision or agreement requiring or providing for arbitration of disputes or controversies arising out of this agreement, any provision wherein PSI waives any rights to a mechanics' lien, or any provision conditioning PSI's right to receive payment for its work upon payment to Client by any third party. These General Conditions are notice, where required, that PSI shall file a lien whenever necessary to collect past due amounts. Failure to make payment within 30 days of invoice shall constitute a release of PSI from any and all claims which Client may have, whether in tort, contract or otherwise, and whether known or unknown at the time.
10. **ALLOCATION OF RISK: CLIENT AGREES THAT PSI'S SERVICES WILL NOT SUBJECT PSI'S INDIVIDUAL EMPLOYEES, OFFICERS OR DIRECTORS TO ANY PERSONAL LIABILITY, AND THAT NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, CLIENT AGREES THAT ITS SOLE AND EXCLUSIVE REMEDY SHALL BE TO DIRECT OR ASSERT ANY CLAIM, DEMAND, OR SUIT ONLY AGAINST PSI. STATEMENTS MADE IN PSI REPORTS ARE OPINIONS BASED UPON ENGINEERING JUDGMENT AND ARE NOT TO BE CONSTRUED AS REPRESENTATIONS OF FACT.**
SHOULD PSI OR ANY OF ITS EMPLOYEES BE FOUND TO HAVE BEEN NEGLIGENT IN THE PERFORMANCE OF ITS WORK, OR TO HAVE MADE AND BREACHED ANY EXPRESS OR IMPLIED WARRANTY, REPRESENTATION OR CONTRACT, CLIENT, ALL PARTIES CLAIMING THROUGH CLIENT AND ALL PARTIES CLAIMING TO HAVE IN ANY WAY RELIED UPON PSI'S WORK, AGREE THAT THE MAXIMUM AGGREGATE AMOUNT OF THE LIABILITY OF PSI, ITS OFFICERS, EMPLOYEES AND AGENTS SHALL BE LIMITED TO \$15,000.00 OR THE TOTAL AMOUNT OF THE FEE PAID TO PSI FOR ITS WORK PERFORMED ON THE PROJECT, WHICHEVER AMOUNT IS GREATER. IN THE EVENT CLIENT IS UNWILLING OR UNABLE TO LIMIT ITS LIABILITY IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN THIS PARAGRAPH, CLIENT MAY, UPON WRITTEN REQUEST OF CLIENT RECEIVED WITHIN FIVE DAYS OF CLIENT'S ACCEPTANCE HEREOF, INCREASE THE LIMIT OF PSI'S LIABILITY TO \$40,000.00 OR THE AMOUNT OF PSI'S FEE PAID TO PSI FOR ITS WORK ON THE PROJECT, WHICHEVER IS THE GREATER, BY AGREEING TO PAY PSI A SUM EQUIVALENT TO AN ADDITIONAL AMOUNT OF 5% OF THE TOTAL FEE TO BE CHARGED FOR PSI'S SERVICES. THIS CHARGE IS NOT TO BE CONSTRUED AS BEING A CHARGE FOR INSURANCE OF ANY TYPE, BUT IS INCREASED CONSIDERATION FOR THE GREATER LIABILITY INVOLVED. IN ANY EVENT, ATTORNEY'S FEES EXPENDED BY PSI IN CONNECTION WITH ANY CLAIM SHALL REDUCE THE AMOUNT AVAILABLE AND ONLY ONE SUCH AMOUNT WILL APPLY TO ANY PROJECT.
NO ACTION OR CLAIM, WHETHER IN TORT, CONTRACT, OR OTHERWISE, MAY BE BROUGHT AGAINST PSI ARISING FROM OR RELATED TO PSI'S WORK, MORE THAN TWO YEARS AFTER THE CESSATION OF PSI'S WORK HEREUNDER, REGARDLESS OF THE DATE OF DISCOVERY OF SUCH CLAIM.
NEITHER PARTY SHALL BE LIABLE TO THE OTHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND BREACH OF STATUTORY DUTY) OR OTHERWISE FOR LOSS OF PROFIT (WHETHER DIRECT OR INDIRECT) OR FOR ANY INDIRECT, CONSEQUENTIAL, PUNITIVE, OR SPECIAL LOSS OR DAMAGE, INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, REVENUE, BUSINESS, OR ANTICIPATED SAVINGS (EVEN WHEN ADVISED OF THEIR POSSIBILITY).
11. **INDEMNITY:** Subject to the above limitations, PSI agrees not to defend but to indemnify and hold Client harmless from and against any and all claims, suits, costs and expenses, including reasonable attorney's fees and court costs to the extent arising out of PSI's negligence as finally determined by a court of law. Client shall provide the same protection to the extent of its negligence. In the event that Client or Client's principal shall bring any suit, cause of action, claim or counterclaim against PSI, the Client and the party initiating such action shall pay to PSI the costs and expenses incurred by PSI to investigate, answer and defend it, including reasonable attorney's fees and witness fees and court costs to the extent that PSI shall prevail in such suit.
12. **TERMINATION:** This Agreement may be terminated by either party upon seven days' prior written notice. In the event of termination, PSI shall be compensated by Client for all services performed up to and including the termination date, including reimbursable expenses.
13. **EMPLOYEES WITNESS FEES:** PSI's employees shall not be retained as expert witnesses except by separate, written agreement. Client agrees to pay PSI's legal expenses, administrative costs and fees pursuant to PSI's then current fee schedule for PSI to respond to any subpoena. For a period of one year after the completion of any work performed under this agreement, Client agrees not to solicit, recruit, or hire any PSI employee or person who has been employed by PSI within the previous twelve months. In the event Client desires to hire such an individual, Client agrees that it shall seek the written consent of PSI, and shall pay PSI an amount equal to one-half of the employee's annualized salary, without PSI waiving other remedies it may have.
14. **FIDUCIARY:** PSI is not a financial advisor, does not provide financial advice or analysis of any kind, and nothing in our reports can create a fiduciary relationship between PSI and any other party.
15. **CHOICE OF LAW AND EXCLUSIVE VENUE:** All claims or disputes arising or relating to this agreement shall be governed by, construed, and enforced in accordance with the laws of Illinois. The exclusive venue for all actions or proceedings arising in connection with this agreement shall be either the Circuit Court in Cook County, Illinois, or the Federal Court for the Northern District of Illinois.
16. **PROVISIONS SEVERABLE:** The parties have entered into this agreement in good faith, and it is the specific intent of the parties that the terms of these General Conditions be enforced as written. In the event any of the provisions of these General Conditions should be found to be unenforceable, it shall be stricken and the remaining provisions shall be enforceable.
17. **ENTIRE AGREEMENT:** This agreement constitutes the entire understanding of the parties, and there are no representations, warranties or undertakings made other than as set forth herein. This agreement may be amended, modified or terminated only in writing, signed by each of the parties hereto.

PSI-2017-11 (1)

017

