

Resolution of the Demarest Governing Body

Resolution No. 132-23

September 26, 2023

Council Member	Motion	Second	Yes	No	Abstain	Absent
Jiang			✓			
Fox						✓
Marks		✓	✓			
Slowikowski			✓			
Hamilton	✓		✓			
LaPira						✓

TITLE: RESOLUTION AUTHORIZING THE ENGINEERING SERVICES FOR PROPOSAL FOR SURVEYING, ENGINEERING AND SIGNAL DESIGN

WHEREAS, the Borough of Demarest has a need to acquire professional engineering services related to Traffic Signal Modernization at Piermont Road and Hardenburg Avenue.; and

WHEREAS, the Borough received a proposal dated August 31, 2023 from Neglia Group to provide those services, attached, for the sum of \$56,870.00, Phase I of the proposal; and

WHEREAS, the appointment and the contract are exempted from the competitive bidding requirements of the Local Public Contracts Law, (NJSA 40A:11-1 et. Seq.) as "Professional Services", pursuant to NJSA 40A:11-5(1)(a); and

WHEREAS, the vendor is the currently appointed 2023 Borough Special Projects Engineer for the Borough of Demarest and the Mayor and Council awarded said 2023 contract pursuant to the provisions of NJSA 19:44A-20.5; and

WHEREAS, the Chief Financial Officer has certified that funds are available; and

NOW THEREFORE, BE IT RESOLVED, by the Borough of Demarest that the Borough Administrator is authorized to execute the agreement to authorize Neglia Group to perform the work described herein not to exceed \$56,870.00 a copy of which is annexed to this Resolution.

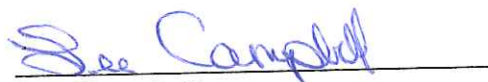
APPROVED:



Brian Bernstein, Mayor

CERTIFICATION

I, Lee Campbell, Acting Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on September 26, 2023.



Lee Campbell
Acting Borough Clerk



EXPERIENCED
DEDICATED
RESPONSIVE

negliagroup.com

AGREEMENT FOR PROFESSIONAL SERVICES

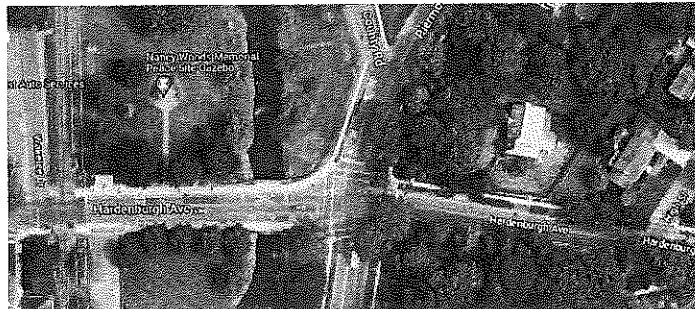
DATE: August 31, 2023

TO: Julie Falkenstern
Borough Administrator
Borough of Demarest
118 Serpentine Road
Demarest NJ 07627
boroadmin@demarestnj.gov

FROM: Brian A. Intindola, P.E., P.P., C.M.E., C.P.W.M.

RE: Proposal for Surveying, Engineering and Signal Design
Traffic Signal Modernization at Piermont Road and Hardenburg Avenue
Borough/County Shared Service Agreement (SSA)
Borough of Demarest, Bergen County, New Jersey

Neglia Engineering Associates has received the following request to provide Surveying, Engineering, and Construction Management Services for roadway improvements to modernize the signalized intersection that would include new left-turn lanes at the Hardenburg Avenue approaches. Other improvements would include modernized pedestrian actuated signals and new curb access ramps.



The design scope framework follows the SSA outline of design tasks as the County of Bergen has jurisdiction of the intersection with the Borough of Demarest participating in the easement acquisition and design process.

This agreement, when approved by **Borough of Demarest** will be completed as follows:

1. On a lump sum basis for a cost of **Fifty-Six Thousand Eight Hundred Seventy Dollars (\$56,870.00)** representing Services for the surveying, design, permitting, and contract documents preparation.
2. On an hourly basis for a cost of **Forty-Three Thousand Eighty Dollars (\$43,080.00)** representing Construction Management and Engineering Services during construction.

LYNDHURST

34 Park Avenue
PO Box 426
Lyndhurst, NJ 07071
p. 201.939.8805 f. 201.939.0846

MOUNTAINSIDE

200 Central Avenue
Suite 102
Mountainside, NJ 07092
p. 201.939.8805 f. 732.943.7249

This document constitutes an agreement for services that will be provided subject to the attached Standard Terms and Conditions.

I. BACKGROUND

Neglia Group has received the following request to provide Surveying, Engineering, and Construction Management Services to improve the signalized intersection of Piermont Road and Hardenberg Avenue.

As suggested by Bergen County, the project will require road widening easements and/or acquisitions. Per the SSA, the Borough of Demarest would carry out the acquisitions and typically prior to completing bid documents. Based on our experience, the property acquisition task has the potential to become the longest duration task in a project and we anticipate an 18-month process for acquisitions.

II. SCOPE OF SERVICES AND BUDGET PHASE I – SURVEYING & DESIGN PHASE

Neglia Engineering Associates will perform the following surveying and design tasks for the above road improvement project within the Borough of Demarest:

Survey

- A. Perform the necessary office / aerial photography work required to establish locations in connection with the roadway locations and sections. Review available County mapping and utilize to supplement our records and field work.
- B. Provide topographic and boundary survey to delineate the public right of way and the abutting lots, we anticipate that 6 individual lots would need detailed boundary surveys and the requisite title work to support the acquisition process.
- C. Upon consultation with the design team provide a series of parcel easement/acquisition exhibits that identify the square footage of required easements for roadway, sidewalk, and utilities.
- D. The topographic and boundary survey will also include the location of underground and overhead utilities.
- E. The survey task will serve as the basemapping for the project and will extend with varying levels of detail approximately 400 feet from the center of the intersection (along each of the four approaches)

Parcel acquisitions

The project will require road widening easements and/or acquisitions. Per the SSA, the Borough of Demarest would carry out the acquisitions and typically prior to completing bid documents. Based on our experience, the property acquisition task has the potential to become the longest duration task in a project and we anticipate an 18-month process for acquisitions.

- A. Based on the Parcel Exhibit maps, we would coordinate with the Borough Appraiser to determine the valuation of the individual parcels.

- B. Upon receipt of the parcel evaluation, our office would contact the property owners to discuss the project and report to the Borough the likelihood of an individual acquisition moving forward or advise that minor taking proceedings should be initiated with Borough legal team.
- C. In the event that a formal legal process is required for parcel acquisition, we would support the process a needed to secure the area needed for the project

Intersection Design

- A. Conduct peak hour manual turning movement counts for the weekday morning, afternoon (at school dismissal) and weekend midday traffic counts.
- B. Analyze the intersection to determine Levels of Service and intersection capacity and to identify intersection approaches that require new lanes and requisite signal timing and phasing.
- C. Develop a concept signal plan to be utilized to identify the extent of parcel acquisitions.
- D. Identify potential conflicts with the existing utilities and distribute a utility relocation plan to the affected utility providers (Veolia, PSEG and Verizon)
- E. Construction Plans – Neglia will prepare construction documents consisting of all above ground modifications, including but not limited to: new curbing, new traffic striping, milling and paving.
- F. Electrical Plans – Neglia will prepare an electrical plan that will illustrate the underground improvements, such as conduit runs, and traffic signal equipment for the intersection.
- G. Utility Relocation Plans.-Neglia will prepare utility relocation plans for utility pole relocation, storm sewers, sanitary sewers, water and natural gas lines
- H. Project Bond Estimate – NEA will prepare engineer’s construction cost estimates for the purpose of project funding. Project funding to be determined by others.
- I. Bid Document – Specifications will be prepared by NEA in such a form and manner that they will meet with all Municipal, County, State and Federal requirements. All necessary plans and specifications shall be in such a form that they are suitable for public bidding.
- J. Project Bidding – Neglia will prepare a summary of bids and recommend apparent lowest bidder.
- K. Hold the necessary meetings and research required to coordinate the Municipal Departments. We have included six project meetings within the scope and budget of this proposal.

This project phase will be billed on a lump sum basis for a cost of Fifty-Six Thousand Eight Hundred Seventy Dollars (\$56,870.00)

PHASE II – CONSTRUCTION MANAGEMENT PHASE

- A. Construction Management Services
Neglia Engineering Associates will provide part-time construction management services as required for the above road improvement project. The services will include the following:
 - A. Coordinate and attend a Pre-Construction meeting and prepare meeting minutes for distribution.

- B. Review and distribute submittals for the appurtenant construction materials.
- C. Issue a Notice to Proceed and perform a site walk through with the Contractor and appropriate officials.
- D. Provide video and preconstruction photos within the contract limits as supplied by the contractor.
- E. Provide construction observation, including site visits by a Principal from Neglia Engineering Associates.
- F. Maintain progress photos and inspection reports daily.
- G. Attend progress meetings if required by the Borough.
- H. Issue the appropriate correspondence to the Contractor which, if required, will consist of non-conformance matters, delays, traffic issues, resident complaints, etc.....
- I. Monitor and certify quantities for payment, which includes preparation the appropriate Payment Certifications. (Borough responsible for reviewing Certified Payroll)
- J. Negotiate Change Orders, if applicable, and prepare the necessary documents for such.
- K. Perform a walk through with the appropriate officials upon substantial completion and prepare a punch list.
- L. Perform a final inspection of the punch list and prepare the necessary close out documents.
- M. Submit close out documentation to the appropriate agencies, if applicable

Be advised that site safety is the sole responsibility of the Contractor. However, should Neglia Engineering Associates observe conditions that are a detriment to vehicular and pedestrian traffic, along with their labor, we will advise the Contractor accordingly. In addition, we rely solely on the Borough's Financial Department to review Certified Payroll regarding current wages. This proposal does not include any environmental services regarding soil testing and disposal and will solely rely on the Borough's Licensed Site Remediation Professional (LSRP) for such.

This project phase will be billed on an Hourly Basis in accordance with our attached schedule of fees for a cost not to exceed Forty-Three Thousand Eighty Dollars (\$43,080.00).

III. DELIVERABLES

We will provide all survey data, plans and specifications to the Borough of Demarest in digital format in AutoCAD format if requested, and one (1) hard copy. See "Conditions and Exclusions" section for mass printings.

IV. TIME FRAME

Neglia Engineering Associates is prepared begin upon receipt of a signed copy of this agreement, and with the approval of the Borough of Demarest. Contract documents will be ready for public bids within eight (8) weeks of the finalization of the project ROW

V. PAYMENTS AND COST OF SERVICES

Invoices will be submitted to your attention on a monthly basis to monitor the progress of the project.

VI. CONDITIONS AND EXCLUSIONS

This proposal does not include any other site / civil design aspects other than those design items mentioned above. It assumes that off-site utility work / design will not be required for the project and that off-site utilities have sufficient capacity. The proposal does not include any survey and off-site survey, wetland delineation and wetland surveying services, construction stakeout or construction management service, as-built survey work and / or subdivision plat preparation unless otherwise included within the Scope of Services section of this proposal.

This proposal does not include the structural design of retaining walls, bridges, culverts, or any other proposed modified structure not mentioned within the scope unless specifically mentioned above. It also does not include irrigation design and plans unless specifically mentioned above.

This proposal does not include a geotechnical engineering studies / services which include but is not limited to soil borings, test pits and percolation tests, phase one audit, environmental impact statement or assessment, threatened and endangered species studies, flood studies, foundation design, professional planning services, Phase I and Phase II environmental investigations / studies, archeological studies, buoyancy calculations, visual impact assessment, underground garage structure design, environmental remediation, mitigation, UST remediation, asbestos removal, septic system design, holding tank design, pump station design, or other environmental concerns. This proposal does not include air quality studies or glare and noise studies. This proposal does not include any permitting other than those permits mentioned above. In addition, this proposal does not include fire flow test and / or study, any traffic / transportation studies, planning studies and / or testimony, and NJDOT permitting unless otherwise mentioned within the Scope of Services section of this proposal. Meeting time is portal to portal. The proposal has been prepared assuming that your project attorney will prepare all applications excluding those listed above.

Any deviation from the scope of work outlined in this proposal once the detailed engineering work has commenced will be immediately brought to your attention and a separate budget will be provided to you. In addition, revisions to the plans based on input received from public agencies, officials, adjacent property owners, your office, etc. through the course of the project are unforeseen and the extent is outside of our control. Revisions are also generated from input by the project team and possibly your construction manager. For this reason, revisions will not be completed unless a change order contract is reviewed and approved. In addition, Neglia Engineering Associates cannot guarantee the approval of any submitted application or package to review agencies or municipal boards.

Reimbursable expenses will be required for this project. They include but are not limited to reproductions for the municipal and regulatory review submittals, express mailings, mileage, and courier service. We have not provided

a budget for reimbursable expenses for this project. For this reason, they are in addition to the lump sum illustrated on page one of this proposal. We will invoice your office on an as needed basis without further authorization required. Should any sub-consultants be required for this project, Neglia Engineering Associates will invoice your office at cost plus ten percent. The ten percent cost adjustment has been provided as a maintenance, overhead, and profit fee for the hired sub-consultant. Please be aware that detailed invoices for reimbursable expenses will not be provided but are available if request. All filing, review, processing, and application fees will be provided by your office.

VII. GENERAL TERMS AND CONDITIONS

ARTICLE I - METHOD OF CHARGING AND PAYMENT CONDITIONS: Compensation for the engineering and related Services ("Services") to be provided by Neglia Engineering Associates ("Neglia") shall be based on the Schedule of Fees and Charges identified in the Proposal. Neglia periodically shall submit invoices to the Client. Client shall pay each invoice within thirty (30) days of the date of the invoice. However, if Client objects to all or any portion of any invoice, Client shall so notify Neglia in writing of the same within fifteen (15) days from date of invoice, give reasons for the objection, and pay that portion of invoice not in dispute. Client shall pay an additional charge of one and one-half percent (1 1/2%) of the amount of the invoice per month for any payment received by Neglia more than thirty (30) days from the date of invoice. Payment thereafter shall first be applied to accrued interest and then to the unpaid principal. The additional charge shall not apply to any disputed portion of any invoice resolved in favor of Client. In the event of a legal action brought by Neglia against Client for invoice amounts not paid, Attorneys' Fees, Court Costs, and other related expense shall be paid to the prevailing party by the other party.

ARTICLE II - PROFESSIONAL RESPONSIBILITY: Neglia represents that Services shall be performed, within the limits prescribed by Client, in accordance with the 'Scope of Services' contained in the Proposal and in a manner consistent with that level of care and skill ordinarily exercised by other comparable professional engineering firms under similar circumstances at the time the Services are performed. No other representations to Client, expressed or implied, and no warranty or guarantee is included or intended, hereunder, or in any report, opinion, document, or otherwise.

ARTICLE III - LIMITATIONS OF LIABILITY: The liability of Neglia, its employees, agents, and subcontractors (hereinafter for purposes of this Article III referred to collectively as "Neglia"), for Client's claims of loss, injury, death, damage or expense, including, without limitation, Client's claims of contribution and indemnification with respect to third party claims relating to the Services or to obligations imposed, hereunder, (hereinafter, "Client's Claims") shall not exceed the aggregate: (1) the total sum of Neglia's fee or \$ 50,000.00, whichever is greater, for Client's Claims arising out of professional negligence, including errors, omissions or other professional acts, and including unintentional breach of contract; or (2) the total sum of \$ 250,000 for Client's Claims arising out of negligence, or other causes for which Neglia has any legal liability, other than as described in (1) above.

In no event shall either Neglia or Client be liable for consequential or indirect damages, including, without limitation, loss of use or loss of profits, incurred by one another or their subsidiaries or successors, regardless of whether such damages are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act of either of them.

ARTICLE IV - INDEMNIFICATION: If any claim is brought against Neglia, its employees, agents or subcontractors (hereinafter for purpose of this Article IV referred to collectively as "Neglia") and/or Client by a third party, relating in any way to the Services, the contribution and indemnification rights and obligations of Neglia and Client, subject to the limitations of liability under Article III above, shall be determined as follows: (1) if any negligence, breach of contract, or willful misconduct of Neglia caused any damage, injury or loss claimed by the third party, then Neglia and Client shall each indemnify the other against any loss of judgment on a comparative responsibility basis under comparative negligence principles (Client responsibility to include that of its agents, employees and other contractors); and (2) unless Neglia was guilty of negligence, breach of contract, or willful misconduct which in whole or in part caused damage, injury or loss asserted in the third party claim, Client shall indemnify Neglia against the claim, liability, loss, legal fees, consulting fees and other costs of defense reasonably incurred.

ARTICLE V - INSURANCE: Neglia agrees to maintain (1) Statutory Workers' Compensation; and (2) Comprehensive General and Automobile Insurance Coverage in the sum of not less than \$ 1,000,000.

ARTICLE VI - FORCE MAJEURE: Neither party shall hold the other responsible for damages or delays in performance caused by force majeure, acts of God, or other events beyond the control of the other party or that could not have been reasonably foreseen and prevented. For this purpose, such acts or events shall include, but not be limited to, unusual weather affecting performance of the Services, floods, epidemics, war, riots, strikes, lockouts, or other industrial disturbances, protest demonstrations, unanticipated site conditions, and inability, with reasonable diligence, to supply personnel, equipment or material for the Services. Should such acts or events occur, both parties shall use their best efforts to overcome the difficulties and to resume as soon as reasonably possible the normal pursuit of the Services.

ARTICLE VII - TERMINATION AND SUSPENSION OF WORK: The obligation to provide further Services under this Agreement may be terminated by either party upon fourteen (14) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of termination, Neglia shall be paid for all services rendered up to and including the date of termination. The parties agree that Neglia may elect to suspend providing services under this Agreement if payment of any invoice is not made within thirty (30) days of the date of the invoice as provided in Article I. In the event that the termination was initiated by the Client, Client agrees to pay Neglia Engineering Associates an additional ten percent (10%) of the total fee earned by Neglia Engineering Associates.

ARTICLE VIII - REUSE OF DOCUMENTS: All documents, including Drawings and Specifications prepared by Neglia pursuant to this Agreement, are instruments of service in respect to the Project. They are not intended or represented to be suitable for reuse by Client or others on extensions of the Project or on any other Project. Any reuse, without written verification of adaptation by Neglia for the specific purpose intended, will be at Client's sole risk and without liability or legal exposure to Neglia; and Client shall indemnify and hold harmless Neglia from all claims, damages, losses and expenses including Attorneys' fees arising out of or resulting there from. Any such verification or adaptation will entitle Neglia to further compensation at rates to be agreed upon by Client and Neglia.

ARTICLE IX - CONTROLLING LAW: Any element of this Agreement held to violate a law or regulation, or whose insurability cannot be confirmed by design professional, shall be deemed void, and all remaining provisions shall continue in force. However, client and design professional will in good faith attempt to replace any such voided element with one that is enforceable and/or insurable, and which comes as close as possible to expressing the intent of the original provision.

ARTICLE X - SUCCESSORS AND ASSIGNS: Client and Neglia each bind themselves and their Partners, Successors, Executors, Administrators, Assigns, and Legal Representatives to the other party to this Agreement and to the Partners, Successors, Executors, Administrators, Assigns, and Legal Representatives of such other party in respect to all covenants, agreements, and obligations of this Agreement. Neither Client nor Neglia shall assign, sublet, or transfer any rights under, or interest in, this Agreement without the written consent of the other party, except as set forth below. Unless specifically stated to the contrary, in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Neglia from employing such independent consultants, associates, and subcontractors, as it may deem appropriate, to assist in its performance of services, hereunder. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than Client and Neglia.

ARTICLE XI - ARBITRATION: All claims, counterclaims, disputes and other matters in question between the parties, hereto arising out of or relating to this Agreement or the breach thereof, will be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. This Agreement to arbitrate and any other agreement or consent to arbitrate entered into will be specifically enforceable under the prevailing arbitration law of any court having jurisdiction. Notice of demand for arbitration must be filed in writing with the other parties to this Agreement and with the American Arbitration Association. The demand must be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event may the demand for arbitration be made after institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

All demands for arbitration and all answering statements thereto, which include any monetary claim, must contain a statement that the total sum or value in controversy as alleged by the party making such demand or answering statement is not more than \$ 200,000.00 (exclusive of interest and costs.) The arbitrators will not have jurisdiction, power or authority to consider, or make findings (except in denial of their own jurisdiction) concerning any claim, counterclaim, dispute or other matter in question where the amount in controversy thereof is more than \$ 200,000.00 (exclusive of interest and costs) or to render a monetary award in response thereto against any party which totals more than \$ 200,000.00 (exclusive of interest and costs.)

No arbitration arising out of, or relating to, this Agreement, may include, by consolidation, joinder, or in any other manner, any person or entity who is not a party to this Agreement.

The award rendered by the arbitrators will be final, not subject to appeal, and judgment may be entered upon it in any court having jurisdiction thereof.

GENERAL TERMS

1. Client agrees to assist Neglia Engineering Associates (NEA), by placing to NEA disposal, all available information pertinent to the Project including previous reports, maps, deeds, surveys, easement descriptions and any other data relative to design or construction of the Project.
2. Client will arrange for access to and make all provisions for NEA to enter upon public and private property, as required for NEA to perform services.
3. Client shall be responsible for such legal services as Client may require or NEA may reasonably request with regard to legal issues pertaining to the Project.
4. In any dispute involving the accuracy of surveying services, NEA will have no liability to anyone if referenced points set by NEA have not been preserved. NEA field notes will govern in any dispute.
5. Client understands that NEA cannot, and does not, assure favorable action or timely action by any governmental entity.
6. Client agrees that any work not specifically included in this proposal or work beyond the scope of this proposal will be classified as extra work. If additional services are required from NEA by the Client, fees for such services will be incurred on the basis of either time and material or on terms that the parties mutually agreed upon. N.E.A. will provide the client with an estimate of the amount anticipated for the extra, prior to commencing any extra work.
7. Suspension of work on this project in excess of 60 days (if directed by Client) will cause NEA to sustain unexpected costs to resume work. Client agrees that additional compensation, as agreed by the parties, will be paid to NEA before such work resumes. The fee for uncompleted portions of the work is subject to re-negotiation after a suspension period of 120 days.
8. The individual(s) executing this contract, if acting on behalf of a municipality, municipal authority, corporation, or funding agency, represent that they have the authority to do so.
9. This proposal is good for sixty (60) days from the submission date.
10. This proposal is subject to a six (6%) percent annual inflation adjustment every January 1st.

The person signing below has read and understood all of the provisions of this agreement and represents and warrants that they are authorized to sign this agreement on behalf of **Borough of Demarest**. Please sign one copy of this proposal and return same to this office.

Thank you for affording us the opportunity to be of service. We look forward to working with you on this project. Please call if there are any questions, or if we can be of further assistance.

Very truly yours,
Neglia Engineering Associates

Brian A. Intindola

Brian A. Intindola, P.E., P.P., C.M.E., C.P.W.M.
Principal Traffic Engineer

Accepted this 26 day of September 2023
By: Julie Falkenstern
Title: BA

Document1