

# URBAN COUNTY PROGRAM

## Hidalgo County Commissioners' Court Agenda Request Form

No. \_\_\_\_\_.

Date: May 3, 2010 Meeting Date Request: May 11, 2010

Deadline for Action: May 11, 2010 Contact Person: Diana R. Serna

Department: Urban County Program Phone: (956) 787-8127 Fax: (956)787-5291

*Diana R. Serna, UCP Director* 

### Caption:

The Urban County Program is requesting approval of a best and final negotiated contract with Raba Kistner Consultants, Inc. in the amount of \$28,700.00 utilizing Years 17, 19 & 20 (2004, 2006 & 2007) funds for Environmental and Geotechnical Engineering & Testing Services for the Water/Sewer Improvements to the Edcouch Sewer Plant utilizing Hidalgo County Precinct No. 1 funds.

### Background:

Raba-Kistner Consultants, Inc. has submitted a best and final offer for Environmental and Geotechnical Engineering and Testing Services for the Water/Sewer Improvements to the Edcouch Sewer Plant, within the Hidalgo County Precinct No. 1 boundaries. Raba-Kistner Consultants, Inc. was the highest rated firm by Commissioner's Court. Contract approval in the amount of \$28,700.00 is being requested. See attached scope of services and copy of proposed contract.

Contract Amount: \$ 28,700.00  
Funds Available: \$ 48,000.00 (FY 17-2004 \$5080.75, FY 19- 2006 \$31,800.06  
& FY 20-2007 \$11,119.19) All Precinct No. 1 (Edcouch) Funds.

Manager:  Finance: 

### Please initial for approval:

Legal Counsel \_\_\_\_\_ Budget \_\_\_\_\_ Human Resources \_\_\_\_\_

Dept./Fund No. \_\_\_\_\_ Amt. Expended: \$ \_\_\_\_\_ Funds/Staffing Budgeted: Yes: \_\_\_\_\_ No: \_\_\_\_\_  
Account Code: \_\_\_\_\_ Impact on Future Budget: Yes \_\_\_\_\_ No \_\_\_\_\_

### Comments:

### Action taken by Commissioner's Court:

Approved \_\_\_\_\_ Tabled \_\_\_\_\_ Denied \_\_\_\_\_ Motion made by \_\_\_\_\_ Seconded \_\_\_\_\_ Vote \_\_\_\_\_



**Raba-Kistner Consultants, Inc.**  
12821 W. Golden Lane, San Antonio, TX 78249  
P.O. Box 690267, San Antonio, TX 78269-0267  
(210) 699-9090 • FAX (210) 699-6426  
www.rkci.com  
TBPE Firm F-3257

Proposal No. PSF10-102-00  
April 19, 2010

Ms. Lupita V. García, C.D. Coordinator  
Hidalgo County Urban County Program  
1916 Tesoro Boulevard  
Pharr, Texas 78577

**Re: Environmental and Geotechnical Engineering & Testing Services  
Water & Sewer Improvements for City of Edcouch - Sewer Plant Pond Liner Testing  
City of Edcouch Wastewater Treatment Plant (WWTP)  
Hidalgo County, Texas**

Dear Ms. Garcia:

Raba-Kistner Consultants, Inc. (R-K) is pleased to submit the attached cost proposal to provide environmental and geotechnical engineering & testing services to the City of Edcouch for the above referenced project. The proposal is dated April 19, 2010, and designated as *R-K Proposal No. PSF10-102-00(Revised)*. The estimated cost of services as indicated in this proposal is \$28,700.<sup>00</sup>. Costs are estimated based on our understanding of the project at this time and will be billed on a Time and Materials basis, not-to-exceed the referenced total cost without additional authorization from our Client. This amount constitutes the best and final offer by R-K.

We thank you for the opportunity to be of service on this important project. If you should have any questions pertaining this matter or if we may be of additional assistance please do not hesitate to call.

Very truly yours,

**RABA-KISTNER CONSULTANTS, INC.**

A handwritten signature in blue ink, appearing to read 'Richard V. Klar'.

Richard V. Klar, P.G.  
Associate

Attachment: **R-K Proposal No. PSF10-102-00(Revised)**

Copies submitted: Above (1 – Electronic PDF Copy)  
Mr. Robert Escobar, Jr., Interim City Manager, City of Edcouch (1)



Raba-Kistner Consultants, Inc.  
12821 W. Golden Lane, San Antonio, TX 78249  
P.O. Box 880267, San Antonio, TX 78289-0267  
(210) 688-8090 • FAX (210) 699-8426  
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T&PE Firm F-3257

PROPOSAL NO: PSF10-102-00 (Revised)  
DATE: April 19, 2010

**(SUBMITTED VIA ELECTRONIC MAIL)**

**AUTHORIZATION FORM**

I HEREBY AGREE TO THE TERMS AND CONDITIONS OF THIS AUTHORIZATION FORM, INCLUDING ATTACHMENTS, AND AUTHORIZE RABA-KISTNER CONSULTANTS, INC. (R-K), TO PERFORM THE FOLLOWING SERVICE(S): In accordance with CLIENT request, R-K will provide environmental consulting services necessary to assist the City of Edcouch (CLIENT) with addressing regulatory compliance requirements pertaining to the temporary pond storage of untreated wastewater at the wastewater treatment plant (WWTP) located approximately 0.5 miles northeast of the intersection of SH 107 and FM 1015 in Hidalgo County, Texas. On the basis of information provided for our review, R-K understands that the City of Edcouch was issued a *Texas Pollutant Discharge Elimination System (TPDES) discharge permit (TPDES Permit No. WQ0014919001) on July 29, 2009* which provides necessary approval from the Texas Commission on Environmental Quality (TCEQ) to discharge treated wastewater to the Hidalgo County drainage system with ultimate connection to Laguna Madre in Segment No. 2491 of the Bays and Estuaries. The TPDES permit stipulates that discharge may occur only in accordance with approved effluent limitations, monitoring requirements, and other conditions set forth in the permit that generally derive from provisions set forth in *Chapter 26 of the Texas Water Code*.

R-K understands that in accordance with Item #11 of 'Other Requirements', set forth on page 24 of the TPDES permit, TCEQ has requested that the City of Edcouch provide a certification by a Texas Registered Professional Engineer that retention ponds used at the WWTP for secondary treatment and emergency storage are lined in a sufficient manner to control seepage. Specifically, as part of the *Agreed Final Judgment between the State of Texas and the City of Edcouch dated July 13, 2009 (i.e., Provision 5.8)*, it must be demonstrated that earthen pond liners present at retention pond locations are comprised of in-situ clay soils that meet the following requirements:

- (i) More than 30% passing a No. 200 mesh sieve
- (ii) Liquid limit greater than 30%
- (iii) Plasticity index greater than 15
- (iv) Minimum clay liner thickness of 2 ft
- (v) Permeability equal to or less than  $1 \times 10^{-7}$  cm/sec
- (vi) Soil compaction at 95% standard proctor at optimum moisture content

Upon completion, the pond liner certification shall be sent to the TCEQ Region 15 Office in Harlingen, Texas in addition to the Water Compliance Monitoring Team (WCMT) of the Enforcement Division in Austin, Texas. Based on discussions with technical staff in the WCMT, it was determined that it will be necessary to conduct field assessment activities to collect soil samples along the perimeters of existing ponds from subsurface depth intervals corresponding to the earthen pond liners (i.e., approximately 5-10 ft below existing grade depending on pond depth) in order to evaluate liner requirements. Soil samples considered representative of pond liners will then be submitted for geotechnical testing to evaluate whether TPDES permit requirements stipulated above are met.

In order to address these regulatory requirements, R-K will perform the following activities on behalf of the City of Edcouch: (i) prepare a pond liner sampling plan and solicit TCEQ to conduct soil sampling activities; (ii) install up to 12 exploratory borings along the perimeter of the secondary treatment and emergency storage ponds over a period of approximately 2-3 site days in accordance with standard geotechnical sampling protocols; (iii) obtain undisturbed Shelby tube samples representative of the pond liner depth intervals and submit up to 12 discrete samples for laboratory testing to evaluate above-referenced geotechnical parameters; (iv) prepare a brief soils report describing the results of geotechnical testing; and (v) with assistance from LNV Engineers, pending favorable soils testing results, prepare the required engineering certification in the required TCEQ format. In the event that pond liner conditions do not support the required certification, the report will provide general recommendations to address permit requirements and achieve regulatory compliance for pertaining to this issue.

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The written response will include appropriate graphical attachments and calculations, as necessary, to adequately address certification requirements. It is anticipated that a draft of the response letter will be submitted to CLIENT for preliminary review. Pending CLIENT review and approval, a final version of the response letter will be submitted to TCEQ in accordance with permit requirements.

**Assumptions:** (i) Client will provide access to SITE to conduct exploratory drilling and sampling activities; (ii) weather or SITE conditions will not preclude access or performance of field testing; (iii) Client will provide existing as-built drawings, O&M manuals, and other pertinent WWTP documents for use in preparing the engineering certification.

**NAME OF RESPONSIBLE PARTY (CLIENT) THAT APPROVES PAYMENT FOR ABOVE SERVICES:**  
Hidalgo County Urban County Program

**PROJECT FEE AND SCHEDULE:** The estimated cost to perform the scope of services described herein is \$28,700.<sup>00</sup>. Costs are estimated based on our understanding of the project at this time and will be billed on a Time and Materials basis, not-to-exceed the referenced total cost without additional authorization from CLIENT. In the event that additional services are requested by CLIENT and/or necessary to complete project activities in accordance with TCEQ requirements, R-K will provide a cost estimate under separate cover and solicit authorization from CLIENT before proceeding with additional work. Additional costs, if authorized as part of this project, will be billed in accordance with our standard fees for professional services and unit rates for equipment and laboratory services included in our current contract with Hidalgo County (i.e., Geotechnical & Construction Materials Observation & Testing Services).

It is anticipated that R-K will complete the scope of work described herein in 4-5 weeks following the written notice to proceed, assuming favorable SITE access conditions.

All parties hereby agree that this contract upon acceptance will be performable in Hidalgo County, Texas. Please sign and return this form to acknowledge and agree to the contract terms and conditions and provide written confirmation of your authorization for our firm to commence work on the specific services outlined herein. Our invoices are due and payable upon receipt at P.O. Box 971037 Dallas, Dallas County, Texas 75397-1037.

<b>SIGNATURE:</b>	X	<b>DATE:</b>	
<b>PRINTED NAME:</b>	Ms. Lupita V. Garcia, C.D. Coordinator		
<b>COMPANY NAME:</b>	Hidalgo County Urban County Program		
<b>COMPANY ADDRESS:</b>	1916 Tesoro Boulevard		
<b>CITY, STATE, ZIP:</b>	Pharr, Texas 78577		
<b>PHONE NUMBER:</b>	(956) 787-8127	<b>FAX NUMBER:</b>	
<b>E-MAIL:</b>	vgarcia@bizrqv.rr.com		

RABA-KISTNER CONSULTANTS, INC.



Richard V. Klar, P.G.  
Associate

RVK/dac

Copies Submitted: (1 – PDF Electronic Copy)

**CONTRACT AGREEMENT FOR GEOTECHNICAL AND  
ENVIRONMENTAL CONSULTING SERVICES**

**BETWEEN**

**COUNTY OF HIDALGO- URBAN COUNTY PROGRAM**

**and**

**Raba-Kistner Consulting, Inc.**

**APPROVED ON 5-11-2010**

**For**

**GEOTECHNICAL AND ENVIRONMENTAL CONSULTING  
SERVICES**

**(PRECINCT NO. 1 – Year 17, 19 \* 20 (2004, 2006 & 2007)  
City of Edcouch- Sewer Plant Pond Liner Testing**

**CONTRACT AGREEMENT  
GEOTECHNICAL AND ENVIRONMENTAL CONSULTING  
SERVICES**

**PRECINCT NO. 1 – Year 17, 19 & 20 (2004, 2006 & 2007)  
City of Edcouch- Sewer Plant Pond Liner Testing**

**HIDALGO COUNTY-URBAN COUNTY PROGRAM**

**STATE OF TEXAS  
COUNTY OF HIDALGO**

**PART I – PARTIES AND SERVICES**

This agreement is made on May 11, in the year 2010, between County of Hidalgo-Urban County Program, hereinafter called the **Client**, and Raba-Kistner Consultants, Inc., hereinafter called the **Consultant**, for **Geotechnical and Environmental Consulting Services**, hereinafter called the **Services**.

**Hidalgo County-Urban County Program** has received CDBG funds from the U.S. Dept. of Housing and Urban Development to be used by Urban County Participants. It is understood and agreed that the Party's obligation under this Agreement is contingent upon the actual receipt of adequate federal funds to meet the liabilities under this Agreement.

The **Consultant** agrees to compliance with the following Executive orders, Titles and Program Regulations, including any additional requirements that may be set forth by the Party.

- a. Title VI of the Civil Rights Act - requires that no one may be denied access to benefits from projects which receive federal assistance.
- b. Section 109 of the Housing and Community Development Act of 1974 - Nondiscrimination related to benefits from projects funded specifically under Title I of the Act.
- c. Section 3 of the HUD Act of 1968 - requires that maximum effort be made to provide employment, training, and business opportunities to low income families and/or residents of the project area.
- d. The **Consultant** shall give the United States Department of Housing and Urban Development, the Inspector General, the Comptroller General of the United States, the Auditor of the State of Texas, access to and the right to examine all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by **Consultant** pertaining to this Agreement. Such rights to access shall continue as long as the records are

retained by Engineer. Engineer agrees to maintain such records in an accessible location for a period of three (3) years.

- e. Executive Order 11246 (paragraph a-c for contracts under \$10,000; paragraphs a-g for contracts over \$10,000) - Equal Employment Opportunity.

Executive Order 11246. Executive Order 11246 and the regulations issued pursuant thereto (24 CFR Part 130) which provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federal or federally assisted contracts. Such consultants or subcontractors shall take affirmative action to ensure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination rates of pay or other forms of compensation and selection for training and apprenticeship.

Equal Employment Opportunity for Activities and Contracts not Subject to Executive Order 11246, as amended. In carrying out the program, the Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The **Consultant** shall take affirmative action to ensure that applicants for employment are employed and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not limited to the following: Employment, upgrading, demotion, or transfer; recruitment or other forms of compensation; and selection for training, including apprenticeship. The Engineer shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Government setting forth the provisions of this paragraph in all of its contracts for program work and will require all of its consultants for such work to incorporate such requirements in all subcontracts for program.

**Interest of Certain Federal Officials:** No member of or Delegate to the Congress of the United States and no Resident Commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.

**Interest of Members, Officers, or Employees of Public Body, Member of Local Governing Body, or other Public Officials:** No member, officer, or employee of the County or City, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure for one year thereafter, shall have any interest, direct or indirect, to be performed in connection with the program assisted under the Agreement. The **Consultant** shall incorporate or cause to be incorporated in all such interest pursuant to the purpose of this Section.

## **PART II – FEES**

The fees for **Services** rendered shall be in accordance with the attached Attachment B, entitled “**Schedule of Fees for Professional Services.**”

## **PART III – TERMS AND CONDITIONS**

### **ARTICLE 1. SERVICES – CONSULTANT SHALL:**

- 1.0 Perform Geotechnical & Environmental Consulting Services for Hidalgo County –Urban County Program as identified in Attachment A “Scope of Services”.
- 1.1 Act for the **Client** in a professional manner, using the degree of care and skill ordinarily exercised by, and consistent with the standards of the Profession.
- 1.2 Provide only those **Services** that, in the opinion of the **Consultant**, lie within the technical and professional area of expertise of the **Consultant** and which **Consultant** is adequately staffed and equipped to perform.
- 1.3 Perform all technical services under the general direction of a Licensed Professional Engineer registered in the State of Texas and in substantial accordance with the basic requirements of the appropriate Standards of the American Society for Testing and Materials, where applicable, or other standards as designated by the **Client**.
- 1.4 Promptly submit all formal construction materials test reports for all tests, observations and services performed indicating where applicable, compliance with project specifications or other documents. Such reports shall be complete and factual. Such reports shall cite the test performed, methodology employed, test values obtained, and locations where tests were performed.
- 1.5 Promptly submit formal geotechnical reports for geotechnical explorations requested by the **Client**. Such reports shall contain a site plan with the boring locations indicated, boring logs, a report of the results of laboratory testing, and contain design recommendations pertaining to the planned construction.
- 1.6 Employ testing equipment and machines which have been calibrated within a period not exceeding twelve (12) months from the time of use by devices of accuracy traceable to the National Institute for Standards and Technology (NIST) of the United States Department of Commerce, and submit upon request by the **Client**, documentation of such calibration.
- 1.7 Report Distribution and Ownership
  - 1.7.1 Laboratory will consider all reports to be the confidential property of the **Client**, and will distribute reports only to those persons, organizations or agencies as designated in writing by the **Client** and its authorized representative.

1.7.2 **Client** acknowledges the **Consultant's** documents as instruments of Professional service. Nevertheless, the plans and specifications prepared under this agreement shall become the property of the **Client** upon completion of the work and payment will be made in full of all monies due to the **Consultant**. The **Client** shall not re-use or make any modification to the reports without prior written authorization of the **Consultant**. Any unauthorized use reuse of the documents will be at the **Client's** sole risk.

1.8 **Consultant** will retain all pertinent records relating to services performed for a period of 5 years following submission of all reports, during which period the records will be made available to the **Client** within a reasonable time.

**ARTICLE 2. CLIENT'S RESPONSIBILITIES-Client or its authorized representative shall:**

- 2.1 Provide the **Consultant** with all the plans, specifications, addenda's change orders, approved shop drawings and other information for the proper performance of the **Consultant**.
- 2.2 Designate in writing those persons or firms who are authorized to receive copies of **Consultant's** inspection and test reports.
- 2.3 Advise **Consultant** sufficiently in advance of any operations so as to allow for assignment of personnel by the Laboratory for completion of the required service. Such advance notice shall be in accordance with that established by mutual agreement of the **Client** and **Consultant**.
- 2.4 Direct any Contractor where testing is to take place, either by construction contract or direct written order to:
  - (a) Secure and deliver to **Consultant**, at no cost to **Consultant**, preliminary representative samples of materials it proposes to use which require laboratory testing.
  - (b) Furnish such casual labor and all facilities needed by the Laboratory to obtain and handle samples at the testing site and to facilitate the specified inspection of tests.
  - (c) Provide and maintain for the use of the **Consultant**, adequate space at the material testing site for safe and secure storage and proper curing of test specimens that must remain on the project site prior to laboratory testing.

### **ARTICLE 3. GENERAL CONDITIONS**

- 3.1 **Consultant**, by the performance of services covered hereunder, does not in any way assume, abridge or abrogate any of those duties, responsibilities or authorities with regard to construction materials testing customarily vested in applicable project architects or engineers, or any other design professionals, agencies or authorities.
- 3.2 **Consultant** shall not be responsible for acts of omissions of any party or parties involved in the design of any project where material testing is to take place or the failure of any Contractor or Subcontractor to construct any aspect of such project in accordance with recommendations contained in any correspondence or verbal recommendation issued by **Consultant**.
- 3.3 **Consultant** is not authorized to revoke, alter or relax, enlarge or release any requirements of the Client's specifications or other documents nor to approve or accept any portion of the work, unless specifically authorized in writing by Client or his authorized representative. **Consultant** shall not have the right of rejection or the right to stop the work, except for such periods as may be required to conduct sampling, testing, or inspection of operations covered by the **Agreement**.
- 3.4 Either party may terminate this **Agreement** on thirty (30) days written notice or by mutual agreement. If this **Agreement** is terminated by either party, **Consultant** shall be paid in full for all services performed through the termination date, and the **Client** shall be provided with a complete report of the results of tests and analysis conducted prior to termination of **Agreement**.
- 3.5 Neither **Client** nor **Consultant** may delegate, assign, sublet or transfer his duties or interest in this **Agreement** without the written consent the other party.
- 3.6 The only warranty made by **Consultant** in connection with its service performed hereunder is that it will use the degree of care and skill as set in Article I above. No other warranty, expressed or implied, is made or intended for services provided hereunder or furnishing oral or written reports of findings made.
- 3.7 **Successors and Assigns.**
  - 3.7.1 **Client** and **Consultant** each binds themselves and their partners, successors, executors, administrators, assign legal representative to the other party to this **Agreement** and to the partners, successors, executors, administrator, assigns and legal representative of such

other party in respect to all covenants, agreements, and obligations of this Agreement.

- 3.7.2 Neither **Client** or **Consultant** shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this **Agreement** without the written consent of the other except as stated in paragraph 3.7.1 and except to the extent that the effect of this limitation may be restricted by law. 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 **Consultant** from employing such independent Consultants, associates and subcontractors, as he may deem appropriate to assist him in the performance of services hereunder.
- 3.7.3 Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than the **Client** and **Consultant**.

### 3.8 Non Binding Mediation

- 3.8.1 In the event of a dispute or claim between **Consultant** and **Client** arising out of or related to this Agreement, both parties agree to submit to a Non-Binding Mediation with the hope of achieving a satisfactory resolution prior to proceeding with formal litigation processes, including the filing of claims against parties (unless a failure to file causes waiver or loss of rights or subsequent action).
- 3.8.2 Such Non-Binding Mediation shall be conducted by a mediator and rules agreed to by both parties. Both parties shall mediate through a selected and mutually agreed to senior representative of each respective party.
- 3.8.3 Both the **Consultant** and **Client** will bind their respective consultants, contractors, vendors, fabricators, and suppliers involved in this Project to contracts which will provide similar Non-Binding Mediation as the primary dispute resolution method to other agreements.

### 3.9 Indemnity

- 3.9.1 The Owner will require the Laboratory, in connection with work produced under this agreement, to hold harmless and indemnify the Client, and each of its officers, agents and employees, from any and all liability claims, losses, or damage arising out of or alleged to arise from Laboratory's negligence in the performance of the work described in this agreement.

## **ARTICLE 4. INSURANCE**

The **Consultant** shall obtain and keep in force during the term of its engagement on the Project, the insurance as follows:

- 4.1 Automobile liability insurance policy with limits of at least Three Hundred Thousand Dollars (\$300,000.00) per person and Five Hundred Thousand Dollars (\$500,000.00) per occurrence. Coverage should include injury to or death of persons and property damage claims with limits up to Five Hundred Thousand Dollars (\$500,000.00) arising out of the services provided to Hidalgo County-Urban County Program.
- 4.2 Uninsured/Underinsured motorist coverage in an amount equal to the bodily injury limits set forth immediately above;
- 4.3 A Five Hundred Thousand Dollar (\$500,000.00) Comprehensive General Liability Insurance Policy providing additional coverage to all underlying liabilities of County consistent with potential exposure of County under the Texas Tort Claims Act;
- 4.4 Workers Compensation Insurance in amount established by Texas law, under the bidder is specifically exempted from the Texas Worker's Compensation Act, Texas Labor Code Chapter 401, et. seq.
- 4.5 All insurance policies must be written by an insurance company or companies acceptable to the Party.
- 4.6 Professional liability insurance policy with limits of at least One Million Dollars (\$1,000,000.00) per occurrence, or limited to claims made, include at least a five (5) year extended reporting period.

## **ARTICLE 5. PAYMENTS:**

- 5.1 **Client** will pay **Consultant** for Services rendered while work is in progress as executed through a lump sum fee For each **Request for Payment**, the **Consultant** shall prepare and submit to the **Client** monthly progress reports in sufficient detail to support the progress of the work done.

## **ARTICLE 6. EXTENT OF AGREEMENT:**

- 6.0 After execution of this **Agreement**, the **Consultant** shall proceed with work, only as authorized by the **Client** through a formal **NOTICE TO PROCEED**.
- 6.1 The **Agreement**, including these terms and conditions, represents the entire agreement between the **Client** and **Consultant** and supercedes all

prior negotiations, representations or agreements, written or oral. The **Agreement** may be amended only by written instrument signed by **Client** and **Consultant**.

6.2 The **Agreement** shall remain in force for the duration of the project from the date this agreement is signed by all parties.

**ARTICLE 7. APPLICABLE LAW:**

7.1 The laws of the State of Texas shall govern the **Agreement**. Venue shall be in County of Hidalgo.

**ARTICLE 8. ATTORNEY FEES:**

8.1 In the unlikely event that a dispute occurs and is litigated, or a cause of action in the law or equity is filed concerning the operation, construction interpretation or enforcement of this agreement, the losing party shall bear the cost of the attorney's fees incurred by the prevailing party and any and all costs applicable thereto, including but not limited to court costs, deposition fees, and expert witness fees, out of pocket expenses and travel expenses which are incurred by the prevailing party.

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Agreement as of the day and year first written above.

**LABORATORY:**

**CLIENT:**

\_\_\_\_\_  
Steve Jones, Sr. Vice President

\_\_\_\_\_  
Diana R. Serna, UCP Director

Raba Kistner Consultants, Inc.  
800 E. Hackberry,  
McAllen, Texas 78501

Hidalgo County-Urban County Program  
1916 Tesoro Blvd.  
Pharr, TX 78577

**APPROVED AS TO FORM:**  
**BY: STEVE CRAIN- ATLAS & HALL**  
**DATE: 2-19-2008**

**Request for Taxpayer  
 Identification Number and Certification**

Give form to the  
 requester. Do not  
 send to the IRS.

Name (as shown on your income tax return)  
**RABA-KISTNER CONSULTANTS, INC.**

Business name, if different from above

Check appropriate box:  Individual/Sole proprietor  Corporation  Partnership  
 Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ .....  Exempt payee  
 Other (see instructions) ▶

Address (number, street, and apt. or suite no.)  
**P. O. BOX 680287**

City, state, and ZIP code  
**SAN ANTONIO, TX 78268-0287**

List account number(s) here (optional)

Requester's name and address (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number	:	:
or		
Employer identification number	:	
74	:	1611534

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here Signature of U.S. person ▶ *Mary L. Oliver* Date ▶ *03/31/10*

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,