

HIDALGO COUNTY
Professional Engineering Services
Contract # C-11-291-01-24
Work Authorization Form
WORK AUTHORIZATION No. 01

THIS WORK AUTHORIZATION is made pursuant to the terms and conditions of Section I.A. of the Agreement made by and between HIDALGO COUNTY, action herein by and through the Commissioner's Court, hereinafter called the "Owner," and, HALFF ASSOCIATES, INC., professional engineers of McAllen, TEXAS, hereinafter called the "Engineer".

PART 1. SCOPE OF WORK

The purpose of this Work Authorization is for the Engineer to provide Installation Infrastructure Engineering, Drawings and Specifications for the Addition of Annex Structures / Three (3) Modular Buildings to the existing Hidalgo County Courthouse.

The scope of services to be provided by the Owner is identified in *EXHIBIT "A" - Scope of Services to be Provided by the Owner* attached hereto.

The scope of services to be provided by the Engineer is identified in *EXHIBIT "B" - Scope of Services to be Provided by the Engineer* attached hereto.

PART 2. ESTIMATED COST

The estimated cost for services under this Work Authorization is \$54,850. This amount is based upon the costs outlined in the Estimated Cost Proposal attached hereto as EXHIBIT "D".

PART 3. PAYMENT

Compensation and payment to the Engineer for the services established under this Work Authorization shall be made in accordance with Article/Part/Section 6 of the Agreement.

PART 4. FUNDING

This Work Authorization No. 1 shall be funded through funding source:
Account No. 2-1342-419-40-220-048-0-720

Requisition Number _____ (MUST BE INCLUDED AFTER CC APPROVAL)

PART 5. PERIOD OF SERVICE

This Work Authorization shall become effective on the date of final acceptance of the parties hereto, and terminate upon completion of scopes of the work authorization.

PART 6. RESPONSIBILITIES AND OBLIGATIONS

This Authorization does not waive the parties' responsibilities and obligations provided under the Agreement.

PART 7. ACKNOWLEDGEMENT AND CONFIRMATION

Acknowledgement and confirmation by Hidalgo County Precinct #4, Commissioner Joseph Palacios and/or Valde Guerra, Executive Officer (P.O.C.) as to content and detail of this Work Authorization.

HIDALGO COUNTY PRECINCT # 4

HIDALGO COUNTY

By: _____
Joseph Palacios, Commissioner

By: _____
Valde Guerra, Executive Officer (P.O.C)

PART 8. ACCEPTANCE AND APPROVAL

This Work Authorization is hereby accepted, approved by Hidalgo County Commissioners' Court on _____ as indicated below and effective as of ____ day of _____, 2012.

THE ENGINEER:
HALFF ASSOCIATES, INC.

THE OWNER:
HIDALGO COUNTY

By:  _____
Menton J. Murray, III, PE, LEED AP

By: _____
Hon. Ramon Garcia, County Judge

ATTEST:

By: _____
Arturo Guajardo, Jr., County Clerk

LIST OF ATTACHMENTS

- ATTACHMENT "A" - Service to be Provided by the Owner
- ATTACHMENT "B" - Services to be Provided by the Engineer
- ATTACHMENT "C" - Work Schedule
- ATTACHMENT "D" - Cost Proposal

EXHIBIT "A"

Services to be provided by the OWNER

The following provides an outline of the services to be provided by the OWNER in the development of the Project.

The OWNER will provide to the ENGINEER the following:

- (1) Authorization to the ENGINEER to begin work in accordance with Section 3 of this Agreement.
- (2) Payment for work performed by the ENGINEER and accepted by the OWNER in accordance with Section 6 of the Agreement.
- (3) Assistance to the ENGINEER, as necessary, to obtain the required data and information from other local, regional, State and Federal agencies that the ENGINEER cannot easily obtain.
- (4) Provide any available relevant data the OWNER may have on file concerning the project.
- (5) Provide timely review and decisions in response to the ENGINEER'S request for information and/or required submittals and deliverables, in order for the ENGINEER to maintain the agreed-upon work schedule prepared in accordance with Attachment "C" of this Agreement.
- (6) Attend and participate in progress meetings as required and as coordinated and conducted by the ENGINEER.
- (7) Assist the ENGINEER in the preparation of the project mailing list; provide representation, a site and stenographer for all public meetings; additionally:

Public Meetings

- (a) Approve agenda and all exhibits prior to public meeting.
 - (b) Approve date and location of the meeting.
 - (c) Review/approve Public Meeting Report.
- (8) Attend the Preliminary Concept Conference coordinated and conducted by the ENGINEER and more particularly identified in Attachment "B" of the Agreement.
 - (9) Assist the ENGINEER as required in the coordination with the USACE and the Federal Emergency Management Agency (FEMA) and any other coordinating agency or entity.
 - (10) Review and approve the Project design criteria.
 - (11) Review and approve change orders as required and prepared by the ENGINEER.

EXHIBIT "B"

Services to be provided by the Engineer

- **Halff Associates** is pleased to submit this task order proposal under our existing Professional Services Agreement (C-11-291-01-24) with Hidalgo County for Installation Infrastructure Engineering, Drawings and Specifications for the Addition of Annex Structures / Three (3) Modular Buildings to the existing Hidalgo County Courthouse. Specifically, this proposal is for the A/E design services necessary to produce construction documents for (#1) Design infrastructure for three (3) modular buildings being supplied by Ramtech through contract #335-10 Project #2012-204-0GG and (#2) Provide design for revised parking lots with fencing. As such, we understand the following scope of work:

SCOPE OF SERVICES

Data Acquisition/Design Phase Services:

1. Drafting of Existing conditions for use as Backgrounds.
2. Site Visits for Design (2 visits).
3. Plan Meetings for Design (2 visits).
4. Civil Engineering.
5. Deck and ADA Ramp Design.
6. Parking and Sidewalk Design.
7. Electrical Service from AEP.
8. Verify New Loads.
9. Size Electrical Services and Feeders.
10. Plumbing Services.
11. 95% Review Meeting.
12. Specifications.
13. Issue Sealed Drawings.

Bid Phase Services:

1. Printing coordination.
2. Pre-Bid Meeting.
3. Response to RFI's.
4. Bid Evaluation Assistance.
5. Attendance of Board Meeting for Project Award (1 Meeting).

Construction Phase Services:

1. Submittal Review.
2. Response to RFI's.
3. Pre-Construction Meeting (1 Visit)
4. Site Observation Visits and Reports (3 Visits).
5. Attendance of Board Meeting (2 Meetings).

EXHIBIT "C"
Work Schedule

EXHIBIT "D"
COST PROPOSAL

Installation Infrastructure Engineering, Drawings and Specifications for the Addition of Annex Structures / Three (3) Modular Buildings to the existing Hidalgo County Courthouse.

Various Design Services Modular Building Additions Hidalgo County Courthouse

Professional Fee:

Survey for Design (with Topo)	\$ 1,040
Civil Engineering	\$ 9,060
Mechanical/Plumbing Engineering:	\$ 2,560
Electrical Engineering	\$ 9,040
ADA Compliance (Sub Consultant)	\$ 1,750
ADA Coordination	\$ 1,200
Geotechnical Report (Sub Consultant)	\$ 4,000
Geotechnical Coordination	\$ 1,200
Architectural (Sub Consultant-Dannabaum)	\$ 12,000
Project Specifications and Bid Documents	\$ 1,360
Bid Phase Service	\$ 1,620
Construction Phase Service	\$10,020

Total Fee (as listed):	\$54,850
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Exclusions:

1. Telecommunications design (Design included rough-in only).
2. Reproduction costs.

The above listed exclusions can be provided to the County as a reimbursable expense at 1.0 multiplier.

Friday, August 31, 2012


Hidalgo County Commissioner's Court
100 East Cano, 1st Floor
(Commissioner's Court Room)
Edinburg, Texas 78539

Ref: Work Authorization #01-Installation Infrastructure Engineering, Drawings and Specifications for the Addition of Annex Structures / Three (3) Modular Buildings to the existing Hidalgo County Courthouse.

Per our Contract C-11-291-01-24, Article 14, Halff Associates request approval to subcontract Architectural design work with Dannenbaum , Inc. Architectural work shall include stairs, ramps, decks, and canopies necessary for access to modular buildings.

A copy of Dannenbaum, Inc. proposal is attached. Halff Associates and Dannenbaum, Inc., shall adhere to Article 14 as stated in the contract. Should you need any additional information, please do not hesitate to let me know as soon as possible at 956-664-0286.

Sincerely,



Menton J. Murray, III, PE, LEED AP
Vice President/ Branch Manager



Dearmin, Tom

From: Steve McGarraugh <Steve.McGarraugh@dannenbaum.com>
Sent: Friday, August 31, 2012 3:01 PM
To: Dearmin, Tom
Subject: Architectural Services for Court House project

Mr. Dearmin,

Per our conversation, I agree to subcontract to Halff Associates for Architectural and Structural Engineering services to design ramps, stairs, decks and canopies for the temporary buildings being installed at the northwest corner of the Hidalgo County Courthouse property. The design shall meet the requirements of all applicable codes. I intend to subcontract CLH Engineering, Inc. for the Structural Engineering portion of this work.

Our proposed fee of \$12,000.00 includes \$9,000 for Architectural Services and \$3,000 for Structural Engineering. This fee includes design as well as coordination meetings and limited construction phase services including periodic inspections and project meetings. Please coordinate with me for preparation of contract documents.

I appreciate the opportunity and look forward to working with you on this project. Please let me know if you have any questions.

Respectfully,
Steve

DANNENBAUM

Steven L McGarraugh AIA

Project Architect

Dannenbaum Engineering Company – McAllen, LLC

1109 Nolana Loop, Suite 208

McAllen, Texas 78504

(956)682-3677 Office

(956)429-0542 Direct

(956)686-1822 Fax

(956)456-9828 Mobile

steve.mcgarraugh@dannenbaum.com

Monday, August 27, 2012

Hidalgo County Commissioner's Court
100 East Cano, 1st Floor
(Commissioner's Court Room)
Edinburg, Texas 78539

Ref: Work Authorization #01 Modular Building Additions Hidalgo County Courthouse –
A/E Design Services necessary to produce Construction Documents for (#1) Design infrastructure for three (3) modular buildings being supplied by Ramtech through Contract #335-10, Project #2012-204-0GG (#2) Provide design of revised parking lots with fencing.

Per our Contract C-11-291-01-24, Article 14, Halff Associates request approval to subcontract with Anthony Covacevich, Registered Accessibility Specialist, for ADA Compliance work related the project listed above in Work Authorization #01.

A copy of Anthony Covacevich, Registered Accessibility Specialist is attached. Halff Associates and Anthony Covacevich shall adhere to Article 14 as stated in the contract. Should you need any additional information, please do not hesitate to let me know as soon as possible at 956-664-0286.

Sincerely,



Menton J. Murray, III, PE, LEED AP
Vice President/ Branch Manager



Thursday, August 16, 2012

Anthony Covacevich
Registered Accessibility Specialist #97
401 Southgate Circle
Weslaco, Texas 78596
956.279.0910

Proposal to Halff Associates, Inc. Modular building addition to Hidalgo County Courthouse

Tom,

After reviewing the site plan and plans for the modular, I proposed to do the plans review for these two modular and the site for \$600 plan review, \$750 for inspection and the \$175 registration fee (register as one project). This will include any meetings I may need to have with you or the County.

Thanks!

Anthony Covacevich
Registered Accessibility Specialist #97

Monday, August 27, 2012

Hidalgo County Commissioner's Court
100 East Cano, 1st Floor
(Commissioner's Court Room)
Edinburg, Texas 78539

Ref: Work Authorization #01 Modular Building Additions Hidalgo County Courthouse –
A/E Design Services necessary to produce Construction Documents for (#1) Design infrastructure for three (3) modular buildings being supplied by Ramtech through Contract #335-10, Project #2012-204-0GG (#2) Provide design of revised parking lots with fencing.

Per our Contract C-11-291-01-24, Article 14, Halff Associates request approval to subcontract with Raba Kistner Consultants, Inc., Geotechnical Report work related the project listed above in Work Authorization #01.

A copy of Raba Kistner Consultants, Inc. proposal is attached. Halff Associates and Raba Kistner Consultants, Inc., shall adhere to Article 14 as stated in the contract. Should you need any additional information, please do not hesitate to let me know as soon as possible at 956-664-0286.

Sincerely,



Menton J. Murray, III, PE, LEED AP
Vice President/ Branch Manager





Proposal No. PMA12-070-00
August 16, 2012

Mr. Thomas E. Dearmin, P.E., LEED®AP
Electrical Department Manager
Halff Associates, Inc.
5000 West Military, Suite 100
McAllen, Texas 78503

**Re: Proposal for Geotechnical Engineering Services
Proposed Two County Courts Building Additions to the
Hidalgo County Courthouse Facility
100 North Closner Boulevard (U.S. Business 281)
Edinburg, Hidalgo County, Texas**

Dear Mr. Dearmin:

On the basis of the documents provide to our office via electronic-mail attachment on Tuesday, August 14, 2012 and our telephone conversations held with you throughout this week, we thank you for selecting Raba Kistner Consultants, Inc. (RKCI) to submit this quote for Geotechnical Engineering Services to Halff Associates, Inc. (CLIENT) for the above-referenced project. The broad objectives of our study will be to determine subsurface conditions at the subject site and to provide foundation design and construction recommendations for the proposed county courts building additions. Described in this letter are:

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

PROJECT DESCRIPTION

We understand that the proposed project consists of the design and construction of: 1) a single-story, rectangle-shaped, free-standing, approximately 5,264 ft², six office capacity (with two courtrooms) modular building and 2) a single-story, rectangle-shaped, free-standing, approximately 7,952 ft², twelve office capacity (with three courtrooms) modular building to be located within the northwestern portion of the existing Hidalgo County Courthouse facility, situated at 100 North Closner Boulevard (U.S. Business 281) in Edinburg, Hidalgo County Texas. The proposed county courts building additions are expected to create relatively light to moderate loads to be carried by the foundation systems, which are planned to be either shallow or deep foundation systems. We understand that the area proposed for the building additions is an asphalt-paved parking lots area, currently used by the courthouse staff.



FIELD STUDY

To assess subsurface conditions at the subject site, we propose to conduct two borings within the footprints of the proposed building additions extending down to maximum depths of 25 ft each below the existing pavement surface elevations. Borings will be located in the field utilizing tape and right angle measurements from existing benchmarks. Our scope of services does not include surveying of the boring locations. However, RKCI recommends that the final boring locations be surveyed in the field by the CLIENT or their representative.

Samples will be taken using conventional split-spoon and/or Shelby tube sampling techniques in general accordance with applicable American Society for Testing and Materials (ASTM) standards. Representative portions of the samples will be sealed, identified, packaged, and transported to our laboratory for subsequent testing and classification.

Upon completion of drilling activities, water level readings, if applicable, will be recorded in the open boreholes and the boreholes will be backfilled using the auger cuttings generated during the drilling operations. The upper two inches of each borehole will be patched with cold-mix asphalt up to the existing asphalt-paved surface level.

LABORATORY STUDY

Upon completion of the subsurface exploration, a general testing program will be designed to define the classification and shrink/swell characteristics of the subsurface strata. The laboratory testing is anticipated to include moisture content tests, Atterberg Limits (plasticity) tests, unconfined compressive strength determinations, dry unit weight determinations, a corrosivity testing (including pH, electrical resistivity, and sulfate and chloride content determinations), and grain size analyses. The laboratory testing will be performed in general accordance with applicable ASTM standards.

ENGINEERING ANALYSIS AND REPORT

The results of the field and laboratory phases of the study will be reviewed by our staff of engineers. The results of our review, together with the supporting field and laboratory data, will be presented in a written, engineering report. Included therein will be recommendations concerning the design and construction of the foundation and pavement systems for the proposed county courts building additions. The Geotechnical Engineering Report may also include the following information and recommendations:

- A summary of the field and laboratory sampling and testing program;
- Boring logs and laboratory testing results;
- A review of the general site conditions including a description of the site, the subsurface stratigraphy, groundwater conditions, and the presence and condition of fill materials, if encountered.
- Foundation design considerations and recommendations, including:

- expansive, soil-related movements using an empirical method for predicting Potential Vertical Rise (PVR) developed by the Texas Department of Transportation (TxDOT);
 - methods for reducing expansive, soil-related movements to about 1 inch; which is the typical tolerance for ground-supported floor slabs in this region;
 - shallow and/or deep foundation recommendations;
 - available soil-bearing pressures;
 - settlement estimations, where applicable; and
 - groundwater considerations.
- Foundation construction considerations, including:
 - site drainage;
 - site preparation;
 - select fill materials;
 - shallow and/or deep foundation excavations;
 - potential reuse of on-site materials as select fill materials;
 - excavation considerations; and
 - fill placement compaction requirements.
 - Seismic region condition evaluations.

Also included in the report will be general guidelines for the construction of pavements for the proposed parking and driveway areas. These guidelines will be based on the results of classification testing completed on specimens from the pavement areas and on our experience with similar soils.

Since site grading plans can result in changes in the foundation and pavement subgrade conditions, final site grading plans will be helpful information in the preparation of engineering recommendations. In the absence of final site grading information, we will prepare recommendations based on the existing ground surface elevations. Also, specific information concerning anticipated traffic loadings and frequencies for the pavement areas will be critical in the preparation of pavement recommendations.

The final report will be reproduced in three, spirally-bound copies.

TENTATIVE PROJECT SCHEDULE

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

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

LUMP SUM COST

The total lump sum cost for the study outlined herein is \$5,000.00. Please note that this lump sum cost reflect the overtime that will be charged by our staff members in order to expedite and submit our report within the time-frame presented in this contract document.

Should unusual subsurface conditions be encountered in the field which indicate the desirability of significantly broadening the scope of the study, we will contact you to receive written authorization before proceeding with any additional work. Additional services will be billed on a unit basis in accordance with our standard fees as indicated on the attached Schedule of Fees for Professional Services.

RKCI has been provided with a site plan from the CLIENT, illustrating the location of the proposed county courts building additions. It is our understanding that access to all boring locations for a conventional, truck-mounted drilling rig and underground utility clearance will be provided by the CLIENT prior to our field exploration services.

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

It should also be noted that our study scope (and project cost) do not include professional time or travel expenses for participation in design team meetings. If these services are required, they will be billed at our standard billing rates for professional time plus expenses.

ACCEPTANCE

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

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

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

Proposal No. PMA12-070-00
August 16, 2012

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

Very truly yours,

RABA KISTNER CONSULTANTS, INC.

Accepted By: _____
(Signature)

Jorge L. Pérez
Graduate Engineer

(Typed or Printed Name)

Katrin M. Leonard, P.E.
Manager, Engineering Services

(Title)

Copies submitted: Above (2)

(Date)

JLP/KML



STANDARD TERMS AND CONDITIONS

1. **SERVICES.** Raba Kistner, Inc., by and through one of its subsidiaries (Raba Kistner Consultants, Inc., Raba Kistner Environmental, Inc., Raba Kistner Facilities, Inc. or Raba Kistner Infrastructure, Inc.) (the relevant subsidiary, being engaged to provide the services to CLIENT in connection with the delivery of this instrument, is referred to as "RK" herein) is being engaged by the CLIENT to render professional services involving only RK's tests and observation reports, advice, judgment and opinion. RK shall apply professional judgment in determining the extent to which RK complies with any given standard identified in RK's instruments of professional services.
2. **INFORMATION PROVIDED BY CLIENT.** CLIENT may provide or direct RK to utilize or rely upon certain information in the performance of RK's services. RK will not conduct an independent evaluation of the accuracy or completeness of such information and shall not be responsible for any errors or omissions in such information. The CLIENT shall be responsible for providing the location of all underground utilities and other structures in the vicinity of our borings or excavations. RK will not accept responsibility and will not be liable for affecting or damaging any underground utility, underground storage tank, or other subsurface condition not previously identified and located, or improperly located, by the CLIENT, a utility, or a utility locating agency.
3. **SITE ACCESS AND SITE SAFETY.** CLIENT shall provide right-of-entry to the buildings and sites which are the subjects of RK's services. CLIENT represents that it possesses authority for such right-of-entry and that the building/site operator(s) possess the necessary permits and licenses for current activities at the site. RK shall be responsible for supervision and site safety measures of its own employees and subconsultants and shall not be responsible for the supervision or health and safety precautions of any other parties, including CLIENT, CLIENT'S contractors, subcontractors, or other parties present at the site.
4. **SUBSURFACE EXPLORATIONS.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. CLIENT understands RK's layout of boring and test locations is approximate and that RK may deviate a reasonable distance from those locations. RK will take reasonable precautions to reduce damage to the site when performing services; however, CLIENT accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the scope of services.
5. **CHANGED CONDITIONS.** If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to RK are uncovered or revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, RK may call for renegotiation of appropriate portions of this Agreement. RK shall notify the CLIENT of the changed conditions necessitating renegotiation, and RK and the CLIENT shall promptly and in good faith enter into renegotiation of this Agreement to address the changed conditions. If changes cannot be agreed to with respect to changed conditions, the parties shall utilize the Dispute Resolution/Litigation procedures in this Agreement.
6. **TESTING AND OBSERVATIONS.** CLIENT understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. RK will provide test results and opinions based on tests and field observations only for the work tested. CLIENT understands that testing and observation are not continuous or exhaustive, and are conducted to reduce – not eliminate – project risk. CLIENT agrees to the level or amount of testing performed and the associated risk. CLIENT is responsible (even if delegated to contractor) for notifying and scheduling RK so RK can perform these services. RK shall not be responsible for the quality and completeness of contractor's work or their adherence to the project documents, and RK's performance of testing and observation services shall not relieve contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. RK will not supervise or direct the work performed by contractor or its subcontractors and is not responsible for their means and methods.
7. **ESTIMATE OF FEES FOR CONSTRUCTION AND MATERIALS TESTING SERVICES.** If included as part of RK's proposal, RK will, to the best of its ability, perform the scope of services related to Construction and Materials Testing Services within the proposed fee estimate provided by RK. RK's proposal fees are based upon an estimate of the services required to meet the requirements of the project as listed in the specification and following generally accepted engineering practices. The CLIENT recognizes that unforeseen circumstances along with changes in scope and project/contractor's schedules can influence the successful completion of the scope of services within the estimated proposed fees. Because the contractor has sole control over the project and determines the means and methods used to build/construct the project, RK's service fees are estimates and not lump sum or guaranteed maximum fees. The CLIENT is fully responsible for payment of all services provided, including retests of contractor's failed areas.
8. **RIGHT TO RETAIN SUB-CONSULTANTS.** CLIENT acknowledges that while performing the services and work products, situations or circumstances may occur where RK determines that in its judgment the services of sub-consultants may be necessary.
9. **TOXIC AND HAZARDOUS MATERIALS.** CLIENT shall provide RK with all information within CLIENT'S possession or knowledge as to the potential or presence of toxic or hazardous materials or pollutants at the site. CLIENT agrees that RK neither created nor contributed to the creation or existence of any toxic or hazardous materials or pollutants. In no event shall RK be required to sign a hazardous waste manifest or take title to any toxic or hazardous materials or pollutants. If unanticipated toxic or hazardous materials or pollutants are encountered while performing RK's services, RK reserves the right to stop field operations and notify the CLIENT and CLIENT assumes responsibility to notify appropriate regulatory agencies. RK and CLIENT must mutually agree to remobilize.
10. **NO THIRD-PARTY BENEFICIARIES.** The services and any report prepared under this Agreement are for the sole benefit and sole use of CLIENT and are not for the use of any other party or person. Only CLIENT may rely upon the services and any report or work product. Nothing in this Agreement, or any subsequent amendments or modifications, or in any report issued under this Agreement, shall create a contractual relationship with or a cause of action in the favor of any third party against either RK or CLIENT.

11. **LEED PROJECTS.** Unless specifically addressed elsewhere in this agreement, RK has no responsibility or liability, including duty to defend or duty to indemnify, any party (including but not limited to CLIENT, owner, owner's agents, architects, engineers, contractors, construction managers, subcontractors) for the LEED certification process including: developing, producing, or retaining any documentation relating to the calculation of LEED points; and attainment of LEED certification points or LEED ratings.
12. **STANDARD OF CARE.** RK shall perform its professional services in accordance with the standard of care and diligence normally practiced by recognized professional firms in performing services of a similar nature, in the same locality, under similar circumstances. CLIENT expressly acknowledges that RK makes no other warranties or guarantees, expressed or implied, regarding its professional services or its work products.
13. **LIMITATION OF LIABILITY.** To the greatest extent permitted by law, CLIENT'S sole remedy against RK for claims and liabilities in any way arising out of or directly or indirectly related to the error, omission, or other professional negligence of RK's work for CLIENT will not exceed an aggregate limit of \$100,000 or the amount of RK's fee, whichever is greater for that portion of RK's work found to be defective, regardless of the legal theory which remedy is sought, whether based on negligence (whether sole or concurrent, active or passive), breach of contract, breach of warranty, strict liability or otherwise.
14. **CONSEQUENTIAL DAMAGES.** Neither CLIENT nor RK will be liable to the other for any special, consequential, incidental or penal losses or damages including but not limited to losses, damages or claims related to the unavailability of property or facilities, shutdowns or service interruptions, loss of use, profits, revenue, or inventory, or for use charges, cost of capital, or claims of the other party and/or its customers.
15. **SUSPENSION OF SERVICES.** If the CLIENT fails to make payments when due or otherwise is in breach of this Agreement, RK may suspend performance of services upon seven (7) calendar days' notice to the CLIENT. RK shall have no liability whatsoever to the CLIENT for any costs or damages as a result of such suspension. Upon payment in full by the CLIENT, RK may resume services under this Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for RK to resume performance. Payment of invoices shall not be subject to any discounts or set-offs by the CLIENT unless agreed to in writing by RK. Payment to RK for services rendered and expenses incurred will be due and payable regardless of any subsequent suspension or termination of this Agreement by either party.
16. **INDEMNIFICATION.** TO THE FULLEST EXTENT PERMITTED BY LAW, RK AGREES TO INDEMNIFY AND HOLD THE CLIENT HARMLESS FROM AND AGAINST LIABILITIES, DAMAGES AND COSTS TO THE EXTENT CAUSED BY RK'S NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS AGREEMENT AND TO THE EXTENT THAT RK IS RESPONSIBLE FOR THE LIABILITIES, DAMAGES AND COSTS ON A COMPARATIVE BASIS OF FAULT AND RESPONSIBILITY BETWEEN RK AND THE CLIENT. NEITHER CLIENT NOR RK IS RESPONSIBLE FOR DAMAGES OR LIABILITIES CAUSED BY THE NEGLIGENCE OF THE OTHER PARTY. IN NO EVENT SHALL THE INDEMNIFICATION OBLIGATION EXTEND BEYOND THE DATE WHEN THE INSTITUTION OF LEGAL OR EQUITABLE PROCEEDINGS FOR PROFESSIONAL NEGLIGENCE WOULD BE BARRED BY AN APPLICABLE STATUTE OF REPOSE OR STATUTE OF LIMITATIONS. THIS INDEMNIFICATION EXPRESSLY EXCLUDES THE DUTY OF RK TO DEFEND THE CLIENT. HOWEVER, THE ABSENCE OF THE DUTY TO DEFEND SHALL NOT PRECLUDE THE CLIENT FROM SEEKING RECOVERY OF ITS REASONABLE ATTORNEYS' FEES AS PART OF ITS DAMAGES. THE CLIENT AGREES TO LOOK SOLELY TO THE CORPORATE ASSETS, INCLUDING BUT NOT LIMITED TO INSURANCE POLICIES, OF RK, WITH RESPECT TO SATISFACTION OF ANY LIABILITIES THAT MAY ARISE OUT OF THE PERFORMANCE OF THIS AGREEMENT. ACCORDINGLY, NO EMPLOYEE, PRINCIPAL, DIRECTOR, OFFICER, PARTNER, OR SHAREHOLDER OF RK SHALL BE SUBJECT TO ANY PERSONAL LIABILITY ARISING OUT OF OR RELATING TO THE PERFORMANCE OF THIS AGREEMENT.
17. **DISPUTE RESOLUTION/LITIGATION.** All claims, disputes, and other controversy between RK and CLIENT arising out of or in any way related to the services provided by RK shall be submitted to mediation, before and as a condition precedent to other remedies provided by law. If a dispute at law arises related to these services and that dispute requires litigation as provided above, the CLIENT assents to personal jurisdiction in the State of RK's principal place of business; the claim will be brought and tried in judicial jurisdiction of the court of the county where RK's principal place of business is located, and CLIENT waives the right to remove action to any other county or jurisdiction; and the prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys' and expert witness fees, and other claim-related expenses. As a condition precedent to mediation of any claim arising out of the services provided under this Agreement, CLIENT shall obtain the written opinion from a registered, independent, and reputable professional engineer that RK has violated the standard of care applicable to RK's performance of services, in a form that meets the requirements of Texas Civil Practice & Remedies Code Chapter 150.
18. **TERMINATION OF CONTRACT.** CLIENT and RK may terminate services at any time upon ten (10) calendar days' written notice. In the event of termination, CLIENT agrees to fully compensate RK for services performed including reimbursable expenses through the termination date, as well as reasonable demobilization expenses. RK will terminate services without waiving any claims or incurring any liability.
19. **STATUTE OF LIMITATIONS.** Any applicable statute of limitations will commence to run and any cause of action shall be deemed to have accrued not later than the earlier of the following: (1) the date on which RK issues its report under this Agreement; or (2) if RK is retained to perform construction observation, the date of substantial completion of the project.
20. **FORCE MAJEURE.** Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control ("Force Majeure") including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected. Force Majeure may not be claimed as a cause for delay in payment of money due and payable hereunder.
21. **NO ASSIGNMENT.** Neither RK nor CLIENT shall assign, sublet, or transfer its interest in this Agreement without the express written consent of the other.
22. **SEVERABILITY.** Each provision of this Agreement is intended to be severable. If any terms or provisions of this agreement shall be held to be invalid, illegal, or unenforceable for any reason whatsoever, the validity, legality, and enforceability of the remaining provisions hereof shall remain in full force and effect and shall not in any way be affected or impaired thereby. Moreover, to the maximum extent allowed by law, the Parties hereto stipulate that any offending provisions will be modified or altered, as necessary, so as to give such provision the maximum permissible effect and application intended.
23. **ENTIRE AGREEMENT.** This Agreement, and all of its attachments, constitutes the entire, integrated Agreement between the Parties to it, and this Agreement supersedes all other Agreements, oral or written between the Parties, concerning the subject set forth in this Agreement. This Agreement may not be amended except in writing, with that amendment being signed by both Parties.



SCHEDULE OF FEES FOR PROFESSIONAL SERVICES

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

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

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

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

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

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

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

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