

December 8, 2014

Hidalgo County Urban County Program  
Attn: Diana Serna  
Urban County Director

**Re: Urban County Program - Weslaco Water and Wastewater Improvements Project**

Ms. Serna,

LeFevre Engineering & Management Consulting, LLC (LEMC) is eager to provide professional engineering services through the Hidalgo County Urban County Program for the aforementioned project, located in the City of Weslaco. LEMC will also provide Additional Services (Geotech & Material Testing) by Sub-Contract:

Upon consideration of the required services needed to complete the project (Engineering, Survey Topography for Design, Construction Phase Engineering, Inspection Services & Additional Services: (Geotech and Material Testing)), LEMC is requesting **\$75,980.58**, in which **\$16,730.58** are for Geotech and Material Testing, and **\$250.00 (1.5% of \$16,730.58)** are for Administrative Fee. This estimated lump sum amount is not to exceed, and would cover all of the professional fees required to complete the project.

Should the proposed estimate be approved we are eager to commence services as needed, and look forward to working on another Urban County Program Project.

Please call me should you have any questions regarding this project at (956) 687-5362.

Respectfully,



Emigdio Salinas, P.E.  
Project Engineer  
LeFevre Engineering & Management Consulting, LLC

# LeFEVRE

ENGINEERING &  
MANAGEMENT CONSULTING, LLC

Texas Registered Engineering Firm F-11722

612 Nolana, Suite 620  
McAllen, Texas 78504  
Tel. 956.687.1EMC  
Fax. 956.687.5363

December 8, 2014

**Submitted to:**  
Diana R. Serna  
Director  
c/o Urban County Program

**Re: Best and Final Offer – Urban County Program - City of Weslaco, Water & Wastewater Improvements Project**

Ms. Serna:

As requested, please find the enclosed Best and Final Offer (BAFO) submitted by LeFevre Engineering & Management Consulting, LLC on the proposed rates submitted as set forth below in connection to the above referenced project.

Engineering Cost Proposal and Fee Breakdown by:		
LeFevre Engineering & Management Consulting, LLC		
Survey/Topography		\$ 8,700.00
Task 1 - Design Topography (price does not include acquiring easements)		
Basic Engineering		\$35,000
Task 2 - Project Startup	\$1,240	
Task 3 - Design	\$ 27,760	
Task 4 - Preliminary Plans	\$ 3,700	
Task 5 - Final Plans and Specifications	\$ 2,300	
Inspection		\$ 8,700
Construction Phase Engineering		
Task 6 - Bidding & Award	\$1,330	
Task 7 - Construction	\$ 4,020	
Task 8 - As-Builts	\$ 1,250	
Total		\$59,000
Additional Services		\$ 16,980.58
Task 1 - Geotech	\$6,200	
Task 2 - Material Testing	\$ 10,530.58	
Task 3 - Admin. Fees	\$250	
Total		\$ 75,980.58

The above price does not include survey for acquisition of any and all easements required for construction of this project. The survey included in pricing is only to be used for engineering requirements and NOT for acquisition of properties, property disputes, etc. Any survey to be used for acquisition of properties, boundary searches, etc., that will need a registered land surveyor will need to be added as additional services or provided by others.

Please call me if you should have any questions at (956) 687-5362.  
Respectfully yours,

A handwritten signature in black ink, appearing to read "Emigdio Salinas, P.E.", with a stylized flourish at the end.

Emigdio Salinas, P.E.  
Project Engineer

CC: Z:\5 Projects\Hidalgo\Weslaco\PI79 HUC Weslaco Sanitary Sewer\BAFO - Contract\BAFO - Urban County - Weslaco.docx



## 2.1 Preliminary Phase

- a. Attend preliminary conferences with the Party and, if requested, with the funding agency and other government agencies or interested parties regarding the project.
- b. As may be required, comply and receive from the Party and the funding agencies approval on all work.
- c. Prepare preliminary engineering plans on the Project in sufficient detail to indicate clearly the problems involved and solutions recommended with the cost estimates.
- d. Obtain the Party's written approval of the work of this Preliminary Phase before proceeding with the next phase.

## 2.2 Design Phase

- a. Attend the respective Party's meetings as requested for the purpose of explaining completed design work activities.
- b. Advise the Party of any soil investigations or tests which, in the opinion of the Engineer, may be required for the proper execution of the Project.
- c. Provide all field information and surveys required for the design of the Project.
- d. Plot field data and other survey information for the design of the Project.
- e. Prepare detailed plans, specifications and contract documents and drawings (reproducible tracings) for construction authorized by the Party.
- f. Furnish, if requested, the engineering data necessary for the Party to obtain permits required by local, state, and federal authorities.
- g. Prepare cost estimates of authorized construction, based on prices for work. If such estimated costs exceed the monies available, the Party shall be consulted so that revisions can be made to reduce the cost as required.
- h. Prepare all documents required for the advertisement and bidding of the Project in cooperation with the Party's staff.
- i. Preparation of property or easement descriptions.

## 2.3 Construction Phase

The Construction Phase will commence with the execution of the prime construction contract(s). The Party will issue a ten (10) day commence work notice which will signal the commencement of work under any construction contracts and will terminate upon the Party's approval of the Engineer's written approval of final payment to the Contractor(s). During the Construction Phase, the Engineer will:

- a. Assist the Party in opening and tabulating bids for the construction of the Project, and advise the Party in establishing the procedure for entering into construction phase.
- b. Prepare the formal Contract Documents for the Contractor.
- c. Make periodic visits to the site as required pursuant to the standards of Professional Engineers on projects of this nature, provide project construction supervision, to observe the progress and quality of the executed work and to determine if the work is proceeding in accordance with the contract documents.
- d. Consult with and advise the Party and issue all instructions and Change Orders to the Contractor selected by the Party.
- e. During the progress of actual construction, Engineer will keep continually the Owner informed with brief and concise information. A monthly progress report will be prepared and delivered to the Party including but limited to monies spent, construction time elapsed, percent of Project completed, a brief narrative of problems encountered and the anticipated completion date.
- f. Review shop and working drawings furnished by Contractor(s) for general compliance with design concept and with information given in contract documents.
- g. Review and provide a recommendation concerning samples, catalog data, schedules, shop drawings, laboratory, shape and mill tests of material and equipment and other data which the Contractor is required to submit, in compliance with the Contract Documents.
- h. Prepare monthly and final estimates for payments to Contractor(s).
- i. Engineer shall accompany the Party on the Final Inspection to assure that the total work has been completed in accordance with the Contract Documents.
- j. Prior to the Party's dispersal of any retainage of funds, render a written opinion to the Party that the construction has been completed according to the Contract Documents and provide the Party with a certificate of completion and release of liens documents from subcontractors.
- k. Provide the Party with sepia copies of as-built drawings of the constructed improvements, within sixty (60) days of issuance of certificate of completion.
- l. The Engineer will be responsible for interim and final inspection.
- m. Furnish to the Party six (6) sets of plans and six (6) sets of specifications and contract documents.

**SECTION III  
ADDITIONAL SERVICES OF THE ENGINEER**

If authorized in writing by the Party, the Engineer will furnish or obtain from others Additional Services of the following types which are not considered normal or customary basic services; these will be paid for by the Party as indicated in Section VI.

- 3.1 Services of a Resident Project Representative, and other field personnel as required, for on-the-site observations of construction, other than periodic visits covered in Section 2.3 herein.
- 3.2 Detailed mill, shop and/or laboratory inspection of materials or equipment.
- 3.3 Major revision of Contract drawings as distinguished from modifications due to change orders, modifications to reduce the cost of the project or modifications requested to meet federal, state, or local regulations.

**SECTION IV  
REIMBURSABLE EXPENSES**

- 4.1 Travel and subsistence required for the Engineer and authorized by the Party to points other than within Hidalgo County and Project site.
- 4.2 Additional copies of reports and specifications over six (6) copies and additional prints of drawings over six (6) copies.
- 4.3 Reimbursable expenses as provided in Section IV herein shall be paid to the Engineer on the basis of 1.1 times the Engineers actual cost.

**SECTION V  
THE PARTY'S RESPONSIBILITIES**

**The Party will:**

- 5.1 Provide full information as to requirements for the Project.
- 5.2 Assist the Engineer by providing all available information pertinent to the Project including reports and any other data relative to design and construction of the Project.
- 5.3 Furnish the services or data as required such as appropriate professional interpretations of all of the foregoing; property, boundary, easement, right-of-way, zoning, and deed restrictions; all of which the Engineer may rely upon in performing his services under this agreement.
- 5.4 Guarantee access to and make all provisions for the Engineer to enter upon public and private property as required for the Engineer to perform his services under this Agreement.

- 5.5 Examine all studies, reports, sketches, estimates, specifications, drawings, proposals, and other documents presented by the Engineer.
- 5.6 Pay for all costs incident to advertising and obtaining bids or proposals from Contractors.
- 5.7 Provide such legal and accounting services required to discharge the Party's responsibility under the terms of this Agreement and any Agreement with any governmental agency as may be required for the project, and such auditing services as the Party may require to ascertain how or for what purpose any Contractor has used the monies paid to him under the construction contract.
- 5.8 Give prompt written notice to the Engineer whenever the Party observes or otherwise becomes aware of any defect in the Project.

## **SECTION VI PAYMENTS TO THE ENGINEER**

The Party agrees to pay the Engineer for completed services as identified by the Party:

- 6.1 The Engineer shall be paid a total fixed amount of 75,980.58 for services rendered under this contract. Payment shall be based on request for reimbursements with documentation requested by the Party. The Engineer's fee shall be due and payable as outlined in Sections 6.2, 6.3, and 6.4 as follows.
- 6.2 At Engineer's completion and Party's approval of the Engineer's services under the Preliminary Phase, Section 2.1 of this Agreement, Party shall pay a maximum of 15% of the sum set forth in Section 6.1 above.
- 6.3 At Engineer's completion and Party's approval of the Engineer's services under the Design Phase, Section 2.2 of this Agreement, Party shall pay a maximum of 60% of the sum set forth in Section 6.1 above.
- 6.4 At Engineer's completion and Party's approval of the Engineer's services under the Construction Phase, Section 2.3 of this Agreement, Party shall pay a maximum of 25% of the sum set forth in Section 6.1 above. Such sum to be paid periodically proportionately to the percentage of construction completed by the Contractor as determined by Engineer's reports.
- 6.5 For Additional Services as provided in Section III herein the Engineer shall be paid a sum of 1.1 times the Engineer's actual cost for such services.

## **SECTION VII OWNERSHIP OF DOCUMENTS**

Original documents, plans, designs and survey notes developed in connection with services performed hereunder belong to, and remain the property of the Party, in consideration of which it is mutually agreed that the Party will use them solely in connection with the Project and as base material for possible future projects.

**SECTION VIII  
TERMINATION**

The Party may terminate this Agreement without cause at any time by a 30-day notice in writing to the Engineer. Upon receipt of such notice, the Engineer shall, unless the notice directs otherwise immediately discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement. As soon as practical after receipt of notice of termination, the Engineer shall submit a statement showing in detail the actual services that were performed under this Agreement to date of termination, the date such services were performed and the length of time spent by each person or party engaged in performing such services on each day,

The Party shall pay the Engineer a sum of money equal to the reasonable value of the professional engineer services rendered by the Engineer to the Party in connection with the services performed under this Contract, less payments previously made by the Party to Engineer on work performed and expenses incurred by Engineer under the provisions of this Agreement. Copies of all completed or partially completed designs, plans, and specifications prepared under this Agreement shall be delivered to the Party when and if this Agreement is terminated, but subject to the restrictions as to their use, as set forth above.

Notwithstanding the above, the Engineer shall not be relieved of liability to the Party for damages sustained by the Party arising from Engineer's negligent acts, errors or omissions related to Engineer's obligations created under this Agreement.

**SECTION IX  
COUNTY AND CITY OFFICIALS**

Engineer agrees that no County or City official or Party employee shall be personally liable for any of the obligation created under this Agreement, or for any matter which may arise out of the Project, or any activities related thereto and hereby holds the Party, its political bodies and its employees harmless from and indemnifies them from any liability from any matter arising from Engineer's negligent acts, errors or omissions related to Engineer's obligations created under this Agreement.

**SECTION X  
SUCCESSORS AND ASSIGNS**

Party and Engineer each binds themselves, their partners, successors, executors, administrators, and assigns to the other party of Agreement in respect to all covenants of this Agreement. Neither the Party nor Engineer shall assign or transfer any interest in this Agreement without the written consent of the other.

**SECTION XI  
TIME OF PERFORMANCE**

The Engineer contracts and agrees to commence work within ten (10) days from the date of written authorization to proceed and will complete the preparation of the preliminary phase and estimates by 90 days and will proceed upon authorization with final drawings, specifications, and contracts documents and complete same within the earliest practical time from such notice to proceed.

**SECTION XII  
VENUE**

Venue and jurisdiction of any suit, right or cause of action arising under or in connection with this Contract shall lie exclusively in Hidalgo County, Texas.

**SECTION XIII  
AMENDMENT**

This Agreement may be amended only by a written document executed by the parties hereto.

**SECTION XIV  
COMPLIANCE WITH LOCAL LAWS**

The Engineer shall comply with all applicable laws, ordinances, and codes of the State and local governments, and the Engineer shall save the Party harmless with respect to any damages arising from any negligence of the engineer in performing any of the work embraced by this Contract.

**SECTION XV  
ASSIGNABILITY**

The Engineer shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written consent of the Party thereof; provided however, that claims for money due or to become due to the Engineer from the Party under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Party.

**SECTION XVI  
GENERAL**

- 16.1 Audit. The Party and/or any of its duly authorized representatives shall have access to any books, documents, papers, and records of the Engineer which are directly pertinent to the Project for the purpose of making the audit, examination, excerpts, and transcriptions.
- 16.2 The Engineer agrees to comply 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 Engineer 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 Engineer 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 Engineer 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.

- 16.3 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.

- 16.4 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 or for one year thereafter, shall have any interest, direct or indirect, to be performed in connection with the program assisted under the Agreement. The Engineer shall incorporate or cause to be incorporated in all such documents in the paragraph in this Section.

## **SECTION XVII INSURANCE**

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

- 17.1 A comprehensive automobile liability policy covering liability exposure to bodily injury and property damages. The Engineer shall furnish Party Certificates of Insurance showing the comprehensive automobile liability insurance policies to be in effect, commencing when Engineers commence operations under this Agreement, in the sum of \$300,000 for bodily injury and \$100,000 for property damages.
- 17.2 Uninsured/Underinsured motorist coverage in an amount equal to the bodily injury limits set forth immediately above;
- 17.3 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;
- 17.4 Workers Compensation Insurance in amount established by Texas law, unless the engineer is specifically exempted from the Texas Worker's Compensation Act, Texas Labor Code Chapter 401, et. seq.
- 17.5 All insurance policies must be written by an insurance company or companies acceptable to the Party.

## **SECTION XVIII WARRANTY**

- 18.1 Engineer represents and warrants to Owner all services rendered to Owner under this Agreement shall, at a minimum, comply with the Texas Engineering Practices Act (Tex. Civ. St. Ann., Article 3271) and rules of the Texas Board of Professional Engineers.



**Exhibit "A"**  
(Scope of Services)

See Attached

Exhibit "A"  
SCOPE OF SERVICES

Urban County Program - City of Weslaco Water & Wastewater Improvements project

PREPARED BY:  
**LeFEVRE ENGINEERING & MANAGEMENT CONSULTING, LLC.**  
**(LEMC)**

The County of Hidalgo, Texas, proposes to construct Urban County Program City of Weslaco Water & Wastewater Improvements Project.

**Contract Amount: \$ 75,980.58**

**Project Tasks**

**Task 1 – Survey**

Necessary field information will be developed by field surveys. Record plans will be issued as a guide for the survey work and for the analysis of design alternatives.

**Task 2 – Project Orientation and Startup**

LEMC proposes an initial project orientation meeting be scheduled so that both the City and the engineer may have a clear understanding of the design and construction process, parameters to be used and the final product desired.

**Task 3 – Design**

LEMC will assure that improvements are designed and incorporated in the plans are adequate for the area and as per Texas Commission on Environmental Quality (TCEQ) and as per City of Weslaco requirements.

**Task 4 – Preliminary Plans and Estimates**

LEMC will provide City staff a set of plans and estimates for accordance, evaluation and coordination.

**Task 5 – Final Plans and Specifications**

Final plans, specifications and estimates will be prepared during this task. The output of this task will be the documents necessary for bidding and constructing the project.

**Task 6 – Bidding and Award**

A pre-bid meeting will be scheduled if necessary in order to brief potential bidders and suppliers on the project. Necessary clarifications or addendum will be issued. LEMC will attend the bid opening and assist as the City desires.

Post bid, LEMC will tabulate the bids and make recommendations in consultation with City staff. Post Award, LEMC will prepare necessary contract documents for execution, after award by the City.

**Task 7 – Construction**

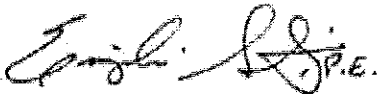
LEMC will observe ongoing work, identify survey control for the contractor and certify periodic payment requests. LEMC will coordinate material testing with Sub-Consultant. Upon completion, a final inspection will be scheduled with the contractor and City staff. The outcome of these final inspections will be a Certificate of completion or a punch list of items for the contractor to complete, prior to issuance of a Certificate of Completion.

**Task 8 – As Built**

LEMC will provide to the City a reproducible “as-built” set of plans of the project along with an electronic version of the plans.

Please accept this proposal letter as our final and best offer.

Respectfully,



Emigdio Salinas, P.E.  
LeFevre Engineering & Management Consulting, LLC  
Project Engineer

<h1 style="margin: 0;">LeFEVRE</h1> <p style="margin: 0;">ENVIRONMENTAL &amp; MANAGEMENT CONSULTING, LLC</p>	<p style="margin: 0;">612 Nolana, Suite 350 McAllen, Texas 78504 Tel. 956.661.8000 Fax. 956.661.8001</p>	<p style="margin: 0; text-align: center;">Civil Engineering Environmental Engineering Planning Project Management</p>
<p style="margin: 0;">Texas Registered Engineering Firm F-11722</p>		

ITEM NO.	DESCRIPTION	EST. QNTY.	UNIT		
<b>P179 Weslaco Sanitary Sewer Improvements Project - Hidalgo Urban County</b>					
<b>General Project</b>					
1-1	Bypass Plan signed and sealed by a professional engineer licensed in Texas	LS	1	\$ 2,500.00	\$ 2,500.00
1-2	Trench Safety Plan signed and sealed by a professional engineer licensed in Texas	LS	1	\$ 2,500.00	\$ 2,500.00
1-3	Traffic control plan signed and sealed by a professional engineer licensed in Texas	LS	1	\$ 2,500.00	\$ 2,500.00
1-4	Installation and maintenance of barricades, signs and traffic handling per approved Traffic Control Plan.	LS	1	\$ 5,000.00	\$ 5,000.00
<b>Total General Project</b>				<b>\$ 12,500.00</b>	
<b>Water Line Improvements - Base Bid</b>					
2-1	Abandon Existing Water Lines, according to the plans and specifications; complete in place	LS	2	\$ 5,000.00	\$ 10,000.00
2-2	Furnish and install 8-inch PVC DR-18 C900 Water Line w/ fittings, according to the plans and specifications; complete in place	LF	1891	\$ 30.00	\$ 56,730.00
2-3	Furnish and install 8-inch Gate Valve and Box, according to the plans and specifications; complete in place	EA	7	\$ 1,500.00	\$ 10,500.00
2-4	Furnish and install Fire Hydrant according to the plans and specifications; complete in place	EA	2	\$ 5,000.00	\$ 10,000.00
2-5	Trench Street Repairs	SY	4205	\$ 25.00	\$ 105,125.00
<b>Water Line Improvements - Base Bid</b>				<b>\$ 192,355.00</b>	
<b>Sanitary Sewer Improvements - Base Bid</b>					
2-1	Bypass Pumping according to the Bypass Plan provided and as per the specifications; complete in place	LS	1	\$ 45,000.00	\$ 45,000.00
2-2	Remove and Dispose Existing 8-inch PVC Sanitary Sewer Pipe according to the plans and specifications; complete in place	LF	1828	\$ 10.00	\$ 18,280.00
2-3	Furnish and install 8-inch PVC SDR-35 gravity pipe according to the plans and specifications; complete in place.	LF	1828	\$ 45.00	\$ 82,260.00
2-4	Furnish and install Trench Safety according to the Trench Safety Plan and specifications; complete in place	LF	1828	\$ 1.50	\$ 2,742.00
2-5	Remove and Dispose Existing Sanitary Sewer Manhole according to the plans and specifications; complete in place	EA	9	\$ 4,500.00	\$ 40,500.00
2-6	Furnish and install 48-inch Fiberglass Manhole according to the plans and specifications; complete in place	EA	9	\$ 4,500.00	\$ 40,500.00
<b>Sanitary Sewer Improvements - Base Bid</b>				<b>\$ 229,282.00</b>	
<b>TOTAL CONSTRUCTION COST</b>				<b>\$ 434,137.00</b>	
				Engineering (8.0%)	\$ 35,000.00
				Construction Phase Engineering (1.5%)	\$ 6,850.00
				Inspection Services (2.0%)	\$ 8,700.00
				Survey Topography	\$ 8,700.00
				Geotech Services	\$ 6,200.00
				Material Testing	\$ 10,530.58
<b>Total Project Cost</b>				<b>\$ 510,117.58</b>	



612 Nichols, Suite 220  
Houston, Texas 77056  
Tel: 281.881.2000  
Fax: 281.881.2000

Texas Registered Engineering Firm E-11722

**Professional Engineering Cost Breakdown**  
City of Weslaco - Urban County Water & Wastewater Improvements Project  
P179

**LEM Professional Engineering Services:**

Civil Engineering									
Mechanical Engineering									
Structural Engineering									
Hourly Rates:									
Principal Engineer	140	\$/Hr							
Engineer	120	\$/Hr							
Project Manager	90	\$/Hr							
CADD Technician	65	\$/Hr							
Inspector	40	\$/Hr							
Administration	30	\$/Hr							

Project Start Up (Task 2)	Principal Engineer	\$140/Hr	Project Manager	\$90/Hr	Project Engineer	\$120/Hr	CADD Technician	\$65/Hr	Clerk	\$30/Hr	N/A	Other
Meeting w/ City Manager & Staff	1		1.5		1.5							
Planning w/ City Staff			1.5		1.5							
Define Scope of Work & Tasks	1		1.5		1.5							
<b>Total</b>	<b>2</b>		<b>4.5</b>		<b>4.5</b>		<b>0</b>		<b>0</b>		<b>0</b>	

Preliminary Plans (Task 4)	Principal Engineer	\$140/Hr	Project Manager	\$90/Hr	Project Engineer	\$120/Hr	CADD Technician	\$65/Hr	Clerk	\$30/Hr	N/A	Other
Develop Feasible Alternatives	1		2		2							
Develop Preferred Alternative	1		2		2							
Prepare Environmental Clearance (if any)												
Preliminary Design Calculations	1		1		2							
Preliminary Plans and General Notes	1		1		2		8			8		
Preliminary Specifications	1		1		3					16		
<b>Total</b>	<b>4</b>		<b>7</b>		<b>11</b>		<b>8</b>		<b>24</b>	<b>8</b>	<b>0</b>	

Design - Civil	Principal Engineer	\$140/Hr	Project Manager	\$90/Hr	Project Engineer	\$120/Hr	CADD Technician	\$65/Hr	Clerk	\$30/Hr	N/A	Other
Task 3	1		2		4		32		4			
Survey Coordination and Evaluation	5		2		32							
Final Design Calculations	5		16		56		60			16		
Final Plan and General Notes	4		16		32					32		
Final Specifications	15		36		124		92		52			0

Final Plans and Specifications	Principal Engineer	\$140/Hr	Project Manager	\$90/Hr	Project Engineer	\$120/Hr	CADD Technician	\$65/Hr	Clerk	\$30/Hr	N/A	Other
Task 5	1		2		4		8		8			
Final Plan and General Notes	1		2		4					8		
Final Specifications	2		4		8		8		8			0

Inspection	\$140/Hr Principal Engineer	\$90/Hr Project Manager	\$120/Hr Project Engineer	\$65/Hr CADD Technician	\$30/Hr Clerk	N/A Other
Pre-Bid Meeting						2
Bid Opening						2
Construction Inspections						138
Pre-Construction Meeting & N.T.P.						3
<b>Bidding and Negotiating Phase Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>145</b>

Construction Phase Engineering Bidding & Award (Task 6)	\$140/Hr Principal Engineer	\$90/Hr Project Manager	\$120/Hr Project Engineer	\$65/Hr CADD Technician	\$30/Hr Clerk	N/A Other
Advertisement		1			1	
Pre-Bid Meeting		1	1		1	
Bid Opening		1	1		1	
Negotiations w/ Contractor			2			
Notice of Award to Contractor			1		1	
Pre-Construction Meeting & N.T.P.	1	2	2		1	
<b>Total</b>	<b>1</b>	<b>5</b>	<b>7</b>	<b>0</b>	<b>5</b>	<b>0</b>

Construction (Task 7)	\$140/Hr Principal Engineer	\$90/Hr Project Manager	\$120/Hr Project Engineer	\$65/Hr CADD Technician	\$30/Hr Clerk	Inspector
Construction Phase Engineering	1	4	18		4	
Monthly Project Status Meetings	1	1	4		2	
Construction Inspections	1	1	1		4	
<b>Construction Phase Total</b>	<b>3</b>	<b>6</b>	<b>23</b>	<b>0</b>	<b>10</b>	<b>0</b>

As Builts (Task 8)	\$140/Hr Principal Engineer	\$90/Hr Project Manager	\$120/Hr Project Engineer	\$65/Hr CADD Technician	\$30/Hr Clerk	N/A Other
Record Drawings			2	12	4	
Closing of the Project						
<b>Total</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>12</b>	<b>4</b>	
Total Hours	27	62.5	179.5	120	103	145
Amount Per Hour	\$140	\$90	\$120	\$65	\$30	\$60
<b>Grand Total</b>	<b>\$3,780</b>	<b>\$5,625</b>	<b>\$21,540</b>	<b>\$7,800</b>	<b>\$3,090</b>	<b>\$8,700</b>

Survey	\$1500/Day Survey Team	\$90/Hr Project Manager	\$120/Hr Project Engineer	\$65/Hr CADD Technician	\$30/Hr Clerk	N/A Other
Field Work - Survey	4					
CADD/Technician				80		
Project Manager Oversight		12				
Final Survey					12	
<b>Sub-Total</b>	<b>\$ 6,000</b>	<b>\$ 1,080</b>	<b>\$ -</b>	<b>\$ 1,280</b>	<b>\$ 360</b>	<b>\$ -</b>
<b>Total Amount</b>	<b>\$8,720</b>					

<b>GEOTECH SERVICES</b>	<b>\$6,200</b>
<b>MATERIAL TESTING</b>	<b>\$10,531</b>
<b>CONTRACT TOTAL AMOUNT</b>	<b>\$75,986</b>



Proposal No. PMA14-103-00  
December 4, 2014

Raba Kistner  
Consultants, Inc.  
800 E. Hackberry  
McAllen, TX 78501  
www.rkci.com

Mr. Emigdio "Milo" Salinas, P.E., Project Engineer  
LeFevre Engineering & Management Consulting, LLC  
612 Nolana, Suite 520  
McAllen, Texas 78504

P 956 :: 682 :: 5332  
F 956 :: 682 :: 5487  
TBPE Firm F-3257

**Re: Proposal for Geotechnical Engineering Services  
Hidalgo County Urban County Program  
Proposed 8-Inch Diameter Weslaco Sanitary Sewer and Water Project  
Between W. Lost Torritos Street and W. First Street  
Weslaco, Hidalgo County, Texas**

Dear Mr. Salinas:

On the basis of the documents received by our office from you via electronic-mail attachment earlier today and our subsequent telephone conversation held with you on the same date, we thank you for selecting **RABA KISTNER Consultants, Inc. (RKCI)** to provide Geotechnical Engineering Services to LeFevre Engineering & Management Consulting, LLC (CLIENT) for the above-referenced project. The broad objectives of our study will be to determine subsurface conditions along the site, and to develop information to be used by others for the installation design of the proposed water and sewerlines. 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**

On the basis of the information provided to us by the CLIENT, we understand that the proposed project consists of the design and construction of: 1) an approximately 1,317-ft long, about 8-inch diameter, water line and an approximately 1,274-ft long, about 8-inch diameter, sewer line to be founded parallel each other, along an existing alley located between W. Los Torritos Street and W. First Street and between N. Missouri Avenue and N. Calle del Pino; and 2) an approximately 574-ft long, about 8-inch diameter, water line and an approximately 554-ft long, about 8-inch diameter, sewer line to be founded parallel each other, along an existing alley located between W. Plaza Street and W. First Street and between Texas Boulevard and N. Missouri Avenue in Weslaco, Hidalgo County, Texas. On the basis of the information provided to us by the CLIENT, we understand that the proposed water and sewerlines will be found at a maximum depth of 12 ft below the existing ground/pavement surface elevation.

### **FIELD STUDY**

On the basis of the information provided to us by the CLIENT, geologic evidence, and our past experience with subsurface conditions in the vicinity of this site, we propose to conduct five borings extending down to a maximum depth of 25 ft each along the proposed water and sewer alignments.

We understand that the CLIENT will assist RKCI in locating the borings in the field with a survey crew. 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.

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 the 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.

### **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 conditions. The testing program is anticipated to include moisture content determinations, Atterberg Limits (plasticity) tests, 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 installation for the proposed water and sewerlines. 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.
- Seismic region condition evaluations.

Since site grading plans can result in changes in the pipe subgrade support 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.

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 five working days of receiving written authorization to proceed, provided that the site is accessible to our truck-mounted drill rigs and utility clearance has been provided by the CLIENT. The field exploration and laboratory testing phases of the study are expected to take approximately fifteen working days to complete. The report will be submitted within an additional twelve 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 \$6,200.00. Should unusual subsurface conditions be encountered in the field that 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 illustrating the location of the proposed water and sewerlines. 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) does 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) does 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:

Proposal No. PMA14-103-00  
December 4, 2014

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

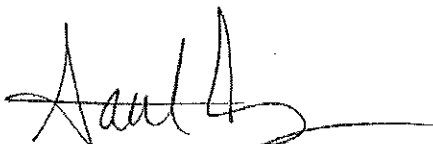
Please return one signed original of this contract to provide written authorization for our firm to perform the services outlined herein. Our invoices are due and payable upon receipt at P.O. Box 971037, Dallas, Dallas County, Texas 75397-1037.

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

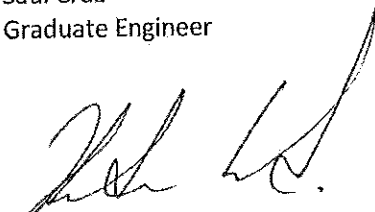
Very truly yours,

**RABA KISTNER CONSULTANTS, INC.**

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

  
Saul Cruz  
Graduate Engineer

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

  
Katrin M. Leonard, P.E.  
Associate

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

Copies submitted: Above (2)

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

SC/KML

Attachments I and II





### 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 ("Services") involving only RK's advice, judgment and opinion. RK may subcontract all or a portion of the Services performed hereunder. RK shall apply professional judgment in determining the extent to which RK complies with any given standard identified in RK's instruments of professional services. CLIENT expressly acknowledges that RK makes no warranties or guarantees, expressed or implied, regarding the Services.
2. **INFORMATION PROVIDED BY CLIENT.** CLIENT may provide or direct RK to utilize or rely upon certain information ("CLIENT Information") in the performance of RK's services. RK shall be entitled to rely upon such CLIENT Information. RK will not conduct an independent evaluation of the accuracy or completeness of such CLIENT Information and shall not be responsible for any errors or omissions in such information. RK's report, as well as any recommendations, findings, and conclusions made by RK, are dependent on information received from CLIENT. Changes or modifications to the information provided by CLIENT can affect RK's evaluation, recommendations, findings and conclusions, and CLIENT agrees—as a material term of this Agreement—to notify RK immediately, in writing, if CLIENT becomes aware of any such changes or modifications, including changes to the size, scope, location, or other material characteristics of CLIENT's project. The CLIENT shall be responsible for providing the location of all underground utilities and other structures in the vicinity of RK borings or excavations. RK will not accept responsibility and will not be liable for affecting or damaging any underground utility, underground storage tank, or other subsurface condition not previously identified and located, or improperly located, by the CLIENT, a utility, or a utility locating agency.
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, but shall not be responsible for the supervision or health and safety precautions of any other parties, including CLIENT, CLIENT'S contractors, subcontractors, or other parties present at the site.
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. CLIENT acknowledges that RK will not supervise or direct the work performed by contractor or its subcontractors and is not responsible for their means and methods.
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 specifications for the project and following generally accepted engineering practices. The CLIENT recognizes that unforeseen circumstances along with changes in scope and project/contractor's schedules can influence the successful completion of the scope of services within the estimated proposed fees. Because 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. **REPORTS.** RK may provide CLIENT with written reports in connection with the Services performed. Such reports will present such findings and conclusions as RK may reasonably make with the information gathered while performing its services, and provided by CLIENT. The reports may be copied for inclusion in other documents related to the project provided it is reproduced in its entirety; however reports and other instruments of service are prepared for, and made available for, the sole use of the CLIENT, and the contents thereof may not be used or relied upon by others without the express written authorization of RK. Any unauthorized use or distribution shall be at the CLIENT's sole risk and without liability to RK.
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 ownership of 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(s) prepared under this Agreement are for the sole benefit and sole use of CLIENT and are not for the use of any other party or person. Only CLIENT may rely upon the services and any report or work product. Nothing in this Agreement, or any subsequent amendments or modifications, or in any report issued under this Agreement, shall create a contractual relationship with or a cause of action in the favor of any third party against either RK or CLIENT. If CLIENT provides a copy of any report prepared by RK to others, it shall advise the recipient that the information contained in the report is provided for information only and is not to be relied upon by third parties.
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 professional firms in performing services of a similar nature, in the same locality, under similar circumstances. CLIENT expressly acknowledges that RK makes no other warranties or guarantees, expressed or implied, regarding its professional services or its work product.
13. **RISK ALLOCATION.** RK will be responsible only for its own work, and that of its sub-consultants, and not for defects in the work designed or built by others.
14. **LIMITATION OF LIABILITY.** CLIENT AND RK HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING RK'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE RISKS SO, TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF RK (AND ITS RELATED ENTITIES, EMPLOYEES, OWNERS, AGENTS, AND REPRESENTATIVES) TO CLIENT (AND THIRD PARTIES GRANTED RELIANCE ON RK'S WORK PRODUCT, OR OTHERWISE SEEKING RECOVERY UNDER THIS AGREEMENT) IS LIMITED TO THE GREATER OF \$100,000 OR THE FEE PAID RK UNDER THIS AGREEMENT, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF RK'S SERVICES OR THIS AGREEMENT REGARDLESS OF CAUSE(S) OR THE THEORY OF LIABILITY.
15. **CONSEQUENTIAL DAMAGES.** Neither CLIENT nor RK will be liable to the other for any special, consequential, indirect, incidental or penal losses or damages of any kind, nor will CLIENT or RK be liable to the other for losses, damages, or claims, regardless of how defined, related to: lost profits; unavailability of property or facilities; shutdowns or service interruptions; loss of use, revenue, opportunity, or inventory; use charges, carrying costs, cost of substitute facilities, goods, or services; cost of capital, or claims of any other party and/or its customers.
16. **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.

17. **WAIVER OF SUBROGATION.** To the extent damages are covered by property insurance, or any other available insurance coverage, CLIENT and RK waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages. CLIENT agrees that CLIENT shall procure, or cause to be procured builder's risk insurance or other property insurance for its project. RK and CLIENT waive all rights against each other and any of their consultants, contractors, subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, flood, or other causes of loss to the extent covered by CLIENT's or CLIENT's Contractor's builder's risk insurance, or other available insurance coverage. The policies shall provide waivers of subrogation by endorsement or otherwise. CLIENT shall require of its contractors, consultants, agents and employees similar waivers in favor of RK and its subconsultants. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.
18. **OWNERSHIP OF DOCUMENTS.** R-K's reports, drawings, plans, specifications, and other documents and deliverables are instruments of professional service ("Instruments of Service") developed by RK in contemplation of a wide array of project-specific variables, including how the documents will be used and by whom. RK shall be the author, owner and custodian of the Instruments of Service, and shall retain all common law, statutory, and other reserved rights, including copyright. By execution of this Agreement, RK grants to CLIENT a limited, nonexclusive license to use the Instruments of Service for purposes of constructing, using, and maintaining the project for which the services are performed, provided CLIENT substantially performs its obligations, including prompt payment of all sums when due, under this agreement.

Upon completion of the services, and payment in full of all monies due RK, CLIENT may retain copies of all such documents. THE INSTRUMENTS OF SERVICE ARE NOT INTENDED NOR REPRESENTED TO BE SUITABLE FOR REUSE ON EXTENSIONS, MODIFICATIONS, OR ADAPTATIONS OF THE PROJECT, OR ANY OTHER PROJECT, ANY REUSE OF SUCH DOCUMENTS, WITHOUT WRITTEN VERIFICATION OR ADAPTATION BY RK FOR THE SPECIFIC PURPOSE INTENDED, WILL BE AT CLIENT'S SOLE RISK WITHOUT LIABILITY OR LEGAL EXPOSURE TO RK, AND CLIENT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY, DEFEND, AND HOLD HARMLESS RK, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND CONSULTANTS AGAINST ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES, DEFENSE COSTS, AND COURT COSTS) ARISING FROM OR ALLEGEDLY ARISING FROM OR IN ANY WAY CONNECTED WITH THE UNAUTHORIZED REUSE OR MODIFICATION OF THE DOCUMENTS BY CLIENT OR ANY PERSON OR ENTITY THAT ACQUIRES OR OBTAINS THE DOCUMENTS FROM OR THROUGH THE CLIENT WITHOUT THE WRITTEN AUTHORIZATION OF R-K REGARDLESS OF WHETHER SUCH CLAIMS, DEMANDS, OR ACTIONS ARE FOUNDED IN WHOLE OR IN PART UPON ALLEGED NEGLIGENCE OF RK, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR CONSULTANTS.

Parties other than CLIENT and RK may apply to use an instrument, using a form prepared by RK for that purpose. Others' use of an instrument shall be permitted only when CLIENT and RK both so agree; either shall have the right to forbid use by others. In

addition, R-K shall make its permission contingent upon the satisfaction of certain conditions when, in RK's professional judgment, such a contingency is necessary.

19. **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 Texas; the claim will be brought and tried in Bexar County, the county where RK's principal place of business is located, and CLIENT waives the right to remove or transfer the action to any other county or jurisdiction. The prevailing party will be entitled to recovery of all court costs, attorneys' fees, and other legally recoverable 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.
20. **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.
21. **STATUTE OF LIMITATIONS.** Any applicable statute of limitations will commence to run and any cause of action shall be deemed to have accrued not later than the earlier of the following: (1) the date of the report issued by RK giving rise to the cause of action; (2) the date on which RK issues its last report under this Agreement; or (3) if RK is retained to perform construction observation, the date of substantial completion of the project.
22. **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.
23. **NO ASSIGNMENT.** Neither RK nor CLIENT shall assign, sublet, or transfer its interest in this Agreement without the express written consent of the other.
24. **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.
25. **ENTIRE AGREEMENT.** This Agreement, and all of its attachments, constitutes the entire, integrated Agreement between the Parties to it, and this Agreement supersedes all other Agreements, oral or written between the Parties, concerning the subject set forth in this Agreement. This Agreement may not be amended except in writing, with that amendment being signed by both Parties.





**SCHEDULE OF FEES FOR PROFESSIONAL SERVICES**

**PERSONNEL:**

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

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

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

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

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

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

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

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





Proposal No.: PMD14-155-00  
December 4, 2014

Raba Kistner  
Consultants, Inc.  
800 E. Hackberry  
McAllen, TX 78501  
www.rkci.com

Mr. Emigdio "Milo" Salinas, P.E., Project Engineer  
LeFevre Engineering & Management Consulting, LLC.  
612 Nolana, Suite 520  
McAllen, Texas 78504

P 956.682.5332  
F 956.682.5487  
TBPE Firm F-3257  
TBPLS Firm 10193784

RE: Construction Materials Observation and Testing Services  
Proposed Water & Wastewater Lines for CDBG Project 2013  
Weslaco, Hidalgo County, Texas

Dear Mr. Salinas:

RABA KISTNER Consultants, Inc. (RKCI) is pleased to have been selected to provide Construction Materials Observation and Testing Services for the above referenced project.

Our opinion of probable cost of services for this project is **\$10,530.58**.

Our proposed scope of services and estimated item quantities are based upon our interpretation of the project drawings received via electronic-mail attachment provided by Mr. Emigdio "Milo" Sanchez, P.E., Project Engineer with LeFevre Engineering & Management Consulting, LLC, the project's civil engineering firm, on Thursday, December 4, 2014, and are without the aid of the general contractor's schedule. The scope and quantity of services provided will be dependent upon the actual services required/requested by you and/or your representatives. Charges will be assessed only for actual services rendered. All services authorized or requested by you and/or your representatives in excess of the quantities of observation and testing services shown herein will be charged at the appropriate unit rate for such services. Charges will be invoiced on a monthly basis and will show a computerized composite total of services rendered for each service category.

Invoices will be submitted monthly for work in progress in our standard format. Our invoices are due and payable upon receipt at P.O. Box 971037, Dallas, Dallas County, Texas 75397-1037. All parties hereby agree that this contract upon acceptance will be performable in Bexar County, Texas. In the event that the State of Texas legislates a sales tax on professional services, the amount of tax applicable will be added to the appropriate service rate charged by RKCI.

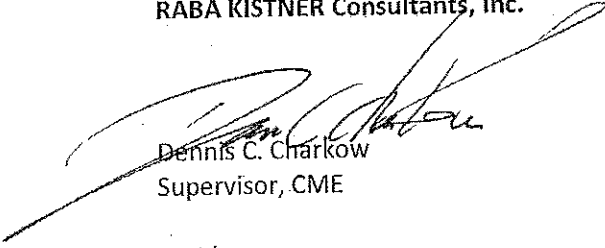
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We appreciate the opportunity of submitting this proposal and look forward to working with you during the construction of this project. Please return one signed copy of this letter proposal to provide written authorization for our firm to commence work on the services outlined herein. Please complete the attached Project Data Sheet for invoicing and reporting information.

Very truly yours,

**RABA KISTNER Consultants, Inc.**

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



Dennis C. Charkow  
Supervisor, CME

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

DCC/rs  
Attachments: Basic Charges  
I- Standard Terms and Conditions  
II- Schedules of Fees

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

Date \_\_\_\_\_

Copies submitted:     Above (1)



BASIC CHARGES

1. A vehicle travel charge will be assessed for round trip travel from our office to the project site, material supplier, etc. and back to our office. The charges for travel from our office to the project site and return to our office will be as follows:

Travel Time (round trip) \_\_\_\_\_ 1.00 /hour(s)  
Vehicle Trip Charge \_\_\_\_\_ \$ 46.75/trip

2. Service Charges are based on the hourly rates stated herein and will be assessed from the time the Engineer or Technician leaves our office until he returns from the project.
3. Any engineering and/or technical services provided on Saturday, Sunday and all work in excess of "normal" work hours, as stated herein, Monday through Friday, will be charged at an overtime rate of 1.5 times the appropriate hourly rate. Our total cost of services is based upon the assumption most services will be provided during "normal" work hours. Providing an excessive amount of services during days and/or hours requiring overtime rates may significantly increase the total cost of services shown herein.
4. "Normal" work hours are between 7:00 a.m. and 6:00 p.m., including travel time to and from the site unless stated otherwise. Overtime charges will be assessed after eight (8) continuous hours of service rendered during "normal" work hours.
5. Minimum of 2 hours billing per visit to project site.
6. A ten (10) percent project management and administration cost will be added to all invoices.
7. Our opinion of probable cost for each proposal to be submitted is based upon an estimate of the construction materials observation and testing services required to meet the project requirements. Because the general contractor has control over the project and determines the means and methods used to build/construct the project, our proposed scope of services is an estimate. On the basis of the general contractor's schedule, potential retesting of non-compliance items, weather related issues, the actual total services and fees may be higher or lower than the estimates in our proposal. RKCI will keep you CLIENT apprised of our billings in comparison to our opinion of probable cost (project budget) over the life of the project. All tests noted as retests of previously non-complaint areas will be billed to the CLIENT. RKCI will invoice these tests separately to allow CLIENT to segregate the charges from our normal charges. This will allow CLIENT to back charge the general contractor as necessary. CLIENT will be responsible for payment of all services rendered by RKCI for the project.
8. RKCI will utilize the on-site initial field curing facilities provided by the contractor. The cost of providing and maintaining these initial curing facilities is not included in our proposal.



**CONSTRUCTION MATERIALS TESTING UNIT RATES**  
**Proposed Water & Wastewater Lines for CDBG Project 2013**  
**Weslaco, Hidalgo County, Texas**

SERVICE	UNIT RATE		QUANTITY	TOTAL
<b>Civil Earthwork:</b>				
1. Moisture-Density Relationship (Proctor)	\$223.25	each	3	\$669.75
2. Atterberg Limits Determinations (P.I.) (ASTM/AASHTO)	\$81.50	each	3	\$244.50
3. Sieve Analysis -200	\$55.00	each	2	\$110.00
4. Sieve Analysis -200 Flexible Base Material	\$55.00	each	1	\$55.00
5. Technician Time Sampling	\$47.75	hour	6	\$286.50
6. Utility Backfill Field Density Test Water Line (Assume 1 Density / 200 ln.ft. Trench Final 2 Lifts)	\$20.50	each	38	\$779.00
7. Utility Backfill Field Density Test Wastewater (Assume 1 Density / 200 ln.ft. Trench 48" Backfill)	\$20.50	each	108	\$2,214.00
8. Technician Time - Density Testing - Utility Backfill	\$47.75	hour	72	\$3,438.00
9. Vehicle Travel Charge	\$46.75	trip	38	\$1,776.50
<b>Subtotal</b>				<b>\$9,573.25</b>
<b>Other:</b>				<b>\$957.33</b>
1. Project Administration(Markup of Invoiced Billing Cycle)	10%			\$957.33
<b>Subtotal</b>				<b>\$957.33</b>
			<b>GRAND TOTAL</b>	<b>\$10,530.58</b>

**Fees for Consulting & Coordination Services**

	<u>Unit Fees</u>
Principal Engineer .....	\$ 190.00 to 320.00/hr
Managing Engineer .....	123.00 to 210.00/hr
Staff Engineer .....	97.00 to 170.00/hr
Laboratory Manager .....	77.00 to 150.00/hr
Construction Services Manager .....	77.00 to 150.00/hr
Outside Professional Services & Reimbursable .....	Cost +15%
Additional Insured .....	225.00/ea
Report Preparation and Administration .....	49.00 to 84.00/hr

**PROJECT DATA SHEET**

Project Name: \_\_\_\_\_

Client Project No: \_\_\_\_\_ Purchase Order No.: \_\_\_\_\_

Invoicing Information: Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Attention: \_\_\_\_\_

Report Distribution Information (Please provide required report distribution and requested number of copies of each)

No. Copies ( ) \_\_\_\_\_

Contact: \_\_\_\_\_ e-mail: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

No. Copies ( ) \_\_\_\_\_

Contact: \_\_\_\_\_ e-mail: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

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Contact: \_\_\_\_\_ e-mail: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_



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## 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 ("Services") involving only RK's advice, judgment and opinion. RK may subcontract all or a portion of the Services performed hereunder. RK shall apply professional judgment in determining the extent to which RK complies with any given standard identified in RK's instruments of professional services. CLIENT expressly acknowledges that RK makes no warranties or guarantees, expressed or implied, regarding the Services.
2. **INFORMATION PROVIDED BY CLIENT.** CLIENT may provide or direct RK to utilize or rely upon certain information ("CLIENT Information") in the performance of RK's services. RK shall be entitled to rely upon such CLIENT Information. RK will not conduct an independent evaluation of the accuracy or completeness of such CLIENT Information and shall not be responsible for any errors or omissions in such information. RK's report, as well as any recommendations, findings, and conclusions made by RK, are dependent on information received from CLIENT. Changes or modifications to the information provided by CLIENT can affect RK's evaluation, recommendations, findings and conclusions, and CLIENT agrees—as a material term of this Agreement—to notify RK immediately, in writing, if CLIENT becomes aware of any such changes or modifications, including changes to the size, scope, location, or other material characteristics of CLIENT's project. The CLIENT shall be responsible for providing the location of all underground utilities and other structures in the vicinity of RK borings or excavations. RK will not accept responsibility and will not be liable for affecting or damaging any underground utility, underground storage tank, or other subsurface condition not previously identified and located, or improperly located, by the CLIENT, a utility, or a utility locating agency.
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, but shall not be responsible for the supervision or health and safety precautions of any other parties, including CLIENT, CLIENT'S contractors, subcontractors, or other parties present at the site.
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. CLIENT acknowledges that RK will not supervise or direct the work performed by contractor or its subcontractors and is not responsible for their means and methods.
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 specifications for the project and following generally accepted engineering practices. The CLIENT recognizes that unforeseen circumstances along with changes in scope and project/contractor's schedules can influence the successful completion of the scope of services within the estimated proposed fees. Because 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. **REPORTS.** RK may provide CLIENT with written reports in connection with the Services performed. Such reports will present such findings and conclusions as RK may reasonably make with the information gathered while performing its services, and provided by CLIENT. The reports may be copied for inclusion in other documents related to the project provided it is reproduced in its entirety; however reports and other instruments of service are prepared for, and made available for, the sole use of the CLIENT, and the contents thereof may not be used or relied upon by others without the express written authorization of RK. Any unauthorized use or distribution shall be at the CLIENT's sole risk and without liability to RK.
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

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materials or pollutants. In no event shall RK be required to sign a hazardous waste manifest or take ownership of any toxic or hazardous materials or pollutants. If unanticipated toxic or hazardous materials or pollutants are encountered while 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(s) prepared under this Agreement are for the sole benefit and sole use of CLIENT and are not for the use of any other party or person. Only CLIENT may rely upon the services and any report or work product. Nothing in this Agreement, or any subsequent amendments or modifications, or in any report issued under this Agreement, shall create a contractual relationship with or a cause of action in the favor of any third party against either RK or CLIENT. If CLIENT provides a copy of any report prepared by RK to others, it shall advise the recipient that the information contained in the report is provided for information only and is not to be relied upon by third parties.
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 professional firms in performing services of a similar nature, in the same locality, under similar circumstances. CLIENT expressly acknowledges that RK makes no other warranties or guarantees, expressed or implied, regarding its professional services or its work product.
13. **RISK ALLOCATION.** RK will be responsible only for its own work, and that of its sub-consultants, and not for defects in the work designed or built by others.
14. **LIMITATION OF LIABILITY.** CLIENT AND RK HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING RK'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE RISKS SO, TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF RK (AND ITS RELATED ENTITIES, EMPLOYEES, OWNERS, AGENTS, AND REPRESENTATIVES) TO CLIENT (AND THIRD PARTIES GRANTED RELIANCE ON RK'S WORK PRODUCT, OR OTHERWISE SEEKING RECOVERY UNDER THIS AGREEMENT) IS LIMITED TO THE GREATER OF \$100,000 OR THE FEE PAID RK UNDER THIS AGREEMENT, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF RK'S SERVICES OR THIS AGREEMENT REGARDLESS OF CAUSE(S) OR THE THEORY OF LIABILITY.
15. **CONSEQUENTIAL DAMAGES.** Neither CLIENT nor RK will be liable to the other for any special, consequential, indirect, incidental or penal losses or damages of any kind, nor will CLIENT or RK be liable to the other for losses, damages, or claims, regardless of how defined, related to: lost profits; unavailability of property or facilities; shutdowns or service interruptions; loss of use, revenue, opportunity, or inventory; use charges, carrying costs, cost of substitute facilities, goods, or services; cost of capital, or claims of any other party and/or its customers.
16. **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.

17. **WAIVER OF SUBROGATION.** To the extent damages are covered by property insurance, or any other available insurance coverage, CLIENT and RK waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages. CLIENT agrees that CLIENT shall procure, or cause to be procured builder's risk insurance or other property insurance for its project. RK and CLIENT waive all rights against each other and any of their consultants, contractors, subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, flood, or other causes of loss to the extent covered by CLIENT's or CLIENT's Contractor's builder's risk insurance, or other available insurance coverage. The policies shall provide waivers of subrogation by endorsement or otherwise. CLIENT shall require of its contractors, consultants, agents and employees similar waivers in favor of RK and its subconsultants. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.
18. **OWNERSHIP OF DOCUMENTS.** R-K's reports, drawings, plans, specifications, and other documents and deliverables are instruments of professional service ("Instruments of Service") developed by RK in contemplation of a wide array of project-specific variables, including how the documents will be used and by whom. RK shall be the author, owner and custodian of the Instruments of Service, and shall retain all common law, statutory, and other reserved rights, including copyright. By execution of this Agreement, RK grants to CLIENT a limited, nonexclusive license to use the Instruments of Service for purposes of constructing, using, and maintaining the project for which the services are performed, provided CLIENT substantially performs its obligations, including prompt payment of all sums when due, under this agreement.

Upon completion of the services, and payment in full of all monies due RK, CLIENT may retain copies of all such documents. THE INSTRUMENTS OF SERVICE ARE NOT INTENDED NOR REPRESENTED TO BE SUITABLE FOR REUSE ON EXTENSIONS, MODIFICATIONS, OR ADAPTATIONS OF THE PROJECT, OR ANY OTHER PROJECT, ANY REUSE OF SUCH DOCUMENTS, WITHOUT WRITTEN VERIFICATION OR ADAPTATION BY RK FOR THE SPECIFIC PURPOSE INTENDED, WILL BE AT CLIENT'S SOLE RISK WITHOUT LIABILITY OR LEGAL EXPOSURE TO RK, AND CLIENT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY, DEFEND, AND HOLD HARMLESS RK, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND CONSULTANTS AGAINST ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES, DEFENSE COSTS, AND COURT COSTS) ARISING FROM OR ALLEGEDLY ARISING FROM OR IN ANY WAY CONNECTED WITH THE UNAUTHORIZED REUSE OR MODIFICATION OF THE DOCUMENTS BY CLIENT OR ANY PERSON OR ENTITY THAT ACQUIRES OR OBTAINS THE DOCUMENTS FROM OR THROUGH THE CLIENT WITHOUT THE WRITTEN AUTHORIZATION OF R-K REGARDLESS OF WHETHER SUCH CLAIMS, DEMANDS, OR ACTIONS ARE FOUNDED IN WHOLE OR IN PART UPON ALLEGED NEGLIGENCE OF RK, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR CONSULTANTS.

Parties other than CLIENT and RK may apply to use an instrument, using a form prepared by RK for that purpose. Others' use of an instrument shall be permitted only when CLIENT and RK both so agree; either shall have the right to forbid use by others. In

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addition, R-K shall make its permission contingent upon the satisfaction of certain conditions when, in RK's professional judgment, such a contingency is necessary.

19. **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 Texas; the claim will be brought and tried in Bexar County, the county where RK's principal place of business is located, and CLIENT waives the right to remove or transfer the action to any other county or jurisdiction. The prevailing party will be entitled to recovery of all court costs, attorneys' fees, and other legally recoverable 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.
20. **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.
21. **STATUTE OF LIMITATIONS.** Any applicable statute of limitations will commence to run and any cause of action shall be deemed to have accrued not later than the earlier of the following: (1) the date of the report issued by RK giving rise to the cause of action; (2) the date on which RK issues its last report under this Agreement; or (3) if RK is retained to perform construction observation, the date of substantial completion of the project.
22. **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.
23. **NO ASSIGNMENT.** Neither RK nor CLIENT shall assign, sublet, or transfer its interest in this Agreement without the express written consent of the other.
24. **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.
25. **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**

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

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

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

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

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

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

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

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



**EXHIBIT B**  
Engineering Cost Proposal and Fee Breakdown

Basic Engineering	\$35,000.00
Inspection	\$8,700.00
Construction Phase Engineering	\$6,850.00
Survey Topography	\$8,700.00
Geotech	\$6,200.00
Material Testing	\$10,530.58
<b>Total</b>	<b>\$75,980.58</b>

\*Construction Material Testing,  
Geotechnical Engineering to be  
provided by others

HOURLY FEES

PRINCIPAL	\$200.00/HOUR
PROJECT ENGINEER	\$175.00/HOUR
PROJECT MANAGER	\$130.00/HOUR
DESIGNER/TECHNICIAN	\$ 85.00/HOUR
ADMINISTRATIVE	\$ 65.00/HOUR
INSPECTOR/PROJECT REPRESENTATIVE	\$ 75.00/HOUR

\*Reimbursables, Materials, and Travel are incorporated into hourly fees for individuals and will not be requested for this project.

