



PROFESSIONAL SERVICES AGREEMENT No. 05026

This Agreement is by and between Hidalgo County (**Client**) and Cook-Joyce, Inc. (**The Engineer**) who agree as follows: Client hereby engages The Engineer to perform the services described in Part I ("Services") and The Engineer agrees to perform the Services for the compensation set forth in Part III. The Engineer shall be authorized to commence the Services upon execution of this Agreement. Client and The Engineer agree that this agreement and attachments referred to herein, constitute the entire agreement between them relating to the Project ("Agreement").

Project: Precinct 3-Peñitas Landfill Engineering Services

Location: Hidalgo County Precinct 3 – Peñitas Landfill

Job No.: 05026

I. COOK-JOYCE, INC.'s RESPONSIBILITIES: The Engineer shall perform or furnish the services described under this Agreement which are more particularly described in the February 25, 2004 proposal letter contained in Exhibit "A".

II. CLIENT'S RESPONSIBILITIES: Client, at its expense, shall do the following in a timely manner so as not to delay the Services.

1. INFORMATION/REPORTS: Furnish The Engineer with all reports, studies, site characterizations, regulatory orders, and similar information in its possession relating to the Project. Unless otherwise specified in Part I, The Engineer may rely upon Client-furnished information without independent verification in performing the Services.

2. REPRESENTATIVE: Designate a representative for the Project who shall have the authority to transmit instructions, receive information, interpret and define Client's policies, and make decisions with respect to the Services.

3. DECISIONS: Provide all criteria and full information as to Client requirements for the Project, obtain (with The Engineer's assistance, if applicable) necessary approvals and permits, attend Project-related meetings, provide interim reviews on an agreed-upon schedule, make decisions on Project alternatives, and generally participate in the Project to the extent necessary to allow The Engineer to perform the Services.

III. COMPENSATION, BILLING, AND PAYMENT: Client shall pay The Engineer for Services in accordance with the following Billing Schedule.

1. SERVICES: X Hourly Rates and Expenses not to Exceed a Maximum Fee of \$68,850, including all expenses, reimbursable expenses and all other fees arising under this Agreement (Engineer's Hourly Billing Rate Schedule is attached as Exhibit "B")

2. REIMBURSABLE EXPENSES: As referenced above in Section III.1.

3. PAYMENTS: Billings for services rendered will be made monthly and payment is requested within fifteen (15) days of receipt of invoice. Unless special arrangements are made, a finance charge of 1.5% per month will be added to unpaid balances more than thirty (30) days old. The Engineer reserves the right to suspend work should invoices not be paid within the stated terms.

IV. STANDARD TERMS AND CONDITIONS:

1. STANDARD OF CARE. Services shall be performed in accordance with the standard of professional practice ordinarily exercised under similar circumstances by engineers experienced in the scope of work herein classified within the State of Texas.



2. CHANGE OF SCOPE. The scope of Services set forth in this Agreement is based on facts known at the time of execution of this Agreement, including, if applicable, information supplied by Client. For some projects involving conceptual, regulatory or process development services, scope may not be fully definable during initial phases. As the Project progresses, facts discovered may indicate that scope must be redefined.

3. SAFETY. Unless specifically included as a service to be provided under this Agreement, The Engineer specifically disclaims any authority or responsibility for general job site safety and safety of persons other than The Engineer's employees.

4. DELAYS. If events beyond the control of Client or The Engineer, including, but not limited to, fire, flood, explosion, riot, strike, war, process shutdown, act of God or the public enemy, and act or regulation of any government agency, result in delay to any schedule established in this Agreement, such schedule shall be amended to the extent necessary to compensate for such delay. In the event such delay exceeds 60 days, The Engineer shall be entitled to an equitable adjustment in compensation.

5. TERMINATION/SUSPENSION. Either party may terminate this Agreement upon 30 days written notice to the other party. Client shall pay The Engineer for all Services at the rates as described in III.1 above rendered prior to termination.

In the event either party defaults in its obligations under this Agreement (including Client's obligation to make the payments required hereunder), the non-defaulting party may, after 7 days written notice stating its intention to suspend performance under the Agreement if cure of such default is not commenced and diligently continued, and failure of the defaulting party to commence cure within such time limit and diligently continue, suspend performance under this Agreement.

6. OPINIONS OF CONSTRUCTION COST. Any opinion of construction costs prepared by The Engineer is supplied for the general guidance of the Client only. Since The Engineer has no control over competitive bidding or market conditions, The Engineer cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to Client.

7. RELATIONSHIP WITH CONTRACTORS. The Engineer shall serve as Client's professional representative for the Services, and may make recommendations to Client concerning actions relating to Client's contractors, but The Engineer specifically disclaims any authority to direct or supervise the means, methods, techniques, sequences, or procedures of construction selected by Client's contractors.

8. HAZARDOUS MATERIALS. Hazardous materials may exist at a site where there is no reason to believe they could or should be present. The Engineer and Client agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work. The Engineer agrees to notify Client as soon as practically possible should unanticipated hazardous materials or suspected hazardous materials be encountered. Client acknowledges and agrees that it retains title to all hazardous material existing on the site and shall report to the appropriate federal, state or local public agencies, as required, any conditions at the site that may present a potential danger to the public health, safety or the environment. Client shall execute any manifests or forms in connection with transportation, storage and disposal of hazardous materials resulting from the site or work on the site or shall authorize The Engineer to execute such documents as Client's agent. Client waives any claim against The Engineer and agrees to defend, indemnify, and save The Engineer harmless from any claim or liability for injury or loss arising from The Engineer's discovery of unanticipated hazardous materials or suspected hazardous materials.

9. ACCESS. Client shall provide The Engineer access to any premises necessary for The Engineer to provide the Services.

10. REUSE OF PROJECT DELIVERABLES. Reuse of any documents or other deliverables, including electronic media, pertaining to the Project by Client for any purpose other than that for which such documents or deliverables were originally prepared, or alteration of such documents or deliverables without written verification or adaptation by The Engineer for the specific purpose intended, shall be at the Client's risk.



11. AMENDMENT. This Agreement, upon execution by both parties hereto, can be amended only by a written instrument signed by both parties.

12. INSURANCE. The Engineer and its subcontractors will maintain insurance coverage for Professional Comprehensive General, Automobile, Worker's Compensation, and Employer's Liability in amounts as specified in Exhibit "C", "Insurance Requirements". Certificates evidencing such coverage will be provided to Client upon request. For projects involving construction, Client agrees to require its construction contractor, if any, to include the Engineer as an additional insured on its policies relating to the Project. The Engineer's coverages referenced above shall, in such case, be excess over contractor's primary coverage.

13. DISPUTE RESOLUTION. In the event any actions are brought, this agreement shall be governed by the laws of the State of Texas and shall be performed in Hidalgo County. Engineer submits to the Jurisdiction of State Courts sitting in Hidalgo County for resolution of any and all claims arising out of or connected with this agreement.

14. NO WAIVER. No waiver by either party of any default by the other party in the performance of any particular section of this Agreement shall invalidate any other section of this Agreement or operate as a waiver of any future default, whether like or different in character.

15. SEVERABILITY. The various terms, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.


16. AUTHORITY. The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing.

17. COMMITMENT OF CURRENT REVENUES ONLY. In the event that, during any term hereof, the Commissioners Court does not appropriate sufficient funds to meet the obligations of County under this Agreement, County may terminate this Agreement upon ninety (90) days written notice to The Engineer. County agrees, however, to use reasonable efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of County pursuant to the provisions of Tex. Loc. Govt. Code Ann. '271.903 (Vernon Supp. 1995)


APPROVED FOR HIDALGO COUNTY

APPROVED FOR COOK-JOYCE, INC.

By: 
County Judge Ramon Garcia

By: 
Kathy L. McGee, P.E.
Vice President

Date: 3/21/05

Attest: 
County Clerk Juan D. Salinas

APPROVED ON COMMISSIONERS' COURT 3-1-05

Date: _____

APPROVED AS TO FORM
Atlas & Hall, L.L.P.

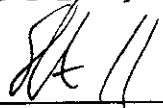
By: 



EXHIBIT "A"

21 March 2005

Commissioner Joe Flores
Hidalgo County Precinct 3
P.O. Box 607
Mission, Texas 78573

Re: Precinct 3 - Peñitas Landfill
Landfill Engineering Services Contract

Dear Commissioner Flores:

I am pleased to provide you with this proposal to continue providing engineering services that support the operation and development of the Hidalgo County Precinct 3 - Peñitas landfill. In particular, Texas Commission on Environmental Quality (TCEQ) regulations require that the landfill continue gas monitoring, disposal cell development and final cover activities under engineering guidance. These services will be performed economically under terms of the standard County contract developed for the landfill. A budget amount of \$68,850 is proposed to provide the engineering services and construction quality assurance described below.

SCOPE OF WORK

Task 1 – Permit Compliance and Monitoring

Engineering guidance will be provided as requested to support landfill operations in compliance with the permit. Assistance may be provided for annual TCEQ reports, TCEQ inspection preparation, tire bale and brush handling operations, permit modifications insuring that landfill operations match Site Plans, and completion of liner tie-in to early landfill cells. Quarterly methane gas monitoring will also be conducted as required by TCEQ.

Work will be conducted as requested by Precinct 3 managers up to the \$24,010 budgeted for this Task.

Task 2 – Final Construction Quality Assurance Report for Cell F and G Final Cover

During late 2001, Precinct 3 forces began installing compacted clay cover over landfill Cells F and G. In the upcoming months, topsoil installation and seeding will complete final cover for this





Commissioner Joe Flores
21 March 2005
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EXHIBIT "A"

area. As required by TCEQ, a Final Cover Evaluation Report will be produced, sealed by an engineer and submitted to the TCEQ Municipal Waste Permits Division. This report will document the project location, construction methods, observations, and soil test results.

Full time observation of the work will be provided when the remaining construction activity is underway (as set forth in the Final Cover Quality Control Plan). Observation during as many as 5 days over 2 work periods is included for this task.

The budget for this work task is \$10,120.

Task 3 – Construction Quality Assurance for Landfill Final Cover on Cells H-N.

Construction quality assurance will be provided for closure of Cells H-N, which are now filled with municipal waste. TCEQ will be notified when the waste has been graded to the design elevations. TCEQ's standard requirement is that the closure work be completed within 6 months after the final waste is placed in a cell.

This 6.5 acre closure project is located in the southeast corner of the landfill and includes covering the waste with 1.5 feet of compacted clay and 6 inches of topsoil. Full time observation of the work will be provided when construction activity is underway. Observation during as many as 18 days over 8 work periods is included with the budget for this task. A Final Cover Evaluation Report will be produced, sealed by an engineer and submitted to TCEQ.

The budget for this work task is \$18,910.

Task 4 – Soil Testing During Closure Construction

Soil testing will be provided during the construction project as required by TCEQ. Tests include:

- field moisture and density tests (a maximum of 6 testing trips)
- permeability tests of shelby tube samples (a maximum of 4 tests)
- sieve analysis (passing the #200 sieve) and Atterberg Limits (a maximum of 4 tests)
- Standard Proctor and remolded permeability test (2 tests)

The budget for this work task is \$6,070. Additional sampling requirements may require an amendment to the budget.





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EXHIBIT "A"

Task 5 – Construction Quality Assurance for Cell O-P Liner Tie-in to Old Clay Liners

Guidance will be provided for proper installation of HDPE, geocomposite, or clay liners to be constructed in the remaining portions of the landfill. These areas are the Cell O-P tie-in with old clay liners near Cell A. Plans and specifications will be developed as needed under Task 1. The work by contractors and County personnel will be observed for construction quality assurance. Observation during as many as 8 days over 5 work periods is included with the \$9,740 budget for this task.

PROFESSIONAL SERVICES AGREEMENT AND SCHEDULE

This scope of work will be conducted as further described in Professional Services Agreement No. 05026. As in the past, surveying which may be needed during the work will be provided by a surveying company under separate contract to the County. The duration of this scope of work and budget is expected to extend through at least the first quarter of 2006. Specific project tasks may vary as needed, and the budget may be amended to cover extra work upon written approval by both parties as set forth in the Agreement.

I appreciate the opportunity to propose this scope of work to assist you with the landfill operations. If any further information is needed, please give Brian Dudley, P.E. a call at 512/474-9097.

Sincerely,

Kathy L. McGee, P.E.
Vice President

BD:nn





EXHIBIT B
RATE SCHEDULE
PROJECT 05026 – HIDALGO COUNTY
SERVICES RENDERED THROUGH 31 MARCH 2006

PERSONNEL

Services of CJI personnel will be billed at the following hourly rates:

Principal	\$ 150.00
Associate/Senior Project Staff	110.00
Project Staff V	95.00
Project Staff IV	85.00
Project Staff III	75.00
Project Staff II	65.00
Project Staff I	55.00
Technician III	60.00
Technician II	45.00
Technician I	30.00
Administrative Support III	45.00
Administrative Support II	35.00
Administrative Support I	25.00

UNIT COST ITEMS

Mileage for project-related travel is charged at 45 cents per mile. Domestic, long-distance telephone service is charged at 25 cents per minute. In-house duplication is charged at 10 cents per copy. Use of certain CJI-owned field equipment is charged at hourly, daily, or monthly rates; a detailed quotation will be provided upon request.

REIMBURSABLE EXPENSES

Expenses which CJI directly incurs either in the performance of its services or in order to perform its services are charged to THE CLIENT at actual cost plus 15 percent. These include, but are not limited to, travel expenses, expendable supplies, rented or leased equipment, outside duplication service, subconsultants, and subcontractors.

PAYMENT

Invoices are submitted monthly for all services rendered during the previous month. Payment must be received at CJI's Austin office within thirty (30) days of the invoice date. Interest at the rate of 1½ percent per month, or the maximum rate of monthly interest allowed by law, whichever is lower, will accrue from the invoice date on payments not received at CJI's Austin office within thirty (30) days of the invoice date. Application of the percentage rate described above as a consequence of late payment does not constitute any willingness on CJI's part to finance the Client's operation, and no such willingness should be inferred. Attorneys' fees or other costs incurred in collecting delinquent amounts shall be paid by the Client.

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID LA
COOKJ-1

DATE (MM/DD/YYYY)
03/21/05

PRODUCER
Texas Associates Insurors
Building 3, Suite 300
1120 Capital of Texas Hwy Sout
Austin TX 78746
Phone: 512-328-7676 Fax: 512-327-8337

INSURED
Cook-Joyce, Inc. and
Brian Dudley Engineering
812 W. 11th
Austin TX 78701-2000

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Hartford Lloyd's Ins Co	
INSURER B: Hartford Ins Co Midwest	
INSURER C: Hartford Casualty Ins Co	
INSURER D: Twin City Fire Ins Co	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		GENERAL LIABILITY	65SBAPV8333	10/01/04	10/01/05	EACH OCCURRENCE \$ 1000000
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300000
		<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person) \$ 10000
						PERSONAL & ADV INJURY \$ 1000000
						GENERAL AGGREGATE \$ 2000000
						PRODUCTS - COMP/OP AGG \$ 2000000
						GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC
B		AUTOMOBILE LIABILITY	65UECFL4972	10/01/04	10/01/05	COMBINED SINGLE LIMIT (Ea accident) \$ 1000000
		<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$
		<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
		<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
		<input checked="" type="checkbox"/> HIRED AUTOS				
		<input checked="" type="checkbox"/> NON-OWNED AUTOS				
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
		<input type="checkbox"/> ANY AUTO				OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
C		EXCESS/UMBRELLA LIABILITY	65SBAPV8333	10/01/04	10/01/05	EACH OCCURRENCE \$ 2000000
		<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$ 2000000
		<input type="checkbox"/> DEDUCTIBLE				\$
		<input checked="" type="checkbox"/> RETENTION \$ 10000				\$
D		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	65WB CDQ7264	10/01/04	10/01/05	WC STATUTORY LIMITS OTHER
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				E.L. EACH ACCIDENT \$ 500000
		OTHER				E.L. DISEASE - EA EMPLOYEE \$ 500000
						E.L. DISEASE - POLICY LIMIT \$ 500000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
County of Hidalgo has been named as Additional Insured to the General Liability and Auto Policies.

CERTIFICATE HOLDER	CANCELLATION
HIDALGO County of Hidalgo Martha L. Salazar 100 E Cano 4th Fl Adm Bldg Edinburg TX 78539	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 