

This is Task Order
No 1, consisting of
3 pages.

Task Order

In accordance with Paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated April 26, 2022 ("Agreement"), Owner and Engineer agree as follows:

1. Background Data

- a. Effective Date of Task Order: TBD
- b. Owner: City of Schertz
- c. Engineer: Raba Kistner, Inc.
- d. Specific Project (title): Schertz Tri-County Parkway – CTB Testing and Observations
- e. Specific Project (description): Observe and verify specifications for the placement of Cement Treated Base on Tri-County Parkway.

2. Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are:
 - Add services for Construction Materials and Observation and Testing Services as provided in Proposal PND22-019-01 Attachment I

3. Owner's Responsibilities

Owner shall have those responsibilities set forth in Article 2 of the Agreement and in Exhibit B.

This is Task Order
No 1, consisting of
3 pages.

Task Order

In accordance with Paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated April 26, 2022 ("Agreement"), Owner and Engineer agree as follows:

1. Background Data

- a. Effective Date of Task Order: TBD
- b. Owner: City of Schertz
- c. Engineer: Raba Kistner, Inc.
- d. Specific Project (title): Schertz Tri-County Parkway – CTB Testing and Observations And Construction Materials Testing
- e. Specific Project (description): Observe and verify specifications for the placement of Cement Treated Base on Tri-County Parkway and placement of construction materials.

2. Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are:
 - Add services for Construction Materials and Observation and Testing Services as provided in Proposal PND22-019-00 Attachment I

3. Owner's Responsibilities

Owner shall have those responsibilities set forth in Article 2 of the Agreement and in Exhibit B.

4. Task Order Schedule

In addition to any schedule provisions provided in Exhibit A or elsewhere, the parties shall meet the following schedule:

<u>Party</u>	<u>Action</u>	<u>Schedule</u>
Engineer	Provide construction materials observation and testing services and accompanying reports, as per Proposal PND22-019-01	On a call-out basis
Owner	Notice to Proceed	As Coordinated

5. Payments to Engineer

- A. Owner shall pay Engineer for services rendered under this Task Order as follows:

We estimate a budget of \$16,300.00 to perform the construction materials testing and observations outlined in the Cost Estimate Breakdown portion of Proposal PND22-019-01 Attachment II.

- B. The terms of payment are set forth in Article 4 of the Agreement and in the applicable governing provisions of Exhibit C.

6. Terms and Conditions

Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is to be determined

OWNER:

By: _____

Print Name: _____

Title: _____

ENGINEER:

By: RBW _____

Print Name: R. Blake Wright, P. E. _____

Title: Associate _____

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: _____

Title: _____

Address: _____

E-Mail Address: _____

Phone: _____

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: R. Blake Wright, P. E. _____

Title: Associate _____

Address: 211 Trade Center Drive, Suite 300 _____

E-Mail Address: bwright@rkci.com _____

Phone: 830.214.0544 _____

Task Order Form

**EJCDC® E-505, Agreement Between Owner and Engineer for Professional Services – Task Order Edition.
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Proposal No. PND22-019-00
April 26, 2022



211 Trade Center, Suite 300
New Braunfels, TX 78130

P 830.214.0544
F 830.214.0627
TBPE Firm F-3257

WWW.RKCI.COM

John Nowak
City of Schertz
10 Commercial Place, Bldg 2
Schertz, Texas 78154

RE: Construction Materials Observation and Testing Services
Tri-County Parkway – Asphalt and Concrete
Schertz, Texas

Dear Mr. Nowak:

Thank you for selecting Raba Kistner, Inc. (RKI) as your Construction Materials Testing Company on the Tri-County Parkway Project.

Our opinion of probable cost of services for this project is \$49,957.00.

Our proposed scope of services and estimated item quantities are based upon our interpretation of the project plans and specifications, and are with the aid of the general contractor's schedule. The scope and quantity of services provided will be dependent upon services actually required by you or your representatives. Charges will be assessed only for actual services rendered. All services authorized are requested by you 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 summary total of services rendered for each service category.

Invoices will be submitted monthly for work in progress in our standard format. All parties hereby agree that this contract upon acceptance will be performable in Comal and Guadalupe Counties, Texas.

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 in accordance with this letter and the following attachments:

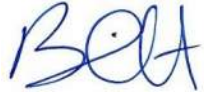
<u>Attachment</u>	<u>Description</u>
I	Fee Structure and Standard Charges
II	Fee Estimate Breakdown
III	Report Distribution List
IV	Standard Terms and Conditions

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

Proposal No. PND22-019-00
April 26, 2022

Very truly yours,

RABA KISTNER, INC.



R. Blake Wright, PE
Associate

RBW/ajj

Attachments

Accepted By: _____

(Signature)

(Typed or Printed Name)

(Title)

(Date)

FEE STRUCTURE AND STANDARD CHARGES

Proposed Materials and Observation Services for
Tri-County Parkway
Schertz, Texas

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).....	0.75 Hour(s)
Vehicle Travel Charge.....	\$ 15.00/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. "Normal" work hours are Monday through Friday between 7:00 a.m. and 6:00 p.m., including travel time to and from the site. Any engineering and/or technical services provided on Saturday, Sunday, Holidays and all work performed outside of "normal" work hours will be charged at an overtime rate multiplier of 1.4 times the 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. Overtime charges will also be assessed after eight (8) continuous hours of services rendered during "normal" work hours.
5. Minimum 2 hours billed per visit to project site.
6. RKI 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.

April 26, 2022

**RK CMT Estimate Sheet
New Braunfels**

Project Name: Tri-County Parkway	
Proposal #: PND22-019-00	Client: City of Schertz
Prepared By: C. Franks	Client Contact: John Nowak
Revised Date: 4/25/2022	Client Phone: 210.380.5574
Project Location: Corridor Parkway FM 3009	Client Email: jnowak@schertz.com

CONB

TESTING/OBSERVATION ITEM	ESTIMATED QUANTITY	UNIT	UNIT PRICE	UNIT TOTAL	SUBTOTAL
CONCRETE					
Laboratory Testing					
Concrete Compressive Strength Cylinders	285	each	\$ 19.00	\$ 5,415.00	
Field Testing/Observation					
Materials Technician	116	hour	\$ 48.00	\$ 5,568.00	
Materials Technician (overtime)	0	hour	\$ 62.40	\$ -	
Vehicle Travel Charge	32	trip	\$ 15.00	\$ 480.00	
Concrete Cores		each	\$ 100.00	\$ -	
Coring Rig Rental		trip	\$ 150.00	\$ -	
Pick up Test Specimen	25	each	\$ 49.00	\$ 1,225.00	
					\$ 12,688.00
ASPHALT					
Laboratory Testing					
Bag Sample (Burn, Gradation, A/C content, Molding Specimens, Laboratory Density of Molded Specimens, Stability Test, Hveem, Maximum Theoretical Specific Gravity)	43	each	\$ 437.00	\$ 18,791.00	
Density of Asphalt Cores		each	\$ 104.00	\$ -	
Field Testing/Observation					
Materials Technician	240	hour	\$ 53.00	\$ 12,720.00	
Materials Technician (overtime)	60	hour	\$ 62.40	\$ 3,744.00	
Vehicle Travel Charge	30	trip	\$ 15.00	\$ 450.00	
In-Place Nuclear Densities		each	\$ -	\$ -	
Nuclear Density Gauge Rental (ASTM D 2950)	30	trip	\$ 26.00	\$ 780.00	
					\$ 36,485.00
PROJECT ADMINISTRATION					
Project Engineer (P.E.) - Geotechnical/Materials Engineer	4	hour	\$ 179.00	\$ 716.00	
Engineering Tech		hour	\$ 48.00	\$ -	
Vehicle Trip Charge		trip	\$ 15.00	\$ -	
Project Coordination	1	hr	\$ 68.00	\$ 68.00	
					\$ 784.00
		Fee Subtotal	\$		49,957.00
		TOTAL ESTIMATED FEE	\$		49,957.00



STANDARD TERMS AND CONDITIONS

1. **DEFINITIONS.**

1.1 **RK.** Raba Kistner, Inc., and / or one of its subsidiaries (Project Control of Texas, Inc. or PC Sports, Inc.) that is being engaged to provide the services to CLIENT in connection with the delivery of the proposal to which these Standard Terms and Conditions relate.

1.2 **CLIENT.** Person, entity or organization for which RK is rendering services regarding the Project.

1.3 **PROJECT.** The activity, venture, plan, building, site or investigation for which CLIENT has engaged RK to provide professional services.

1.4 **CONTRACTOR.** Person, entity or organization providing construction services, including labor and material for the Project.

1.5 **SERVICES.** The professional services to be performed by RK as set forth in the proposal or Agreement to which the Standard Terms and Conditions are attached.

1.6 **AGREEMENT.** RK's proposal accepted by CLIENT and these Standard Terms and Conditions which are incorporated into and made a part of the Agreement.

2. **SERVICES.** RK 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.

3. **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.

4. **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.

5. **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.

6. **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 require 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 attempt to renegotiate the terms of the agreement affected by the changed conditions. If changes cannot be agreed to with respect to the changed conditions, the parties shall utilize the Dispute Resolution/Litigation procedures in this Agreement.

7. **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 CLIENT delegates such responsibility to Contractor) for notifying and scheduling RK to perform these services. RK shall not be responsible for the quality and completeness of contractor's work or Contractor's adherence to the project plans, specifications and other related documents. RK's performance of testing and observation services shall not relieve Contractor in any way from responsibility for defects discovered in Contractor's work or create a

warranty or guarantee on the part of RK. 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.

8. **ESTIMATE OF FEES FOR SERVICES.** If included as part of RK's proposal, RK will, to the best of its ability, perform the scope of 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 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 for all services provided, including retests of areas or samples that failed to meet Project specifications. The Estimate of Fees is valid for a period of 60 days after RK's proposal is submitted to CLIENT. If RK's proposal is not accepted by CLIENT within 60 days after it is submitted to CLIENT, RK may modify the Estimate of Fees.
9. **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 they are reproduced in their entirety. 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 of RK's reports shall be at the CLIENT's sole risk and without liability to RK.
10. **TOXIC AND HAZARDOUS MATERIALS.** CLIENT shall provide RK with all information within CLIENT's possession or knowledge related to the potential or presence of toxic or hazardous materials or pollutants at the Project 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 RK is performing its services, RK reserves the right to stop field operations and notify CLIENT and CLIENT assumes responsibility to notify appropriate regulatory agencies. RK and CLIENT must mutually agree to remobilize.
11. **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.

12. **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.
13. **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.
14. **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.
15. **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.
16. **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.
17. **SUSPENSION OF SERVICES.** If 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 CLIENT. RK shall have no liability whatsoever to CLIENT for any costs or damages as a result of such suspension. Upon payment in full by 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 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. CLIENT shall not make any changes to RK's banking and deposit information or payment instructions unless CLIENT

communicates the requested changes to RK orally and in writing and obtains written confirmation from an RK officer that the requested changes are legitimate and authorized by RK. If CLIENT makes a payment to a third party instead of to RK based on an unauthorized request to CLIENT for a change to RK's banking and deposit information or payment instructions and without obtaining written confirmation of the change from RK, CLIENT will remain liable to RK for payment of the amount of the unauthorized payment.

18. **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.
19. **OWNERSHIP OF DOCUMENTS.** RK'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. 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 CLIENT WITHOUT THE WRITTEN AUTHORIZATION OF RK 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, RK shall make its permission contingent upon the satisfaction of certain conditions when, in RK's professional judgment, such a contingency is necessary.
20. **DISPUTE RESOLUTION/LITIGATION.** All claims, disputes, and other controversies 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. Any litigation related to the Agreement or RK's performance of its professional services shall be commenced in a court in Bexar County, Texas. CLIENT consents to personal jurisdiction in the State of Texas and agrees that venue of any litigation shall be in Bexar County, the county where RK's principal place of business is located. CLIENT waives any objection to personal jurisdiction in Texas or to venue in Bexar County. The prevailing party in such litigation will be entitled to recover all court costs, attorneys' fees, and other legally recoverable claim-related expenses. As a condition precedent to mediation and / or litigation related to any claim arising out of the services provided under this Agreement, CLIENT shall obtain a written affidavit from a registered, independent, and reputable professional engineer describing any error, omission or other act by RK that allegedly failed to comply with the professional standard of care applicable to RK's performance of services and provide such affidavit to RK. The affidavit shall comply with the requirements of Texas Civil Practice & Remedies Code Chapter 150.
21. **TERMINATION OF CONTRACT.** CLIENT and RK may terminate RK's 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 its services without waiving any claims against or incurring any liability to CLIENT.
22. **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.
23. **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.

24. **NO ASSIGNMENT.** Neither RK nor CLIENT shall assign or transfer its interest in this Agreement without the express written consent of the other.
25. **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 provisions the maximum permissible effect and application intended.
26. **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.

4. Task Order Schedule

In addition to the provisions provided in Exhibit A or elsewhere, the parties shall meet the following schedule



<u>Party</u>	<u>Action</u>	<u>Schedule</u>
Engineer	Provide construction materials observation and testing services and accompanying reports, as per Proposal PND22-019-01	On a call-out basis
Owner	Notice to Proceed	As Coordinated

5. Payments to Engineer

A. Owner shall pay Engineer for services rendered under this Task Order as follows:

We estimate a budget of \$16,300.00 to perform the construction materials testing and observations outlined in the Cost Estimate Breakdown portion of Proposal PND22-019-01 Attachment II.

B. The terms of payment are set forth in Article 4 of the Agreement and in the applicable governing provisions of Exhibit C.

6. Terms and Conditions

Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is to be determined

OWNER:
By: Kathryn Woodlee

Print Name: Kathryn Woodlee

Title: City Engineer

ENGINEER:
By: RBW

Print Name: R. Blake Wright, P. E.

Title: Associate

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: John Nowak, P.E.

Title: Engineer

Address: 1400 Schertz Pkwy, 78155

E-Mail Address: jnowak@schertz.com

Phone: 210-619-1800

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: R. Blake Wright, P. E.

Title: Associate

Address: 211 Trade Center Drive, Suite 300

E-Mail Address: bwright@rkci.com

Phone: 830.214.0544

Task Order Form

EJCDC® E-505, Agreement Between Owner and Engineer for Professional Services – Task Order Edition.
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and American Society of Civil Engineers. All rights reserved.

Proposal No. PND22-019-01
April 26, 2022



John Nowak
City of Schertz
10 Commercial Place, Bldg 2
Schertz, Texas 78154

211 Trade Center, Suite 300
New Braunfels, TX 78130

P 830.214.0544
F 830.214.0627
TBPE Firm F-3257

WWW.RKCI.COM

RE: Construction Materials Observation and Testing Services
Tri-County Parkway – Cement Treated Base
Schertz, Texas

Dear Mr. Nowak:

Thank you for selecting Raba Kistner, Inc. (RKI) as your Construction Materials Testing Company on the Tri County Parkway Project.

Our opinion of probable cost of services for this project is \$16,289.00.

Our proposed scope of services and estimated item quantities are based upon our interpretation of the project plans and specifications, and are with the aid of the general contractor's schedule. We propose to perform only one cement-treated base (CTB) Proctor and associated strength tests once per week or any time there appears to be a material change. The scope and quantity of services provided will be dependent upon services actually required by you or your representatives. Charges will be assessed only for actual services rendered. All services authorized are requested by you 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 summary total of services rendered for each service category.

Invoices will be submitted monthly for work in progress in our standard format. All parties hereby agree that this contract upon acceptance will be performable in Comal and Guadalupe Counties, Texas.

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 in accordance with this letter and the following attachments:

<u>Attachment</u>	<u>Description</u>
I	Fee Structure and Standard Charges
II	Fee Estimate Breakdown
III	Report Distribution List
IV	Standard Terms and Conditions

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



Proposal No. PND22-019-01
April 26, 2022



RABA KISTNER, INC.



R. Blake Wright, PE
Associate

RBW/ajj

Attachments

Accepted By: _____
(Signature)

(Typed or Printed Name)

(Title)

(Date)



FEE STRUCTURE AND STANDARD CHARGES

Proposed Materials and Observation Services for
Tri-County Parkway – Cement Treated Base
Schertz, Texas

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).....	0.75 Hour(s)
Vehicle Travel Charge.....	\$ 15.00/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. “Normal” work hours are Monday through Friday between 7:00 a.m. and 6:00 p.m., including travel time to and from the site. Any engineering and/or technical services provided on Saturday, Sunday, Holidays and all work performed outside of “normal” work hours will be charged at an overtime rate multiplier of 1.4 times the 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. Overtime charges will also be assessed after eight (8) continuous hours of services rendered during “normal” work hours.
5. Minimum 2 hours billed per visit to project site.
6. RKI 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.

**RK CMT Estimate Sheet
 New Braunfels**

Project Name: Tri County Parkway - CTB Testing	
Proposal #: PND22-019-01	Client: City of Schertz
Prepared By: C. Franks	Client Contact: John Nowak
Revised Date: 4/25/2022	Client Phone: 210.380.5574
Project Location: Corridor Parkway FM 3009	Client Email: jnowak@schertz.com

TESTING/OBSERVATION ITEM	ESTIMATED QUANTITY	UNIT	UNIT PRICE	UNIT TOTAL	SUBTOTAL
<u>SOILS</u>					
Laboratory Testing					
Preparation Time	8	hour	\$ 48.00	\$ 384.00	
Moisture Density Relationship, TxDOT or ASTM	8	each	\$ 260.00	\$ 2,080.00	
Cement Series Curve	1	set	\$ 472.00	\$ 472.00	
Molding/Breaking Strength Samples	15	each	\$ 112.00	\$ 1,680.00	
Atterberg Limits	8	each	\$ 83.00	\$ 664.00	
Sieve Analysis	8	each	\$ 83.00	\$ 664.00	
Field Testing/Observation					
Nuclear Density Gauge Rental	35	trip	\$ 26.00	\$ 910.00	
Field Gradation	4	each	\$ 83.00	\$ 332.00	
Materials Technician	140	hour	\$ 48.00	\$ 6,720.00	
Materials Technician (overtime)	0	hour	\$ 74.20	\$ -	
Vehicle Travel Charge	35	trip	\$ 15.00	\$ 525.00	
					\$ 14,431.00
<u>PROJECT ADMINISTRATION</u>					
Project Engineer (P.E.) - Geotechnical/Materials Engineer	10	hour	\$ 179.00	\$ 1,790.00	
Engineering Tech		hour	\$ 48.00	\$ -	
Vehicle Trip Charge		trip	\$ 15.00	\$ -	
Project Coordination	1	hr	\$ 68.00	\$ 68.00	
					\$ 1,858.00
			Fee Subtotal	\$	16,289.00
			TOTAL ESTIMATED FEE	\$	16,289.00