

PROFESSIONAL SERVICES CONTRACT Asbestos Consulting Services

1. **THE AGREEMENT.** This agreement is made by and between Baer Engineering & Environmental Consulting, Inc., (hereafter Baer Engineering or Baer) and Williamson County (hereinafter referred to as "Client"). The agreement between the parties consists of this Agreement together with any attachments and exhibits mentioned herein. Together, these documents will constitute the entire agreement superseding any and all prior dealings and understandings. Any modifications of this Agreement must be mutually agreed to in writing.
2. **PROJECTS.** Client engages Baer Engineering to perform professional environmental consulting services for a variety of projects to be determined by Client during the term of this Agreement.
3. **SCOPE OF SERVICES.** A detailed "Scope of Services" document, with a cost estimate, is presented in a written proposal accompanying this agreement herein after referred to as Exhibit A. Changes to the Scope of Services must be mutually agreed to in writing. Services not set forth in a Scope of Services document are excluded from the scope of Baer's services and Baer shall have no responsibility to perform them. If however, Client requests services beyond those detailed in Exhibit A, the parties shall execute a separate written agreement defining the services to be rendered and the compensation that is to be paid to Baer Engineering. The said written agreement must be executed by all parties prior to Baer Engineering's performance of any services beyond those detailed in Exhibit A. Client shall not have any obligation to pay for services beyond those detailed in Exhibit A unless and until a separate written agreement defining the services to be rendered and the compensation that is to be paid to Baer Engineering is executed in advance of the performance of such services.
4. **DEFINITIONS.** As used throughout this Agreement, certain terms should be understood to have the following meanings:
 - A) "Claim" - shall mean claims that are legally enforceable and includes liabilities for all manner of losses, injuries, costs, expenses, and interest.
 - B) "Construction" - shall mean not only construction, but also includes demolition and remediation.
 - C) "Instruments of Service" - shall include what are commonly called "the Contract Documents," as well as any other reports, plans, specifications, and computer files prepared by Baer Engineering pursuant to its performance under this Agreement.
 - D) "Law" - shall mean any type of law, including statutes, regulations, ordinances, codes, rules, case law, court orders, or administrative agency orders.
 - E) "Negligent" or "Negligence" - Except where explicitly otherwise stated, in addition to its common law definition, for the purposes of brevity the term "negligence" is meant to also include intentional misconduct of Baer employees to the extent their acts are within the scope of their employment.
5. **COMPENSATION.** Client agrees to compensate Baer Engineering timely in the amounts and at the rates set forth in Exhibit A.
6. **STANDARD OF CARE.** Baer Engineering will strive to perform the services under this Agreement in a manner consistent with the level of care and skill ordinarily exercised by members of the profession practicing contemporaneously under similar conditions in the locality of the project. Under no circumstances is any warranty or guarantee, express or implied, made in connection with the providing of these services. Client recognizes that indoor air quality may vary from that observed at locations where air samples are collected, and that site conditions may change with time. Data, interpretations, and recommendations by Baer Engineering will be based solely on information available to Baer Engineering. Baer Engineering is responsible for its data, interpretations, and recommendations, but will not be responsible for other parties' interpretations or use of the information developed, or for the accuracy of information provided by others.
7. **INSURANCE.** Baer Engineering represents that it maintains the following insurance coverage:

TYPE/LIMITS
Worker's Compensation and Employers' Liability / Statutory
General Liability / \$1,000,000 per occurrence/ \$1,000,000 aggregate
Automobile Liability /\$1,000,000 per person/\$1,000,000 per occurrence
Professional Liability /\$1,000,000 claims made/\$1,000,000 aggregate

If Client desires additional insurance coverage, Baer Engineering will obtain said coverage (if procurable) at Client's expense, to protect Baer Engineering and Client, upon written notice to Baer specifying the types and amounts of coverage(s) desired.
8. **LIMITATION OF LIABILITY.** Baer is not an insurer, and will not accept a liability that is out of proportion to the income generated by a particular project. THEREFORE, AS A FUNDAMENTAL TERM OF THIS CONTRACT, CLIENT AGREES THAT BAER ENGINEERING'S LIABILITY, (and that of its officers, directors, employees, agents, and subcontractors) TO CLIENT OR ANY THIRD PARTY DUE TO NEGLIGENT PROFESSIONAL ACTS, ERRORS, OR OMISSIONS OR FOR BREACH OF THIS CONTRACT SHALL BE LIMITED TO AN AGGREGATE OF \$50,000.00 OR THE TOTAL AMOUNT OF BAER'S CHARGES AND FEES, WHICHEVER IS GREATER. IF CLIENT PREFERS TO HAVE HIGHER LIMITS OF LIABILITY, BAER AGREES TO INCREASE THE AGGREGATE LIMIT, UP TO A MAXIMUM OF \$1,000,000.00, UPON CLIENT'S WRITTEN REQUEST AT THE TIME OF ACCEPTANCE OF BAER'S PROPOSAL, PROVIDED THAT CLIENT PAYS AN ADDITIONAL CONSIDERATION OF TWENTY PERCENT (20%) OF BAER'S TOTAL CHARGES AND FEES, OR \$2,000.00, WHICHEVER IS GREATER. IT IS AGREED AND UNDERSTOOD THAT THE ADDITIONAL CHARGE FOR THE HIGHER LIABILITY LIMIT IS BECAUSE OF THE GREATER RISK ASSUMED BY BAER AND IS NOT A CHARGE FOR ADDITIONAL LIABILITY INSURANCE. This limitation shall not apply to the extent that may be prohibited by law.

9. **INDEMNIFICATION.** When an indemnity is provided for in this Agreement, such indemnity shall extend not only to actual and punitive damages for the claim itself, but also the costs of defense (e.g., attorney fees and court costs) and similar costs incurred in enforcing the indemnity.
- A) Baer Engineering's Indemnities
- i. **Acts of Baer.** BAER ENGINEERING AGREES TO INDEMNIFY AND HOLD CLIENT HARMLESS FROM AND AGAINST CLAIMS ARISING DIRECTLY FROM THE NEGLIGENT ACTS AND OMISSIONS OF BAER ENGINEERING IN ITS PERFORMANCE OF ITS CONTRACTUAL OBLIGATIONS, BUT ONLY TO THE EXTENT THAT BAER ENGINEERING IS RESPONSIBLE ON A COMPARATIVE BASIS OF FAULT AND RESPONSIBILITY. SUCH INDEMNIFICATION AND LIABILITY SHALL NOT EXTEND TO CONSEQUENTIAL DAMAGES. NOR SHALL BAER ENGINEERING INDEMNIFY CLIENT FOR DAMAGES CAUSED BY CLIENT'S OWN NEGLIGENCE, NOR FOR PUNITIVE OR EXEMPLARY DAMAGES UNLESS THEY ARE ASSESSED AGAINST BAER ENGINEERING FOR AN ACT OR OMISSION COMMITTED BY BAER ENGINEERING.
 - ii. **Acts of Subconsultants.** BAER ENGINEERING AGREES TO INDEMNIFY AND HOLD CLIENT HARMLESS FROM AND AGAINST CLAIMS ARISING DIRECTLY FROM NEGLIGENT ACTS AND OMISSIONS OF SUBCONSULTANTS HIRED BY BAER TO RENDER PROFESSIONAL SERVICES UNDER THIS AGREEMENT; HOWEVER, BAER WILL NOT INDEMNIFY FOR THEIR INTENTIONAL MISCONDUCT.
- B) Client's Indemnities
- i. **Acts of Client & Client's Agents.** Baer Engineering agrees and acknowledges that that under the Constitution and the laws of the State of Texas, Client cannot enter into an agreement whereby Client agrees to indemnify or hold harmless any other party, including but not limited to Baer Engineering; therefore, all references of any kind to Client indemnifying, holding or saving harmless any other party, including but not limited to Baer Engineering for any reason whatsoever are hereby deemed void and deleted.
 - ii. **Early Termination.** If Baer Engineering for any reason does not complete all of the services contemplated by this Agreement, it is agreed that Baer will not be responsible for the accuracy, completeness, or workability of the Instruments of Service that were completed or changed by Client or another party.
10. **WAIVER OF CONSEQUENTIAL DAMAGES.** Neither Baer Engineering nor Client, their respective officers, directors, partners, employees contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver includes, but is not limited to, loss of use or rent, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred for any reason.
11. **NO WARRANTIES.** Both parties agree that no warranties are intended to be made in this Agreement, either expressed or implied. Baer Engineering shall not be required to execute any documents, no matter by whom requested, that would, in Baer's sole opinion, increase Baer's contractual or legal obligations, risks, or the cost of its professional liability insurance. This includes requests to Baer to certify, guarantee, or warrant the existence or absence of conditions that Baer is not able to ascertain. Client agrees not to make resolution of any dispute or payment of any amount due to Baer in any way contingent upon Baer's executing any additional agreement or certification.
12. **CONFIDENTIALITIES**
- A) Baer Engineering shall hold confidential all business or technical information specifically designated as such by Client in writing and obtained from the Client or its affiliates or generated in the performance of this Agreement. If such information is in hardcopy form, Client must stamp it with the word "Confidential." Baer Engineering shall not disclose such information without Client's consent except to the extent required for (i) the performance of this Agreement, (ii) compliance with professional standards of conduct for preservation of public safety, health, and welfare, (iii) compliance with any court order or other governmental directive, and/or (iv) protection of Baer Engineering against claims or liabilities arising from performance of this Agreement. Consultants obligations hereunder shall not apply to information in the public domain or lawfully acquired on a non-confidential basis from others.
 - B) Notwithstanding the foregoing, it is agreed that Baer Engineering shall, promptly upon notice of the necessity of disclosure of information pursuant to (A)(i) through (A)(iv) above, notify the Client prior to any such disclosure. The Client may contest the requirement for or necessity of any such disclosure provided that such contest shall not subject Baer Engineering to any legal liability, claim, expense, criminal penalty, or prosecution for a crime.
 - C) If Client requests Baer Engineering to report on the past or current qualifications and/or performance of others engaged or being considered for engagement directly or indirectly by the Client, and to render opinions and advice in that regard, then those about whom reports and opinions are rendered may as a consequence initiate claims of libel or slander against Baer. To help create an atmosphere in which Baer can freely and candidly communicate to Client, Client agrees, to the fullest extent permitted by law, to keep the existence and contents of such communications confidential.
13. **SITE ACCESS AND CONDITIONS.** If site access is required as part of the services, Client shall indicate to Baer Engineering any limits to access and shall be responsible for the accuracy of such information.
- A) Client shall grant free access to the site for all necessary equipment and personnel. Client shall notify any and all possessors of the project site, whether they be lawfully or unlawfully in possession, that Client has granted to Baer Engineering free access to the project site and Client shall secure permission (and any permits) necessary to allow Baer Engineering free access to the project site at no charge to Baer Engineering.
 - B) Client will make available to Baer Engineering all information regarding existing and proposed conditions at the site. The information shall include, but not be limited to, architectural and/or engineering drawings of the project, building construction materials specifications, field or laboratory tests, and written reports. Client will immediately transmit to Baer Engineering any new information that becomes available or any change in plans.

14. **BILLINGS AND PAYMENT.** Client's payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. Invoices shall be paid by Client within thirty (30) days from the date of the Williamson County Auditor's receipt of an invoice. Interest charges for any late payments shall be paid by Client in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of Client's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. In the event that a discrepancy arises in relation to an invoice, such as an incorrect amount on an invoice or a lack of documentation that is required to be attached to an invoice to evidence the amount claimed to be due, Client shall notify Baer Engineering of the discrepancy. Following Client's notification of any discrepancy as to an invoice, Baer Engineering must resolve the discrepancy and resubmit a corrected or revised invoice, which includes all required support documentation, to the Williamson County Auditor. Client shall pay the invoice within thirty (30) days from the date of the Williamson County Auditor's receipt of the corrected or revised invoice. Client's payment of an invoice that contains a discrepancy shall not be considered late, nor shall any interest begin to accrue until the thirty-first (31st) day following the Williamson County Auditor's receipt of the corrected or revised invoice.
15. **RISK ALLOCATION.** Client acknowledges and accepts the risk that:
- A) Site conditions such as remodeling of structures, remodeling of heating, ventilation, air-conditioning and plumbing systems, and other conditions can vary from those encountered at the times and locations where data on them were obtained, and that this limitation on the available data can cause uncertainty with respect to the interpretation of conditions at Client's site;
 - B) Governmental regulations relating to the environment, hazardous substances, or other contaminants may change with time and may purport to require achievement of results that cannot be accomplished in an absolute sense. Baer Engineering agrees to use reasonable professional efforts to comply with all laws applicable to its work that are in effect as of the date of this Agreement;
 - C) Projects such as those involving abatement of airborne contaminants, may not perform as anticipated by Client, even if Baer Engineering's services are performed in accordance with Paragraph 6.
16. **LATENT HAZARDS.**
- A) Discovery of Unanticipated Hazardous Constituents. Hazardous materials may exist at the site or on portions of the site where there is no reason to believe they could or should be present. In regard to them:
 - i. Baer Engineering and Client agree that the discovery of hazardous constituents where they are not anticipated constitutes a changed condition mandating a re-negotiation of the Scope of Services or termination of services. Baer Engineering and Client also agree that the discovery of unanticipated hazardous constituents may make it necessary for Baer Engineering to take immediate measures to protect human health and safety and/or the environment. Client agrees to compensate Baer Engineering for any equipment decontamination or other costs incident to the discovery of unanticipated hazardous constituents.
 - ii. Baer Engineering agrees to notify Client when unanticipated hazardous constituents or suspected hazardous constituents are encountered. Client agrees to consult legal counsel of its own choosing to determine Client's duty to make disclosures required by law to appropriate governing agencies. Client also agrees to hold Baer Engineering harmless for any and all consequences of disclosures made by Baer Engineering that are required by law. If Client fails to disclose information to appropriate authorities, Client agrees to hold Baer Engineering harmless for any and all consequences of non-disclosure.
 - iii. In the event Client does not own the project site, Client recognizes that it is Client's responsibility to inform the property owner of the discovery of unanticipated hazardous constituents or suspected hazardous constituents.
17. **OWNERSHIP AND DISPOSAL OF CONTAMINATED MATERIALS AND EQUIPMENT.**
- A) Samples will be disposed of at Client's cost in a proper manner according to applicable laws governing the handling, transport, and disposal of such sampled materials sixty (60) days after submission of a report covering those samples. At all times, any and all right title, and responsibility for samples shall remain with Client; under no circumstances shall this Agreement be construed or interpreted to create any right title, interest, or responsibility for such samples by Baer Engineering. At Client's direction, samples will be returned to Client for final disposition. Further storage or transfer of samples can be made at Client's expense upon Client's prior written request.
 - B) All laboratory and field equipment contaminated in performing the work and which cannot be reasonably decontaminated shall become the property and responsibility of Client, unless equipment is contaminated because of Baer Engineering's failure to use reasonable care. All such equipment shall be delivered to Client or disposed of in a manner similar to that indicated for hazardous samples. Client agrees to pay the fair market value of any such equipment which cannot be reasonably decontaminated.
18. **DATA PROVIDED BY CLIENT OR OTHERS.** It is agreed that Baer Engineering will not be held responsible for the quality or accuracy of data, nor the acquisition or sampling programs or methods from which the data were developed, where such data is provided by or through Client or third parties to Baer Engineering and upon which Client desires Baer Engineering to rely, in whole or in part. Such data includes, but is not limited to, architectural and/or engineering drawings of the project, building construction materials specifications, field or laboratory tests, written reports, calculations, designs, drawings, surveys, maps, etc. If Client has provided the information, then Client agrees to assume responsibility for any liability that may result if the information is not correct.

19. **CONTINUITY.** Client acknowledges that it is customary for Baer Engineering to be responsible for preparing and furnishing drawings, specifications, and other documents that are to be utilized during the bidding, construction, and/or field work phases of a remediation Project: (i) to interpret, clarify, and modify the same as circumstances may dictate; (ii) to adjust the same to accommodate substitution of materials and equipment as proposed by bidders and contractor(s); (iii) to conform same with approvals of shop drawings and sample submittals; and (iv) to correct for inconsistencies or irregularities in the documents. Therefore:
- A) If Baer Engineering is not retained to provide such services during the bidding, construction, and/or field work phases of Client's Project, Baer Engineering will not be responsible for claims arising out of any interpretation, clarification, substitution acceptance, shop drawing, sample approval, or modification of construction documents. Baer shall have no responsibility for any portion of any project designed by Client's other consultants, nor shall Baer be required to check or verify other consultants' construction documents; instead, Baer shall be entitled to rely upon the accuracy and completeness thereof, as well as the fact that the documents comply with applicable law.
 - B) If Baer Engineering is to be employed to provide such services, then Client warrants that it will cause the General Contractor to review any requests for information (RFI's) submitted by subcontractors prior to submission of them to Baer Engineering to ensure that such RFI's are not already clearly and unambiguously answered in the Contract Documents. It is understood that Baer Engineering will charge for time spent reviewing RFI's that are already clearly answered in the Contract Documents in accordance with its rates in Exhibit A.
20. **CONSTRUCTION OBSERVATION.**
- A) The purpose of Baer Engineering's presence at the site(s) is to enable Baer to provide for Client a greater degree of assurance that the completed work of contractor(s) do in fact generally conform to the contract documents. On the other hand, it is understood that, during such visits or as a result of such field observations, monitoring, and/or testing of contractor(s)' work-in-progress, Baer will not have authority to supervise, direct, or control contractor(s)' work. Baer is there only to report to Client what Baer believes is compliance or non-compliance with the contract documents. Thus, it is agreed that Baer Engineering shall have no responsibility for the means, methods, techniques, sequences, or procedures selected by the contractor(s), for the safety precautions and programs chosen by the contractor(s) or for any failure of the contractor(s) to comply with any laws applicable to the work being performed by the contractor(s).
 - B) It is understood and agreed that if Baer Engineering's basic services under this Agreement do NOT include project observation or review of Contractors' performance or any other construction phase services, that such services will be provided by Client or others hired by Client. Client therefore assumes responsibility for interpretation of the Contract Documents and for construction observation and supervision and waives any claims against Baer Engineering that may be in any way connected thereto. If Client requests in writing that Baer Engineering provide any specific construction phase services, Client and Baer must reach a mutually agreeable contract and execute same prior to Baer Engineering providing any such construction phase services.
21. **SAFETY.** Any construction review of contractor(s)' performance conducted by Baer Engineering is not intended to include review of the adequacy of the contractor(s)' safety measures in, on, or near the construction site. Client understands the contractor is solely responsible for working conditions at the job site, including the safety of all persons and property.
22. **OPINIONS OF COST.** Since Baer Engineering has no control over the cost of labor, materials, equipment, or services furnished by others, or over a contractor's methods of determining prices, or over competitive bidding or market conditions, Baer's estimate of the probable construction, operations, and maintenance costs are nothing more than opinions based upon Baer Engineering's judgment as an experienced and qualified professional engineer and/or consultant familiar with the construction industry. But Baer Engineering cannot and will not guarantee that actual costs will not vary from estimates of probable cost prepared by Baer. If prior to the bidding or negotiation phase Client wishes greater assurance as to costs, Client shall employ an independent cost estimator.
23. **DOCUMENTS.**A) Instruments of Service shall remain the property of Baer Engineering. Baer shall retain all common law, statutory, and other reserved rights, including the copyright thereto. Client may use such documents only in connection with the particular project for which such documents were prepared.
- B) Instruments of Service shall become the property of Client only if specifically stated in Exhibit A. However, use by others or use for any other purpose or project, without written verification or adaptation by Baer Engineering, will be at the Client's or other's sole risk and liability. Client shall indemnify and hold Baer Engineering harmless from all claims arising out of use of Baer's documents on other projects or by third parties.
 - C) Baer Engineering agrees to maintain all Instruments of Service as is or on microfilm, except for samples and specimens, for a minimum period of two years after completion of its services. When the Instruments of Service shall become the property of the Client, the Client shall specify in writing to the President of Baer Engineering if it desires to acquire possession of the Instruments of Service at any time before the end of the two year period; if so requested, Baer will furnish them to Client and will be under no further obligation to continue to maintain them.
24. **TERMINATION.** This Agreement may be terminated by Baer Engineering seven (7) days after giving written notice of a breach of any provision of this Agreement or in the event of substantial failure of performance by the Client, or if Client suspends performance of Baer Engineering's services for more than three (3) months. Client may terminate the Agreement upon seven (7) days advance notice for any reason. In the event of termination, Baer Engineering will be paid for services performed prior to the date of termination plus reasonable termination expenses including, but not limited to, the cost of completing analyses, records, and reports necessary to document job status at the time of termination.

25. **NO WAIVER OF LIEN OR STOP NOTICE RIGHTS.** The terms and conditions of this Agreement shall not be construed to alter, waive, or affect any lien or stop notice rights that Baer Engineering may have for the performance of services under this Agreement.
26. **SUCCESSORS AND ASSIGNS.** By this Agreement, Client understands that it binds itself, its partners, successors, executors, administrators, and assigns.
27. **BANKRUPTCY.** Should Baer Engineering become bankrupt, Baer Engineering or its trustee in bankruptcy shall be paid the reasonable value of all services previously performed. In determining reasonable value under this article, the contract price shall be deemed reasonable.
28. **ASSIGNMENT.** Neither Client nor Baer Engineering shall assign rights or duties created under this Agreement without the written consent of the other, except that Baer may employ the services of subconsultants when, in its sole opinion, it is necessary, customary, and/or appropriate to do so. Such subconsultants include, but are not limited to, surveyors, specialized consultants, drillers, and testing laboratories. The Client shall not unreasonably restrict Baer's use of other subconsultants for additional purposes.
29. **ALTERATIONS.** No term of this Agreement is to be altered unless done in writing and signed by the parties.
30. **FORCE MAJEURE.** Neither party shall be held responsible for damages or considered to be in default nor breach of this Agreement or by reason of delays in performance caused by strikes, lockouts, accidents, Acts of God, inclement weather and other unavoidable delays beyond Baer Engineering's reasonable control. Furthermore, Baer Engineering shall not be liable for delays in performing its obligations hereunder that are caused by Client or Client's agents (e.g., furnishing information promptly), shortages or unavailability of labor at established wage rates, other contractors, and/or government agencies. In the case of this happening, the time of completion shall be extended accordingly, but if Baer Engineering experiences increased costs due to such delays, then upon written notice to Client setting forth the specific items of increased cost and the amounts thereof, Client shall pay such additional amount(s) or else Baer Engineering, at its option, may terminate this Agreement.
31. **COOPERATION.**
- A) Client agrees to fully cooperate with Baer Engineering for the purposes of performing its obligations under this Agreement.
 - B) Baer Engineering agrees to assist Client in applying for permits and approvals that are typically required by law for projects similar to the one(s) for which Client has hired Baer Engineering. This assistance shall consist of completing and submitting forms on the results of certain work (if said work is included in the Scope of Services). However, this assistance does not include special studies, special research, special testing, or special documentation not normally required for the type of project contemplated. Furthermore, Baer's assistance shall not include attendance at meetings with Client, contractors, or public authorities unless specifically stated in the Scope of Services. If time spent in such meetings exceeds the effort included in the Scope of Services, then Client agrees to compensate Baer for same at the rates specified in Exhibit A.
32. **CORPORATE LIABILITY.** It is understood and agreed by the parties that Baer Engineering is a Texas corporation, and it has contracted to perform services in the Agreement as a corporation and not as individuals. Therefore, Client agrees to make no claim, demand, or suit directed against individual employees, agents, and officers of Baer Engineering for their acts done as employees, agents, or officers.
33. **DISPUTE RESOLUTION.**
- A) **Certification of Negligence.** Client agrees to make no claim for negligence against Baer unless Client has first provided Baer Engineering with a written certification of an independent engineer currently practicing in the same discipline as Baer Engineering and who is licensed by the State of Texas. This certification shall:
 - contain the name and license number of the certifier;
 - specify each and every act or omission that the certifier contends is a violation of the standard of care that is applicable to a design professional performing services under similar circumstances;
 - state in detail the basis for the certifier's opinion(s) that each alleged act or omission constitutes a violation of the applicable standard of care; and
 - be presented to Baer Engineering at least 30 days prior to the presentation of any claim for dispute resolution or litigation.
 - B) **ADR.** Except as provided herein, all claims, disputes, and other matters in controversy solely between Baer Engineering and Client arising out of or in any way related to this Agreement shall be submitted to "alternative dispute resolution" (ADR) before and as a condition precedent to other remedies provided by law. If the parties agree to no specific ADR procedure, then both parties must submit their claims and/or defenses to mediation before they can be plead in a lawsuit.
 - C) **Exceptions.** If a dispute involves: (i) claims for indemnity against claims brought by third parties, and/or (ii) Baer Engineering's claims for sums due and owing to Baer Engineering for services rendered and costs incurred, Baer Engineering, at its option, may proceed directly to enforce its remedies at law, including, but not limited to, an action to foreclose mechanic's liens, a suit on sworn account, or such other proceedings or process deemed necessary to enforce its rights to payment.
 - D) **Venue.** Any action arising under this Agreement shall be brought and tried in Williamson County, Texas. The parties agree that the prevailing party shall be entitled to attorneys' fees and costs.
34. **County's Right to Audit.** Baer Engineering agrees that County or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of Baer Engineering which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Baer Engineering agrees that Client shall have access during normal working hours to all necessary Baer Engineering facilities and shall be provided adequate and

appropriate work space in order to conduct audits in compliance with the provisions of this section. Client shall give Baer Engineering reasonable advance notice of intended audits.

35. **NOTICES.** Any notices required or permitted to be sent shall be considered served on a party if hand delivered, sent by telegram or certified mail, or sent by facsimile to the addresses and numbers that appear in Paragraph 37, or such other addresses as the parties may have designated pursuant to that paragraph.
36. **GOVERNING LAW AND SURVIVAL.**
 A) The law applicable to any adjudication of disputes arising hereunder shall be the law of the State of Texas.
 B) If any of the provisions contained in this Agreement are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired. It is agreed that limitations of liability and indemnities shall survive termination of this Agreement.
37. **PROJECT REPRESENTATIVES.** Client shall designate representatives who are authorized to accept notices from Baer and make decisions on Client's behalf when requested by Baer Engineering. Client lists the following representatives as persons who are authorized to make decisions regarding work on the project(s) that Baer is working on under this Agreement. Client agrees not to delay in making decisions that Baer has requested, and represents that the following people, listed in order of priority, will be available on an on-call basis:

Project Name (Project): Asbestos Consulting	
Project Location (Site): Williamson County Historical Museum	
<u>CLIENT INFORMATION</u>	<u>BAER ENGINEERING INFORMATION</u>
Project ID:	Project Number: 121060.01
Name: Williamson County Facilities and Maintenance Address: 3101 SE Inner Loop City, State, Zip: Georgetown, Texas 78626	Baer Engineering and Environmental Consulting, Inc. 7756 Northcross Drive, Suite 211 Austin, Texas 78757
Telephone: 254-654-1495 FAX:	512.453.3733 Fax 512.453.3316 www.baereng.com
<u>PROJECT REPRESENTATIVES CONTACT INFORMATION</u>	
Project Principal: Dwayne Gossett	Project Principal: Therese Baer, PE – tbaer@baereng.com
Project Manager: Gary Wilson	Project Manager: Stephanie Ashley – sashley@baereng.com

The parties agree to send written notice if any of the contact information above changes.

Wherefore, in solemn acknowledgment of the terms of this agreement, we do sign our names on this _____ day of _____, 2012.

Client or Authorized Representative:

 Title: _____

Baer Engineering:



 Title: Therese M. Baer, PE, Project Principal



EXHIBIT A
June 19, 2012

Williamson County
Facilities Maintenance Department
3101 S.E. Inner Loop
Georgetown, Texas 78628

Sent via electronic mail to dgossett@wilco.org

Attention: Mr. Dwayne Gossett

Reference: PROPOSAL FOR LIMITED ASBESTOS SURVEY
Williamson County Historical Museum
716 S. Austin Avenue, Georgetown, Texas
Baer Engineering Document No. 121060-5.011

Dear Mr. Gossett:

Baer Engineering and Environmental Consulting, Inc. (Baer Engineering) is pleased to submit this proposal to provide a limited asbestos survey at the Williamson County Historical Museum located at 716 S. Austin Avenue in Georgetown, Texas. The survey will be limited to the roof of the building. This proposal is based on information provided by you and our experience with similar projects.

PROJECT INFORMATION

We understand that the roof of the museum is scheduled for replacement. The roof is approximately 5,000 square feet and is accessible from a roof hatch on the second floor. The purpose of the survey is to identify the presence of asbestos-containing materials (ACM) associated with the roof that would require abatement prior to the roof replacement.

SCOPE OF SERVICES

The requested asbestos survey services are intended to follow the Texas Asbestos Health Protection Rules (TAHPR) which detail specific requirements for material sampling, laboratory analysis, and survey documentation. The exterior of the building, which includes the roof, is regulated by the United States Environmental Protection Agency (EPA) National Emission Standards for Hazardous Air Pollutants (NESHAP) for renovation or demolition.

An experienced individual inspector, licensed by the Texas Department of State Health Services (DSHS), will conduct the roof sampling, including coring of the roof. We will attempt to minimize damage. Repair of said damage is not included in our proposal, although we will provide temporary patches.

The samples obtained will be sent to a DSHS-licensed laboratory where they will be analyzed for the presence of asbestos using Polarized Light Microscopy (PLM) in accordance with the EPA "Method for the Determination of Asbestos in Bulk Building Materials" (EPA/600/R-93/116, July 1993).

REPORTING

Baer Engineering will prepare a written letter report to document the survey findings. The letter will present the background information, purpose and scope of the survey, the survey procedures, survey findings, and recommendations. The letter report will include:

- A list of homogeneous areas sampled for asbestos;
- A list of material samples collected/tested with identification of samples that were found to contain asbestos;
- Quantity estimates of each homogeneous area of ACM identified;
- Photographs of each homogenous material tested positive for ACM; and
- Individual laboratory analysis reports.

The information obtained by the survey, material sampling, and laboratory analysis can be used along with specific renovation or demolition plans to develop abatement plans, if necessary. The scope of our proposed services does not include development of abatement plans and specifications. Baer Engineering can provide these services as an additional service and will submit a written proposal for your approval, if requested.

TIME AND FEE INFORMATION

Baer Engineering will perform the above-described scope of services based on the time required and expenses incurred in accordance with the attached Schedule of Fees. We recommend establishing the following not-to-exceed budget:

Item	Unit	Qty.	Unit Price	Cost
Project Management and Quality Control	Hours	2	\$148.17	\$296.34
Field Visit	Hours	10	\$95.75	\$957.50
Reporting	Hours	6	\$95.75	\$574.50
Mileage	Miles	50	\$0.555	\$27.75
Laboratory fees	Samples	21	\$10.00	\$210.00
Total				\$2,066.09

Our service fee includes expenses for two inspectors to perform the site survey work during a five-hour site visit without access delays. Our service fee also includes analysis of up to 21 material samples for asbestos by PLM analysis. Additional sample PLM analysis, if necessary, will be billed at an additional fee of \$10 per sample. Normal turnaround time for laboratory analysis is 5-10 working days. Priority analysis of the samples to receive results within 1-2 days, if requested, will be an additional fee of \$5 per sample. We will provide a verbal report of the findings upon receipt of the laboratory analysis and a written letter report within one week. Requests for additional services, beyond the scope of services presented in this proposal, will be based on the time required and expenses incurred in accordance with the attached schedule of fees. We will not exceed this budget without your prior authorization.

SURVEY QUALIFICATIONS

Baer Engineering will observe existing conditions on the roof using generally accepted procedures. Concealed materials may not be detected if there are no visible indications that such materials are present. Baer Engineering will attempt to locate hidden materials, based upon the inspector's professional judgment of where such materials may likely exist. However, please be

aware that it may not be possible to identify all concealed materials. Additional sampling may be necessary if demolition or renovation uncovers concealed suspect materials.

The analysis of the samples obtained with respect to the presence and amount of asbestos, if any, is limited to that for the discrete area and quantity of material sampled at that particular location. Different analytical results may be obtained at adjacent areas due to variations in the material type and consistency.

This proposal is contingent on safe access to the roof available by stepladder through the existing roof hatch.

AUTHORIZATION

The services addressed above will be performed in accordance with the attached Professional Services Contract. You can authorize Baer Engineering to proceed with the above proposed services by signing the work authorization line on the last page of the contract and returning a complete copy to us. Once received, we will sign the contract and send you a copy for your records. Our work product will be prepared on the behalf of and for the exclusive use of Williamson County.

We look forward to assisting you with these services. Please contact us if you have questions concerning these services or require adjustments to our approach.

Respectfully submitted,
BAER ENGINEERING AND ENVIRONMENTAL CONSULTING, INC.



Stephanie Ashley
Senior Scientist
Asbestos Consultant License No. 10-5713

Attachments: 2012 Schedule of Fees
Professional Services Contract