CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Engineering

AGENDA DATE: January 26, 2010

CONTACT PERSON NAME AND PHONE NUMBER: R. Alan Shubert, P.E., City Engineer 541-4423

DISTRICT(S) AFFECTED: All Districts

SUBJECT:
That the City Manager be authorized to sign the Agreement for Engineering Services by and between the City of El Paso and R. W. Beck, Inc, a Washington Corporation, for a project known as "Municipal Solid Waste Engineering" for an amount not to exceed four hundred thousand and 00/100 Dollars ($400,000.00) and that the City Engineer be authorized to approve up to $50,000.00 in additional services for a total contract amount not to exceed four hundred fifty thousand and 00/100 Dollars ($450,000.00).

BACKGROUND / DISCUSSION:
The Engineering Department completed the Architect/Engineer Selection Process and selected R. W. Beck, Inc. The scope of work includes municipal solid waste engineering consulting services for a period of one year after City Council approval.

PRIOR COUNCIL ACTION:
Has the Council previously considered this item or a closely related one?
N/A

AMOUNT AND SOURCE OF FUNDING:
N/A

BOARD / COMMISSION ACTION:
N/A

**********REQUIRED AUTHORIZATION**********

DEPARTMENT HEAD: _____

(If Department Head Summary Form is initiated by Purchasing, Client department should sign also)

Information copy to appropriate Deputy City Manager

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign the Agreement for Engineering Services by and between the City of El Paso and R. W. Beck, Inc, a Washington Corporation, for a project known as "Municipal Solid Waste Engineering" for an amount not to exceed four hundred thousand and 00/100 Dollars ($400,000.00) and that the City Engineer be authorized to approve up to $50,000.00 in additional services for a total contract amount not to exceed four hundred fifty thousand and 00/100 Dollars ($450,000.00).

ADOPTED THIS _____ DAY OF _____, 2010.

CITY OF EL PASO:

_____
John F. Cook, Mayor

ATTEST:

_____
Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

Mark Shoesmith
Assistant City Attorney

APPROVED AS TO CONTENT

R. Alan Shubert, P.E.
City Engineer

Summary

Project Name: **Municipal Solid Waste Engineering**

District: N/A

Scope of work:

GENERAL DESCRIPTION:

NON-EXCLUSIVITY:
Award of this contract does not preclude the City from obtaining similar services from other qualified consultants, nor does it require the city to provide notice that other qualified consultants will be asked to perform these services.

Projects performed under the Municipal Solid Waste Engineering Services contract may include, but are not limited to the following types of services. This scope of services is intended to represent the types of projects that may arise during the term of the contract; however, not all of these services may be required of the Consultant during the contract term. The Consultant may supplement their in-house capabilities through teaming arrangements with other firms. If the contractor elects to subcontract any of the work described below, the cost of the contractor's oversight of his subcontractor will be borne by the contractor, the City will only pay for oversight with prior written approval. This includes but is not limited to field oversight and report preparation and review. The contractor shall obtain City written approval prior to any travel expenses required to perform any of the work described below.

Municipal Solid Waste

The Consultant must have good working knowledge of the Federal (RCRA Subtitle D, 40 CFR) and State (30 TAC Chapter 330) environmental regulations governing the management of municipal solid waste. The Consultant may be required to provide the following types of municipal solid waste services:

- Conduct groundwater monitoring activities at landfill facilities, perform statistical analysis groundwater data, evaluate statistically significant levels, and provide management of groundwater monitoring well installation or abandonment activities.
- Prepare groundwater sampling and analysis plans, groundwater monitoring reports, statistical analysis plans and reports, and groundwater monitoring well installation or abandonment reports for TCEQ approval.

- Prepare storm water pollution prevention plans for municipal solid waste facilities and/or conduct storm water quality monitoring activities at landfill facilities.
- Prepare landfill gas management plans, conduct landfill gas monitoring, install or abandon landfill gas monitoring probes or landfill gas vents, design and implement a corrective action program, and design and install passive or active landfill gas removal systems.
- Prepare and implement corrective action programs.
- Conduct periodic Tier II Non-Methane Organic Compound sampling and analysis, perform air emission calculations for landfill facilities, and prepare air permit application documentation and annual emissions inventories.
- Update or prepare closure or post-closure cost estimates.
- Prepare permit modifications for municipal solid waste permit documents and obtain TCEQ approval. Consultant may also be required to prepare permit amendments.
- Perform topographical surveys of landfill facilities and volume calculations for the completion of annual waste reports. Periodic topographical surveys with aerial photography may also be requested.
- Design and prepare construction plans and specifications for landfill facility components; such as, leachate evaporation ponds, landfill cells and leachate collection systems, final cover systems, storm water management structures, and erosion control structures. Consultant may also be required to perform oversight of the construction of such components.
- Conduct feasibility studies or strategic planning activities.
- Design and prepare plans and specifications for citizen collection sites or other collection facilities. Consultant may also be required to provide construction management services for the construction of such facilities.
- Design and prepare plans and specifications for transfer stations and material recovery facilities. Consultant may also be required to provide construction management services for the construction of such facilities.
- Conduct routing studies using GIS to optimize the residential collection routes.
- Perform technical services related to waste minimization, recycling, waste-to-energy, and other renewable energy systems.

The Consultant shall have a minimum of four years of extensive practical experience providing the municipal solid waste services described above. The analytical laboratory conducting the analysis of groundwater samples shall have prior experience with the analytical reporting requirements for municipal solid waste landfills in Texas. The laboratory for this contract should maintain accreditation by approved, independent accrediting organizations, e.g., American Association for Laboratory Accreditation (A2LA) and/or demonstrate successful participation in appropriate proficiency analytical testing programs for the testing that they will perform under this contract, and/or be in good standing with EPA and TCEQ, as necessary.

Household Hazardous Waste Program

The Consultant must have a good knowledge of the Federal (40 CFR, Chapter I, Parts 265 to 299) and State (30 TAC Chapter 335) environmental regulations governing the management of industrial solid waste and municipal hazardous waste. The Consultant may be required to provide the following types of household hazardous waste program services:

- Design and prepare plans and specifications for household hazardous waste collection facilities. Consultant may also be required to provide construction management services for the construction of such facilities.
- Prepare operational plans or health and safety plans for household hazardous waste collection facilities.
- Provide training to City of El Paso personnel regarding operational and safety procedures at household hazardous waste collection sites.
- Assist the City of El Paso in the classification and proper disposal of hazardous waste.

Consultant shall have a minimum of two years experience related to hazardous waste services.

Department Requesting Service: Engineering and Environmental

Procurement Type: Architect/Engineer Selection Process (Qualification based)

Request for Qualification Notification Date: December 28, 2009

Firms that were notified: All pre-qualified Electrical Engineering firms

Request for Qualification Due Date: January 8, 2010

Architect/Engineer firms that submitted RFQ packages:

Parkhill Smith and Cooper
R W Beck
Ninyo and Moore
CDM
Malcolm Pirnie
Encon
CSA
URS

Raba-Kistner
Plaza

Architect Engineer Selection Committee Members:

Irene Ramirez, P.E., Assistant City Engineer
Javier Reyes, P.E., Engineering Division Manager
Sam Rodriguez, P.E., Engineering Division Manager
Miguel Parra, P.E., Division Manager

Date Final ranking was submitted: January 19, 2010

Final Ranking of Firms

Firm	Rank	Outcome
PS &C	1	Finalist
R W Beck	2	Finalist
Ninyo and Moore	3	Not Selected
CDM	4	Not Selected
Malcolm Pirnie	5	Not Selected
Encon	6	Not Selected

CSA	7	Not Selected
URS	8	Not Selected
Raba-Kistner	9	Not Selected
Plaza	10	Not Selected

Date firms were notified in writing of final selection: January 19, 2010

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

AN AGREEMENT FOR PROFESSIONAL SERVICES
(Agreements over $100,000.00)

This Agreement is made this _____ **day of** _____, **2010** by and between the **CITY OF EL PASO**, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as the **"Owner"**, and R.W. Beck, Inc. a Washington Corporation, hereinafter referred to as the **"Consultant"**.

WHEREAS, the Owner intends to engage the Consultant to perform professional services for a project known as **"MUNICIPAL SOLID WASTE ENGINEERING,"** hereinafter referred to as the **"Project"**, as further described in **Attachment "A"**; and

WHEREAS, the Consultant has been selected to perform such services as required by the Owner, and the Consultant was selected through the Owner's selection procedure, in accordance with all applicable state and local laws and ordinances;

NOW, THEREFORE, for the consideration set forth in this Agreement and its attachments, the Owner and Consultant agree as follows:

ARTICLE I.
ATTACHMENTS

1.1 The attachments listed herein and attached to this Agreement are incorporated herein by reference for all purposes.

Attachment "A"	Scope of Services and Project Budget
Attachment "B"	Consultant's Fee Proposal and Hourly Rates
Attachment "C"	Consultant's Basic and Additional Services
Attachment "D"	Payment and Deliverable Schedules

ARTICLE II.
PROJECT

2.1 The Owner hereby agrees to retain the Consultant and the Consultant agrees to perform professional services for the Project as professional consultant for the Project. The Project shall consist of the Consultant's completion of the Scope of Services as further described in **Attachment "A".** Such Scope of Services shall be completed in accordance with the identified phases described in **Attachment "D"**.

2.2 In completion of such phases, the Consultant shall comply with the City of El Paso Engineering Department Construction Document Guidelines in effect on the execution date of this Agreement in the performance of the services requested under the Design Phase of this Agreement. Such Guidelines are available in the Engineering Department.

2.3 The Consultant shall serve as the Owner's professional representative in those phases of the Project to which this Agreement applies and shall give consultation and advice to the Owner during the performance of services.

2.4 The Owner shall provide all available information to the Consultant, as to the Owner's requirements for each construction contract. The Owner shall also provide to the Consultant, all known information pertinent to the Project site, including previous reports and other data relative to design, such as "as-built" drawings or physical conditions now existing at the Project site. In performing its services, the Consultant will be entitled to rely upon the accuracy of the Owner provided information.

2.5 The Owner hereby designates the City Engineer of the City of El Paso as the Owner's representative with respect to the professional services to be provided by the Consultant pursuant to this Agreement. The City Engineer shall have complete authority to transmit instructions, receive information, interpret and define Owner's policies, and decisions with respect to materials, equipment, elements, and systems pertinent to the work covered by this Agreement. City Engineer will render written decisions within a five working days time period.

ARTICLE III.
CONSULTANT FEES AND PROJECT BUDGET

3.1 PAYMENT TO CONSULTANT. The Owner shall pay to the Consultant an amount not to exceed FOUR HUNDRED THOUSAND AND 00/100 DOLLARS ($400,000.00) for all basic services and reimbursables performed pursuant to this Agreement. The Consultant's fee proposal for the performance of all Basic Services and reimbursables is attached hereto as **Attachment "B"**. Payments to the Consultant shall be made pursuant to the schedule enumerated within **Attachment "D"**.

3.2 CONSULTANT'S SERVICES. The Basic Services to be provided by the Consultant for this Agreement are attached hereto as **Attachment "C"**. If authorized by the City Engineer, prior to the performance of such services, the Consultant may perform such Additional Services as also enumerated within **Attachment "C"** in an amount not to exceed $50,000.00. Additional Services exceeding $50,000.00 must have prior approval by City Council through written amendment to this Agreement. Owner shall make payment for such Basic and Additional Services at the rates established by Consultant within **Attachment "B"**.

3.3 CONSULTANT'S INVOICES. The Consultant shall bill the Owner not more often than monthly, through written invoices pursuant to the schedule established in **Attachment "D"**. Invoices shall indicate the costs for outside consultants with copies of their invoices as back-up materials as well as other authorized direct costs for hourly rate contracts. All invoices shall be made in writing. Within ninety days of substantial completion of construction, all outstanding invoices for all work completed to date by the Consultant shall be submitted to the Owner.

3.3.1 Each invoice shall contain a brief summary indicating, at a minimum, the total Project budget, the total amount authorized for the Consultant, the current invoiced amount and the amount billed to date. In addition to the Summary, each invoice shall provide a Progress Report. The Progress Report shall describe, at a minimum, the progress of the Project to date also indicating the percentage of completion of each phase. The established schedule for completion shall not be revised except by written amendment to this Agreement, executed by both parties.

3.3.2 The Owner agrees to pay invoices for all services performed as soon as reasonably possible but not later than thirty (30) days from receipt. Upon dispute, however, the Owner may, upon notice to the Consultant, withhold payment to the Consultant for the amount in dispute only, until such time as the exact amount of the disputed amount due the Consultant is determined. The total amount paid to Consultant shall not exceed Consultant's fee proposal, except by written amendment to this Agreement, executed by both parties.

3.4 PROJECT CONSTRUCTION BUDGET. The Consultant acknowledges that the construction budget for this Project allocates **N/A AND 00/100 DOLLARS (N/A)** for the award of a construction contract base bid, which is to include all features essential to the operation of the Project for its intended use as described in the Scope of Services and Project budget in **Attachment "A"**. The Consultant does hereby agree to design the Project such that the Consultant's final agreed cost opinions for the construction of the Project, including all features essential to its intended use, is within the above budgeted amount for the base bid. If the Consultant's cost opinions exceed the Project Budget at any time, the Consultant shall make recommendations to the Owner to adjust the Project's size or quality and the Owner shall cooperate with the Consultant to adjust the scope of the Project. If all responsible bids exceed the City approved Consultant's final cost opinions by more than **ten percent (10%)**, the Consultant agrees, at the direction of the Owner, to redesign the Project without additional charge to the Owner in order to bring the Project within the budgetary limitations.

3.5 COSTS NOT ENUMERATED. Except as specifically set forth in this Agreement and its attachments, all costs related to the completion of the services requested herein shall be borne by the Consultant and not passed on to the Owner or otherwise paid by the Owner, unless a written amendment to this Agreement is executed by both parties allowing for additional costs.

ARTICLE IV.
PERIOD OF SERVICE AND TERMINATION

4.1 PERIOD OF SERVICE. The services called for by each phase shall begin upon the issuance of a Notice to Proceed from the City Engineer. The Consultant shall complete the requested services in accordance with the timelines and schedules outlined in **Attachments "C" and "D"**. **FOR REQUIREMENTS CONTRACTS ONLY:** The term of this Agreement shall be for a period not to exceed 365 **consecutive calendar days**, except as specifically noted herein.

4.2 SUSPENSION. Barring an early termination as provided herein, this Agreement shall remain in force: a) For a period which may reasonably be required for the design, award of construction contracts, and construction of the improvements included in all construction contracts, including extra work and required extensions thereto; or b) Unless construction has not begun within a period of **twelve (12) months** after the completion of the services called for in that phase of work last authorized. However, should the Consultant's services be suspended for a period longer than six months, the City and Consultant may renegotiate remaining fees due to changes in salaries or increased costs that may occur during the suspension period. The Owner may determine that this Agreement will remain in full force past the twelve-month period noted above. Such a determination will be based upon the individual circumstances of this Project and this Agreement.

4.3 TERMINATION. This Agreement may be terminated as provided herein.

4.3.1 TERMINATION BY OWNER. It is mutually understood and agreed by the Consultant and Owner that the Owner may terminate this Agreement, in whole or in part for the convenience of the Owner, upon **fourteen (14) consecutive calendar days** written notice. It is also understood and agreed that upon such notice of termination, the Consultant shall cease the performance of services under this Agreement. Upon such termination, the Consultant shall provide one final invoice for all services completed and reimbursable expenses incurred prior to the Owner's notice of termination. Owner shall compensate Consultant in accordance with this Agreement; however, the Owner may withhold any payment to the Consultant that is held to be in dispute for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined. Nothing contained herein, or elsewhere in this Agreement shall require the Owner to pay for any services that are not in compliance with the terms of this Agreement and its attachments.

4.3.2 TERMINATION BY EITHER PARTY. It is further understood and agreed by the Consultant and Owner that either party may terminate this Agreement in whole or in part. Such a termination may be made for failure of one party to substantially fulfill its contractual obligations, pursuant to this Agreement, and through no fault of the other party. No such termination shall be made, unless the other party being terminated is granted: a) written notice of intent to terminate enumerating the failures for which the termination is being sought; b) a minimum of **seven (7) consecutive calendar days** to cure such failures; and c) an opportunity for consultation with the terminating party prior to such termination. However, the Owner retains the right to immediately terminate this Agreement for default if the Consultant violates any local, state, or federal laws, rules or regulations that relate to the performance of this Agreement. In the event of termination by the Owner pursuant to this subsection, the Owner may withhold payments to the Consultant for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined.

4.3.3 TERMINATION SHALL NOT BE CONSTRUED AS RELEASE. Termination by either party shall not be construed as a release of any claims that the terminating party may be lawfully entitled to assert against the terminated party. Further,

the terminated party shall not be relieved of any liability for damages sustained by the terminating party by virtue of any breach of this Agreement.

ARTICLE V.
INSURANCE AND INDEMNIFICATION

5.1 INSURANCE. The Consultant shall have **seven (7) calendar days** from date of award to obtain sufficient insurance as required herein. Consultant shall not commence work under this Agreement until the Consultant has obtained the required insurance and such insurance has been approved by the Owner. The Consultant shall maintain the required insurance throughout the term of this Agreement. Failure to maintain said insurance shall be considered a material breach of this Agreement.

5.1.1 WORKERS' COMPENSATION INSURANCE. The Consultant shall procure and shall maintain during the life of this Agreement, Workers' Compensation Insurance as required by applicable Texas law for all of the Consultant's employees to be engaged in work under this Agreement. The Consultant shall provide the following endorsement:

> "The policy is endorsed to provide that insurer waives any right of subrogation it may acquire against the Owner, its partners, agents and employees by reason of any payment made on or account of injury, including death resulting therefrom, sustained by any employee of the insured."

5.1.2 COMMERCIAL LIABILITY, PROPERTY DAMAGE LIABILITY AND AUTOMOBILE LIABILITY INSURANCE. The Consultant shall procure and shall maintain during the life of this Agreement such Commercial General Liability, Property Damage Liability and Automobile Liability Insurance as shall protect the Consultant and the Consultant's employees performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from operations under this contract, whether such operations be by the Consultant or by anyone directly or indirectly employed by the Consultant. The minimum limits of liability and coverages shall be as follows:

a) <u>COMMERCIAL GENERAL LIABILITY</u>

Personal Injury or Death
$500,000.00 for one person or occurrence
$1,000,000.00 for two or more persons or occurrences

Property Damage
$500,000.00 per occurrence

General Aggregate
$1,000,000.00

b) <u>AUTOMOBILE LIABILITY</u>

Combined Single Limit

$1,000,000.00 per accident

5.1.3 PROFESSIONAL LIABILITY INSURANCE. The Consultant shall procure and shall maintain, at the Consultant's sole expense, Professional Liability Insurance for the benefit of the Owner to cover the errors and omissions of the Consultant, its principals or officers, agents or employees in the performance of this Agreement with a limit of ONE MILLION AND 00/100 DOLLARS ($1,000,000.00) on a claims made basis.

5.1.4 OWNER AS ADDITIONAL INSURED. The Owner shall be named as an Additional Insured on all of the Consultant's Insurance Policies, with the exception of Workers' Compensation and Professional Liability Insurance required by this Contract.

5.1.5 PROOF OF INSURANCE. The Consultant shall furnish the City Engineer with certificates showing the type of insurance coverages, limits on each insurance policy, class of operations covered under each insurance policy, effective dates and expiration dates of policies, insurance companies providing the insurance coverages, name of agent/broker and include confirmation of any endorsement(s) required in this agreement.

5.1.6 GENERAL INSURANCE PROVISIONS. All certificates required herein shall be attached hereto and incorporated for all purposes as **Attachment "E"**. All certificates shall also include the name of the project on the corresponding insurance certificate. Further, each certificate shall contain the following statement:

> "The insurance covered by this certificate will not be canceled, and there will be no change in coverage or deductibles, except after thirty (30) consecutive calendar days written notice of intent to cancel or change said insurance has been provided to the City of El Paso.

5.2 INDEMNIFICATION. To the fullest extent permitted by law, Consultant shall indemnify and hold harmless Owner, and Owner's officers, directors, partners, agents consultants, and employees from and against any claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by any negligent act or omission of Consultant or Consultant's officers, directors, partners, agents, consultants or employees. This indemnification provision is subject to and limited by the provisions agreed to by Owner and Consultant, as noted below. The Consultant shall not be responsible for any acts of any of the City's Independent Project Managers.

To the extent allowed by state law, the Owner will be responsible for its own actions.

5.2.1 CONSULTANT'S LIABILITY LIMITED TO AMOUNT OF INSURANCE REQUIREMENTS. Consultant shall procure and maintain insurance as required by and

set forth in the terms and conditions of this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Consultant and Consultant's officers, directors, partners, employees, agents, and consultants (hereafter referred to collectively as "Consultant"), to Owner and anyone claiming by through, or under Owner for any and all claims, losses, costs, or damages, whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied of Consultant (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Consultant by Consultant's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Consultant's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal). If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Consultant to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner's claims shall not exceed $250,000.00 per person or $500,000.00 per incident with property damage liability limited to $100,000.00 per incident.

ARTICLE VI.
FEDERAL PROVISIONS

6.1 COMPLIANCE WITH APPLICABLE LAWS - FEDERAL FUNDING REQUIREMENTS

Consultant, at Consultant's sole expense, agrees that it will operate and perform its responsibilities and covenants under this Agreement in accordance with applicable laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, including, but not limited to, those which shall impose any duty upon the Owner or Consultant with respect to the use of federal funds and nondiscrimination in the administration of contracts which are funded, in whole or in part, with federal funds.

Specifically, and not in limitation of the foregoing, Consultant agrees that to the extent required by any agreement between the Owner and any Federal agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project, **including but not limited to:**

--The Federal Transit Administration (FTA) through a Grant Agreement or Cooperative Agreement with the Owner, or supported by FTA through a Loan, Loan Guarantee, or Line of Credit with the Owner.

--The Department of Housing and Urban Development through a Grant Agreement or Cooperative Agreement with the Owner.

--The Federal Aviation Administration through a Grant Agreement or Cooperative Agreement with the Owner.

Copies of grant assurances will be made available to Consultant. However, provided copies shall in no way be a limitation on the Consultant's obligation to comply with any Federal agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project.

6.1.1 CONTRACT ASSURANCE. The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

6.1.2 DBE GOOD FAITH EFFORTS. The requirements of 49 CFR Part 26, regulations of the U.S. DOT, applies to this contract. It is the policy of the Owner to practice nondiscrimination based on race, color, sex or national origin in the award of performance of this contract. All firms qualifying under this solicitation are encouraged to submit proposals. Award of this contract will be conditioned upon satisfying the requirements of this proposal. These requirements apply to all offerors, including those who qualify as a DBE. A DBE contract goal of 0% has been established for this contract. The offeror shall make good faith efforts, as defined in Appendix A, 40 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the offeror's commitment to use a DBE subconsultant whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts. The offeror shall submit the information with its proposal as a condition of responsiveness.

DBE participation in this contract may be in the form of a prime contract, subcontract, joint venture, or other arrangement that qualifies under 49 CFR Section 26.55 or 26.53(g), both of which will be submitted on a Letter of Intent to the Owner.

6.2 TERMINATION FOR CANCELLATION OF GRANT.

Should this Agreement be terminated as a result of cancellation of federal funds covering this Project, the Owner shall promptly notify the Consultant of the cancellation by certified mail-return receipt requested, whereupon the Consultant shall immediately, on receipt of the letter, cease and desist from performing any other work or services hereunder. In such an event, the Consultant will be paid for professional services performed to such date, upon furnishing the Owner a progress report and an invoice to such date, and upon acceptance of the work by the Owner.

ARTICLE VII.
GENERAL PROVISIONS

7.1 CONTRACT TIME. Consultant understands and agrees to provide all professional services and deliverables requested herein, as expeditiously as is consistent with professional skill and care, and to use its best efforts to complete all phases of this Agreement within the time schedules indicated within **Attachment "D"**. It is acknowledged that the Consultant does not have control over all aspects of the design and construction process and cannot warrant that it will complete all services and deliverables by a certain date. The Consultant shall timely notify the City Engineer of any delay beyond its control and the City Engineer shall extend the time schedule in the event of delays which the City Engineer reasonably determines are beyond the control of the Consultant. The Consultant will perform these services with reasonable diligence and expediency consistent with sound professional practices and consistent with the schedule provided in **Attachment "D"**.

7.2 OPINION OF PROBABLE COST. As a design professional practicing in El Paso the Consultant is expected to be familiar with the cost of construction, labor, and materials in the El Paso area and of bidding and market trends. The cost opinions of construction cost provided by the Consultant, as required herein, are to be made in light of such familiarity and are expected to be within **ten percent (10%)** of the bid for the base bid item expected from the lowest responsible bidder.

The Consultant's final cost opinions for the construction of the Project, shall take into account labor costs which shall be based on the current City of El Paso prevailing wage rates as adopted by the City Council. In the event that the Project is funded with federal funds, the higher of the City of El Paso prevailing wage rates or the Davis-Bacon wage rates shall be utilized by the Consultant in compiling a final cost opinions for the Project.

If the Consultant's most recent cost opinion for any construction contract is in excess of the Project construction budget, the Owner shall give written approval of an increase in the limit, or shall cooperate in revising the Project's scope or quality, or both, to reduce the cost as required. Such revisions shall be made, and Drawings and Specifications modified by the Consultant without further compensation.

As noted herein, if all responsible bids exceed the final cost opinion by more than **ten percent (10%)**, the Consultant agrees, at the direction of the Owner, to redesign the Project without additional charge to the Owner in order to bring the Project within the budgetary limitations.

7.3 CONSULTANT'S QUALITY OF WORK. The Owner's review of any documents prepared by the Consultant is only general in nature and its option to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in its professional service. The Consultant's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project and in accordance with the time periods established in **Attachment "D"** and which shall be adjusted, if necessary, as the project proceeds. This schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for

approval of submissions by authorities having jurisdiction over the project. The identified time limits shall not, except for reasonable cause, be exceeded by the Consultant or Owner. Services provided by the Consultant under this Agreement shall be performed in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar circumstances.

7.4 COPYRIGHT AND REPRODUCTION RIGHTS. Upon payment of amounts due, the Drawings, Specifications, concepts and design, and other documents prepared by the Consultant for this Project including, without limitation, those in electronic form (sometimes referred to as the "Instruments of Service") are the property of the Owner, who shall be vested with all common law and statutory rights. The Owner shall have the right to the use of the Drawings, Specifications and other documents for the maintenance, repair, remodeling and renovation of the Project; provided however the Consultant shall have no liability for any use of one or more of the Instruments of Service by the Owner for maintenance, repair, remodeling and renovation of the project. The Owner shall have the consent of the Consultant, provided, however, the Consultant shall have no liability or responsibility for such use of the Drawings, Specifications, concepts and design, and other documents. The rights granted to the Owner herein for the use of the Drawings, Specifications and other documents for additional projects shall not grant the Owner any right to rely upon the Consultant's seal on the Drawings and Specifications or to hold the Consultant responsible for any subsequent use of the Drawings, Specifications and documents. The Consultant shall provide the Owner with copies of the Instruments of Service in both electronic form and in hard copy.

7.5 AUDITING RECORDS FOR THE SPECIFIC PROJECT. Consultant's records subject to audit shall include but not be limited to records which, in the Owner's discretion, have a bearing on matters of interest to the Owner in connection with the Consultant's work on this Project for the Owner and shall be open to inspection and subject to audit and/or reproduction by Owner's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of (a) Consultant's compliance with contract requirements, and (b) compliance with provisions for computing Direct Personnel Expense with reimbursables, if applicable.

Such records subject to audit shall also include those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Agreement. In those situations where Consultant's records have been generated from computerized data, Consultant agrees to provide Owner's representatives with extracts of data files in computer readable format on data disks or suitable alternative computer data exchange format.

The Owner or its designee shall be entitled, at its expense, to audit all of the Consultant's records related to this Project, and shall be allowed to interview any of the Consultant's employees, pursuant to the provisions of this section throughout the term of this contract and for a period of **three (3) years** after final payment or longer if required by law. Such audits may require inspection and photo copying of selected documents from time to time at reasonable times and places.

7.6 SUCCESSORS AND ASSIGNS. This Agreement shall be binding on the Owner and the Consultant, their successors and assigns. Neither party may assign, sublet, or transfer its interest in this Agreement without the written consent of the other.

7.7 VENUE. For the purpose of determining place of Agreement and the law governing the same, this Agreement is entered into in the City and County of El Paso, the State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.

7.8 GOVERNING LAW. The Consultant shall comply with applicable Federal, State and local laws and ordinances applicable to the work contemplated herein.

7.9 CAPTIONS. The captions of this Agreement are for information purposes only, and shall in no way affect the substantive terms or conditions of this Agreement.

7.10 SEVERABILITY. Should any section, paragraph or other provision of this Agreement be found invalid, such invalidity shall not affect the remaining provisions of this Agreement.

7.11 NOTICES. Any notice, demand, request, consent or approval that either party may or is required to provide to the other shall be in writing and either personally delivered or sent via certified mail, return receipt, to the following addresses:

To the Owner:	The City of El Paso Attn: City Manager 2 Civic Center Plaza El Paso, Texas 79901
With a Copy to:	The City of El Paso Attn: City Engineer 2 Civic Center Plaza El Paso, Texas 79901
To the Consultant:	R. W. Beck, Inc. Attn: Scott Pasternak, Senior Director 5806 Mesa Drive, Suite 310 Austin, Texas 78731

Changes may be made to the names and addresses noted herein through timely, written notice to the other party.

7.12 CONFLICTING PROVISIONS. Any provision contained in any Attachments to this Agreement, which may be in conflict or inconsistent with any of the provisions in this Agreement shall be void to the extent of such conflict or inconsistency.

7.13 ENTIRE AGREEMENT. This Agreement, including attachments, constitutes and expresses the entire agreement between the parties and supersedes all prior negotiations,

representations or agreements, whether written or oral. This Agreement shall not be amended or modified, except by written amendment, executed by both parties.

WITNESS THE FOLLOWING SIGNATURES AND/OR SEALS:

CITY OF EL PASO:

_____
Joyce Wilson, City Manager

CONSULTANT:
R. W. Beck, Inc.

By: _____

APPROVED AS TO FORM:

for Mark Shoesmith
Assistant City Attorney

APPROVED AS TO CONTENT:

R. Alan Shubert, P.E.
City Engineer

(Acknowledgements on following page)

ACKNOWLEDGEMENTS

THE STATE OF TEXAS §
§
COUNTY OF EL PASO §

This instrument was acknowledged before me on this _____ day of _____, 2010, by **Joyce A. Wilson,** as **City Manager** of the **City of El Paso, Texas.**

_____
Notary Public, State of Texas

My commission expires:

_____

THE STATE OF TEXAS §
§
COUNTY OF El PASO §

This instrument was acknowledged before me on this _____ day of _____, 2010, by **Scott Pasternak,** as **Senior Director** of **R. W. Beck, Inc.**

_____
Notary Public, State of Texas

My commission expires:

_____

ATTACHMENT A

PROJECT SCOPE

TITLE: Municipal Solid Waste Engineering

LOCATION: Citywide

CONSULTING SERVICES AGREEMENT VALUE: Not to exceed $400,000.00

GENERAL DESCRIPTION: This contract will be used for on-call municipal solid waste engineering services.

SERVICES INCLUDE:

[X] Investigation

[X] Design

[X] Bidding

[X] Planning

[X] Material Investigation and Testing

[X] Construction Administration

PRODUCTS REQUIRED:

[X] Study / Report

[X] Other Analysis, As Requested

[X] Plans, Specifications and Estimates

[X] As-Built Plans

GENERAL REQUIREMENTS AND CRITERIA:

1. Design must meet all applicable City Codes and Ordinances.
2. Design must comply with Engineering Department Guidelines.
3. Design must comply with all local, state and federal laws and regulations, including but not limited to the Americans with Disabilities Act.

OTHER CONSIDERATIONS:

1. Work to be coordinated with the Engineering Department.
2. This contract will be for a period of one (1) year.

PROJECT SCHEDULE:

Project Schedules to be developed for each assignment as needed.

ATTACHMENT A

Scope of Services

TITLE: Municipal Solid Waste Engineering Services

NON-EXCLUSIVITY:
Award of this contract does not preclude the City from obtaining similar services from other qualified consultants, nor does it require the city to provide notice that other qualified consultants will be asked to perform these services.

Projects performed under the Municipal Solid Waste Engineering Services contract may include, but are not limited to the following types of services. This scope of services is intended to represent the types of projects that may arise during the term of the contract; however, not all of these services may be required of the Consultant during the contract term. The Consultant may supplement their in-house capabilities through teaming arrangements with other firms. If the contractor elects to subcontract any of the work described below, the cost of the contractor's oversight of his subcontractor will be borne by the contractor, the City will only pay for oversight with prior written approval. This includes but is not limited to field oversight and report preparation and review. The contractor shall obtain City written approval prior to any travel expenses required to perform any of the work described below.

Municipal Solid Waste

The Consultant must have good working knowledge of the Federal (RCRA Subtitle D, 40 CFR) and State (30 TAC Chapter 330) environmental regulations governing the management of municipal solid waste. The Consultant may be required to provide the following types of municipal solid waste services:

- Conduct groundwater monitoring activities at landfill facilities, perform statistical analysis groundwater data, evaluate statistically significant levels, and provide management of groundwater monitoring well installation or abandonment activities.
- Prepare groundwater sampling and analysis plans, groundwater monitoring reports, statistical analysis plans and reports, and groundwater monitoring well installation or abandonment reports for TCEQ approval.
- Prepare storm water pollution prevention plans for municipal solid waste facilities and/or conduct storm water quality monitoring activities at landfill facilities.
- Prepare landfill gas management plans, conduct landfill gas monitoring, install or abandon landfill gas monitoring probes or landfill gas vents, design and implement a corrective action program, and design and install passive or active landfill gas removal systems.
- Prepare and implement corrective action programs.
- Conduct periodic Tier II Non-Methane Organic Compound sampling and analysis, perform air emission calculations for landfill facilities, and prepare air permit application documentation and annual emissions inventories.
- Update or prepare closure or post-closure cost estimates.
- Prepare permit modifications for municipal solid waste permit documents and obtain TCEQ approval. Consultant may also be required to prepare permit amendments.

- Perform topographical surveys of landfill facilities and volume calculations for the completion of annual waste reports. Periodic topographical surveys with aerial photography may also be requested.
- Design and prepare construction plans and specifications for landfill facility components; such as, leachate evaporation ponds, landfill cells and leachate collection systems, final cover systems, storm water management structures, and erosion control structures. Consultant may also be required to perform oversight of the construction of such components.
- Conduct feasibility studies or strategic planning activities.
- Design and prepare plans and specifications for citizen collection sites or other collection facilities. Consultant may also be required to provide construction management services for the construction of such facilities.
- Design and prepare plans and specifications for transfer stations and material recovery facilities. Consultant may also be required to provide construction management services for the construction of such facilities.
- Conduct routing studies using GIS to optimize the residential collection routes.
- Perform technical services related to waste minimization, recycling, waste-to-energy, and other renewable energy systems.

The Consultant shall have a minimum of four years of extensive practical experience providing the municipal solid waste services described above. The analytical laboratory conducting the analysis of groundwater samples shall have prior experience with the analytical reporting requirements for municipal solid waste landfills in Texas. The laboratory for this contract should maintain accreditation by approved, independent accrediting organizations, e.g., American Association for Laboratory Accreditation (A2LA) and/or demonstrate successful participation in appropriate proficiency analytical testing programs for the testing that they will perform under this contract, and/or be in good standing with EPA and TCEQ, as necessary.

Household Hazardous Waste Program

The Consultant must have a good knowledge of the Federal (40 CFR, Chapter I, Parts 265 to 299) and State (30 TAC Chapter 335) environmental regulations governing the management of industrial solid waste and municipal hazardous waste. The Consultant may be required to provide the following types of household hazardous waste program services:

- Design and prepare plans and specifications for household hazardous waste collection facilities. Consultant may also be required to provide construction management services for the construction of such facilities.
- Prepare operational plans or health and safety plans for household hazardous waste collection facilities.
- Provide training to City of El Paso personnel regarding operational and safety procedures at household hazardous waste collection sites.
- Assist the City of El Paso in the classification and proper disposal of hazardous waste.

Consultant shall have a minimum of two years experience related to hazardous waste services.

ATTACHMENT B

January 20, 2010

R·W·BECK

An SAIC Company

Ms. Irene Ramirez, P.E.
Assistant City Engineer
City of El Paso
Engineering Department
2 Civic Center Plaza, 4th Floor
El Paso, Texas 79901

Subject: **Municipal Solid Waste Engineering Services – Fee Proposal**

Dear Ms. Ramirez:

R. W. Beck, Inc. (R. W. Beck) is looking forward to providing municipal solid waste engineering services for the City of El Paso (City). As requested, we are submitting our fee proposal to the City. This fee proposal is consistent with the prior fee proposal that was approved by City Council in 2007. Specifically, the proposed rates included in this 2010 fee proposal are the same as the Year 3 (2010) fees that were included in the 2007 fee schedule.

Should the City need further information, please contact me at (512) 651-6405 or spasternak@rwbeck.com.

Sincerely,

R. W. BECK, INC.

Scott Pasternak
Senior Director

SP/ms

5306 MESA DRIVE, SUITE 310, AUSTIN, TX 78731 (P) 512.450.0971 (F) 512.450.0515

R. W. Beck, Inc.
Engineering Services Fee Schedule
El Paso, Texas

ATTACHMENT B

I. HOURLY BILLING CLASS RATES	2010
Principal	$ 247
Senior Director	$ 194
Project Managers	$ 178
Senior Engineers	$ 157
Senior Consultants	$ 157
Staff Engineers and Scientists	$ 127
Junior Engineers and Consultants	$ 105
Auto CAD	$ 78
Clerical	$ 42

II. UNIT COST RATES		
Black & White Copies (any size)	$ 0.10	per page
Color Copies/Prints (8.5X11")	$ 0.50	per page
Color Copies/Prints (>8.5X11")	$ 1.00	per page
Color Transparencies	$ 1.00	per page
Facsimile: Outgoing Long Distance	$ 1.00	per page
Facsimile: Incoming	n/a	
Postage	U.S.P.S Rates	

III. REIMBURSABLES	
Printing/Reproduction/Binding	At cost
Long Distance Communications	At cost
Shipping/Delivery	At cost
Airfare	At cost
Hotel	At cost
Meals	At cost
Mileage Rate	At cost
Car Rental	At cost
Supplies	At cost

IV. CONTRACTED CONSULTANTS AND SERVICES	Cost plus 10 %

ATTACHMENT "C"
CONSULTANT'S BASIC AND ADDITIONAL SERVICES

(Agreements over $100,000.00)

For the Project known as "Municipal Solid Waste Engineering," hereinafter referred to as the Project, the Consultant will provide the Basic and Additional Services as noted herein.

BASIC SERVICES OF THE CONSULTANT

GENERAL

1. The Consultant agrees to perform professional services in connection with the Project as hereinafter stated.

2. The Consultant shall comply with the City of El Paso Engineering Department Construction Document Guidelines, which are in effect at the time of this Agreement and are available in the City Engineering Department, in the performance of the services requested under the design phases of this Agreement.

3. The Consultant shall serve as the Owner's professional representative in those phases of the Project to which this Agreement applies, and shall give consultation and advice to the Owner during the performance of services.

4. The Owner is relying upon the skill, reasonable care and knowledge of the Consultant to furnish the Owner with a project within the allocated budget. The Owner's review of any documents prepared by the Consultant is only general in nature and its obligation to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in the project.

REPORT PHASE

1. Upon receipt of the Owner's written authorization to proceed with the **Report Phase**, the Consultant shall:

   a. Consult with the Owner to determine the requirements of the Project and together with the Owner develop a mutually acceptable scope for the Project.

   b. Provide preliminary investigations, studies, topographic surveys including ties to known monuments of right-of-way lines, general supervision of any other services obtained as described in Part 1.c. of this section and interpreting or incorporating results of any such services for inclusion in the Preliminary Study and Report referred to in Part 1.d. of this section.

   c. (1) Provide consultation and advice as to the necessity of providing or obtaining other services such as: (a) Property surveys, boundary surveys, right-of-way surveys, and utility surveys, (b) Core borings, probings, and hydrographic surveys, (c) Laboratory testing, and (d) Inspection or other special consultation; (2) Act as the Owner's

representative in connection with such services; and (3) If concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.

d. Prepare a Preliminary Study and Report on the Project based on the mutually accepted program in sufficient detail to indicate clearly the problems involved and the alternative solutions available to the Owner, to include schematic layouts, sketches, flow diagrams and reports of studies, and a general opinion of probable construction costs for such of the above listed improvements to be included in the Project, and to set forth the Consultant's recommendations.

e. As per Attachment "D", furnish the Preliminary Study and Report and a general opinion of probable construction cost opinion to the Owner.

2. Upon receipt of the Preliminary Study and Report and before the Consultant is authorized to proceed with the Preliminary Design Phase, the Owner at its option may designate in writing various construction contracts into which the Project shall be divided, each of which may include one or more of the above listed improvements to be constructed. If the Owner designates various construction contracts into which the Project is to be divided, the Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, and final design drawings, specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.

3. As identified in the Scope of Work in Attachment "A", the Consultant shall investigate the extent and character of any potential soil or water contamination on the properties identified in the Scope of Work, conduct asbestos investigations, environmental site assessments, and provide other environmental engineering services as required and authorized. Services not included in the original scope of work shall be considered Additional Services. The Consultant shall perform such professional services as may be necessary to accomplish the work required to be performed under this Agreement, in accordance with this Agreement, applicable Texas Commission on Environmental Quality and Texas Department of State Health Services Regulations, and any and all applicable state, federal and local laws. The Consultant shall develop an Investigation Plan for the identified properties. Upon approval of the Investigation Plan by the City, the City shall arrange to issue a Notice to Proceed for the Consultant to proceed in relation to an identified property.

PHASE I - PRELIMINARY DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the **Preliminary Design Phase**, the Consultant shall do the following separately for each construction contract:

1. Consult with the Owner to determine the Owner's requirements for the Project.

ATTACHMENT "C"
CONSULTANT'S BASIC AND ADDITIONAL SERVICES

2. Provide at the Consultant's sole expense right-of-way surveys, boundary surveys, topographic surveys, drainage surveys, and soil investigations as needed to design the Project and as required by the Scope of Work of the Agreement; obtain all available information from all utility companies and other affected agencies including, but not limited to, the Texas Department of Transportation and the U.S. Department of Interior, Bureau of Reclamation, as needed to complete the proper design. This does not, however, include property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.

3. Obtain all available horizontal and vertical locations of public utilities, and fully coordinate design of the Project with public utilities in an effort to minimize relocation of utilities as much as possible.

4. Make drawings from field measurements of existing construction when required for planning additions or alterations thereto.

5. Provide consultation and advice as to the necessity of providing or obtaining other services such as the types described herein, and act as the Owner's representative in connection with any such services, and if concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.

6. Review with the Owner alternative approaches in regard to the construction of the Project. The Owner at its option may designate in writing various construction contracts into which the Project shall be divided. The Consultant may request additional reasonable compensation if the Owner designates various construction contracts into which the Project is to be divided. The Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, pre-final design, and final design specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.

7. Prepare for approval by the Owner preliminary design documents consisting of evaluation of existing structural report, design criteria, drawings, and outline specifications to develop, and establish the scope of each construction contract.

8. Prepare a detailed opinion of probable construction costs for each construction contract containing the main construction components, based on the information given in the preliminary design documents.

9. As per Attachment "D", furnish copies of the above preliminary design documents and opinion of probable construction costs for each construction contract. If the above preliminary design documents are not approved by the Owner, the Consultant shall

furnish copies of the resubmitted preliminary design documents at no additional cost to the Owner.

PHASE II - PRE-FINAL DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the Pre-Final Design Phase, the Consultant shall do the following separately for each construction contract:

1. Prepare required documents and assist the Owner in obtaining approval of such governmental authorities as may have jurisdiction over the design criteria applicable to each construction contract. The Consultant's assistance in obtaining such approvals shall include participation in submissions to and negotiations with the appropriate authorities. The Consultant shall be fully responsible for coordination with all utility companies to resolve conflicts pertaining to location of utility lines and shall exercise customary and usual professional care for obtaining utility clearances. Since some utility locations may not be recorded or mapped, additional efforts to locate utilities maybe required as an additional service upon written approval of the Owner.

2. On the basis of the approved preliminary design documents and subject to approval of design criteria, prepare for incorporation in the construction contract documents detailed drawings and plans, hereinafter called the **"Drawings,"** to show the character and scope of the work to be performed by construction contractors on each construction contract, instructions to bidders, general conditions, special conditions, and technical provisions, hereinafter called **"Specifications."** These plans shall include the required cross sections from actual fieldwork for estimated earthwork quantities.

3. Advise the Owner of any adjustment to the Consultant's previous opinion of probable construction costs for each construction contract caused by changes in scope, design requirements, general market conditions, or construction costs and furnish a revised opinion of probable construction costs, based on the completed Drawings and Specifications. The Consultant expressly authorizes any person designated by the Owner to review at any time prior to the Bidding Phase any opinion of probable construction costs made by the Consultant. The Consultant agrees to cooperate fully in such review, and shall furnish the access to all pertinent information upon which the Consultant's cost opinions were based. In addition, detailed estimates to include orderly presented takeoff sheets, summary and main summary sheets are to be provided to the Owner. Nothing in this provision shall be construed as limiting or waiving the right of the Owner to obtain such information at any other time, or as relieving the Consultant of the responsibility of preparing opinions of probable construction costs. The Owner understands that the Consultant has no control over the cost of availability of labor, equipment, market conditions, or the contractor's method of pricing and that the Consultant's opinion of probable construction costs are made on the basis of professional judgment and experience. The Consultant makes no warranty that the bids will not vary from the opinion of probable construction costs.

4. Prepare proposal forms.

5. As per Attachment "D", furnish to the Owner copies of the Drawings for review by the Owner, other governmental authorities, and the public utilities. If the Drawings are not approved by the Owner, the Consultant shall furnish copies of the resubmitted Drawings at no additional cost to the Owner. Furnish to the Owner copies of the Specifications and copies of the design analysis showing all engineering calculations for review by the Owner, other governmental authorities who may have jurisdiction over each construction contract, and the public utilities.

PHASE III - FINAL DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the Final Design Phase, the Consultant shall do the following separately for each construction contract:

1. Incorporate changes requested by the Owner and other governmental authorities after review of pre-final design documents and perform redesign necessitated by public utility conflicts.

2. Coordinate closely with utility companies during the Preliminary Design and Pre-Final Design Phases. The amount of redesign necessary to accommodate utility company comments on the pre-final design drawings is expected to be in proportion to the effectiveness of that coordination and is to be performed by the Consultant as part of the Final Design Phase of this Agreement. The Consultant shall obtain written utility clearance from all utility companies affected by the scope of this Project as part of the Final Design Phase of this Agreement.

3. Submit to the Texas Department of Licensing and Regulation, or a State Certified ADA consultant, a set of Final Design Drawings for ADA review and approval.

4. As per Attachment "D", furnish to the Owner copies of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes.

5. As per Attachment "D", furnish to the Owner copies of the Drawings and Specifications in final approved form for bidding purposes for each construction contract.

6. Additional copies of the drawings and specifications beyond those identified in Attachment "D", required for public utilities and other agencies, will be provided by the Consultant as an Additional Service.

BIDDING PHASE

Upon receipt of Owner's written request, the Consultant shall provide any of the following services during the Bidding Phase:

ATTACHMENT "C"
CONSULTANT'S BASIC AND ADDITIONAL SERVICES

1. Assist the Owner in the determination of the bidding period and bid date and provide necessary data for preparation of the notice to bidders by the Owner as required for advertising purposes.

2. Assist the Owner in responding to all questions from prospective bidders concerning the Drawings and Specifications.

3. Attend a pre-bid conference, if any, to explain the Project and to answer questions regarding the Project.

4. Prepare addenda to the Drawings and Specifications as may be required during the advertising period. Any addenda issued shall be approved by all agencies having approval authority over the Drawings and Specifications. As per Attachment "D", deliver copies of all addenda to the Owner for appropriate action.

5. As identified in Attachment "A", assist the Owner in evaluating bids, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the three lowest responsible bidders or assist the Owner in rating all bidders using Best Value Evaluation Criteria provided by the Owner, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the bidders. If Best Value Evaluation Criteria are required after the consulting fees have been negotiated and accepted, Consultant may request Additional Services fees.

6. Advise the Owner concerning the acceptability of subcontractors and other persons and organizations proposed by the general construction contractor for those portions of the work for which such acceptability is required by the construction contract documents.

CONSTRUCTION PHASE

At Owner's request, the Consultant shall provide any of the following services associated with the Construction Phase:

1. Attend the pre-construction conference to assist the Owner in responding to all questions from the construction contractor.

2. Advise and consult with the Owner and act as the Owner's representative as provided in the general conditions of the Agreement included in the construction contract. Such general conditions shall be the Owner's standard general conditions for construction projects, with such changes and modifications as may be made in such general conditions being agreed to by both the Consultant and the Owner.

3. Unless otherwise stipulated in Attachment "A", Scope of Services, the Consultant will stake one set of control stakes for the construction contractor.

4. Visit each construction site at least once each week or more frequently, if necessary, to observe the progress and quality of the executed work and to determine if such work meets the essential performance and design features and the technical and functional requirements of the construction contract documents. The Consultant shall provide the Owner with typed or printed field notes for each construction site visit. On the basis of these on-site observations, the Consultant shall endeavor to guard the Owner against apparent defects and deficiencies in the permanent work constructed by the construction contractor. The Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, and shall not be responsible for the construction means, methods, techniques, sequences, or procedures, or the safety precautions incident thereto. The Consultant's efforts shall be directed toward providing assurance for the Owner that each completed construction contract shall conform to the engineering requirements of the construction contract documents. However, the Consultant shall not be responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

   Nothing in this Agreement shall be construed as requiring the Consultant to assume responsibility for or to guarantee the complete adherence of the construction contractor to the Drawings and Specifications and the construction contract documents.

5. Review shop drawings diagrams, illustrations, brochures, catalog data, schedules, and samples, the results of tests and inspections and other data which the construction contractor is required to submit, for conformance with the design concept of each construction contract and compliance with the information given in the construction contract documents. **Such review must be complete within ten City working days following receipt of submittal documents.** The Consultant shall also assemble maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, and other documents that the construction contractor is required to submit in accordance with the construction contract documents.

6. Issue the Owner's instructions to the construction contractor when required to do so, prepare routine change orders to include independent detailed opinion of probable construction cost for the Owner's approval as required after securing approval of all agencies having approval authority over each construction contract. The Consultant shall require, as the Owner's representative and subject to the written concurrence by the Owner, special inspection or testing of the work, whether or not fabricated, installed, or completed and shall act as interpreter of the terms and conditions of the construction contract documents, subject to the Owner's interpretation of such terms and conditions. If the Owner authorizes such testing, it shall be addressed under the provisions of Additional Services of the Consultant.

7. Based on the Consultant's on-site observations as an experienced and qualified design professional and on review of the construction contractor's applications for payment and supporting data, determine the amount owing to the construction contractor and recommend in writing payment to the construction contractor in such amounts; such recommendation of payment to constitute a representation to the Owner, based on such observations and review, that the work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information and belief, the quality of the work is in accordance with the construction contract documents, subject to an evaluation of the work as a functioning project upon substantial completion, to the results of any subsequent tests called for in the construction contract documents and to any qualifications stated in his approval. By recommending an application for payment, the Consultant shall not be deemed to have represented that the Consultant has made any examination to determine how or for what purposes the construction contractor has used the monies paid on account of each construction contract price.

8. Conduct with the Owner and construction contractor no more **than two brief preliminary inspections**, at times requested by the construction contractor to determine if the Project is ready for final inspection.

9. Schedule and conduct with the Owner, including representative of the City Engineer and the user department, the State ADA inspector or State certified ADA consultant, and the construction contractor, a final inspection of the Project and prepare and publish a "punch list" of minor deficiencies to be corrected prior to final payment to the construction contractor. The **"punch list"** shall be furnished to the construction contractor and the Owner within **two City working days** after the final inspection.

10. Issue a "Certificate of Substantial Completion" using EJCDC document 1910-8-D (1983 version) when the final inspection reveals that the Project is substantially complete and fully usable for its intended purpose with only minor deficiencies to be corrected. The certificate shall be issued within **two City working days** after the final inspection.

11. Monitor and verify proper correction of all punch list deficiencies. Notify the Owner in writing when all deficiencies have been corrected, and when warranty, maintenance, and operating instructions and other documents have been submitted by the construction contractor. Act on and forward the construction contractor's final invoice for payment.

12. Furnish the Owner one set of reproducible **(D format)** "record" drawings **on Mylar** showing changes made during the construction process, based on the marked-up prints, drawings, and other data furnished by the construction contractor to the Consultant. Also provide project documents in acceptable electronic media format

13. Make written recommendations to the Owner on all claims relating to the execution and progress of the construction work.

14. Notify the Owner of all permanent work which does not conform to the result required in each construction contract; prepare a written report describing any apparent nonconforming permanent work, and make recommendations to the Owner for its correction and, at the Owner's request, have recommendations implemented by the construction contractor.

15. Furnish property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.

16. Revise previously approved studies, reports, design documents, drawings, or specifications, except when said revisions are required as a result of errors, negligence, or other fault on the part of the Consultant.

17. Prepare documents for alternate bids requested by the Owner for construction work for which bids have not been awarded.

18. If Best Value Evaluation Criteria are required after the Consulting fees have been negotiated and accepted, the Consultant may request Additional Service fees.

19. Prepare detailed renderings, exhibits, or scale models for the Project, except as otherwise required herein.

20. Furnish additional tests and inspections, in excess of those required herein during the Construction Phase.

21. Prepare change orders requiring additional significant design changes not provided for in the Agreement, requested by the Owner.

22. Inspect each construction contract site prior to expiration of the guarantee period and report, in written form, observed discrepancies under guarantees provided by the construction contractor.

23. Provide additional or extended services during construction made necessary by: **a)** work damaged by fire or other cause during construction; **b)** prolongation of the construction contract time by more than **twenty-five percent** provided that such prolongation is not caused by errors, negligence, or other fault on the part of the Consultant; **c)** Acceleration of the work schedule involving services beyond normal city working hours; or **d)** the construction contractor's default under the construction contract due to delinquency or insolvency.

24. Provide extensive assistance in the initial start-up and test operation of equipment or devices and the preparation of manuals of operation and maintenance.

25. Serve as an expert witness for the Owner in any litigation or other proceeding involving the Project.

ADDITIONAL SERVICES OF THE CONSULTANT

GENERAL

If authorized in writing by the Owner, through written amendment, the Consultant shall perform or obtain Additional Services noted below, which are not covered within the Agreement. No claim for Additional Services or cost shall be allowed unless the same was done pursuant to a written authorization dated prior to the Additional Services or cost and which was authorized pursuant to the policies and procedures of the Owner (i.e., passage by City Council). The Owner shall pay for such Additional Services as indicated in the Agreement.

1. Furnish core borings, probings, and hydrographic surveys; laboratory testing; inspection of samples or materials; and other special consultations.

2. Provide Additional Services due to significant changes in the general scope of the Project or its design including, but not limited to, changes in size, complexity, or character of construction if the changes are inconsistent with approvals or instructions previously given by the Owner including revisions made necessary by adjustments in the Owner's scope or budget, except where the Consultant's preliminary study and report, preliminary design, pre-final design, or final design cost opinions exceed the budgeted amount, or in the case where all responsible bids exceed the Consultant's final design cost opinions by **ten percent** or more.

3. Furnish additional copies of studies, reports, and additional prints of Drawings and Specifications in excess of those required herein.

4. Provide investigations involving detailed consideration of operation, maintenance, and overhead expenses as well as the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals and valuations, detailed quantity surveys of material or labor.

5. Provide Additional Services in connection with the Project not otherwise provided for in this Agreement, except where those services are required as a result of negligence or other fault on the part of the Consultant.

RESIDENT PROJECT SERVICES

1. If directed in writing by the Owner, one or more full-time Resident Project Representatives shall be furnished and directed by the Consultant in order to provide more extensive representation at each construction site during the Construction Phase. Such resident project representation shall be paid for by the Owner.

ATTACHMENT "C"
CONSULTANT'S BASIC AND ADDITIONAL SERVICES

2. The duties and responsibilities and the limitations on the authority of the Resident Project Representative shall be as set forth in writing by the City Engineer before such services begin.

3. Through the continuous on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative, the Consultant shall endeavor to provide further protection for the Owner against defects and deficiencies in the work of the construction contractors, but the furnishings of such resident project representation shall not make the Consultant responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

Deleted: ¶

ATTACHMENT "D"
PAYMENT AND DELIVERABLE SCHEDULES

For the Project known as "(MUNICIPAL SOLIDE WASTE ENGINEERING)", hereinafter referred to as the Project, the Owner will compensate the Consultant an amount not to exceed (FOUR HUNDRED THOUSAND) 00/100 DOLLARS ($400,000.00) for all Basic Services and reimbursables noted within the Agreement and its attachments.

PAYMENT SCHEDULE

Basic services for design shall include the phases listed below at the fixed fee shown for each phase. The remainder of the fixed contract amount, if any, shall consist of the estimate for the time and materials for the bidding phase and construction phase.

	Fixed fee Payment to Consultant
Report Phase	$ N/A
Preliminary Design Phase	$ N/A
Pre-Final Design Phase	$ N/A
Final Design Phase	$ N/A

Bidding Phase	**Time and Materials**	**Proposal Estimated Amount**	**$ N/A**
Construction Phase	**Time and Materials**	**Proposal Estimated Amount**	**$ N/A**

Time and materials shall be billed to Owner by Consultant pursuant to the schedule provided in the consultant's proposal found in Attachment B. The time shown in Attachment B is an estimate. Should the services rendered during the bidding and construction phases exceed the estimated amount, written authorization will be required prior to rendering services. Written authorization shall be only by contract amendment in accordance with the contract provisions. For contracts with a total value less than Fifty Thousand and No/100 Dollars ($50,000), the parties agree that at no time may the amount of the compensation under this contract exceed Fifty Thousand and No/100 Dollars ($50,000) except by execution of an amendment to this Agreement.

Payment for each Phase shall be made on a monthly basis. The Owner shall make payments upon presentation of the Consultant's detailed Invoice and accompanying Summary and Progress Report and the Owner's written approval.

DELIVERABLE SCHEDULE

REPORT PHASE

The services called for in the Report Phase of this Agreement shall be completed and **five copies** of the Preliminary Study and Report shall be submitted within N/A **consecutive calendar days** following written authorization from the Owner for the Consultant to proceed.

ATTACHMENT "D"
PAYMENT AND DELIVERABLE SCHEDULES

PHASE I—PRELIMINARY DESIGN PHASE

The services called for in **Phase I** of this Agreement shall be completed and **fifteen copies** of any required documents and opinion of probable construction costs shall be submitted within N/A **consecutive calendar days** following written authorization from the Owner for the Consultant to proceed.

PHASE II—PRE-FINAL DESIGN PHASE

The services called for in **Phase II** of this Agreement shall be completed and **ten copies** the required documents and services shall be submitted within N/A **consecutive calendar days** following written authorization from the Owner for the Consultant to proceed.

PHASE III—FINAL DESIGN PHASE

The services called for in **Phase III** of this Agreement shall be completed and **three copies** of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes shall be submitted within N/A **consecutive calendar days** following written authorization from the Owner for the Consultant to proceed. And, **thirty copies** of the Drawings and Specifications in final approved form for bidding purposes for each construction contract shall be submitted within N/A **consecutive calendar days** following written authorization from the Owner for the Consultant to proceed.

PHASE IV—BIDDING PHASE

Provide services as authorized by Owner during the bid phase as described in Attachment "C" and submit **three copies** of all addenda to the Owner for appropriate action within N/A **consecutive calendar days.**

PHASE V - CONSTRUCTION PHASE

Provide services as authorized by Owner during construction phase as described in Attachment "C" and submit one set of Mylar and one set of electronic media format copies of all record drawings to the Owner within sixty days from the date of substantial completion.

ATTACHMENT E

MEMORANDUM OF INSURANCE

This Memorandum is issued as a matter of information only to authorized viewers for their internal use only and confers no rights upon any viewer of this Memorandum. This Memorandum does not amend, extend or alter the coverage described below. This Memorandum may only be copied, printed and distributed within an authorized viewer and may only be used and viewed by an authorized viewer for its internal use. Any other use, duplication or distribution of this Memorandum without the consent of Science Applications International Corp. (SAIC) is prohibited. "Authorized viewer" shall mean an entity or person which is authorized by the insured named herein to access this Memorandum via http://www.saic.com/customer/moi/ . The information contained herein is valid as of today's date, and shall be updated upon any material policy changes and upon each policy's renewal.

BROKER Marsh Risk & Insurance Services ("Marsh")	COMPANIES AFFORDING COVERAGE Co. A National Union Fire Insurance Company of Pittsburgh, PA
INSURED R.W. Beck, Inc., a wholly owned subsidiary of SAIC 1001 Fourth Avenue, Suite 2500 Seattle, WA 98154	Co. B New Hampshire Insurance Company Co. C The Insurance Company of the State of Pennsylvania Co. D Underwriters at Lloyd's, London (A F Beazley #623 & #2623) Co. E Factory Mutual Insurance Company

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 MEMORANDUM 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE	LIMITS	
A	GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY INCLUDING CONTRACTUAL LIABILITY (per ISO Form CG0001 12/07) OCCURRENCE FORM	GL 090-73-00	08/01/09	04/01/10	GENERAL AGGREGATE	$ 2,000,000
					PRODUCTS - COMP/OP AGG	$ 2,000,000
					PERSONAL & ADV. INJURY	$ 1,000,000
					EACH OCCURRENCE	$ 1,000,000
					FIRE DAMAGE (ANY ONE FIRE)	$ 1,000,000
					MED EXP (ANY ONE PERSON)	$ 5,000
A	AUTOMOBILE LIABILITY COVERING ANY OWNED AUTOS, HIRED AUTOS & NON-OWNED AUTOS	CA 090-74-87 (All Other States)	08/01/09	04/01/10	COMBINED SINGLE LIMIT	$ 1,000,000
B		CA 090-74-88 (MA)	08/01/09	04/01/10		
A		CA 090-74-89 (VA)	08/01/09	04/01/10		
A	UMBRELLA LIABILITY UMBRELLA FORM	3323652	08/01/09	04/01/10	EACH OCCURRENCE	$ 1,000,000
					AGGREGATE	$ 1,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY INCLUDES USL&H THE PROPRIETOR / PARTNERS / EXECUTIVE OFFICERS ARE: INCLUDED	WC 003-56-7107 (All Other States)	08/01/09	04/01/10	WORKERS COMP LIMITS	STATUTORY
C		WC 003-56-7108 (CA)	08/01/09	04/01/10	EL EACH ACCIDENT	$ 3,000,000
C		WC 003-56-7109 (MA)	08/01/09	04/01/10	EL DISEASE - POLICY LIMIT	$ 3,000,000
B		WC 003-56-7110 (FL)	08/01/09	04/01/10	EL DISEASE - EACH EMPLOYEE	$ 3,000,000
B		WC 003-56-7111(OR)	08/01/09	04/01/10		
B		WC 003-56-7112 (TX)	08/01/09	04/01/10		
A		WC 003-56-7113 (WI, WY)	08/01/09	04/01/10		
D	PROFESSIONAL LIABILITY INCLUDING CONTRACTOR'S POLLUTION LEGAL LIABILITY CLAIMS MADE BASIS	QF 034409	08/01/09	06/30/10	EACH CLAIM	$ 5,000,000
					AGGREGATE	$ 5,000,000
E	ALL RISK PROPERTY INCLUDING ALL REAL & PERSONAL PROPERTY OF INSURED, AND PROPERTY OF OTHERS WHERE REQUIRED	UB 755	10/01/09	10/01/10	AMOUNT OF INSURANCE	$ 1,000,000

The Memorandum of Insurance serves solely to list insurance policies, limits and dates of coverage. Any modifications hereto are not authorized.

ATTACHMENT E

MEMORANDUM OF INSURANCE

This Memorandum is issued as a matter of information only to authorized viewers for their internal use only and confers no rights upon any viewer of this Memorandum. This Memorandum does not amend, extend or alter the coverage described below. This Memorandum may only be copied, printed and distributed within an authorized viewer and may only be used and viewed by an authorized viewer for its internal use. Any other use, duplication or distribution of this Memorandum without the consent of Science Applications International Corp. (SAIC) is prohibited. "Authorized viewer" shall mean an entity or person which is authorized by the insured named herein to access this Memorandum via http://www.saic.com/customer/moi/ . The information contained herein is valid as of today's date, and shall be updated upon any material policy changes and upon each policy's renewal.

BROKER	INSURED
Marsh Risk & Insurance Services ("Marsh") 777 South Figueroa Street Los Angeles, CA 90017	R.W. Beck, Inc., a wholly owned subsidiary of SAIC 1001 Fourth Avenue, Suite 2500 Seattle, WA 98154

ADDITIONAL INFORMATION

Please note that the above Liability policies, except the Professional Liability policy, are endorsed to provide that our customers and any other organizations or persons where required by contract or agreement we enter into are named as Additional Insureds under these policies. Additionally, coverage applies on a primary basis where required by contract, and, a waiver of subrogation is provided in favor of any person or organization required pursuant to the terms of any contract or agreement we enter into.

Please note that the above Property policy is endorsed to provide that our customers and any other organizations or persons where required by contract or agreement we enter into are named as Loss Payees As Their Interest May Appear under this policy.

Should you wish to view these endorsements, or print a copy for your files, please click on the below links.

GENERAL LIABILITY ENDORSEMENTS:

Additional Insured – Where Required Under Contract Or Agreement (AIG Form 61712 (9/01))
http://www.saic.com/customer/moi/download/GL_Where_Required_by_Contract.pdf

Additional Insured – Managers or Lessors of Premises (Form CG 20 11 01 96)
http://www.saic.com/customer/moi/download/GL_Mgr_or_Lessors_of_Premises.pdf

Additional Insured – Lessor of Leased Equipment (CG 20 28 07 04)
http://www.saic.com/customer/moi/download/GL_Lessor_of_LeasedEquip.pdf

Additional Insured – Vendors (Form CG 20 15 07 04)
http://www.saic.com/customer/moi/download/GL_Vendors.pdf

Additional Insured – Primary Insurance (AIG Form 74434 (10/99))
http://www.saic.com/customer/moi/download/GL_Primary_Insurance.pdf

Waiver Of Transfer Of Rights Of Recovery Against Others To Us (CG 24 04 10 93)
http://www.saic.com/customer/moi/download/GL_Waiver_of_Subrogation.pdf

AUTOMOBILE LIABILITY ENDORSEMENTS:

Additional Insured – Where Required Under Contract Or Agreement (AIG Form 87950 (10/05))
http://www.saic.com/customer/moi/download/AL_Where_Req'd_by_Contract.pdf

Lessor – Additional Insured and Loss Payee (CA 20 01 10 01)
http://www.saic.com/customer/moi/download/AL_Lessor_Loss_Payee.pdf

Insurance Primary As To Certain Additional Insureds (AIG Form 74445 (10/99))
http://www.saic.com/customer/moi/download/AL_Primary_Insured.pdf

Waiver of Transfer of Rights Of Recovery Against Others To Us (AIG Form 62897 (06/95))
http://www.saic.com/customer/moi/download/AL_Waiver_of_Subrogation.pdf

WORKERS' COMPENSATION & EMPLOYERS LIABILITY ENDORSEMENTS:

Waiver of Our Right To Recover From Others
http://www.saic.com/customer/moi/download/WC_Waiver_of_Subrogation.pdf

UMBRELLA LIABILITY ENDORSEMENTS:

Additional Insured – please note that because the AIG Umbrella Prime form #80517 05/06 policy definition of an Insured includes: "Any person or organization, other than the Named Insured, included as an additional insured under the Schedule of Underlying Insurance, but not for broader coverage than would be afforded by such Schedule of Underlying Insurance" that there is no separate Additional Insured endorsement applicable to this policy. Therefore, if you are an Additional Insured on the General Liability or Automobile Liability policies above, that status extends to the Umbrella Liability policy as well.

Transfer of Rights of Recovery (Waiver of Subrogation) – please note that because the AIG Umbrella Prime form #80517 05/06 policy states that "If, prior to the time of an Occurrence, you and the insurer of Scheduled Underlying Insurance waive any right of recovery against a specific person or organization for injury or damage as required under an Insured Contract, we will also waive any rights we may have against such person or organization." that there is no separate Waiver of Subrogation endorsement applicable to these policy. Therefore, if you are granted a Waiver of Subrogation on the General Liability, Automobile Liability or Employers Liability policies above, that status extends to the Umbrella Liability policy as well.

PROFESSIONAL LIABILITY ENDORSEMENTS:

Waiver of Subrogation – please note that the policy wording states that "However, it is agreed that the Underwriters waives its rights of subrogation under this policy against any person or organization as respects Claims arising from Professional Services or Contracting Services provided under a contract to perform such Professional Services or Contracting Services which requires a waiver of subrogation, but only to the extent required by written contract. Therefore, if our contract requires we waive our rights of subrogation in your favor, the waiver extends to this policy.

NOTICE OF CANCELLATION:

Please note that due to the very large number of contracts that SAIC and its subsidiaries enter into each year, the above policies do not contain an endorsement obligating the insurer to provide any advance written notice directly to anyone but SAIC. However, insurers have endorsed their policy to provide SAIC with 90 days advance written notice of any cancellation (except 10 days for non-payment of premium) so as to enable SAIC to provide any required Notices to its customers in accordance with agreed to contract terms and conditions.

The Memorandum of Insurance serves solely to list insurance policies, limits and dates of coverage. Any modifications hereto are not authorized.

ATTACHMENT E

TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM 04/01/2009 forms a part of Policy No. WC 003-56-7112

Issued to SAIC, INC.

By NEW HAMPSHIRE INSURANCE COMPANY

This endorsement applies only to the insurance provided by the policy because Texas is shown in Item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule where you are required by a written contract to obtain this waiver from us.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule.
The premium for this endorsement is shown in the Schedule.

Schedule

1. ( ) Specific Waiver

   (X) Blanket Waiver
   Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations: ALL TEXAS OPERATIONS

3. Premium:

   The premium charge for this endorsement shall be 2.0 percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium:

WC 42 03 04A
(Ed. 01/00)

Countersigned by _____

Authorized Representative

INSURED'S COPY

ATTACHMENT E

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM 04/01/2009 forms a part of Policy No. WC 003-56-7111

Issued to SAIC, INC.

By NEW HAMPSHIRE INSURANCE COMPANY

Premium INCLUDED

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

Schedule

ANY PERSON OR ORGANIZATION TO WHOM YOU BECOME
OBLIGATED TO WAIVE YOUR RIGHTS OF RECOVERY
AGAINST, UNDER ANY CONTRACT OR AGREEMENT YOU ENTER
INTO PRIOR TO THE OCCURRENCE OF LOSS.

This form is not applicable in California, Kentucky, New Hampshire, New Jersey, North Dakota, Ohio, Tennessee, Texas, Utah, Washington, or West Virginia.

WC 00 03 13
(Ed. 04/84)

Countersigned by _____

Authorized Representative

INSURED'S COPY

ATTACHMENT E

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM 04/01/2009 forms a part of Policy No. WC 003-56-7110

Issued to SAIC, INC.

By NEW HAMPSHIRE INSURANCE COMPANY

Premium INCLUDED

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

Schedule

ANY PERSON OR ORGANIZATION TO WHOM YOU BECOME
OBLIGATED TO WAIVE YOUR RIGHTS OF RECOVERY
AGAINST, UNDER ANY CONTRACT OR AGREEMENT YOU ENTER
INTO PRIOR TO THE OCCURRENCE OF LOSS.

This form is not applicable in California, Kentucky, New Hampshire, New Jersey, North Dakota, Ohio, Tennessee, Texas, Utah, Washington, or West Virginia.

WC 00 03 13
(Ed. 04/84)

Countersigned by _____

Authorized Representative

ATTACHMENT E

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM 04/01/2009 forms a part of Policy No. WC 003-56-7109

Issued to SAIC, INC.

By THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA

Premium INCLUDED

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

Schedule

ANY PERSON OR ORGANIZATION TO WHOM YOU BECOME
OBLIGATED TO WAIVE YOUR RIGHTS OF RECOVERY
AGAINST, UNDER ANY CONTRACT OR AGREEMENT YOU ENTER
INTO PRIOR TO THE OCCURRENCE OF LOSS.

This form is not applicable in California, Kentucky, New Hampshire, New Jersey, North Dakota, Ohio, Tennessee, Texas, Utah, Washington, or West Virginia.

WC 00 03 13
(Ed. 04/84)

Countersigned by _____

Authorized Representative

INSURED'S COPY

ATTACHMENT E

BLANKET WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM 04/01/2009 forms a part of Policy No. WC 003-56-7108

Issued to SAIC, INC.

By THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA

We have a right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against any person or organization with whom you have a written contract that requires you to obtain this agreement from us, as regards any work you perform for such person or organization.

The additional premium for this endorsement shall be 2 % of the total estimated workers compensation premium for this policy.

WC 04 03 61
(Ed. 11/90)

Countersigned by _____

Authorized Representative

INSURED'S COPY

ATTACHMENT E

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM 04/01/2009 forms a part of Policy No. WC 003-56-7107

Issued to SAIC, INC.

By NEW HAMPSHIRE INSURANCE COMPANY

Premium INCLUDED

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

Schedule

THE PREMIUM FOR THE ENDORSEMENT IS INCLUDED

ANY PERSON OR ORGANIZATION TO WHOM YOU BECOME OBLIGATED TO WAIVE YOUR RIGHTS OF RECOVERY AGAINST, UNDER ANY CONTRACT OR AGREEMENT YOU ENTER INTO PRIOR TO THE OCCURRENCE OF LOSS.

This form is not applicable in California, Kentucky, New Hampshire, New Jersey, North Dakota, Ohio, Tennessee, Texas, Utah, Washington, or West Virginia.

WC 00 03 13
(Ed. 04/84)

Countersigned by _____

Authorized Representative

INSURED'S COPY

ATTACHMENT E

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM 04/01/2009 forms a part of Policy No. WC 003 56 7113

Issued to SAIC, INC.

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.

Premium INCLUDED

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

Schedule

ANY PERSON OR ORGANIZATION TO WHOM YOU BECOME
OBLIGATED TO WAIVE YOUR RIGHTS OF RECOVERY
AGAINST, UNDER ANY CONTRACT OR AGREEMENT YOU ENTER
INTO PRIOR TO THE OCCURRENCE OF LOSS.

This form is not applicable in California, Kentucky, New Hampshire, New Jersey, North Dakota, Ohio, Tennessee, Texas, Utah, Washington, or West Virginia.

WC 00 03 13
(Ed. 04/84)

Countersigned by _____

Authorized Representative

INSURED'S COPY

ATTACHMENT E

POLICY NUMBER: GL 090-73-00

COMMERCIAL GENERAL LIABILITY
CG 24 04 10 93

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

1. TEXAS DEPARTMENT OF TRANSPORTATION

2. CITY OF CLEVELAND
   ATTN: JULIANNE KURDILA, CHIEF ASST DIRECTOR OF LAW
   601 LAKESIDE AVENUE, ROOM 106, CLEVELAND, OH 44114

3. ANY PERSON OR ORGANIZATION REQUIRING A WAIVER OF TRANSFER OF RIGHTS OF RECOVERY PURSUANT TO THE TERMS OF ANY CONTRACT OR AGREEMENT YOU ENTER INTO WITH SUCH PERSON OR ORGANIZATION.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US Condition (Section IV - COMMERCIAL GENERAL LIABILITY CONDITIONS) is amended by the addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

Copyright, Insurance Services Office, Inc., 1992

INSURED'S COPY

ATTACHMENT E

ENDORSEMENT

This endorsement, effective 12:01A.M. 04/01/2009 forms a part of

policy No. CA 090-74-87 issued to SAIC, INC.
SCIENCE APPLICATIONS INTERNATIONAL CORPORATION

by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INSURANCE PRIMARY AS TO CERTAIN ADDITIONAL INSUREDS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section IV - Business Auto Conditions, B., General Conditions, 5., Other Insurance, c., is amended by the addition of the following sentence:

The insurance afforded under this policy to an additional insured will apply as primary insurance for such additional insured where so required under an agreement executed prior to the date of accident. We will not ask any insurer that has issued other insurance to such additional insured to contribute to the settlement of loss arising out of such accident.

All other terms and conditions remain unchanged.

Authorized Representative or
Countersignature (in States Where
Applicable)

74445 (10/99)

INSURED'S COPY

ATTACHMENT E

ENDORSEMENT

This endorsement, effective 12:01 A.M. 04/01/2009 forms a part of

policy No. GL 090-73-00 issued to SAIC, INC.

by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

ADDITIONAL INSURED - PRIMARY INSURANCE

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Section IV, Commercial General Liability Conditions, paragraph 4., Other Insurance, subparagraph a. Primary Insurance, is amended by the addition of the following:

However, coverage under this policy afforded to an additional insured will apply as primary insurance where required by contract, and any other insurance issued to such additional insured shall apply as excess and noncontributory insurance.

Authorized Representative or Countersignature (in States Where Applicable)

74434 (10/99)