

STATE OF TEXAS                   §  
   §  
COUNTY OF FORT BEND       §

**AGREEMENT FOR ASBESTOS INSPECTION SERVICES**

THIS AGREEMENT ("Agreement") is made and entered into by and between Fort Bend County, (hereinafter "County"), a body corporate and politic under the laws of the State of Texas, and Terracon Consultants, Inc., (hereinafter "Consultant"), a company authorized to conduct business in the State of Texas.

**WITNESSETH**

WHEREAS, County desires that Consultant provide asbestos inspection services concerning 10<sup>th</sup> Street under Mobility Bond Project No. 20106 (hereinafter "Services"); and

WHEREAS, County has determined that this Agreement is for personal or professional services and therefore exempt from competitive bidding under Chapter 262 of the Texas Local Government Code; and

WHEREAS, Consultant represents that it is qualified and desires to perform such services; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

**AGREEMENT**

**Section 1. Scope of Services**

Consultant shall render the asbestos inspection services as described in Consultant's revised proposal, dated October 20, 2023, attached hereto as Exhibit "A," and incorporated herein for all purposes.

**Section 2. Personnel**

2.1 Consultant represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Scope of Services required under this Agreement and that Consultant shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the Scope of Services when and as required and without delays.

2.2 All employees of Consultant shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Consultant who, in the opinion of County, is incompetent or by his conduct becomes detrimental to the project shall, upon request of County, immediately be removed from association with the project.

### **Section 3. Compensation and Payment**

3.1 Consultant's fees shall be calculated at the rates set forth in the attached Exhibit A. The Maximum Compensation for the performance of Services within the Scope of Services described in Exhibit A is Forty-Four Thousand, Five Hundred dollars and no/100 (\$44,500.00) as set forth in Exhibit A. In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without a written agreement executed by the parties.

3.2 All performance of the Scope of Services by Consultant including any changes in the Scope of Services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by County.

3.3 County will pay Consultant based on the following procedures: Upon completion of the tasks identified in the Scope of Services, Consultant shall submit to County staff person designated by the County Engineer, one (1) electronic (pdf) copy of the invoice showing the amounts due for services performed in a form acceptable to County. County shall review such invoices and approve them within 30 calendar days with such modifications as are consistent with this Agreement and forward same to the Auditor for processing. County shall pay each such approved invoice within thirty (30) calendar days. County reserves the right to withhold payment pending verification of satisfactory work performed.

### **Section 4. Limit of Appropriation**

4.1 Consultant clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of Forty-Four Thousand, Five Hundred dollars and no/100 (\$44,500.00) specifically allocated to fully discharge any and all liabilities County may incur.

4.2 Consultant does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Consultant may become entitled to and the total maximum sum that County may become liable to pay to Consultant shall not under any conditions, circumstances, or interpretations thereof exceed Forty-Four Thousand, Five Hundred dollars and no/100 (\$44,500.00).

### **Section 5. Time of Performance**

Time for performance of the Scope of Services under this Agreement shall begin with receipt of the Notice to Proceed from the County and end no later than December 31, 2026. Consultant shall complete the tasks described in the Scope of Services, within this time or within such additional times as may be extended by the County.

### **Section 6. Modifications and Waivers**

6.1 The parties may not amend or waive this Agreement, except by a written agreement executed by both parties.

6.2 No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition.

6.3 The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

## **Section 7. Termination**

7.1 Termination for Convenience – County may terminate this Agreement at any time upon thirty (30) days written notice.

### **7.2 Termination for Default**

7.2.1 County may terminate the whole or any part of this Agreement for cause in the following circumstances:

7.2.1.1 If Consultant fails to perform services within the time specified in the Scope of Services or any extension thereof granted by the County in writing;

7.2.1.2 If Consultant materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.

7.2.2 If, after termination, it is determined for any reason whatsoever that Consultant was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with Section 7.1 above.

7.3 Upon termination of this Agreement, County shall compensate Consultant in accordance with Section 3, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. Consultant's final invoice for said services will be presented to and paid by County in the same manner set forth in Section 3 above.

7.4 If County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Consultant.

## **Section 8. Ownership and Reuse of Documents**

All documents, data, reports, research, graphic presentation materials, etc., developed by Consultant as a part of its work under this Agreement, shall become the property of County upon completion of this Agreement, or in the event of termination or cancellation thereof, at the time

of payment under Section 3 for work performed. Consultant shall promptly furnish all such data and material to County on request.

#### **Section 9. Inspection of Books and Records**

Consultant will permit County, or any duly authorized agent of County, to inspect and examine the books and records of Consultant for the purpose of verifying the amount of work performed under the Scope of Services. County's right to inspect survives the termination of this Agreement for a period of four years.

#### **Section 10. Insurance**

10.1 Prior to commencement of the Services, Consultant shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. Consultant shall provide certified copies of insurance endorsements and/or policies if requested by County. Consultant shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Consultant shall obtain such insurance written on an Occurrence form (or a Claims Made form for Professional Liability insurance) from such companies having Best's rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

10.1.1 Workers' Compensation insurance. Substitutes to genuine Workers' Compensation Insurance will not be allowed.

10.1.2 Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.

10.1.3 Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.

10.1.4 Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.

10.1.5 Professional Liability insurance may be made on a Claims Made form with limits not less than \$1,000,000.

10.2 County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability. All Liability policies including Workers' Compensation written on behalf of Consultant, excluding Professional Liability, shall contain a waiver of subrogation in favor of County and members of Commissioners Court. For Commercial General Liability, the County shall be named as an Additional Insured on a Primary & Non-Contributory basis.

10.3 If required coverage is written on a claims-made basis, Consultant warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time that work under the Agreement is completed.

10.4 Consultant shall not commence any portion of the work under this Agreement until it has obtained the insurance required herein and certificates of such insurance have been filed with and approved by Fort Bend County.

10.5 No cancellation of or changes to the certificates, or the policies, may be made without thirty (30) days prior, written notification to Fort Bend County.

10.6 Approval of the insurance by Fort Bend County shall not relieve or decrease the liability of Consultant.

#### **Section 11. Indemnity**

**CONSULTANT SHALL INDEMNIFY AND HOLD HARMLESS COUNTY AGAINST LOSSES, LIABILITIES, CLAIMS, AND CAUSES OF ACTION, INCLUDING THE REIMBURSEMENT OF COUNTY'S REASONABLE ATTORNEYS FEES IN PROPORTION TO CONSULTANT'S LIABILITY, ARISING FROM ACTIVITIES OF CONSULTANT, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, INTENTIONAL TORT, ERROR, OR OMISSION OF CONSULTANT OR ANY OF CONSULTANT'S AGENTS, SERVANTS OR EMPLOYEES.**

#### **Section 12. Confidential and Proprietary Information**

12.1 Consultant acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Consultant or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Consultant shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Consultant) publicly known or is contained in a publicly available document; (b) is rightfully in Consultant's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of Consultant who can be shown to have had no access to the Confidential Information.

12.2 Consultant agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Consultant uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of

Services to County hereunder, unless disclosure is required by law or court order, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Consultant shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Consultant shall advise County immediately in the event Consultant learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Consultant will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Consultant against any such person. Consultant agrees that, except as directed by County, Consultant will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Consultant will promptly turn over to County all documents, papers, and other matter in Consultant's possession which embody Confidential Information; provided however, that Consultant may retain one (1) copy of all work product produced which incorporates confidential information for its internal record-keeping purposes, subject to the terms of the Agreement.

12.3 Consultant acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Consultant acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.

12.4 Consultant in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

12.5 Consultant expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Consultant shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of this Agreement are not proprietary or confidential information.

12.6 Consultant expressly acknowledges that County is subject to the Texas Open Meetings Act, TEX. GOV'T CODE ANN. §§ 551.001 *et seq.*, as amended, and notwithstanding any

provision in the Agreement to the contrary, County will comply with the provisions of the Texas Open Meetings Act in relation to the Agreement.

**Section 13. Independent Consultant**

13.1 In the performance of work or services hereunder, Consultant shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of contractor or, where permitted, of its subcontractors.

13.2 Consultant and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

**Section 14. Notices**

14.1 Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

14.2 Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County:	Fort Bend County Engineering Department Attn: County Engineer 301 Jackson Street, 4 <sup>th</sup> Floor Richmond, Texas 77469
With a copy to:	Fort Bend County Attn: County Judge 401 Jackson Street, 1 <sup>st</sup> Floor Richmond, Texas 77469
Consultant:	Terracon Consultants, Inc. 11555 Clay Road, Suite 100 Houston, Texas 77043

14.3 A Notice is effective only if the party giving or making the Notice has complied with subsections 14.1 and 14.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

14.3.1 If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.

14.3.2 If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

#### **Section 15. Compliance with Laws**

Consultant shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Consultant shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

#### **Section 16. Standard of Care**

16.1 Consultant represents shall perform the Services to be provided under this Agreement with the professional skill and care ordinarily provided by competent consultant practicing under the same or similar circumstances and professional license. Further, Consultant shall perform the Services as expeditiously as is prudent considering the ordinary professional skill and care of a competent consultant.

16.2 Consultant represents to County that the Services will conform to all requirements and specifications contained in the attached Exhibit A.

#### **Section 17. Assignment**

17.1 Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner.

17.2 Neither party may delegate any performance under this Agreement.

17.3 Any purported assignment of rights or delegation of performance in violation of this Section is void.

#### **Section 18. Applicable Law**

The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity. County does not agree to submit disputes arising out of the Agreement to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted. County does not agree to pay any and/or all attorney fees incurred by Consultant in any way associated with the Agreement.



**Section 19. Successors and Assigns**

County and Consultant bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

**Section 20. Third Party Beneficiaries**

This Agreement does not confer any enforceable rights or remedies upon any person other than the parties.

**Section 21. Severability**

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

**Section 22. Publicity**

Contact with citizens of Fort Bend County, media outlets, or governmental agencies shall be the sole responsibility of County. Under no circumstances whatsoever, shall Consultant release any material or information developed or received in the performance of the Services hereunder without the express written permission of County, except where required to do so by law.

**Section 23. Captions**

The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

**Section 24. Conflict**

In the event there is a conflict between this Agreement and the attached exhibits, this Agreement controls.

**Section 25. Certain State Law Requirements for Contracts**

For purposes of sections 2252.152, 2271.002, and 2274.002, Texas Government Code, as amended, Consultant hereby verifies that Consultant and any parent company, wholly owned subsidiary, majority-owned subsidiary, and affiliate:

25.1 Unless affirmatively declared by the United States government to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization, is not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 806.051, 807.051, or 2252.153 of the Texas Government Code.

25.2 If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Consultant does not boycott Israel and is authorized to agree in such

contracts not to boycott Israel during the term of such contracts. "Boycott Israel" has the meaning provided in section 808.001 of the Texas Government Code.

25.3 If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Consultant does not boycott energy companies and is authorized to agree in such contracts not to boycott energy companies during the term of such contracts. "Boycott energy company" has the meaning provided in section 809.001 of the Texas Government Code.

25.4 If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Consultant does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and is authorized to agree in such contracts not to discriminate against a firearm entity or firearm trade association during the term of such contracts. "Discriminate against a firearm entity or firearm trade association" has the meaning provided in section 2274.001(3) of the Texas Government Code. "Firearm entity" and "firearm trade association" have the meanings provided in section 2274.001(6) and (7) of the Texas Government Code.

#### **Section 26. Human Trafficking**

BY ACCEPTANCE OF AGREEMENT, CONSULTANT ACKNOWLEDGES THAT THE COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.

#### **Section 27. Supplemental Terms and Conditions**

27.1 Site Access and Safety. County shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services. Consultant will be responsible for the supervision of health and safety precautions for any third parties, including County and/or County's contractors, subcontractors or other parties at the site.

2.72. Warranty. EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES.

(Execution Page Follows)


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IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the date signed by the last party hereto.

FORT BEND COUNTY

TERRACON CONSULTANTS, INC.

\_\_\_\_\_  
KP George, County Judge


  
\_\_\_\_\_  
Authorized Agent – Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Edward W. James  
Authorized Agent – Printed Name

APPROVED:

\_\_\_\_\_  
Senior Principal  
Title

  
\_\_\_\_\_  
J. Stacy Slawinski, P.E., County Engineer

\_\_\_\_\_  
11/22/23  
Date

#### AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$\_\_\_\_\_ to accomplish and pay the obligation of Fort Bend County under this contract.

\_\_\_\_\_  
Robert Ed Sturdivant, County Auditor

Exhibit A: Consultant's revised proposal, dated October 20, 2023

# EXHIBIT A

May 12, 2023  
(Revised October 20, 2023)



Mr. Guy Matula  
Fort Bend County Texas  
301 Jackson Street, 4<sup>th</sup> Floor  
Richmond, Texas 77469

Email: [Guy.Matula@fortbendcountytexas.gov](mailto:Guy.Matula@fortbendcountytexas.gov)  
Phone: (281) 633.7529

RE: Proposal for Interior, Exterior and Roof Asbestos Inspections  
Fort Bend County – 10<sup>th</sup> Street Project  
Various Addresses  
Richmond, Texas  
Terracon Proposal No. P92237407

Dear Mr. Matula:

Terracon Consultants, Inc. (Terracon) is pleased to submit this proposal to perform interior, exterior and roof asbestos inspections of approximately 22 residential structures and two multi-family structures (within approximately 27 residential parcels) located in Richmond, Texas. We understand the purpose of these inspections is to identify and quantify asbestos-containing materials (ACM) present on and within the residential structures (as listed by county parcel numbers in the client-provided demolition worksheets) prior to demolition for future road expansions and improvements. For more detailed information on all of Terracon's services, please visit our web site at <http://www.terracon.com>.

## 1.0 PROJECT INFORMATION

All work will be performed under the attached Agreement for Services. Based on information provided by the client, there are approximately 27 total residential lots/parcels. According to the client-provided list of residential parcels and Fort Bend CAD, there are approximately 22 residential structures (includes single-family residences and 2 quadruplex structures and mobile homes). Numerous residential parcels include a combination of single-family homes, attached and/or detached garages, sheds and storages.

This proposal anticipates access during regular working hours (7 am – 5 pm), allowing Terracon to have unrestricted access to the structures during the inspections. If additional mobilizations are required to complete the services, additional fees will be invoiced on a time and materials basis with your approval.



**Proposal for Interior, Exterior and Roof Asbestos Inspections**Fort Bend County – 10<sup>th</sup> Street Project ■ Richmond, Texas

May 12, 2023 (revised 10/20/23) ■ Terracon Proposal No. P92237407



## 2.0 SCOPE OF SERVICES

A Terracon asbestos inspector who is licensed by the Texas Department of State Health Services (TDSHS) will conduct the asbestos inspections of the structures as required by US Environmental Protection Agency (USEPA) regulation 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAP) and the Texas Asbestos Health Protection Rules (TAHPR). Terracon will conduct a visual assessment of the interior and exterior areas to identify materials suspected of containing asbestos (suspect ACM) such as thermal system insulation, surfacing materials, and miscellaneous materials (e.g., floor tiles). Suspect materials will be physically assessed for friability and evidence of damage or degradation. Samples of suspect ACM will be collected for laboratory analysis in general accordance with the sampling protocols outlined in USEPA 40 CFR 763.86, as required by TAHPR.

Sample collection will result in some isolated damage to building materials; however, attempts will be made to limit such damage to the extent necessary for sample collection. Terracon will not be responsible for repair or touch-up of sample locations. In addition, Terracon will not perform sampling that requires demolition or destructive activities such as knocking holes in walls, dismantling of equipment or removal of protective coverings. Reasonable efforts to access suspect materials within known areas of restricted access (e.g., crawl spaces) will be made provided these areas are not determined to be permit-required confined spaces, or to pose a health or safety risk to Terracon personnel. Sampling will not include suspect materials that cannot be safely reached with available ladders. **We understand the structures are scheduled for demolition. The Client must agree to defend and hold Terracon harmless from subsequent liability and damages that may result from roof sampling activities. Terracon will apply temporary patching to roof sample locations, but we recommend that a roofing contractor be retained to repair areas damaged by Client-requested roof sampling.**

A laboratory accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) and licensed by the State of Texas will analyze bulk material samples by visual estimation using polarized light microscopy (PLM) with a routine turn-around time of five (5) business days. If PLM results merit re-analysis by the more quantitative point counting technique, Terracon will contact the client for authorization to incur additional costs.

### **Schedule**

Terracon is prepared to commence work on the asbestos inspections following receipt of the executed Agreement for Services, subject to prior commitments and the Client's schedule.

**Proposal for Interior, Exterior and Roof Asbestos Inspections**Fort Bend County – 10<sup>th</sup> Street Project ■ Richmond, Texas

May 12, 2023 (revised 10/20/23) ■ Terracon Proposal No. P92237407

**Conditions**

Items to be provided by the Client include:

- The legal right-of-entry of all structures to conduct the inspections.
- A building management representative during inspections of occupied areas.
- Building plans in PDF format, if available.
- Any restrictions or special access requirements regarding the site shall be made known to Terracon prior to site mobilization.
- Any known environmental conditions at the site (i.e., hazardous materials or processes, specialized protective equipment requirements, unsound structural members, etc.) shall also be communicated to Terracon prior to site mobilization.

**Report**

Terracon will prepare a separate written report for each parcel describing the sampling methodology and the results of the inspections. The reports will describe the number, type and location of building material samples collected and the analytical results. No drawings depicting the location and extent of ACM or estimates of ACM removal costs will be provided unless specifically requested in advance by the client. Unless otherwise instructed, a PDF-formatted copy of each final report will be submitted via email to the addressee indicated herein.

**Reliance**

The asbestos inspection reports will be prepared for the exclusive reliance of Fort Bend County Texas. Reliance by any other party is prohibited without the written authorization of Fort Bend County Texas and Terracon.

If Fort Bend County Texas is aware of additional parties that will require reliance on the asbestos inspection reports, the names, addresses and relationship of these parties should be provided for Terracon approval prior to the time of authorization to proceed. Terracon will grant reliance on the asbestos inspection reports to those approved parties upon receipt of a fully executed Reliance Agreement (available upon request). If, in the future, Fort Bend County Texas and Terracon consent to reliance on the asbestos inspection reports by a third party, Terracon will grant reliance upon receipt of a fully executed Reliance Agreement and receipt of an additional fee of \$400.00 per relying party.

Reliance on the asbestos inspection reports by Fort Bend County Texas and all authorized parties will be subject to the terms, conditions and limitations stated in the Agreement (and sections of this proposal incorporated therein), the Reliance Agreement, and the reports.

**Proposal for Interior, Exterior and Roof Asbestos Inspections**Fort Bend County – 10<sup>th</sup> Street Project ■ Richmond, Texas

May 12, 2023 (revised 10/20/23) ■ Terracon Proposal No. P92237407

**3.0 COMPENSATION**

The services described above will be performed for a lump sum fee of **\$44,500**. This fee includes PLM analysis of up to twelve hundred (1,200) bulk material samples with a laboratory turn-around time of five (5) business days and separate site mobilizations. Additional samples, if required, will be invoiced at \$15.00 each. The cost breakdown is as follows.

R Number	Physical Address	Type of Structure(s)	Estimate fee (Lump Sum)
R112811	1004 Preston ST, Richmond, TX 77469	Mobile home	<b>\$1,700</b>
R112812	1006 Preston ST, Richmond, TX 77469	300 SF single-family residence	<b>\$1,600</b>
<del>R377910 /</del> <del>R53547</del>	<del>1014 Calhoun ST, Richmond, TX 77469</del> 115 N Union ST, Richmond, TX 77469	<del>Two single-family residences</del> (2,000 and 1,000 SF)	<b>Removed per client's request</b>
R112775 / R112776	110 N Union ST, Richmond, TX 77469	900 SF single-family residence	<b>\$1,950</b>
R62756	211 N 10th ST, Richmond, TX 77449	1,200 SF single-family residence or commercial building	<b>\$1,950</b>
R64285 / R62286	400 N 10th ST, Richmond, TX 77469 - 402 N 10th ST, Richmond, TX 77469	2,000 SF single-family residence and sheds	<b>\$2,250</b>
R64294	404 N 10th ST, Richmond, TX 77469	1,650 single-family residence	<b>\$2,100</b>
R64315 / R37475	600 N 10th ST, Richmond, TX 77469	800 SF single-family residence with storage sheds	<b>\$2,000</b> <b>(To be performed in the future)</b>
R107100	620 N 10th ST, Richmond, TX 77469	1,100 SF single-family residence and a shed	<b>\$1,950</b>
R107095	622 N 10th ST, Richmond, TX 77469	2 Two-Story Quadraplex (8 Units)	<b>\$4,200</b> <b>(To be performed in the future)</b>



**Proposal for Interior, Exterior and Roof Asbestos Inspections**Fort Bend County – 10<sup>th</sup> Street Project ■ Richmond, Texas

May 12, 2023 (revised 10/20/23) ■ Terracon Proposal No. P92237407



R Number	Physical Address	Type of Structure(s)	Estimate fee (Lump Sum)
R198971	800 N 10th ST, Richmond, TX 77469	900 SF single-family residence	<b>\$1,950</b>
<del>R103250</del>	<del>802 Newton DR, Richmond, TX 77469</del>	<del>1,100 SF single-family residence</del>	<b>Removed per client's request</b>
R198974	806 N 10th ST, Richmond, TX 77469	1,000 SF single-family residence	<b>\$1,950</b>
R103251	812 Newton DR, Richmond, TX 77469	1,400 SF single-family residence	<b>\$2,000</b>
<del>R107087</del>	<del>819 Collins ST, Richmond, TX 77469</del>	<del>1,100 SF single-family residence</del>	<b>Removed per client's request</b>
R103253	819 Newton DR, Richmond, TX 77469	1,800 SF single-family residence	<b>\$2,200</b>
<del>R107084</del>	<del>820 Collins ST, Richmond, TX 77469</del>	<del>1,115 SF single-family residence and a shed</del>	<b>Removed per client's request</b>
R107103 / R107104	821 Cub LN, Richmond, TX 77469 - 819 Cub LN, Richmond, TX 77469	1,378 SF single-family residence and 500 SF garage apartment	<b>\$2,400</b>
R107090	822 Leonard AVE, Richmond, TX 77469	1,000 SF residence and 500 SF garage	<b>\$2,100</b>
R107086 (West structure only)	823 Collins ST, Richmond, TX 77469	1,165 SF single-family residence and shed	<b>\$2,000</b>
R64276 / R64277	909 Fields ST, Richmond, TX 77469	One mobile home and sheds	<b>\$1,700</b>
R107102	618 N 10 ST, Richmond, TX 77469	1,140 SF single-family residence	<b>\$2,000</b> (To be performed in the future)
R124226 / R78974	413 N 10 ST, Richmond, TX 77469	800 SF single-family residence	<b>\$2,000</b> (To be performed in the future)

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R Number	Physical Address	Type of Structure(s)	Estimate fee (Lump Sum)
R53551	<del>1015 Preston ST, Richmond, TX 77469</del>	<del>1,200 SF single-family residence</del>	<b>Removed per client's request</b>
R103249	<del>712 Newton DR, Richmond, TX 77469</del>	<del>1,530 SF single-family residence</del>	<b>Removed per client's request</b>
R103252	<del>820 Newton DR, Richmond, TX 77469</del>	<del>1,600 SF single-family residence and a 750 SF metal bldg.</del>	<b>Removed per client's request</b>
R103254	<del>809 Newton DR, Richmond, TX 77469</del>	<del>2,000 SF single-family residence, attached carport and garage</del>	<b>Removed per client's request</b>
R32319	1100-1706 Jenny LN	Mobile home park (only 1 mobile home impacted)	<b>\$1,700 (To be performed in the future)</b>
R32357 (Removed)	<del>303 N 10th ST, Richmond, TX 77469</del>	<del>Mount Carmel Baptist Church 6,850 SF Commercial Bldg.</del>	<b>Removed per client's request</b>
R78973	401 N 10th ST, Richmond, TX 77469	400 SF single-family residence and 662 SF single-family residence	<b>\$2,800</b>
R110923 (Removed)	<del>1100 Jackson ST, Richmond, TX 77469</del>	<del>6,150 SF Commercial building (vacant pharmacy)</del>	<b>Removed per client's request</b>

Terracon's invoice will be submitted to the address appearing above upon completion of the proposed services. If conditions are encountered at the site that require significant changes in the scope of services or a significant increase in the anticipated number of samples that will increase the cost of the inspections, you will be contacted for discussion and approval of such changes before we proceed.

If this proposal meets with your approval, work may be initiated by emailing a copy of the signed Agreement for Services to [aaron.dominguez@terracon.com](mailto:aaron.dominguez@terracon.com) and [kevin.maloney@terracon.com](mailto:kevin.maloney@terracon.com).

The terms, conditions and limitations stated in the Agreement (and sections of this proposal incorporated therein), shall constitute the exclusive terms and conditions and services to be

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**Terracon**

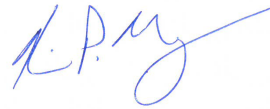
performed for this project. This proposal is valid only if authorized within sixty (60) days from the proposal date.

We appreciate the opportunity to provide this proposal and look forward to working with you on this project. If you have any questions or comments regarding this proposal or require additional services, please give us a call at 713-690-8989.

Sincerely,

**Terracon Consultants, Inc.**

Aaron Dominguez  
Project Manager



Kevin Maloney  
Senior Project Manager

Attachment: Agreement for Services

## AGREEMENT FOR SERVICES

This **AGREEMENT** is between Fort Bend County TX ("Client") and Terracon Consultants, Inc. ("Consultant") for Services to be provided by Consultant for Client on the Fort Bend County - 10th Street Project project ("Project"), as described in Consultant's Proposal dated 05/02/2023 ("Proposal"), including but not limited to the Project Information section, unless the Project is otherwise described in Exhibit A to this Agreement (which section or Exhibit is incorporated into this Agreement).


- 1. Scope of Services.** The scope of Consultant's services is described in the Proposal, including but not limited to the Scope of Services section ("Services"), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreement). Portions of the Services may be subcontracted. When Consultant subcontracts to other individuals or companies, then consultant will collect from Client on the Subcontractors' behalf. Consultant's Services do not include the investigation or detection of, nor do recommendations in Consultant's reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria, viruses, or their byproducts) or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separate software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.
- 2. Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Either party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fees earned to the date of termination plus reasonable costs of closing the Project.
- 3. Change Orders.** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
- 4. Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Proposal, including but not limited to the Compensation section, unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporated into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year in which they are issued. Fees do not include sales tax. Client will pay applicable sales tax as required by law. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client to determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determined that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to defend, indemnify, and hold harmless Consultant from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevailing wages, including the payment of any fines or penalties.
- 5. Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties other than those who have executed Consultant's reliance agreement, subject to the prior approval of Consultant and Client.
- 6. LIMITATION OF LIABILITY. CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF CONSULTANT (AND ITS RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$50,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMENT AND UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION IN THE FORM OF A SURCHARGE TO BE ADDED TO THE AMOUNT STATED IN THE COMPENSATION SECTION OF THE PROPOSAL. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE, CAUSE(S), OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.**
- 7. Indemnity/Statute of Limitations.** Consultant and Client shall indemnify and hold harmless the other and their respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by the joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement. Causes of action arising out of Consultant's Services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of Consultant's substantial completion of Services on the project.
- 8. Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. **EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
- 9. Insurance.** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii) commercial general liability insurance (\$2,000,000 occ / \$4,000,000 agg); (iii) automobile liability insurance (\$2,000,000 B.I. and P.D. combined single limit); (iv) umbrella liability (\$5,000,000 occ / agg); and (v) professional liability insurance (\$1,000,000 claim / agg). Certificates of insurance will be

provided upon request. Client and Consultant shall waive subrogation against the other party on all general liability and property coverage. Client is additional insured with respect to general and auto liability.

- 10. CONSEQUENTIAL DAMAGES. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.**
- 11. Dispute Resolution.** Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and construed according to Kansas law.
- 12. Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.
- 13. Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce - not eliminate - project risk. Client shall cause all tests and inspections of the site, materials, and Services performed by Consultant to be timely and properly scheduled in order for the Services to be performed in accordance with the plans, specifications, contract documents, and Consultant's recommendations. No claims for loss or damage or injury shall be brought against Consultant by Client or any third party unless all tests and inspections have been so performed and Consultant's recommendations have been followed. Unless otherwise stated in the Proposal, Client assumes sole responsibility for determining whether the quantity and the nature of Services ordered by Client is adequate and sufficient for Client's intended purpose. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by Services not performed due to a failure to request or schedule Consultant's Services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Client's contractor or its subcontractors and is not responsible for their means and methods. The extension of unit prices with quantities to establish a total estimated cost does not guarantee a maximum cost to complete the Services. The quantities, when given, are estimates based on contract documents and schedules made available at the time of the Proposal. Since schedule, performance, production, and charges are directed and/or controlled by others, any quantity extensions must be considered as estimated and not a guarantee of maximum cost.
- 14. Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of the testing procedures (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Materials unless specifically provided in the Services, and that Client is responsible for directing such disposition. In no event shall Consultant be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site and Consultant shall not be responsible for any claims, losses, or damages allegedly arising out of Consultant's performance of Services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
- 15. Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consultant's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
- 16. Utilities.** Unless otherwise stated in the Proposal, Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked, including by a utility locate service, or are incorrectly shown on the plans furnished to Consultant.
- 17. Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any third parties, including Client's contractors, subcontractors, or other parties present at the site. In addition, Consultant retains the right to stop work without penalty at any time Consultant believes it is in the best interests of Consultant's employees or subcontractors to do so in order to reduce the risk of exposure to unsafe site conditions. Client agrees it will respond quickly to all requests for information made by Consultant related to Consultant's pre-task planning and risk assessment processes.

Consultant: **Terracon Consultants, Inc.**

Client: **Fort Bend County TX**

By:  Date: **10/20/2023**  
 Name/Title: **Kevin P Maloney / Project Manager**  
 Address: **11555 Clay Rd, Ste 100**  
**Houston, TX 77043-1239**  
 Phone: **(713) 690-8989** Fax: **(713) 690-8787**  
 Email: **Kevin.Maloney@terracon.com**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Name/Title: \_\_\_\_\_  
 Address: **301 Jackson Street Ste 719**  
**Richmond, TX 77469**  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 Email: \_\_\_\_\_