



1211 West Florida Ave.
Midland, Texas 79701
(432) 684-9600 Fax (432) 684-9608

August 20, 2010

Judge Mike Brown
Tom Green County
122 West Harris
San Angelo, Texas 76903

Re: *Asbestos Consulting Services*
Former Wal-Mart Building
3020 North Bryant
San Angelo, Texas
Terracon Project No: A4107064

Dear Judge Brown:

Terracon Consultants, Inc. ("Terracon") is pleased to provide this budgetary cost estimate for asbestos consulting services regarding the removal and disposal of asbestos containing floor mastic associated with the 12' x 12' floor tile and carpet located at the above referenced location.

A. PROJECT INFORMATION

Summit Environmental Services, LLC performed an asbestos survey at the building on September 30, 2009. Based on the results of the survey asbestos was identified in the floor mastic associated with the various floor tiles and carpet throughout the building. Terracon understands that the entire building is scheduled for renovation.

B. SCOPE OF SERVICES

The cost estimate for asbestos consulting services will consist of the following:

Asbestos Abatement Design

Terracon will develop a site-specific asbestos abatement plan and technical specifications for the removal and disposal of the ACM previously identified in the above referenced facility. The specifications will be developed in accordance with applicable local, state or federal regulations. The specification document will be prepared by a State of Texas licensed asbestos consultant and will include the following:

Arizona ■ Arkansas ■ California ■ Colorado ■ Georgia ■ Idaho ■ Illinois ■ Iowa ■ Kansas ■ Kentucky ■ Minnesota ■ Missouri
Montana ■ Nebraska ■ Nevada ■ New Mexico ■ North Carolina ■ Oklahoma ■ Tennessee ■ Texas ■ Utah ■ Wisconsin ■ Wyoming

- Project scope of work
- State, EPA, OSHA regulations and any other applicable Federal, State and local government regulations pertinent to asbestos removal, encapsulation and disposal.
- Contractor submittals such as certifications, work plans, notifications, disposal arrangements and worker training documents
- Worker protection requirements
- Work area preparation procedures
- Asbestos removal methods to be followed
- Work area decontamination/cleaning procedures
- Final clearance requirements
- Waste disposal procedures

Upon completion of the abatement design Terracon will assist Templeton Construction (Templeton) in the bid solicitation process. Terracon will aide Templeton in the advertisement of bids for asbestos abatement, conduct a pre-bid walkthrough with prospective licensed abatement contractors, evaluation of the bids submitted and recommendation for contractor selection. Eight (8) copies of the specifications will be prepared. One (1) copy will be provided to the client, with the remaining copies provided to the prospective abatement contractors. Please note that Terracon's plans and specifications may not be used by another consultant or consultant agency to monitor the project without prior written permission from Terracon.

Project Consulting

After a contractor is selected Terracon will provide a State of Texas licensed asbestos consultant (AC) and project monitor (PM) for the duration of the abatement project. Terracon will review abatement contractor pre-job submittals prior to the project start date. We will also obtain baseline air samples prior to the start of asbestos-related activities in accordance with current state regulations. Terracon's AC and PM will coordinate and provide documentation of the abatement activities, and will provide clarifications with respect to the asbestos abatement specifications for the duration of the abatement project.

Terracon will not be responsible for the contractor's activities related to site safety during the project. If Terracon identifies safety concerns at the site the Client will be notified of the concern and it will be the Contractor's sole responsibility to correct the deficiency at their expense.

The PM will be on-site during the abatement project to perform on-site air monitoring, which includes analysis of up to 8 air samples per 8-hour shift (portal to portal). The PM will also perform on-site inspection services during the asbestos abatement to evaluate the regulated work area for compliance with project specifications and State/Federal regulations.

Once the abatement is completed, the PM will perform a final visual inspection of the abated areas and conduct aggressive air clearance sampling in accordance with current Texas Department of Health regulations. Air samples collected during the project will be analyzed by

Phase Contrast Microscopy (PCM) in accordance with the National Institute for Occupational Safety and Health (NIOSH) Method 7400.

Final Close-Out Report

At the conclusion of the project, Terracon will prepare a final project report. The final project report will include a description of the project, results of the air sampling program, and documentation of final clearance. Terracon will also review the Contractor's post job submittals which should include waste manifests, personal air monitoring results, documentation of worker training, which should include respirator fit tests, medical surveillance documentation and applicable accreditations or licenses.

The cost estimate for the outlined consulting services is \$30,500.00. The cost estimate is based on six weeks, working five days per week, ten hours per day. The cost estimate is based on the following fee schedule:

FEE SCHEDULE	
DESCRIPTION	COST
Consultant	\$140.00 per hour
Onsite Project Management	\$575.00 per day
Project Design / Scope of Work	\$2,000.00
Project Management (bid solicitation, walkthrough, evaluation, etc...)	\$85.00 per hour
Per Diem	\$130.00 per day
Final Report	\$85.00 per hour
Over-time On-site Project Management (if required)	\$85.00 per hour
Clerical	\$47.50 per hour
Mileage	\$0.63 per mile
Additional Expenses	Cost + 15%
<i>Terracon's Total Estimated Fee</i>	<i>\$ 30,500.00</i>

***Assumes an estimated time frame of 30 working days. If the project exceeds the estimated time frame, then additional fees will apply in accordance with the provided fee schedule.**

Asbestos Abatement
Project # A4107064

Terracon

Additional field or project management time required outside the previously described scope of work will be billed at a rate of \$85/hour for field personnel and \$85/hour for project management. In addition, if more than 10 air samples are required per shift, the additional air samples will be billed at \$20 each.

You will receive invoices monthly from Terracon until job completion. The Asbestos Contractor will invoice you separately. The Texas Dept. Of State Health Services will invoice you separately as well for an estimated fee of \$3,310.00.

AUTHORIZATION

This workplan is valid for 60 days from the date of this workplan. We appreciate the opportunity to provide this workplan and look forward to working with you on this project. If this workplan meets with your approval, please sign notification to proceed in accordance with the Service Agreement between Templeton Construction and Terracon and return a copy via fax at (432) 684-9608 or mail to our Midland Office at 1211 West Florida Avenue, Midland, Texas 79705.

If you should have any questions or comments regarding this proposal, please contact either of the undersigned.

Sincerely,
Terracon


Brandy Arnold
Project Manager


Barrett W. Bole, P.G.
Office Manager

AGREEMENT FOR SERVICES

This AGREEMENT is between Tom Green County ("Client") and Terracon Consultants, Inc. ("Consultant") for Services to be provided by Consultant for Client on the Former Wal-Mart located at 3020 North Bryant in San Angelo, Texas project ("Project"), as described in the Project Information section of Consultant's Proposal dated August 20, 2010 ("Proposal") 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 Scope of Services section of the Proposal ("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. 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.** 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.
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 Compensation section of the Proposal 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. 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. For a limited time period not to exceed three months from the date of the report, Consultant will issue additional reports to others agreed upon with Client, however Client understands that such reliance will not be granted until those parties sign and return Consultant's reliance agreement and Consultant receives the agreed-upon reliance fee.
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 RISKS SO, 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 ITS 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 REGARDLESS OF 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 all claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are 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. 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. **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 (\$1,000,000 occ / \$2,000,000 agg); (iii) automobile liability insurance (\$1,000,000 B.I. and P.D. combined single limit); and (iv) 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.

Agreement Reference Number (Terracon Proposal or Project Number):A4107064

- 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 Texas 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 agrees to the level or amount of testing performed and the associated risk. Client is responsible (even if delegated to contractor) for notifying and scheduling Consultant so Consultant can perform these 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.
- 14. Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of tests (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 Material unless specifically provided in the Services, and that Client is responsible for directing such disposition. In the event that test samples obtained during the performance of Services (i) contain substances hazardous to health, safety, or the environment, or (ii) equipment used during the Services cannot reasonably be decontaminated, Client shall sign documentation (if necessary) required to ensure the equipment and/or samples are transported and disposed of properly, and agrees to pay Consultant the fair market value of this equipment and reasonable disposal costs. 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. Accordingly, Client waives any claim against Consultant and agrees to indemnify and save Consultant, its agents, employees, and related companies harmless from any claim, liability or defense cost, including attorney and expert fees, for injury or loss sustained by any party from such exposures allegedly arising out of Consultant's non-negligent 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.** 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 other parties, including Client, Client's contractors, subcontractors, or other parties present at the site.
- 18. Termination.** 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.

Consultant: Terracon Consultants, Inc.
By: [Signature] Date: 8/20/10
Name/Title: Barrett W. Bole, P.G.
Address: 1211 West Florida Ave.
Midland, Texas 79701
Phone: 432.684.9600 Fax: 432.684.9608

Client: Tom Green County
By: [Signature] Date: 8-24-10
Name/Title: Judge Mike Brown
Address: 122 West Harris
San Angelo, TX
Phone: _____ Fax: _____

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