

RESOLUTION NO. 2007- 25 R

A resolution authorizing the City Manager to execute a Professional Services Agreement between the City of Victoria and R. W. Beck to perform an audit of the Victoria Landfill, in the amount of \$28,000.00; and declaring an effective date.

IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF VICTORIA, TEXAS:

1.

The City Manager is authorized to execute **Professional Services Agreement between the City of Victoria and R. W. Beck** to perform an audit of the Victoria Landfill, the amount of ~~\$28,000.00~~ **\$30,500.00**, in the form attached hereto, with changes to be approved by the City Attorney.

2.

This resolution shall become effective immediately upon adoption.

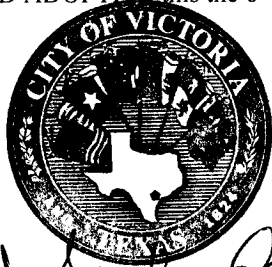
PASSED, this the 6th day of March, 2007.

AYES: 7

NAYS: 0

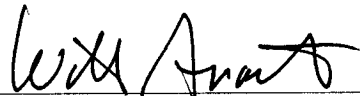
ABSTENTIONS: 0

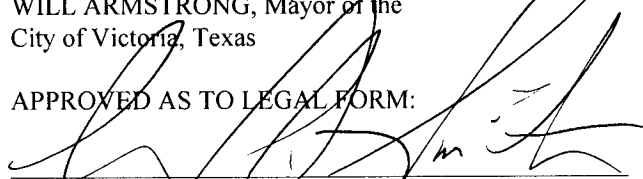
APPROVED AND ADOPTED, this the 6th day of March, 2007.



ATTEST:


SCARLET SWOBODA, City Secretary


WILL ARMSTRONG, Mayor of the
City of Victoria, Texas


APPROVED AS TO LEGAL FORM:
DAVID ATMAR SMITH, City Attorney

Distribution: Legal Department
 Finance Department
 Environmental Services Department

Copies Sent: **MARCH 7, 2007**

**Professional Services Agreement between the City of Victoria and R.W. Beck, Inc. for
Work Related to an Environmental Audit for the City of Victoria's Landfill**

OWNER: The City of Victoria, Texas. P.O. Box 1758, Victoria, Texas 77902

PROFESSIONAL: R. W. Beck, Inc., a Washington corporation, 5806 Mesa Dr., Suite 310; Austin, Texas 78731

PROJECT: Perform the items provided in the Scope of Services attached as **Exhibit "A"**.

OWNER'S REPRESENTATIVE: Jerry James, Director of Environmental Services, City of Victoria

PROFESSIONAL AGREEMENT: PROFESSIONAL shall provide professional services to perform the PROJECT as described above.

PAYMENTS TO PROFESSIONAL: PROFESSIONAL will perform the services at the following billing rates described on Exhibit "B" in total amounts not to exceed \$28,000.

GENERAL CONDITIONS:

1. Termination. OWNER may terminate this Agreement upon 10 days written notice to the other party with the understanding that all services being performed under this Agreement shall cease upon the date specified in such notice. In the event of early termination, PROFESSIONAL shall invoice OWNER for all services completed and shall be compensated in accordance with the billing rates and total cost limits for this contract and any phase described herein, to the extent such work provides value to the OWNER.

2. Ownership of Documents. All documents prepared and assembled by PROFESSIONAL under this Agreement shall become the sole property of the OWNER and shall be delivered to OWNER without restriction on future use. Any future use of the documents by OWNER other than the purposes for which they are immediately being provided shall be at OWNER's sole risk. PROFESSIONAL may make copies of any and all documents for its files.

3. Controlling Law. This agreement is performable and is to be governed by the law applicable in Victoria County, Texas. Venue for any action arising under this Agreement shall be in Victoria County, Texas.

4. Successors and Assigns. Neither OWNER nor PROFESSIONAL shall assign, sublet or transfer any rights under or interest in (including, but without limitations, monies that may become due or monies that are due) this agreement without the written consent of the other. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this agreement. Nothing contained in this paragraph shall prevent PROFESSIONAL from employing independent consultants, associates and other employees to assist it in the performance of services hereunder.

5. No Third-Party Beneficiaries. Nothing herein shall be construed to give any rights or benefits to anyone other than OWNER and PROFESSIONAL.

6. Independent Contractor. In performing services under this agreement, the relationship between OWNER and PROFESSIONAL is that of independent contractor, and OWNER and PROFESSIONAL by the execution of this agreement do not change the independent contractor status of PROFESSIONAL. No term or provision of this agreement or act of PROFESSIONAL in the performance of this agreement shall be construed as making PROFESSIONAL or any agent, servant or employee of PROFESSIONAL the agent, servant, or employee of OWNER.

7. Indemnity. PROFESSIONAL agrees to defend, indemnify, and hold the OWNER whole and harmless against any and all claims, suits, and actions for damages, costs, and expenses to persons or property that may arise out of, or be occasioned by or from any negligent act, error or omission of PROFESSIONAL or any officer, agent, servant, employee or subcontractor of PROFESSIONAL in the execution or performance of this agreement. This indemnity shall not apply to any claim to the extent to which an engineer is prohibited from indemnifying a governmental entity pursuant to Tex. Local Gov't Code § 271.904.

8. Limitation of Liability. No employee of PROFESSIONAL shall have individual liability to OWNER. To the extent permitted by law, the total aggregate liability of PROFESSIONAL or directors, shareholders or employees of PROFESSIONAL for any and all claims arising out of this agreement, including attorneys fees, whether caused by negligence, errors, omissions, strict liability,

breach of contract or contribution, or indemnity claims based on third party claims, will not exceed the revenue received by PROFESSIONAL under this agreement or \$150,000, whichever is greater.

9. **Standard of Care.** PROFESSIONAL shall provide services under this agreement with the degree of skill and diligence normally practiced by professional engineers or consultants performing the same or similar services.

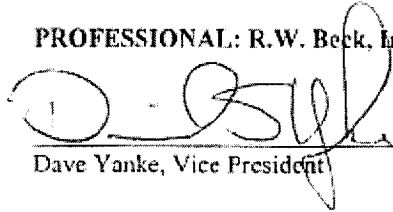
This agreement and said attachments may only be amended, supplemented, modified or canceled by a duly executed written instrument.

EXECUTED, this the _____ day of _____, 2007.

OWNER: City of Victoria, Texas

PROFESSIONAL: R.W. Beck, Inc.

Charles Windwehen, City Manager



Dave Yanke, Vice President

(seal)

(seal)

ATTEST:

ATTEST:

Scarlet Swoboda, City Secretary

FORM APPROVED:

David A. Smith, City Attorney

Exhibit "A"
Scope of Services
to
Professional Services Agreement between the City of Victoria and R.W. Beck, Inc. for
Work Related to an Environmental Audit for the City of Victoria's Landfill

The City is in the process of soliciting bids for the future operation of the landfill. Prior to a change in operators the City wishes to conduct an environmental audit of the compliance status of the landfill with the audit to focus on, but not be limited to, the following three areas:

1. The detection of landfill gas outside the landfill;
2. Identified groundwater impacts associated with solid waste disposal activities at this facility; and
3. Overfilling at the landfill.

The purpose and scope of this environmental audit is to evaluate potential noncompliance in relationship with standards established by the Texas Commission on Environmental Quality (TCEQ) and the facility permit.

Where possible, an evaluation on the origins of the impacts will be made. Recommendations to attain or maintain compliance will be made where necessary and if practical cost estimates will be provided for corrective or remedial actions.

The scope of services to be completed as part of this audit will include:

- Review of the landfill history as it pertains to the facility's permit.
- Review of the current permit status.
- Meetings and discussion with TCEQ staff (project engineer, hydrogeologist, and enforcement officer) to evaluate the landfill operations, citations, permit violations and/or enforcement actions and contingency actions or remedial actions at the site.
- Conduct a review of the documents for the City of Victoria Landfill on file with TCEQ.
- Conduct a review of pertinent landfill documents provided by the City of Victoria.
- Review and evaluation of the environmental monitoring system with emphasis on 1) detection and migration of landfill gas; 2) impact to groundwater and 3) overfilling of landfill cell.
- Evaluation of compliance with established standards in the facility permit.
- Evaluation of facility permit volume and final elevations with respect to overfilling of at least one landfill cell.
- Site visit to review landfill operations and to discuss operations with both the current operator and City staff.

R. W. Beck will meet with the City to present the findings of the audit and to discuss recommendations and/or potential corrective actions.

R. W. Beck proposes to start work on the project upon authorization to proceed and anticipates the audit to be completed within six to eight weeks. Services will be completed by R. W. Beck staff listed on the project team provided as an attachment to this letter.

R. W. Beck proposes to complete the tasks outlined in this proposal for a lump sum of \$28,000. Five copies of the audit report will be provided to the City. Additional copies are available upon request. Additional services and/or meetings outside the scope of services presented will be billed on a time and materials basis.

R. W. Beck's project team and their responsibilities are listed in the table below:

Team Member	Project Responsibility
Dave Yanke	Project Manager
Seth Cunningham, P.E.	Project Research
Fred Doran, P.E.	Landfill Design Engineer
Scott Coon, P.E.	Landfill Gas Engineer
Randall Sippel, P.G.	Permit Compliance and Hydrogeology

Exhibit "B"
R. W. Beck Billing Rates

The following summarizes billing rates for R. W. Beck staff that will work on the Contract between the City of Victoria and R. W. Beck, Inc.

Staff	Hourly Rate
Principal	\$235
Project Manager	\$160-\$185
Senior Solid Waste Engineer	\$160-\$185
Solid Waste Engineer	\$120-\$145
Consultant	\$130-\$145
Analyst	\$90
Clerical	\$45