

**Volkert, Inc.**

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**LETTER AGREEMENT**

May 2, 2013

Mr. Joe Bouzan  
Airport Manager  
City of Foley  
407 East Laurel Avenue  
Foley, Alabama 36535

SUBJECT: Underground Storage Tank (UST) Closure at Foley Airport  
Foley, Alabama  
Volkert Proposal 13-P0408

Dear Mr. Bouzan:

For good and valuable consideration as set out herein and in accordance with attached *Standard Business Conditions*, Volkert shall perform only the following task for City of Foley (CLIENT), which comprise the entirety of Volkert's scope of services hereunder. In the absence of a written agreement to the contrary, Volkert shall not perform and shall not endeavor to perform, any other tasks than the following for Underground Storage Tank (UST) Closure at Foley Airport located in Foley, Alabama.

***TASK TO BE PERFORMED***

Following the removal of the 8,000 – 10,000-gallon aviation fuel UST, eight (8) soil samples will be taken from the excavation walls, bottom, fuel-piping trench, and the excavated material stockpile. All samples will be analyzed for Total Petroleum Hydrocarbons (TPH).

UST closure is a systematic procedure with Alabama Department of Environmental Management (ADEM) involvement. After the tank is removed and soil samples taken, we will need to excavate five (5) feet below the base of the pit to check for groundwater. If groundwater is found, a sample will be required for analysis. Any additional soil/groundwater sampling and analysis required will be performed on a time and material basis.

Typically, it takes two (2) to three (3) days to get the lab results. If the lab analysis reflects a TPH greater than 100 ppm, ADEM must be notified within twenty-four (24) hours to discuss corrective action. The excavation will have to be left open with excavated material nearby until status has been determined. Excavated material should be placed on plastic and bermed for run-off control. A closure report will be prepared presenting the results for submittal to the ADEM.

The cost estimate below is based on a "clean" UST closure. If the site is contaminated, a new estimate may be required, per ADEM's involvement. In addition, unforeseen problems, a contractor's lag time, etc., may require additional site visits and more man-hours.

**Office Locations:**

Birmingham, Foley, Mobile, Montgomery, Alabama • Gainesville, Pensacola, Tampa, Florida • Atlanta, Georgia  
Collinsville, Illinois • Baton Rouge, New Orleans, Slidell, Louisiana • Biloxi, Jackson, Mississippi • Jefferson City, Missouri  
Raleigh, North Carolina • Columbia, South Carolina • Chattanooga, Tennessee • Alexandria, Virginia • Washington, D.C.





COST ESTIMATE FOR UST CLOSURE

| VOLKERT - ENVIRONMENTAL | Unit/Cost                    | Total Cost  |
|-------------------------|------------------------------|-------------|
| Professional Geologist  | 24 hours @ \$170.00 per hour | \$ 4,080.00 |
| CADD                    | 4 hours @ \$ 55.00 per hour  | \$ 220.00   |
| Clerical                | 2 hours @ \$ 70.00 per hour  | \$ 140.00   |
| Mileage                 | 80 miles @ \$ 0.565 per mile | \$ 45.00    |

**ENVIROCHEM**

|                                         |                                 |           |
|-----------------------------------------|---------------------------------|-----------|
| Eight (8) TPH Soil Sample Analysis      | 8 TPH analysis @ \$ 60.00 each  | \$ 480.00 |
| One (1) PAH Groundwater Sample Analysis | 1 PAH analysis @ \$ 130.00 each | \$ 130.00 |
| Field Tech                              | 2 hours @ \$60.00 per hour      | \$ 120.00 |

**CONTRACTOR**

|                                        |                 |                    |
|----------------------------------------|-----------------|--------------------|
| Mike Hoffman's Equipment Service, Inc. |                 | \$17,400.00        |
|                                        | <b>SUBTOTAL</b> | <b>\$22,615.00</b> |

**VOLKERT - PROFESSIONAL GEOLOGIST**

|                                           |                            |             |
|-------------------------------------------|----------------------------|-------------|
| Miscellaneous Services -                  |                            |             |
| Aboveground Storage Tank (AST) Trust Fund | 8 hours @ \$170.00per hour | \$ 1,360.00 |
| Application/Compliance Assistance         |                            |             |

**TOTAL \$23,975.00**

THE WORK WILL BE PERFORMED ON AN HOULRY BASIS WITH A TOTAL ESTIMATED FEE OF \$23,975.00.

We appreciate the opportunity to present this proposal and look forward to working with you to the successful completion of this project. If you have any questions, please contact me at your convenience.

Sincerely,  
Volkert, Inc.

Buddy Covington  
Vice President  
Environmental Services

cao  
Attachment  
Standard Business Conditions  
Fee Schedule



ACCEPTANCE OF PROPOSAL NO. 13-P0408 FOR CITY OF FOLEY:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
SS# or Tax ID #

Signature required by an officer with authority to legally bind the organization into this agreement. Signature of this document authorizes Volkert, Inc. to access the property to perform the environmental services contained in this scope of work.

## **1. GENERAL**

- 1.1 The contractual terms contained herein apply to specific services to be provided to the CLIENT as indicated in an attached or referenced proposal.
- 1.2 In the event the CLIENT contracts for services from VOLKERT through the use of a purchase order, the contractual terms contained herein shall apply unless other items are substituted and included on the face of the purchase order and subsequently accepted by VOLKERT.
- 1.3 VOLKERT agrees to perform all professional and project support services attendant to the services included under the Basic Services clause presented herein. In support of such work, the CLIENT agrees to provide all necessary information under its control and all required approvals in a timely manner to ensure continuous prosecution of the work by VOLKERT to completion. CLIENT agrees to provide right of entry to VOLKERT, its sub-contractors, and their equipment as required to complete the work.
- 1.4 Volkert shall endeavor to perform the services hereunder in reasonable conformity to the generally accepted standards of care exhibited by similarly situated consultants performing similar services at the same time and in the same location. Nothing herein shall constitute a warranty of any kind, expressed or implied.
- 1.5 VOLKERT will commence work promptly upon notification by the CLIENT that such work has been authorized and will use reasonable effort to complete all project work in accordance with the schedule presented in the proposal.
- 1.6 All documents, including drawings and specifications, prepared or furnished by VOLKERT (and VOLKERT'S independent professional associates and consultants) pursuant to this agreement are instruments of service in respect of the project, and VOLKERT shall retain an ownership and property interest therein whether or not the project is completed. CLIENT may make and retain copies for information and reference in connection with the use and occupancy of the project by CLIENT and others; however, such documents are not intended or represented to be suitable for reuse by CLIENT or others on extension of the project or on any other project. Any reuse without written verification or adaptation by VOLKERT for the specific purpose intended will be at CLIENT'S sole risk and without liability or legal exposure to VOLKERT, or to VOLKERT'S independent professional associates or consultants, and CLIENT shall indemnify and hold harmless VOLKERT and VOLKERT'S independent professional associates and consultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting there from. Any such verification or adaptation will entitle VOLKERT to further compensation at rates to be agreed upon by CLIENT and VOLKERT.
- 1.7 CLIENT shall provide all criteria and full information as to CLIENT'S requirements for the project; designate a person to act with authority on CLIENT'S behalf in respect of all aspects of the project; examine and respond promptly to VOLKERT'S submissions; and give prompt written notice to VOLKERT whenever CLIENT observes or otherwise becomes aware of any defect in the work.

- 1.8 The CLIENT will furnish right-of-way on the property for VOLKERT to perform the planned work. VOLKERT will take reasonable precautions to minimize damage to the property during the course of its services; but the cost for restoration of damaged property, which may result from Volkert's operations, is not included in the fee estimate unless specifically stated in the proposal. If the CLIENT desires to restore the property to its former condition, this will be accomplished and the cost will be added to the fee.

## **2. FEE**

- 2.1 The negotiated fee stated in the proposal shall remain in effect for 60 days following the date of the proposal. If the proposal is not accepted within this 60-day period, an updated cost proposal will be required.

## **3. TERMS OF PAYMENT**

- 3.1 VOLKERT shall submit invoices to the client monthly. All invoices are payable within thirty (30) days following receipt of the invoice by the CLIENT.
- 3.2 If CLIENT fails to make any payment due VOLKERT for services and expenses within thirty (30) days after receipt of VOLKERT'S statement therefore, the amounts due VOLKERT will be increased at the rate of 1.5% per month (annual rate of 18%) from said thirtieth day; and in addition, all costs of collections, including a reasonable attorney's fee. VOLKERT may, after giving seven days written notice to CLIENT, suspend services under this agreement until VOLKERT has been paid in full all amounts due for services, expenses, and charges.
- 3.3 Should any invoiced item be questioned or rejected by the CLIENT, the value of such item shall be deducted from the pertinent invoice and the remaining amount of the invoice paid, in accordance with the timing set forth in the preceding paragraph. After VOLKERT and the CLIENT have reached a mutual settlement relative to the disputed item previously withheld from payment, the agreed upon amount (appropriately referenced) will be added to the next invoice submitted by VOLKERT and included in the next CLIENT payment. No retainage will be held during the execution of the project except where specifically agreed upon, in writing, by VOLKERT and the CLIENT prior to contract execution.
- 3.4 Should any invoiced item be questioned or rejected by the CLIENT, the value of such item shall be deducted from the pertinent invoice
- 3.5 Reimbursable expenses (if designated under "Compensation" section) are defined as follows (a multiplier of 1.15 is applied to reimbursable expenses):
  - 3.5.1 Travel and subsistence costs, mileage, application fees or deposits, and all other costs incidental to performing the assignment.
  - 3.5.2 Laboratory, geotechnical and subconsultant costs associated with the contract as invoiced.

- 3.6 It is expressly agreed and stipulated between the parties that this contract shall be deemed to have been made in the State of Alabama where the principal office of Volkert, Inc. is located. This contract shall be governed by the laws of the State of Alabama. The Circuit or District Court of Mobile County, Alabama shall have jurisdiction over any dispute which arises under this contract, and each of the parties shall submit and hereby consents to the jurisdiction of either such court.

#### **4. LIABILITY**

- 4.1 To the fullest extent permitted by law, Volkert shall indemnify client for damages, losses, costs, and expenses (including reasonable attorney's fees) to the extent caused by the negligent acts, errors, and omissions of Volkert in its performance of professional services hereunder.
- 4.2 Client hereby agrees to the fullest extent permitted by law the consultant's total liability to client for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way relating to the project, the site, or this agreement, including but not limited to the consultant's negligent acts, errors, and omissions, shall not exceed the greater of the total amount of Volkert's compensation for the services under this contract, or \$50,000.00, whichever is greater.

#### **5. CHANGES IN PROJECT SCOPE**

- 5.1 The CLIENT may request changes in the scope of work. VOLKERT will advise the CLIENT of the effects of such changes with regard to schedule, compensation, and/or construction cost (if any). Where it is determined that such changes in scope will result in additional costs to VOLKERT, such work will proceed only upon authorization by the CLIENT with written confirmation, which shall serve as client's agreement to pay such additional costs to Volkert.

#### **6. SAMPLES**

- 6.1 Disposal of test samples and specimens will occur during the contract period, thirty (30) days after the laboratory analysis is completed.

#### **7. INSURANCE**

- 7.1 VOLKERT hereby represents that it carries professional liability insurance (claims – made basis), commercial general liability insurance (occurrence-based), automobile liability insurance (occurrence-based), and workers compensation insurance.
- 7.2 Certified evidence of insurance coverage in the form of insurance certificates will be furnished upon request.

#### **8. FORCE MAJEURE**

- 8.1 Any delays in or failures of performance by either the CLIENT or VOLKERT shall not constitute default nor give rise to any claims for damages if and to the extent such delays or failures of performance are caused in whole or in part by occurrences beyond the control of VOLKERT or the CLIENT, and which, by the exercise of reasonable diligence, VOLKERT or the CLIENT is unable to prevent.

#### **9. DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS**

- 9.1 CLIENT warrants that a reasonable effort to inform VOLKERT of known or suspected hazardous materials on or near the project site has been made and that all such material has been disclosed to Volkert.
- 9.2 Hazardous materials may exist at a site where there is no reason to believe they could or should be present. VOLKERT and the CLIENT agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the basic services or termination of services. VOLKERT and the CLIENT also agree that the discovery of unanticipated hazardous materials may make it necessary for VOLKERT to take immediate measures to protect health and safety. CLIENT agrees to compensate Volkert for any steps or measures reasonably taken by Volkert and/or its subcontractors to protect health and safety, including but not limited to remediation, identification, handling, transport, storage, treatment, disposal, or recovery and other costs incidental to the discovery of unanticipated hazardous waste.
- 9.3 VOLKERT agrees to notify CLIENT when unanticipated hazardous materials or suspected hazardous materials are encountered. CLIENT agrees to make any disclosures required by law to the appropriate governing agencies. CLIENT also agrees to hold VOLKERT harmless for any and all consequences of disclosures made by VOLKERT which are required by governing law. In the event the project site is not owned by the CLIENT, the CLIENT recognizes that it is the CLIENT'S responsibility to inform the property owner of the discovery of unanticipated hazardous materials or suspected hazardous materials.
- 9.4 Notwithstanding any other provision of the agreement, the CLIENT waives any claim against VOLKERT, and to the maximum extent permitted by law, agrees to defend, indemnify and hold VOLKERT harmless from any claim, liability and/or defense costs for injury or loss arising from VOLKERT'S discovery of unanticipated hazardous materials or suspected hazardous materials including any costs created by delay of the project and any cost associated with possible reduction of the property's value.
- 9.5 CLIENT will be responsible for ultimate disposal of any samples secured by VOLKERT which are found to be contaminated with hazardous materials.

#### **10. TERMINATION**

- 10.1 The obligation to provide further services under this agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, VOLKERT will be paid for all services rendered to the date of termination and all reimbursable expenses including reimbursement for reasonable demobilization expenses in the event of termination due to no fault of Volkert.



**VOLKERT, INC.  
FEE SCHEDULE  
EFFECTIVE MARCH 1, 2013**

| <b><u>CLASSIFICATION</u></b> | <b><u>HOURLY<br/>BILLING RATE</u></b> | <b><u>OVERTIME HOURLY<br/>BILLING RATE</u></b> |
|------------------------------|---------------------------------------|------------------------------------------------|
| Principal                    | \$230.00 .....                        | \$230.00                                       |
| Manager                      | \$220.00 .....                        | \$220.00                                       |
| Agency Liaison               | \$220.00 .....                        | \$220.00                                       |
| Supervisor                   | \$200.00 .....                        | \$200.00                                       |
| Project Manager              | \$170.00 .....                        | \$170.00                                       |
| Staff 2 Professional         | \$125.00 .....                        | \$125.00                                       |
| Staff 1 Professional         | \$100.00 .....                        | \$100.00                                       |
| Senior Designer              | \$120.00 .....                        | \$155.00                                       |
| Designer                     | \$100.00 .....                        | \$130.00                                       |
| Technician                   | \$95.00 .....                         | \$120.00                                       |
| Drafter                      | \$55.00 .....                         | \$70.00                                        |
| Construction Manager         | \$210.00 .....                        | \$210.00                                       |
| Construction Project Manager | \$130.00 .....                        | \$130.00                                       |
| Construction Inspector 2     | \$85.00 .....                         | \$110.00                                       |
| Construction Inspector 1     | \$50.00 .....                         | \$65.00                                        |
| Bridge Inspector             | \$115.00 .....                        | \$145.00                                       |
| Survey Manager               | \$165.00 .....                        | \$165.00                                       |
| Senior Surveyor              | \$95.00 .....                         | \$125.00                                       |
| Survey Crew (2 Man)          | \$160.00 .....                        | \$205.00                                       |
| Survey Crew (3 Man)          | \$210.00 .....                        | \$270.00                                       |
| Survey Crew (4 Man)          | \$250.00 .....                        | \$320.00                                       |
| Survey Crew (5 Man)          | \$290.00 .....                        | \$375.00                                       |
| Project Administrator        | \$115.00 .....                        | \$145.00                                       |
| Clerical                     | \$70.00 .....                         | \$90.00                                        |
| ROW Manager                  | \$230.00 .....                        | \$230.00                                       |
| Appraiser Supervisor         | \$130.00 .....                        | \$130.00                                       |
| Appraiser Project Manager    | \$100.00 .....                        | \$100.00                                       |
| Negotiator Project Manager   | \$100.00 .....                        | \$100.00                                       |
| Negotiator                   | \$85.00 .....                         | \$85.00                                        |
| Relocation Project Manager   | \$100.00 .....                        | \$100.00                                       |
| Relocation                   | \$95.00 .....                         | \$95.00                                        |
| ROW Clerical                 | \$45.00 .....                         | \$45.00                                        |

**OTHER**

Mileage..... Included in Hourly Billing Rate  
In House Printing..... Included in Hourly Billing Rate  
Out of Pocket Expenses (Not Identified Above & Specific to Assignment)..... Cost

This rate schedule will be effective through March 1, 2014, at which time a revised Hourly Billing Rate Schedule will be mutually agreed to by Owner and Consultant.