

TERMS AND CONDITIONS

January 03, 2022

ADA Consulting Group, Inc. (ADACG) shall perform the services outlined in this agreement for the stated fee arrangement.

Access to Site. Unless otherwise stated, ADACG will have access to the site for activities necessary for the performance of the services. ADACG will take precautions to minimize damage due to these activities, but has not included in the fee the cost of restoration of any resulting damage.

Dispute Resolution. Any claims or disputes made during project design, construction or post-construction between the Client and ADACG shall be submitted to non-binding mediation. Client and ADACG agree to include a similar mediation agreement with all contractors, subcontractors, subconsultants, suppliers, and fabricators, thereby providing for mediation as the primary method for dispute resolution between all parties.

Billings/Payments. Payment for Texas Accessibility Standard (TAS) Plan Review and/or Inspection Services rendered by ADACG are due at time of submittal (prepaid) and are a condition of hire for RAS services. Other invoices for ADACG's services shall be submitted, at ADACG's option, either upon completion of such services or on a monthly basis. Invoices shall be payable within 30 days after the invoice date. If the invoice is not paid within 30 days, ADACG may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, hold any and all work until invoices are current or terminate the performance of the service and/or contract. Retainers shall be credited on the final invoice. All payments associated with Texas Department of Licensing and Regulation (TDLR) plan review and inspection services are non-refundable. All payments shall be by check, bank cashiers check, cash, or credit card payment (as available) payable in U.S. currency. Payments made by credit card incur a 3% convenience fee.

Late Payments. Accounts unpaid 60 days after the invoice date may be subject to a monthly service charge of 1.5% on the then unpaid balance. In the event any portion or all of an account remains unpaid 90 days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees. The Client and/or Property Owner agree and understand that ADACG shall have the right to file a Mechanics Lien on the property described herein should any payment due ADACG remain unpaid beyond 30 days.

Indemnification. The Client shall, to the fullest extent permitted by law, indemnify and hold harmless ADACG, his or her respective owners, officers, directors, employees, agents and subconsultants from and against all damage, liability and cost, including reasonable attorney's fees and defense costs, arising out of or in any way connected with the performance by any of the parties above named of the services under this agreement, excepting only those damages, liabilities or costs attributable to the sole negligence or willful misconduct of ADACG, his or her respective owners, officers, directors, employees, agents and subconsultants.

Consequential Damages. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor the ADACG, his or her respective owners, officers, directors, employees, agents or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty.

Certifications, Guarantees and Warranties. ADACG shall not be required to sign any documents, no matter by whom requested, that would result in ADACG having to certify, guarantee or warrant the existence of conditions whose existence ADACG cannot ascertain. The Client also agrees not to make resolution of any dispute with ADACG or payment of any amount due to ADACG in any way contingent upon ADACG's signing any such certification. ADACG Registered Accessibility Specialists (RAS) services are specifically limited to the TDLR RAS Procedures (Effective April 1, 2007, as amended); the Texas Architectural Barriers Act (Texas Government Code, Chapter 469); and TDLR Administrative Rules (Title 16, Texas Administrative Code, Chapter 68). ADACG RAS services or accessibility consulting services do not address applicability of the Americans with Disabilities Act (ADA), (P.L 101-336), Uniform Federal Accessibility Standards (UFAS), Fair Housing Act (FHA), or any other state, local, or federal requirement unless specifically requested from and agreed to by ADACG.

Limitation of Liability. In recognition of the relative risks and benefits of the project to both the Client and ADACG, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of ADACG and his or her respective owners, officers, employees, agents and subconsultants to the Client and to all construction contractors and subcontractors on the project for any and all claims, losses, costs, damages of any nature whatsoever or claim expenses from any cause or causes, so that the total aggregate liability of ADACG and his or her owners, officers, employees, agents and subconsultants to all those named shall not exceed the total fee for services rendered on this project. Such claims and causes include, but are not limited to, ADACG's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.

Termination of Services. This agreement may be terminated by the Client or ADACG should the other fail to perform its obligations hereunder; or at any time desired by either party. In the event of termination, the Client shall pay ADACG for all services rendered to the date of termination, and all reimbursable expenses, and any justifiable reimbursable termination expenses such as any non-refundable sub-consultant retainers, governmental fees, etc.

Entire Agreement; Modifications. This Agreement supersedes all prior agreements, written or oral, between Client and ADACG and will constitute the entire agreement and understanding between the parties with respect to the subject matter of this Agreement. This Agreement and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by both ADACG and Client.

Force Majeure. Neither party hereto will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character.

Severability. In case any provision of this Agreement will, for any reason, be held invalid or unenforceable in any respect, the invalidity or unenforceability will not affect any other provision of this Agreement, and this Agreement will be construed as if the invalid or unenforceable provision had not been included.

Time Limits. Prices shown in the attached proposal, signed agreement, or ADACG Fee Schedule are valid for a period of 30 days past date of document, at which time they are subject to change.

Reliance on Client and Third Parties. Client agrees that ADACG may rely on the accuracy and validity of all information provided by Client, the work of third parties, and public records, and ADACG is not expected to or required by Client to validate or verify said information.

Ownership of Documents. Documents produced by ADACG under this agreement shall remain the property of ADACG however they may be used by the Client freely for the purposes originally intended under this agreement but may not be used by the Client or any other party for any other endeavor without the written consent of ADACG. Any reuse without written verification and consent by ADACG will be at Client's sole risk in which Client shall indemnify and hold harmless and defend ADACG from all claims, damages and losses. Documents and information within a TDLR Architectural Barriers Project File are public record and subject to the requirements of the Texas Public Information Act unless specifically exempted by law.