

STATE OF TEXAS                   §  
   §  
COUNTY OF FORT BEND       §

**FIFTH AMENDMENT TO AGREEMENT FOR PROFESSIONAL ENVIRONMENTAL SERVICES**

**THIS FIFTH AMENDMENT**, 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 Berg-Oliver Associates, Inc., (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas.

WHEREAS, the parties executed and accepted that certain Agreement for Professional Environmental Services on December 16, 2014, (hereinafter "Agreement") pursuant to SOQ 14-025, as amended by documents dated July 28, 2015, (hereinafter "Amendment"), October 6, 2015, (hereinafter "Second Amendment"); November 3, 2015, (hereinafter "Third Amendment"); and April 5, 2016 (hereinafter "Fourth Amendment"), collectively referred to as "Subsequent Amendments"; and

WHEREAS, the parties desire to further amend the Agreement to include additional services specifically related to the Chimney Rock extension to McHard Road Project as part of the 2013 Mobility Program, Project No. 13203.

**NOW, THEREFORE**, the parties do mutually agree as follows:

1. Services to be rendered under the Agreement shall be amended to add environmental services for the above referenced 2013 Mobility Project, as described in the Proposal dated June 28, 2016, attached hereto as Exhibit A, and incorporated herein for purposes.
2. County shall pay Contractor an additional twenty-seven thousand five hundred dollars and no/100 (\$27,500.00), for the additional professional environmental services to be rendered under this Fifth Amendment.
3. The Maximum Compensation payable to Contractor for Services rendered is hereby increased to an amount not to exceed two hundred eighty-seven thousand one hundred sixty-eight dollars and no/100 (\$287,168.00), authorized as follows:
  - A. \$35,420.00 under the Agreement;
  - B. \$3,550.00 under the Amendment;
  - C. \$121,856.00 under the Second Amendment;
  - D. \$3,542.00 under the Third Amendment;
  - E. \$95,300.00 under the Fourth Amendment; and
  - F. \$27,500.00 under this Fifth Amendment.
4. In no case shall the amount paid by County for all Services under the Agreement and any subsequent amendment thereof exceed the Maximum Compensation without an approved change order.

Except as provided herein, all terms and conditions of the Agreement and the Subsequent Amendments shall remain unchanged.

FORT BEND COUNTY

BERG-OLIVER, INC.

\_\_\_\_\_  
Robert E. Hebert, County Judge

  
\_\_\_\_\_  
Susan Alford, President

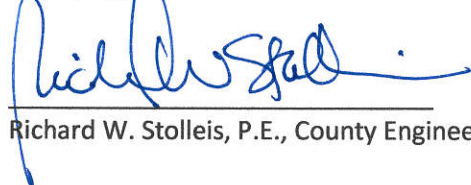
\_\_\_\_\_  
Date

8-29-16  
\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Laura Richard, County Clerk

APPROVED:

  
\_\_\_\_\_  
Richard W. Stolleis, P.E., County Engineer

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Marcus D. Spencer, First Assistant County Attorney

#### 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

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# EXHIBIT A



## **BERG ♦ OLIVER ASSOCIATES, INC.**

*Environmental Science & Land Use Consultants*  
14701 St. Mary's Lane, Suite 400, Houston, Texas 77079  
(281) 589-0898 fax: (281) 589-0007  
Houston ♦ Dallas/ Fort Worth ♦ WDBE/HUB ♦ [www.bergoliver.com](http://www.bergoliver.com)

June 28, 2016

Mr. Stacy Slawinski  
Fort Bend County Engineering Department  
301 Jackson Street, Suite 400  
Richmond, Texas 77469

*Via email:*

Stacy.Slawinski@fortbendcountytexas.gov  
Don.Durgin@klotz.com  
Mike.Bagstad@zarinkelk.com

Re: Proposal for Environmental Assessment of the Chimney Rock extension to McHard Road as part of the Mobility Bond Program (Project #13203)  
**BOA Project No. 9909N-ES(2)**  
**PO# 121766**

Dear Mr. Slawinski:

The following proposal is provided to Fort Bend County Engineering Department for environmental services for the Mobility Bond Program (1 project), specifically the extension of Chimney Rock to McHard Road, being an estimated 150' right of way approximately 2.25 miles, located within Fort Bend County, Texas. Berg ♦ Oliver Associates, Inc. (Berg ♦ Oliver) will provide special attention to complete the work in a timely and professional manner. We will begin the assessment upon your acceptance and execution of this proposal.

As the proposed project is a new alignment as part of Fort Bend County Mobility Program and ties to TxDOT right of way (FM 2234, also known as McHard Road), the proposed scope of services includes tasks required for compliance with the Texas Administrative Code for a subdivision of the State as well as those for compliance with TxDOT requirements. The scope includes the following tasks:

- VI) USACE Nationwide Permit (NWP)
- VII) Approved Jurisdictional Determination (AJD)
- VIII) Limited Phase II Environmental Site Assessment (P2)
- IX) Hydro-Geomorphologic Model (HGM)

Attachment A describes each in detail.

Berg ♦ Oliver Associates, Inc.  
BOA Project Number 9909N-ES  
June 28, 2016

## PROJECT SCHEDULE

Task VII will begin using authorization from the original proposal for this project, as this task is the most time-intensive. Completion timing is at the discretion of the USACE (estimated at approximately 1 year). Task VIII will be completed within 60 (sixty) days of initiation. Tasks VI & IX are dependent on Task VII. Task VI will be completed within approximately 6-8 months after initiation (after Task VII is completed). Task VII will be completed along with Task VI, if requested by the USACE. The project completion schedule is the goal of all parties; it does not, however, reflect unusual delays due to forces beyond the control of Berg ♦ Oliver and/or modifications to the scope of work based upon actual findings or additional requests by Fort Bend County Engineering Department, its agents, or governmental agency.

## RIGHT OF ENTRY

Unless otherwise stated, it is assumed that the client has the authority to enter the property for purposes of conducting environmental assessments and herein grants that authority to Berg ♦ Oliver.

## BASIC COMPENSATION AND METHOD OF PAYMENT

Berg ♦ Oliver proposes to provide all services listed below on a time and materials basis per the rate schedule included in Attachment B, not to exceed the estimate listed in the table below. Invoices for all hourly work will be submitted monthly.

Each task may be authorized individually upon written notice by FBCED or collectively. Collectively, Tasks I-IV are estimated not to exceed \$34,000.00.

Project No.	Project Location	Required Tasks	Cost Estimate
13203	Chimney Rock	USACE Nationwide Permit	\$12,000.00
		Approved Jurisdictional Determination	\$5,500.00
		Phase II Environmental Site Assessment	\$10,000.00
		<b>Chimney Rock Assessment</b>	<b>\$27,500.00</b>
		Potential Additional Tasks (If needed)	
		<del>HGM for Mitigation Plan (if needed)</del>	<del>\$6,500.00</del>
		<del>Total Potential Additional Services</del>	<del>\$6,500.00</del>
		<del>Grand Total (If needed)</del>	<del>\$34,000.00</del>

## CONFIDENTIALITY OF ASSESSMENT

The assessment and all related work and services of Berg ♦ Oliver Associates, Inc. are confidential. Berg ♦ Oliver Associates, Inc. is hereby employed by Fort Bend County Engineering Department pursuant to this contract. Under such contract relationship, all correspondence, written or oral, which

relates to the findings of this study are, to the extent permitted by law, strictly confidential between the parties hereto, unless Berg ♦ Oliver Associates, Inc. receives a written request from the client to offer the results of this study to a third party not a part of this agreement/proposal. Environmental assessments may occasionally uncover extremely sensitive findings. It is the responsibility of Berg ♦ Oliver Associates, Inc. to report these findings to the authorizing client and to no other party.

### **PROPOSAL ACCEPTANCE AND EXECUTION**

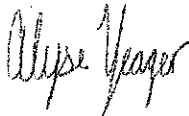
Acceptance of this proposal will serve as authorization to proceed with the work proposed herein. The signatory below also represents that the client has, or has secured, the authority to grant permission for Berg ♦ Oliver Associates, Inc. personnel to enter the subject property as necessary to conduct these assessments and that such permission is granted to Berg ♦ Oliver Associates, Inc. by the execution of this agreement/proposal. If the client is a Corporation or a Partnership, then the signature below will also represent the personal guarantee of the individual signing on behalf of the Client.

IN WITNESS THEREOF, Fort Bend County Engineering Department and Berg ♦ Oliver Associates, Inc. have accepted and executed this proposal for environmental services on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

### **FORT BEND COUNTY ENGINEERING DEPARTMENT**

By: \_\_\_\_\_  
Authorized Signature

### **BERG ♦ OLIVER ASSOCIATES, INC.**

By:  \_\_\_\_\_  
Alyse Yeager  
Ecologist

## **ATTACHMENT A**

### **TASK VI**

#### **SECTION 404 CLEAN WATER ACT PERMIT**

##### **PREPARATION AND COORDINATION**

##### **SCOPE OF WORK**

Scope of work for the preparation of a Clean Water Act Section 404 Permit and submission to the USACE will follow the criteria set forth in 33 CFR 330 (Nationwide). A conceptual development plan including profiles must be provided by the client or the client's consulting engineer. Berg ♦ Oliver will utilize these plans to create the required permit submittal drawings in the USACE's preferred format. The USACE may request an alternatives analysis and best management practice information that must be provided to Berg ♦ Oliver from the client or consulting engineer.

Berg ♦ Oliver will perform the following under this task:

1. Draft and submit the Nationwide Permit application and support documents to the applicant/client for review prior to submittal to the USACE. (Berg ♦ Oliver must have written approval from the client authorizing Berg ♦ Oliver to submit the permit application to the USACE.)
2. Attend two (2) on-site meetings with USACE and resource protection agencies.
3. Consult with the client, engineer, and land planner regarding the site development plan and alternatives.
4. Consult with the applicant regarding the Wetland Mitigation Plan and design, if deemed necessary. (If client chooses, Berg ♦ Oliver can prepare the mitigation plan and design under a separate proposal.)
5. Assist the applicant/client in providing the USACE site specific requested information and/or Revised Site Development Plan, if necessary.

### **TASK VII**

#### **APPROVED JURISDICTIONAL DETERMINATION**

##### **SCOPE OF WORK**

Berg ♦ Oliver proposes to provide this service for the proposed area which contains previously delineated 8.82 acres of wetlands, 208 linear feet of Water of the US, and 387 linear feet of man-made ditches. Berg ♦ Oliver will complete U.S. Army Corps of Engineers (USACE) Approved Jurisdictional Determination (AJD) forms for the project site. The AJD forms will determine if the wetland areas are isolated and non-jurisdictional. Berg ♦ Oliver will submit forms to the USACE for verification and attend site visits with the USACE.

**TASK VIII**  
**LIMITED PHASE II SITE ASSESSMENT**  
**SCOPE OF WORK**

The objective of the Limited Phase II Site Investigation is to identify, to the extent feasible, the vertical and horizontal extent of hydrocarbon impacted soil for eventual excavation and disposal. The Limited Phase II Site Investigation will have four components, described as follows:

1. **Determination of materials and substances to be tested:** The potential source area within the proposed right of way (ROW) is a former oil/gas reserve pit. Based on past experience working with Texas Railroad Commission (RRC) on similar source areas, benzene, toluene, ethylbenzene, and xylenes (BTEX) by SW-846 Method 8260, total petroleum hydrocarbons by Texas Method 1005, RCRA metals by SW-846 Methods 6010 or 6020, total chlorides, and pH will be the chosen methods of analysis.
2. **Securing of Test Samples:** Collection of samples from approximately 10 soil borings will be performed and continuous soils collected using a GeoProbe™ "Direct Push" soil sampler. BOA anticipates borings will be advanced to approximately eight feet (8') below ground surface (bgs), refusal, or the first water bearing zone, whichever is shallower. Soils will be screened utilizing a portable organic vapor analyzer (OVA). If field screening indicates potential impacts at eight (8) feet in a particular boring location, boring may continue in an attempt to provide vertical delineation. Soil samples will be sealed within four foot (4') clear poly tubing for field analysis. Field sample determination for soil tests or composites will be conducted by the on-site Berg ♦ Oliver field supervisor, field engineer, or geologist. In general, soil samples will be collected from the depth interval exhibiting the highest OVA reading. In the absence of positive OVA readings, soil samples will be selected based on visual, olfactory, or other evidence of potential impact. Additional soil samples may also be collected and "held" at the laboratory for possible future analysis. Given the anticipated project scope and expected depth to groundwater, groundwater sampling appears unwarranted and will not be performed at this time.
3. **Analytical Testing:** Samples secured during soil boring and groundwater sampling events will be taken to an accredited laboratory for laboratory analysis for suspected contaminants. All samples will be properly contained and sealed for transport to the selected laboratory along with complete Chain of Custody forms.
4. **Analytical Results and Site Investigation Report:** The results of analytical tests will be reflected in a Site Investigation Report (SIR). Analytical results will be compared to current TCEQ Texas Risk Reduction Protective Concentration Levels (TRRP PCLs). Findings will be used to assess construction worker safety, determine if remedial action at the site is necessary prior to construction, and to determine if excavated soils are suitable for re-use or will require disposal. If it is determined that remedial action is necessary, findings will be used to design the appropriate remedy for cleanup of the site.
5. **Exclusions:** Unless indicated otherwise on Attachment "A", the scope of work does not involve the setting of groundwater monitoring wells, preparation of potentiometric

surface maps, or plume concentration mapping since a higher level of subsurface analysis is required. If indicated from test results, a more comprehensive subsurface analysis may be recommended under a separate contract. The proposed costs for this proposal do NOT include sampling, testing, transportation, or disposal of investigation derived waste (IDW). Given the proposed scope, IDW is not anticipated for this project. However, should IDW be created, it will be drummed and left on-site.

**TASK IX (If Needed)**  
**HYDROGEOMORPHIC MODEL (HGM)**  
**FOR MITIGATION ASSESSMENT**  
**SCOPE OF WORK**

**If required by the terms of a Nationwide or Individual Permit**, in order to determine appropriate compensatory mitigation for all unavoidable impacts to streams and wetlands, the USACE - Galveston District requires applicants to utilize the Hydrogeomorphic Model (HGM). Berg♦Oliver will conduct the appropriate assessment for the areas of impact and make recommendations for on-site mitigation or off-site mitigation (permittee responsible or bank credit purchase) that will satisfy the USACE mitigation requirements. Berg♦Oliver will also prepare a mitigation plan for the impacts to be submitted to the USACE. The mitigation plan will address the creation and maintenance of the mitigation area. A condition of the stream mitigation in the permit also requires monitoring and reporting to the USACE. Berg♦Oliver will propose a maintenance schedule for the entire monitoring period. The mitigation plan will provide for consultation with appropriate agencies and other specialists to develop mitigation solutions. This cost proposal does not include mitigation construction, planting, and monitoring.

If off-site permittee responsible mitigation is required, the USACE may require additional tasks be performed that are outside of this scope, such as a Wetland Delineation and an archaeological study of the off-site location. If additional tasks are necessary, Berg♦Oliver will submit a change order to the client for approval prior to conducting additional out-of-scope work.



**ATTACHMENT B**  
**BERG ♦ OLIVER ASSOCIATES, INC.**

*Environmental Science & Land Use Consultants*  
14701 St. Mary's Lane, Suite 400, Houston, Texas 77079  
(281) 589-0898 fax: (281) 589-0007  
Houston ♦ Dallas/Fort Worth ♦ WDBE/HUB ♦ [www.bergoliver.com](http://www.bergoliver.com)

**2016 PERSONNEL RATE SCHEDULE**

<u>Personnel</u>	<u>Hourly Billing Rate</u>
Project Director/Principal	\$190.00
Senior Associate	\$170.00
Project Manager/Registered Environmental Manager	\$160.00
Professional Geologist	\$160.00
Health/Safety Officer/Chemist	\$160.00
Project Coordinator	\$130.00
Wetlands Biologist/Ecologist	\$120.00
Soil Scientist/Geologist	\$120.00
Senior GIS Analyst	\$125.00
GIS Analyst	\$110.00
Field Technician	\$85.00
In-House Technician/Administrator	\$80.00
CADD Sr. Analyst	\$110.00
CADD Analyst	\$80.00
Administrative/Word Processing	\$65.00
Specialist Subcontractors	Cost + 15%

Above rates include all normal expenses of BOA's business, including mailing charges, in-house photocopying, long distance telephone costs, in-house graphic systems, and local area travel, unless otherwise stated in the agreement. Expenses, such as travel beyond fifty (50) miles, outside photocopying, delivery charges, photographic reproduction, and other outside services, are considered reimbursable by the client at rate of cost +15%. Any extraordinary reimbursable expenses, in excess of \$250.00 must have authorization from the client.

NOTE: The rate schedule is for the current fiscal year, with an effective date of January 1. Hourly rates are adjusted annually as inflation dictates. If this contract spans more than one fiscal year (ending December 31), hourly rates may be adjusted. Regardless of any rate adjustment, the "not to exceed" figures in a contract will not change.

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:  
2016-105241

Date Filed:  
08/29/2016

Date Acknowledged:

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

Berg-Oliver Associates, Inc.  
Houston, TX United States

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

Fort Bend County Engineering Department

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**

9909N-ES  
Chimney Rock extension to McHard Road

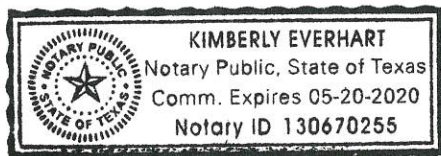
4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

**5 Check only if there is NO Interested Party.**



**6 AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



AFFIX NOTARY STAMP / SEAL ABOVE

*[Signature]*  
Signature of authorized agent of contracting business entity

Sworn to and subscribed before me, by the said Susan Alford, this the 29th day of August, 2016, to certify which, witness my hand and seal of office.

*[Signature]*  
Signature of officer administering oath

Kimberly Everhart  
Printed name of officer administering oath

Notary Public  
Title of officer administering oath