



- 3.02 Contractor shall submit invoices to District and District shall pay each invoice within thirty (30) days after the District Project Manager's written approval provided however, that the approval or payment of any invoice shall not be considered to be conclusive evidence of performance by Contractor to the point indicated by such invoice or of receipt or acceptance by the District of the services covered by such invoice.
- 3.04 Contractor's fees shall be calculated at rates not to exceed the amounts included in Exhibit A, incorporated by reference herein as if set-forth verbatim.

#### SECTION IV TERMINATION

- 4.01 District may terminate this Agreement at any time by providing ten (10) days written notice to the Contractor.
- 4.02 Upon receipt of such notice, the Contractor shall discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement.
- 4.03 Within thirty (30) days after receipt of notice of termination, the Contractor shall submit a statement, showing in detail the services performed under this Agreement to the date of termination.
- 4.04 The District shall then pay Contractor that proportion of the prescribed charges which the services actually performed under this Agreement bear to the total services called for under this Agreement, less such payments on account of charges as have been previously made.
- 4.05 Copies of all completed or partially completed designs, drawings, electronic data files and specifications prepared under this Agreement shall be delivered to the District when and if this Agreement is terminated in the manner and for the purposes provided in this Agreement.

#### SECTION V INSURANCE

- 5.01 Prior to commencement of the Services, Contractor shall furnish District with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to District. Contractor shall provide certified copies of insurance endorsements and/or policies if requested by District. Contractor shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Contractor shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:
- A. Workers' Compensation insurance in accordance with the laws of the State of Texas. Substitutes to genuine Workers' Compensation Insurance will not be allowed.

- B. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
- C. Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
- D. Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.
- E. All Liability insurance policies shall name District as an additional insured. Furthermore, the Workers Compensation and Liability Insurance carriers shall grant a waiver of subrogation in District's favor.

5.02 If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time that work under the Agreement is completed.

## SECTION VI NOTICE

- 6.01 Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the District or Contractor at the addresses set forth below.
- 6.02 If mailed, any notice or communication shall be deemed to be received three days after the date of deposit in the United States Mail.
- 6.03 Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:
  - A. If to Contractor:
    - Gregory A, Schmidt
    - Texas Engineering & Mapping
    - 12810 Century Drive
    - Stafford, Texas 77477
    - 281-491-2535 - Fax
  - B. If to District notice must be sent to both the Fort Bend County Purchasing Agent and District Project Manager:

Fort Bend County Purchasing Department

Gilbert D. Jalomo, Jr., CPPB  
4520 Reading Road, Suite A  
Rosenberg TX 77471

Fort Bend County Drainage District  
Mark Vogler, Director  
1004 Blume Road  
Rosenberg, Texas 77469

- 6.04 Either party may designate a different address by giving the other party ten (10) days written notice.

#### SECTION VII LIMIT OF APPROPRIATION

- 7.01 Prior to the execution of this Agreement, Contractor has been advised by District, and Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence to this contract, that District shall have available the total maximum sum of \$22,750.00, including reimbursable expenses, if any, specifically allocated to fully discharge any and all liabilities which may be incurred by District.
- 7.02 Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this contract, that the total maximum compensation that Contractor may become entitled to hereunder and the total maximum sum that District shall become liable to pay to Contractor hereunder shall not under any conditions, circumstances or interpretations thereof exceed the sum of \$22,750.00.

#### SECTION VIII SUCCESSORS AND ASSIGNS

- 8.01 District and Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement.
- 8.02 Neither District nor Contractor shall assign, sublet or transfer its or his interest in this Agreement without the prior written consent of the other.
- 8.03 Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public and/or governmental body that may be a party hereto.

#### SECTION IX PUBLIC CONTACT

- 9.01 Contact with the news media, citizens of Fort Bend County or governmental agencies shall be the sole responsibility of District.
- 9.02 Under no circumstances, whatsoever, shall Contractor release any material or information developed in the performance of its services hereunder without the express written permission of District, except where required to do so by law.

SECTION X  
COMPLIANCE AND STANDARDS

Contractor shall render the services hereunder in accordance with generally accepted standards of Contractors practicing in Fort Bend County, Texas applicable thereto and shall use that customary degree of care and skill commensurate with the profession similar to the Project to comply with all applicable state, federal, and local laws, ordinances, rules and regulations relating to the services to be rendered hereunder, and Contractor's performance.

SECTION XI  
OWNERSHIP OF DOCUMENTS

- 11.01 District shall be the absolute and unqualified owner of all drawings, preliminary layouts, record drawings, sketches and other documents prepared pursuant to this Agreement by the Contractor and his Consultants (deliverables).
- 11.02 No reuse fees or royalty payments will be paid to the Contractor in connection with future reuse or adaptation of designs derived under this contract.
- 11.03 Copies of all complete or partially completed mylar reproducible, preliminary layouts, record drawings, digital files, sketches and other documents prepared pursuant to this Agreement shall be delivered to District when and if this Agreement is terminated or upon completion of this Agreement, whichever occurs first, as provided in this Agreement.
- 11.04 Contractor is expressly prohibited from selling, licensing or otherwise marketing or donating such documents, or using such documents in the preparation of other work for any other client, or from duplicating the appearance of the Project depicted in the deliverables for any without the prior express written permission of District.
- 11.05 The documents referenced in this Section are not intended or presented by the Contractor to be suitable for reuse by District or others on extensions of this Project or on other unrelated projects.
- 11.06 Any adaptation or use by District of such documents on extension of this Project or other unrelated projects shall be at District's sole risk.

SECTION XII  
INDEMNIFICATION

- 12.01 **CONTRACTOR SHALL SAVE HARMLESS DISTRICT FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF THE CONTRACTOR, ITS AGENTS, CONSULTANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF THE CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.**
- 12.02 **CONTRACTOR SHALL ALSO SAVE HARMLESS DISTRICT FROM AND AGAINST ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES WHICH MIGHT BE INCURRED BY DISTRICT, IN LITIGATION OR OTHERWISE RESISTING SAID CLAIMS OR LIABILITIES THAT MIGHT BE IMPOSED ON DISTRICT AS THE RESULT OF SUCH ACTIVITIES BY THE CONTRACTOR, ITS AGENTS, CONSULTANTS OR EMPLOYEES.**

SECTION XIII  
MODIFICATIONS

This instrument contains the entire Agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent written modification signed by both parties hereto.

SECTION XIV  
MISCELLANEOUS

- 14.01 By entering into this Agreement, the parties do not intend to create any obligations, express or implied, other than those specifically set out in this Agreement.
- 14.02 Nothing in this Agreement shall create any rights or obligations in any party who is not a signatory to this Agreement.
- 14.03 Contractor agrees and understands that: by law, the Fort Bend County Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients; the Fort Bend County Attorney's Office may not advise or approve a contract or other legal document on behalf of any other party not its client; the Fort Bend County Attorney's Office has reviewed this document solely from the legal perspective of its client; the approval of this document by the Fort Bend County Attorneys Office was offered solely to benefit its client; Contractor and other parties should not rely on this approval and should seek review and approval by their own respective legal counsel.
- 14.04 If there is a conflict between this Agreement and Exhibit A, the provisions of this Agreement shall prevail.

SECTION XV  
CLEAN-UP

- 15.01 Contractor shall at all times keep its work area in a neat, clean and safe condition and remove from County's premises and the vicinity thereof and properly dispose of all debris and rubbish caused by Contractor's operations. Upon completion of the services provided under this Agreement, Contractor shall promptly return unused materials furnished by County, if any, and remove from County's premises all of Contractor's equipment, material, scaffolding and like items, leaving County's premises and the vicinity clean, safe and ready for use.
- 15.02 In the event Contractor shall fail to maintain its work area as described above and in a manner satisfactory to County, or to effect such clean-up or removal immediately after receipt of written notice to do so, County shall have the right without further notice to Contractor to perform such cleanup and remove such items on behalf of and at the risk of and at the expense of Contractor. County may store items removed at a place of its choosing on behalf of Contractor and at Contractor's risk and expense. County shall promptly notify Contractor of such place of storage. County may further deduct from any final payment owed to Contractor for the cost of any clean-up performed by County in which Contractor failed to perform.

SECTION XVI  
EXECUTION

This Agreement shall become effective on the date executed by the Drainage District.

FORT BEND COUNTY:

Robert E. Hebert  
Robert E. Hebert, County Judge

August 25, 2009  
Date

Attest:

Dianne Wilson  
Dianne Wilson, County Clerk

APPROVED:

By: Mark Vogler  
Mark Vogler, Director  
Drainage District

8/12/09  
Date

CONTRACTOR: Texas Mapping and Engineering

Gregory A. Schmidt  
Gregory A. Schmidt

8/07/09  
Date

MER: Texas Engineering & Mapping: 3523.DD.Big Creek-Segment(08062009)

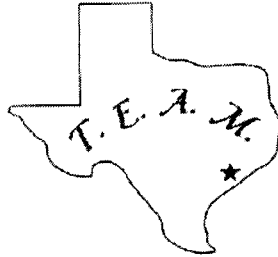
**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available in the amount of \$22,750.00 to accomplish and pay the obligation of the Fort Bend County Drainage District under this contract.

Ed Sturdivant  
Ed Sturdivant, Fort Bend County Auditor

Exhibit A: Contractor's proposal dated July 29, 2009, including Schedule of Hourly Rates and Reimbursable Expenses.

Exhibit A



**Texas  
Engineering  
And  
Mapping**

July 29, 2009

Mr. Mark Vogler, P.E.  
Director  
**Fort Bend County Drainage District**  
1104 Blume Road  
Rosenberg, Texas 77471

**Re: Survey of Wetlands Delineation along Segment 5 of Big Creek from F.M. 2977 to the Cottonwood/ Coon Creek split near the intersection of Spur 10 (Gerken Road) and Band Road, in Fort Bend County, Texas.**

Dear Mr. Vogler:

We are pleased to propose professional land surveying services to **Fort Bend County Drainage District** in connection with the project stated above. We understand the scope-of-services to be as follows:

***SCOPE-OF-SERVICES***

***Survey of Wetland Delineations*** - T.E.A.M. will locate the wetland areas currently being delineated by Wetland Technologies Corporation. We anticipate approximately 1,000 stakes to be located which will include the wetland areas and baselines. These points will be located utilizing GPS technology for X, Y and Z coordinates. T.E.A.M. will also check into established benchmarks in the area for elevation control.

***FEE SCHEDULE***

We propose to perform the above-described services for the following lump sum fee:

Survey of Wetland Delineations ..... \$22,750.00

*T.E.A.M. Works For You!*

**12810 Century Drive Stafford, Texas 77477 (281) 491-2525 / 491-2535 - FAX**

Proposal - Wetland Delineations-Big Creek Segment 5  
July 29, 2009  
Page 2

***Reimbursable Expenses***

Normal expenses in performing the work described herein and to deliver to the client six (6) copies of the survey are included in the fee above. Any other reimbursable expenses will be invoiced per the enclosed *Attachment A*.

The total proposed fee is **\$22,750.00**. We propose to perform any other services not included in this proposal, when specifically authorized, on a per diem and expense basis in accordance with *Attachment A*. This project will be invoiced on a monthly basis. Payment is requested within thirty (30) days from the date of invoice. Should invoices not be paid within thirty (30) days from the date of invoice, interest thereon at a rate equal to 1.5% per month on the unpaid balance shall be added each month to the sum shown as due by the invoice beginning with the date of invoice.

If this proposal is agreeable to you, please indicate your acceptance by signing in the space provided and return one (1) copy to us for our file. This proposal is void if not accepted within thirty (30) days from the date hereon. Thank you again for the opportunity to propose professional land surveying services to **Fort Bend County Drainage District** and we look forward to working on this project with you.

Sincerely,

**ACCEPTED:**



Gregory A. Schmidt, P.E., R.P.L.S.

---

Mark Vogler  
**Fort Bend County Drainage District**

GAS:eps  
Enclosure: *Attachment A*

**ATTACHMENT A**

**2009 SCHEDULE OF HOURLY RATES  
AND REIMBURSABLE EXPENSES**

<b>1. HOURLY RATES - ENGINEERING SERVICES</b>	
Principal .....	\$200.00
Project Manager .....	\$100.00
Project Engineer .....	\$95.00
Engineering Technician .....	\$85.00
Construction Inspector .....	\$75.00
C.A.D. Operator .....	\$70.00
Research Assistant .....	\$65.00
Clerical .....	\$60.00
<b>2. HOURLY RATES - SURVEYING SERVICES</b>	
Principal .....	\$200.00
Registered Surveyor .....	\$100.00
Surveyor-In-Training .....	\$85.00
Survey Technician .....	\$75.00
C.A.D. Operator .....	\$70.00
Research Assistant .....	\$65.00
Survey Crew, 3 men .....	\$160.00
Survey Crew, 2 men .....	\$135.00
Clerical .....	\$60.00
<b>3. In-House Reproduction Services</b>	
Blackline Copies .....	\$0.50 per square foot
Mylars .....	\$2.75 per square foot
Copies - 8.5" x 11" .....	\$0.10 per page
Copies - 8.5" x 14" .....	\$0.20 per page
Copies - 11" x 17" .....	\$0.30 per page
<b>4. REIMBURSABLE CHARGES</b>	
Mileage .....	\$0.75 per mile
All-Terrain Vehicle (ATV) .....	\$100.00 per day
Out-of-pocket expenses paid on behalf of the Owner for items such as printing, fees, travel outside the local delivery area, delivery charges, document charges, outside professional services, necessary expenses and such .....	Cost plus 15%