

STATE OF TEXAS                   §  
   §  
 COUNTY OF FORT BEND         §

# **EIGHTH AMENDMENT TO AGREEMENT FOR PROFESSIONAL ENVIRONMENTAL SERVICES**

**THIS EIGHTH 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"); April 5, 2016 (hereinafter "Fourth Amendment"), September 6, 2016 (hereinafter "Fifth Amendment"), May 2, 2017 (hereinafter "Sixth Amendment"), and June 6, 2017 (hereinafter "Seventh 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, 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 July 26, 2017, attached hereto as Exhibit A, and incorporated herein for purposes.
2. County shall pay Contractor an additional fifty-seven thousand five hundred dollars and no/100 (\$57,500.00), for the additional professional environmental services to be rendered under this Eighth Amendment.
3. The Maximum Compensation payable to Contractor for Services rendered is hereby increased to an amount not to exceed three hundred fifty-three thousand six hundred sixty-eight dollars and no/100 (\$353,668.00), 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;
  - F. \$27,500.00 under the Fifth Amendment;
  - G. \$5,500.00 under the Sixth Amendment;
  - H. \$3,500.00 under the Seventh Amendment; and
  - I. \$57,500.00 under this Eighth Amendment.

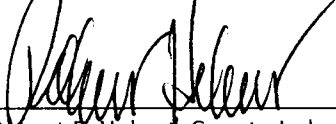
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Eighth Amendment to Agreement for Professional Environmental Services  
 2013 Mobility Bond Projects  
 Page 1 of 2

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 agreement executed by the parties.

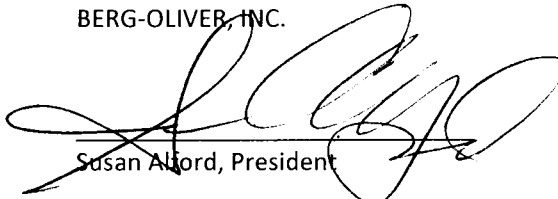
Except as provided herein, all terms and conditions of the Agreement and the Subsequent Amendments shall remain unchanged.

FORT BEND COUNTY

  
Robert E. Hebert, County Judge

10-24-2017  
Date

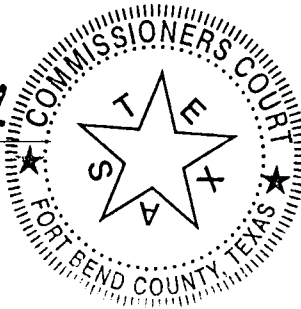
BERG-OLIVER, INC.

  
Susan Alford, President


9-19-17  
Date

ATTEST:

  
Laura Richard, County Clerk



APPROVED:

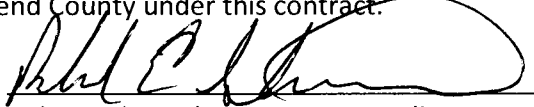
  
Richard W. Stolleis, P.E., County Engineer

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 \$ 353,668<sup>00</sup> 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, Engineering & 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)*

July 26, 2017

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*

Re: Proposal for Individual Permit and HGM for the Chimney Rock extension to McHard Road as part of the Mobility Bond Program (Project #13203)  
**BOA Project Number 9909N-IP&HGM**

Dear Mr. Slawinski:

The following proposal is provided to Fort Bend County Engineering Department for wetland permitting and analysis services for the Mobility Bond Program (1 project), specifically the extension of Chimney Rock Road 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.

Berg ♦ Oliver Associates, Inc. is proposing to provide the following services: Task I) Hydrogeomorphic Model (HGM) (9909N-HGM), and Task II) Individual Permit (9909N-IP). Attachment A describes each of these services.

### **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.

Berg ♦ Oliver Associates, Inc.  
BOA Project Number 9909N-IP&HGM  
July 24, 2017

## **BASIC COMPENSATION AND METHOD OF PAYMENT**

Berg♦Oliver proposes to provide the environmental services described in Attachment A to Fort Bend County Engineering Department for the following amounts:

**TASK I: HYDROGEOMORPHIC MODEL (HGM).....\$6,500.00**

## TASK II: INDIVIDUAL PERMIT

**INITIAL PERMIT PACKAGE SUBMITTAL.....\$10,000.00**

**MEETING WITH CLIENT, INTREST GROUPS, & GOVERNMENT AGENCIES.....\$5,000.00**

**TCEQ SECTION 401 CERTIFICATION-ALTERNATIVE ANALYSIS  
& WATER QUALITY PLAN.....\$8,000.00**

|   |                   |
|---|-------------------|
| <b>USACE ALTERNATIVE ANALYSIS &amp; CUMULATIVE/INDIRECT IMPACTS ANALYSIS.....</b> | <b>\$8,000.00</b> |
|---|-------------------|

**RESPONSE TO COMMENTS DOCUMENT (INITIAL FOLLOW UP).....\$10,000.00**

**DRAFT STATEMENT OF FINDINGS.....\$5,000.00**

**FINAL APPROVAL COORDINATION.....\$5,000.00**

|                        |                     |
|------------------------|---------------------|
| <b>ESTIMATED TOTAL</b> | <b>\$ 57,500.00</b> |
|------------------------|---------------------|

This cost estimate is valid for a period of six (6) months beyond the date shown below. After six (6) months, cost estimates may change due to fluctuations in fuel, subcontractors, and other sources required to complete the project.

Berg ♦ Oliver will begin the work described herein upon the execution of this proposal by the client. Invoices for each lump sum amount will be invoiced upon completion of the task or upon 50%, 75%, and 100% completion if the project takes longer than thirty (30) days to complete. Invoices for all hourly work will be submitted monthly and will be based upon the attached Rate Schedule in Attachment B. Payment of all invoices is expected within thirty (30) days of the client's receipt of the invoice submitted by Berg ♦ Oliver. If invoice is not paid in full in thirty (30) days, interest will accrue at 1.5% per month (18% per annum).

### 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

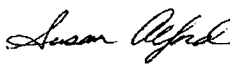
Acceptance of this proposal, including the "General Conditions for Services" found in Attachment C, will be indicated by the signatures below and will serve as authorization to proceed with the work proposed herein. The signatory below also represents that the client has, or has secured, the authority 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 \_\_\_\_\_, 2017.

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

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

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

By:   
Susan Alford, REM  
President

Berg ♦ Oliver Associates, Inc.  
BOA Project Number 9909N-IP&HGM  
July 24, 2017

## **ATTACHMENT A**

### **TASK I**

#### **HYDROGEOMORPHIC MODEL (HGM) FOR MITIGATION SCOPE OF WORK**

Mitigation for unavoidable wetland impacts will be necessary and require Hydro-Geomorphic Model (HGM) to be run to evaluate habitat value of the existing conditions and proposed habitat improvements. HGM will be used to develop a mitigation plan to compensate for proposed impacts within an approved wetland mitigation bank. The model requires specific data to be collected beyond that of a wetland delineation and evaluated. This specific data includes, but is not limited to, the following:

1. Plant bio-mass production;
2. Vegetation community composition;
3. Sediment deposition;
4. Nutrient and organic carbon exchange; and,
5. Invertebrate prey pool.

This data represents the functional capacity index (FCI), which is used to calculate the FCU. The benefit of using the model is to scientifically base mitigation solutions versus lengthy negotiations with regulatory agencies regarding ratios.

Services include: site reconnaissance to collect model data, mapping of each wetland, U.S. Army Corps of Engineers (USACE) model data sheets, and model calculations and scoring. If a wetland is forested, Berg♦Oliver will conduct the Interim Forested Riverine HGM Model for that wetland area. A report will be generated including USACE data sheets and a map.

#### **SECTION 404 CLEAN WATER ACT INDIVIDUAL 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 U.S. Army Corps of Engineers (USACE) will follow the criteria set forth in 33 CFR 325 (Individual). 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 scope:

##### **1. INITIAL PERMIT PACKAGE SUBMITTAL**

Draft and submit the Individual 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.) Preparation and

Submittal includes preparation of all plan and profile sheets of impacts and mitigation per USACE requirements and Threatened/Endangered Species Assessment is to evaluate the potential for the existence of critical or irreplaceable habitats, which are considered protected under the Endangered Species Act of 1973 and subsequent amendments and listings.

An appropriate mitigation plan will be required with the permit submittal. Berg ♦ Oliver will consult with the applicant regarding this plan. It is assumed in this scope that mitigation bank credits will be purchased, and that no on-site or off-site mitigation planning will be required. Berg ♦ Oliver will coordinate with the appropriate mitigation bank and obtain the draft credit reservation agreement. If mitigation beyond the purchase of credits is necessary, Berg ♦ Oliver Associates, Inc. will assist the client in identifying appropriate sources and prepare the appropriate mitigation plan.

This task also includes meeting with USACE project manager to review the application.

ESTIMATED HOURLY COST: \$10,000.00

## 2. MEETINGS WITH CLIENT, INTEREST GROUPS, AND GOVERNMENT AGENCIES

Berg ♦ Oliver will attend meetings with the client, one (1) on-site meeting with USACE, Texas Commission on Environmental Quality (TCEQ), and resource protection agencies. Berg ♦ Oliver will also attend one (1) additional meeting with the USACE in Galveston and/or the TCEQ in Austin, if necessary.

ESTIMATED HOURLY COST: \$5,000.00

## 3. TCEQ SECTION 401 CERTIFICATION - ALTERNATIVE ANALYSIS AND WATER QUALITY PLAN

Section 401 certification is required for Individual Permits. Berg ♦ Oliver will draft and submit an alternatives analysis to the applicant/client for review prior to submittal to the TCEQ, and a Tier I checklist and/or Tier II questionnaire, whichever is appropriate, upon written approval from the applicant/client. The purpose of this information is to satisfy the regulatory guidelines set forth in Section 401 and Section 404b(1) of the Clean Water Act. Drafting of the alternative analysis is a lengthy process and will require information from the client and engineer. Section 401 certification is a separate coordination effort with the TCEQ and is required prior to the USACE authorizing the Section 404 permit.

ESTIMATED HOURLY COST: \$8,000.00

## 4. USACE ALTERNATIVE ANALYSIS & CUMULATIVE/INDIRECT IMPACTS ANALYSIS

Berg ♦ Oliver will draft the Alternative Analysis to be submitted to the USACE. Both off-site and on-site alternatives will be assessed to document that the proposed plan is the least damaging practical alternative. Berg ♦ Oliver will need assistance from the client, engineer, land planner, and development team to complete this task. Task 4 is required for compliance with Section 404(b)(1)



guidelines. A key provision of the 404(b)(1) guidelines is the "practicable alternative test" which requires that "no discharge of fill material shall be permitted if there is practicable alternative to the proposed fill which would have a less adverse impact on the aquatic ecosystem." Therefore the applicant must demonstrate that there are no less damaging sites available and that all on-site impacts to waters of the United States have been avoided to the maximum practicable extent possible. For an alternative to be considered "practicable", it must be available and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purpose.

Berg ♦ Oliver will perform the following task for compliance with Section 404(b)(1). This task may include the preparation of multiple on-site and off-site landplans and the evaluation of off-site properties for environmental conditions.

ESTIMATED HOURLY COST FOR ALTERNATIVE ANALYSIS: \$8,000.00

#### 5. RESPONSE TO COMMENTS DOCUMENT (INITIAL & FOLLOW-UP)

Berg ♦ Oliver will assist the applicant in responding to agency comment letters submitted during the interagency and/or thirty (30) day Public Notice period. It is anticipated that Sierra Club and other interests groups will prepare extensive comments to be addressed. Similar projects have received 20 pages of comments from these groups.

ESTIMATED HOURLY COST: \$10,000.00

#### 6. DRAFT STATEMENT OF FINDINGS

In some instances, the USACE, on a case by case basis, may allow the applicant to draft the Statement of Findings document, which incorporates the Alternative Analysis information, Cumulative Impacts Statement information, and the overall project mitigation plans. The purpose is to save time and to expedite the permit approval process. Final approval of the Statement of Findings will be made by the USACE.

ESTIMATED HOURLY COST: \$5,000.00

#### 7. FINAL APPROVAL COORDINATION

Berg ♦ Oliver will coordinate with the USACE, TCEQ, and other governmental agencies to get final approval of the permit.

ESTIMATED HOURLY COST: \$5,000.00



## 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)

### 2014 PERSONNEL RATE SCHEDULE

| <u>Personnel</u>                                 | <u>Hourly Billing Rate</u> |
|--|----------------------------|
| Project Director/Principal                       | \$190.00                   |
| Senior Associate                                 | \$170.00                   |
| Professional Engineer                            | \$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.

Berg ♦ Oliver Associates, Inc.  
BOA Project Number 9909N-IP&HGM  
July 24, 2017

# 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

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

Certificate Number:  
2017-269652

Date Filed:  
10/09/2017

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

Date Acknowledged:

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-IP&HGM  
Individual Permit and HGM for the Chimney Rock extension to McHard Road

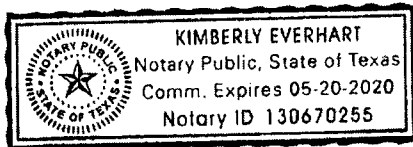
| 4 | Name of Interested Party | City, State, Country (place of business) | Nature of interest<br>(check applicable) |              |
|---|--------------------------|--|--|--------------|
|   |                          |  | Controlling                              | Intermediary |
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5 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.



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

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Susan Alford, this the 9th day of October, 2017, 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

**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**

**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

**Certificate Number:**  
2017-269652

**Date Filed:**  
10/09/2017

**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

**Date Acknowledged:**  
10/24/2017

**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-IP&HGM  
Individual Permit and HGM for the Chimney Rock extension to McHard Road

| 4 | Name of Interested Party | City, State, Country (place of business) | Nature of interest<br>(check applicable) |              |
|---|--------------------------|--|--|--------------|
|   |                          |  | Controlling                              | Intermediary |
|   |                          |  |  |              |
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**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.

\_\_\_\_\_  
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said \_\_\_\_\_, this the \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_\_, to certify which, witness my hand and seal of office.

\_\_\_\_\_  
Signature of officer administering oath

\_\_\_\_\_  
Printed name of officer administering oath

\_\_\_\_\_  
Title of officer administering oath