

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

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

THIS THIRD 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 document dated July 28, 2015, (hereinafter "Amendment"), and subsequent amendment dated October 6, 2015, (hereinafter "Second Amendment"); and

WHEREAS, the parties desire to further amend the Agreement to include additional services specifically related to the Reading Road Project No. 13102.

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 Reading Road Project No. 13102, as described in the Proposal dated October 26, 2015, attached hereto as Exhibit A, and incorporated herein for purposes.
2. County shall pay Contractor an additional three thousand five hundred forty-two dollars and no/100 (\$3,542.00), for the additional professional environmental services to be rendered under this Amendment.
3. The Maximum Compensation payable to Contractor for Services rendered is hereby increased to an amount not to exceed one hundred sixty-four thousand three hundred sixty-eight dollars and no/100 (\$164,368.00). 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, the First and Second Amendments shall remain unchanged.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

FORT BEND COUNTY

Robert E. Hebert
Robert E. Hebert, County Judge

11-3-2015
Date

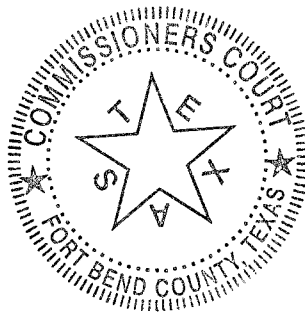
BERG-OLIVER, INC.

Susan Alford
Susan Alford, President

10/26/15
Date

ATTEST:

Laura Richard
Laura Richard, County Clerk



APPROVED: *Richard W. Stolleis*
Richard W. Stolleis, P.E., County Engineer

APPROVED AS TO LEGAL FORM:

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

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$164,368.00 to accomplish and pay the obligation of Fort Bend County under this contract.

Robert Edward Sturdivant
Robert Edward Sturdivant, County Auditor

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EXHIBIT A



ATTACHMENT 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

October 26, 2015

Fort Bend County Engineering Department
Mr. J. Stacy Slawinski, P.E.
301 Jackson Street
Richmond, Texas 77469

Via email: Stacy.Slawinski@fortbendcountytexas.gov; Tvc@hinkleybarfield.com

Re: Proposal for a Limited Due Diligence Review for approximately 1.3 miles, in Fort Bend County, Texas
BOA Project Number 10072

Dear Mr. Slawinski:

The following proposal is provided to Fort Bend County Engineering Department for environmental services for 1.3 miles, located from FM 762 to Royal Crest Lane, in 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 a Limited Due Diligence Review to identify potential environmental concerns or fatal flaws. Attachment A describes this service.

PROJECT SCHEDULE

The scope of work involved in this environmental service proposal is anticipated to be complete within sixty (60) calendar days of the receipt of an executed proposal and boundary survey/plat, or other suitable boundary map by Berg ♦ Oliver. 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.

Berg ♦ Oliver Associates, Inc.
BOA Project Number 10072
October 26, 2015

BASIC COMPENSATION AND METHOD OF PAYMENT

Berg ♦ Oliver proposes to provide the environmental services described below to Fort Bend County Engineering Department for the following lump sum amount:

Three Thousand Five Hundred & Forty-Two Dollars (\$3,542.00) *

** If additional tasks are required (i.e. permitting, or remediation) a specific scope per project will be provided as an appropriate change order.*

If additional tasks require more than a 10% overage (as described above), Berg ♦ Oliver will provide the client with an appropriate change order.

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. 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 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 _____, 2015.

**FORT BEND COUNTY
ENGINEERING DEPARTMENT**

By: _____
Authorized Signature

BERG ♦ OLIVER ASSOCIATES, INC.

By: *Susan Alford*
Susan Alford, REM
President

TASK I
LIMITED DUE DILIGENCE REVIEW

Berg ♦ Oliver Associates, Inc. will conduct a Limited Due Diligence Review for the following project site:

No.	Project #	Name	Limits
1	13102	Reading Road	FM 762 to Royal Crest Lane

The Limited Due Diligence Review will consist of a Hazardous Waste Record Search, Wetland Due Diligence Study, Threatened and Endangered Species Survey, and Archeological Records Review. A letter report of findings for each project will be provided to the client as well as recommendations for potential additional work. The scope of work for the Limited Due Diligence Review is described below.

Hazardous Waste Record Search

The objective of the record search is to identify, to the extent feasible under the processes prescribed in ASTM E 1527-13, the potential for recognized environmental conditions; that is, the presence or likely presence of any hazardous substances or petroleum products on the property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into the ground, groundwater, or surface water of the property.

1. **Records Review:** Obtain and review records, per the ASTM E1527-13 standards, that will help identify recognized environmental conditions in connection with the property. Some records will pertain to properties within an additional approximate search distance in order to help assess the likelihood of potential problems from migrating substances.
2. **Site Reconnaissance:** Visually inspect the property and adjoining properties, to the extent not obstructed by bodies of water, adjacent buildings, or other obstacles, for evidence of hazardous substances or petroleum products

Wetland Due Diligence Study

The goal of the Wetland Due Diligence Study is to provide a cost-effective evaluation of the project site for wetlands that may influence the design and/or construction of a project. The Wetland Due Diligence Study is NOT a wetland delineation conducted according to the Corps of Engineers Wetland Delineation Manual – Technical Report Y-87-1, but it is based on the criteria used by the U.S. Army Corps of Engineers (USACE) to determine Jurisdictionality under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. The Due Diligence Study should not be used as a baseline for actual engineering or design, but it can prove to be valuable for evaluating the feasibility of a project.

If potential wetland areas are discovered during site reconnaissance, their approximate areas and locations will be estimated and located on a site drawing. Based upon our findings, delineation of wetland areas may be recommended to determine the actual acreage of jurisdictional wetlands. If no wetland areas are found that would be considered jurisdictional, Berg ♦ Oliver Associates, Inc. will

provide a letter indicating such findings.

In order for work to begin, the client must provide a plat, map, or survey of the property sufficient for Berg ♦ Oliver Associates, Inc. to determine, while in the field, the boundary edges of the study site.

The tasks we are proposing to provide in the Wetland Due Diligence Study are as follows:

1. Perform in-office evaluation of the property from infrared aerial photography and other available information to identify potential wetlands.
2. Conduct a field reconnaissance, which will include walking the entire perimeter of the project area to confirm the findings of the in-office evaluation.
3. Document field notes and general observations of the site, and estimate approximate sizes and locations of any wetland areas and/or hydrological connections to a Water of the U.S. and/or 100-year FEMA floodplain.
4. Classify any identified wetlands as “isolated,” “potentially isolated,” “adjacent,” or “potentially adjacent.”
5. Prepare a letter report of findings, including a map rendering of the site, with the above information.
6. Make recommendations as appropriate.
7. Upon client request, submit findings to the USACE in order to obtain an official Jurisdictional Determination. The USACE determination may indicate the necessity of obtaining a permit. If a permit is required for site activities, a wetland delineation and a subsequent USACE verification will likely be required. (Response from the USACE may take up to 120 days.)

Threatened & Endangered Species Assessment

The objective of the Threatened and 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. The following selected tasks will be considered for the 10 project areas.

1: Review of Agency Listing for Estimated Habitat Boundaries. The listings currently maintained by U.S. Fish and Wildlife will be evaluated to determine if any of the listed species may be shown to potentially inhabit the area.

2: Site Reconnaissance and Biological Impact Assessment. The biological aspects of the potential habitat will be physically reviewed and documented to determine if the habitat is desirable or reproductively useful to the specific species. The site will be reviewed for biological indicators of presence.

3: Preparation of Letter of Findings and Recommendations. Following the completion of all research and site reconnaissance, a letter of findings and recommendations will be completed and forwarded to the client.

Archeological Records Review

The objective of the Historical, Cultural, and Archeological Records Review is to: 1) review related historical information, including the Texas Historical Commission's (THC) records; and 2) based on the review of THC's records and property characteristics, determine if the subject tract possesses sufficient criteria to necessitate a detailed study that would evaluate the potential for sites of significant historical, cultural, or archeological public value on the subject property.



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

2015 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.