

RESOLUTION NO. 07-455

**A RESOLUTION AS IT PERTAINS TO ENVIRONMENTAL
STUDIES BY ARCENEUX & GATES AND AFFILIATED
CONSULTANTS (BERG-OLIVER ASSOCIATES, INC.) AT
THE SPUR 93 BUSINESS PARK AND ON ADJACENT
PROPERTY THAT IS NEEDED TO EXTEND JADE AVENUE**

WHEREAS, pursuant to Resolution No. 07-242, the Port Arthur Section 4A Economic Development Corporation entered into an engineering agreement with Arceneaux & Gates for the extension of Jade Avenue; and

WHEREAS, there is a need to do Task II of Environmental Studies for the Spur 93 Business Park and on adjacent property to extend Jade Avenue as denoted in Exhibits "A" and "B"; and

WHEREAS, on September 19, 2007, the EDC Board of Directors approved the retention of Arceneaux & Gates for additional services on an hourly basis and to reimburse affiliated consultants (Berg-Oliver Associates, Inc.) with a total cost not to exceed \$15,000 to perform said studies; and

WHEREAS, the hourly rates of Arceneaux & Gates are attached hereto as Exhibit "C".

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF PORT ARTHUR, TEXAS:**

Section 1. That the facts and opinions in the preamble are true and correct.

Section 2. That the City Council herein approves the retention of Arceneaux & Gates and affiliated consultants (Berg-Oliver Associates, Inc.) by the City of Port Arthur Section 4A Economic Development Corporation at a total cost not to exceed \$15,000.

Section 3. That a duly authorized representative of Arceneaux & Gates shall sign this resolution agreeing to the terms hereof.

Section 4. That a copy of the caption of this Resolution be spread upon the Minutes of the City Council.

READ, ADOPTED AND APPROVED on this 25th day of September, A.D., 2007, at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote: AYES:
Mayor Prince; Mayor Pro Tem Sinegal;
Councilmembers Chatman, Jones,
Henderson, Flood & Williamson,

NOES: None.

Deloris Prince
MAYOR

ATTEST:

Evangelina Green
CITY SECRETARY

APPROVED AS TO FORM:


CITY ATTORNEY

APPROVED FOR ADMINISTRATION:


CITY MANAGER

AGREED TO:


ARCENEUX & GATES

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 ♦ Austin ♦ WDBE/HUB ♦ www.bergoliver.com

June 4, 2007

Mr. Ron Arceneaux
Arceneaux & Gates Consulting Engineers, Inc.
3501 Turtle Creek Drive, Suite 102
Port Arthur, TX 77642

Via email: ron@ageng.com

Re: Proposal for a Wetland Due Diligence Study, Wetland Delineation and Nationwide Permit
BOA 6705espr

Dear Mr. Arceneaux:

The following proposal is provided to Arceneaux & Gates Consulting Engineers, Inc. for environmental services for approximately 3200 linear feet extension, located north of F.M. 365 and Jade Avenue terminus, in Jefferson 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) Wetland Due Diligence Study, Task II) Wetland Delineation and Task III) Nationwide Permit. Attachment A describes each service.

PROJECT SCHEDULE

The scope of work involved in this environmental service proposal is anticipated to be complete within thirty (30) 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 Arceneaux & Gates Consulting Engineers, Inc., 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 6705espr
June 4, 2007

BASIC COMPENSATION AND METHOD OF PAYMENT

The work described below includes standard tasks that are usually required to complete the scope of the project. If a specific task is not necessary, as determined by Berg ♦ Oliver in consultation with the client and/or regulatory agency, it may not be performed in order to reduce charges to the client.

Berg ♦ Oliver proposes to provide the environmental services described in Attachment A to Arceneaux & Gates Consulting Engineers, Inc. for the following lump sum amounts:

TASK I: WETLAND DUE DILIGENCE STUDY	\$2,650.00
TASK II : WETLAND DELINEATION.....	\$5,500.00*
TASK III : NATIONWIDE PERMIT	<u>\$8,750.00**</u>
GRAND TOTAL	\$16,900.00

** This amount is based upon the property having clear access for delineation so that field work can be completed in one (1) day or less by a two-man crew. If there is thick vegetation, it may take longer to complete the delineation. For each additional day (8 hours) of field work by a two-man crew, the amount will increase \$1,800.00 extra per day. This task includes 36 hours of Project Management/Mapping time. Extraordinary circumstances, such as regulatory agency reviews based upon recent policy changes, may require additional tasks or further detailed analysis not covered in the present scope of work. If this task requires more than a total of 36 hours of Project Management/Mapping time, the extra hours will be billed as additional services, based on the attached rate schedule, but will not exceed 10% (\$550.00) without written approval from the client.*

*** This estimate is based upon past experience and assumes that no major roadblocks to the permit are presented by the public comment agencies, TCEQ, and/or USACE. If major problems are encountered, this amount will increase proportionally, and an amendment for additional services will be submitted to Arceneaux & Gates Consulting Engineers, Inc. The USACE may require an Archeological Pedestrian Survey to process the Individual Permit. If required, Berg ♦ Oliver will seek competitive bids and prepare an additional proposal to complete the Pedestrian Survey.*

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 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).

Berg ♦ Oliver Associates, Inc.
BOA project number 6705espr
June 4, 2007

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 Arceneaux & Gates Consulting Engineers, Inc., 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, Arceneaux & Gates Consulting Engineers, Inc. and Berg ♦ Oliver Associates, Inc. have accepted and executed this proposal for environmental services on this the 14th day of June, 2007.

**ARCENEAUX & GATES CONSULTING
ENGINEERS, INC.**

By: 
Authorized Signature

BERG ♦ OLIVER ASSOCIATES, INC.

By: 
Clay T. Lawson
Senior Associate
Natural Resource Management

Berg ♦ Oliver Associates, Inc.
BOA project number 6705espr
June 4, 2007

EXHIBIT "B"



BERG ♦ OLIVER ASSOCIATES, INC.

Environmental Science, Engineering & Land Use Consultants

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(281) 589-0898 fax: (281) 589-0007

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June 4, 2007

Mr. Ron Arceneaux
Arceneaux & Gates Consulting Engineers, Inc.
3501 Turtle Creek Drive, Suite 102
Port Arthur, TX 77642

Via email: ron@ageng.com

Re: Proposal for a Wetland Due Diligence Study, Wetland Delineation and Nationwide Permit
BOA 6704espr

Dear Mr. Arceneaux:

The following proposal is provided to Arceneaux & Gates Consulting Engineers, Inc. for environmental services for 302 acres, located northwest of F.M. 365 and Jade Avenue, in Jefferson 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) Wetland Due Diligence Study, Task II) Wetland Delineation and Task III) Nationwide Permit. Attachment A describes each service.

PROJECT SCHEDULE

The scope of work involved in this environmental service proposal is anticipated to be complete within thirty (30) 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 Arceneaux & Gates Consulting Engineers, Inc., 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 6704espr
June 4, 2007

BASIC COMPENSATION AND METHOD OF PAYMENT

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Berg ♦ Oliver proposes to provide the environmental services described in Attachment A to Arceneaux & Gates Consulting Engineers, Inc. for the following lump sum amounts:

TASK I: WETLAND DUE DILIGENCE STUDY	\$2,650.00
TASK II : WETLAND DELINEATION.....	\$5,500.00*
TASK III : NATIONWIDE PERMIT	<u>\$8,750.00**</u>
GRAND TOTAL	\$16,900.00

** This amount is based upon the property having clear access for delineation so that field work can be completed in one (1) day or less by a two-man crew. If there is thick vegetation, it may take longer to complete the delineation. For each additional day (8 hours) of field work by a two-man crew, the amount will increase \$1,800.00 extra per day. This task includes 36 hours of Project Management/Mapping time. Extraordinary circumstances, such as regulatory agency reviews based upon recent policy changes, may require additional tasks or further detailed analysis not covered in the present scope of work. If this task requires more than a total of 36 hours of Project Management/Mapping time, the extra hours will be billed as additional services, based on the attached rate schedule, but will not exceed 10% (\$550.00) without written approval from the client.*

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Berg ♦ Oliver Associates, Inc.
BOA project number 6704espr
June 4, 2007

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PROPOSAL ACCEPTANCE AND EXECUTION


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IN WITNESS THEREOF, Arceneaux & Gates Consulting Engineers, Inc. and Berg ♦ Oliver Associates, Inc. have accepted and executed this proposal for environmental services on this the 14th day of June, 2007.

**ARCENEUX & GATES CONSULTING
ENGINEERS, INC.**

By: 
Authorized Signature

BERG ♦ OLIVER ASSOCIATES, INC.

By: 
Cynthia Lawson
Senior Associate
Natural Resource Management

Berg ♦ Oliver Associates, Inc.
BOA project number 6704espr
June 4, 2007

EXHIBIT "C"



**ATTACHMENT 2
SCHEDULE OF BILLABLE RATES
FOR PROFESSIONAL SERVICES**

CLASSIFICATION	RATE
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ENGINEERING SERVICES

- Principal \$ 145.00 per hr.
- Engineering Project Manager \$ 125.00 per hr.
- Staff Engineer \$ 90.00 per hr.

SURVEYING SERVICES

- Professional Surveyor \$ 98.00 per hr.
- 2-Man Crew \$ 108.00 per hr.
- 3-Man Crew \$ 147.00 per hr.

TECHNICAL SERVICES

- Engineering Technician III \$ 78.00 per hr.
- Engineering Technician II \$ 55.00 per hr.
- Engineering Technician I \$ 38.00 per hr.

SECRETARIAL / ADMINISTRATIVE SERVICES \$ 35.00 per hr.

NON-LABOR EXPENSES

- Vehicle Travel, Conv. Eqmt., Supplies \$ 25.00 per day
- All Terrain Vehicle \$ 50.00 per day
- Computer Plots \$ 20.00 per plot
- Printing \$ 3.00 per each
- Unscheduled Expenses Cost + 10%
- GPS Base Station w/one (1) Rover \$ 500.00 per day