

THIRD AMENDMENT
TO
AGREEMENT BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
AND
BENDER ROSENTHAL, INC.

THIS THIRD AMENDATORY AGREEMENT is made and entered into this 26th day of September 2006, by and between the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY ("TRLIA"), a Joint Powers Authority, TRLIA and BENDER ROSENTHAL, INC. ("CONSULTANT")

RECITALS:

WHEREAS, TRLIA and CONSULTANT entered into a agreement to provide basic services dated March 1, 2005, ("AGREEMENT");

WHEREAS, TRLIA and CONSULTANT entered into the first Amendatory Agreement to provide basic services dated March 1, 2006.

WHEREAS, TRLIA and CONSULTANT entered into the second Amendatory Agreement to provide basic services dated May 16, 2006.

WHEREAS, Attachment B.1 of the AGREEMENT, state that modifications or amendments to the terms of the AGREEMENT shall be in writing and executed by both parties;

WHEREAS, the TRLIA and CONSULTANT desire to amend the Agreement;

NOW, THEREFORE, the TRLIA and CONSULTANT agree as follows:

1. Exhibit A of the AGREEMENT shall be amended to perform those additional services described in Exhibit A attached to this THIRD AMENDMENT.
2. Article 4 of the AGREEMENT shall be revised to increase the price ceiling for basic services by \$20,000 from \$1,717,181.00 to: \$1,737,181.00.

WMA 10/25/04

All other terms and conditions contained in the Agreement shall remain in full force and effort.

This Amended agreement is hereby executed on this 26th day of September 2006.

THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY

BY: *Paul G. Brunner*
Paul G. Brunner, Executive Director

CONSULTANT

BY: *William H. Potts*
BENDER ROSENTHAL, INC.

APPROVED AS TO FORM,

Daniel G. Montgomery
DANIEL G. MONTGOMERY
County Counsel

Exhibit A

I. PROJECT UNDERSTANDING

Bender Rosenthal, Inc. is currently under contract to provide Right of Way services for the Three Rivers Levee Improvement Projects. Additional services are required to acquire Rights of Entry to various existing and proposed monitoring wells. BRI is working closely with BE/GEI to determine the number of wells and their exact location. At this point we have identified 20 land owners that may be affected.

II. RIGHT OF WAY SCOPE OF SERVICES

The following scope is for the Rights of Entry for existing and proposed monitoring wells

Task 1 - Rights of Entry for Existing and Proposed Monitoring Wells.

Bender Rosenthal Inc. proposes to develop all necessary contracts and letters based on TRLIA process for Rights of Entry. We will meet with the owners, and convey documents until the Right of Entry is signed. Three contacts with property owners are included in this scope. If a Right of Entry is not signed by the property owner, BRI will provide all necessary documentation to TRLIA to file a request with the courts for a Right of Entry.

BRI will coordinate with the engineer, in order to expedite the process for gaining the Rights of Entry. Prior to negotiations with the property owners, the engineer will provide the environmental study area delineation on aerials as well as any other graphic representations for the owners. BRI will also require a project description and generic timing information on a fact sheet for distribution to the property owners and others involved in the Rights of Entry process. BRI will let the property owners know that any damage to the property as a result of the technical studies will be replaced / repaired to the owner's satisfaction.

If access is declined, BRI will provide the owner contact log to TRLIA for future court action. Steps within the Right of Entry process are outlined below:

1. Review of the project concept and design with staff and other consultants;
2. Preparation of Right of Entry's and cover letter documents;
3. Phone contact with property owner to set up time to meet and discuss the proposed Right of Entry.
4. Meet with the property owners to discuss the project in general; review of maps and project descriptions with the property owner and obtain signed ROE.
5. Right of Entry activities are based on settlement by the third contact. A recommendation to TRLIA will be made after *impasse* has been reached.
6. Deliver signed Right of Entry or deliver a memorandum explaining *impasse* or unclosed (i.e. *impasse*) calls.

III. PROPOSED SCHEDULE

The estimated timeline for the Rights of Entry for existing and proposed monitoring wells is 6 weeks

Exhibit B

IV. PROPOSED BUDGET

The budget for the ROE for existing and proposed monitoring wells is \$20,000.

- 8 hrs/parcel
- 20 parcels
- \$110/hr
- \$2400 in mileage and expenses

The following are the assumptions behind the budget:

1. Full documentation to Federal and State standards for all tasks.
2. No expert witness testimony.
3. The actual costs may differ from task to task, but the overall budget will not exceed the "Total Budget" shown in the above spreadsheet.
4. No Coordination with State or Federal right of way departments, other than listed in scope.
5. No significant severance damage analysis required for the appraisals. This fee also assumes that no significant structures, or improvements will be acquired, other than those listed in the scope.

V. CHANGE OF SCOPE

A change in scope may result in the following instances:

- A change in engineering after property has been inspected by appraiser, requiring a new inspection.
- A change in engineering after completion of the appraisal.
- Addition of a parcel.
- Addition of easements, takes, or other property rights.
- An increase in the number of damage analyses required.
- An appraisal requiring additional expertise, such as an architect/engineer to determine if a building meets the building codes or will be structurally sound in the "after condition".

VI. CURRENT RATE SCALE

Below are our standard 2006 rates for additional services required. These costs may vary depending on changes in the scope in work:

Stephen A. Rosenthal, MAI	\$165/hr.*
Cydney G. Bender, MAI	\$165/hr.*
David Wraa, MAI	\$165/hr.*
Project Manager	\$150/hr.
Senior Appraiser	\$115/hr.
Senior Acquisition Agent	\$110/hr.
Relocation Specialist	\$110/hr.
Acquisition Agent – Level 2	\$ 90/hr.
Acquisition Agent – Level 1	\$ 75/hr.
Other Associated Professional Staff	\$ 85/hr.
Researchers	\$ 65/hr.
Administrative/Production	\$ 55/hr.

*Three Rivers Levee Improvement Project
Contract Amendment – Phase 4
September 19, 2006*

- \$250 per hour for court or briefing preparation, depositions, any pre-trial conferences, court appearances, etc., should these ever become necessary.
- 5% increase in rates every year of contract.