

**INVITATION TO BID**  
**CITY OF NEW ORLEANS, DEPARTMENT OF FINANCE, PURCHASING BUREAU**  
**CITY HALL, 1300 PERDIDO ST., ROOM 4W07, NEW ORLEANS, LA 70112**  
 Email: [purchasing@nola.gov](mailto:purchasing@nola.gov)

THIS IS A FORMAL CITY BID SOLICITATION FOR PUBLIC WORKS AND CAPITAL PROJECTS. INTERESTED PERSONS SHOULD CAREFULLY READ AND ATTEND ALL STATED INFORMATION AND REQUIREMENTS, INCLUDING SUCH CONTAINED IN ATTACHMENTS.

<b>REQUIREMENT TYPE:</b>	<input type="checkbox"/> Public Works <input checked="" type="checkbox"/> Capital Projects	<b>PROPOSAL NO.</b> 2285-01043	<b>ISSUE DATE:</b> 3/2/2011
		<b>SPONSORING CITY DEPT. OR AGENCY:</b> Capital Projects	
<b>REQUIREMENT DESCRIPTION:</b> (as detailed in Project Manual) Utility Removal, Site Clearance & Fencing of LIFT			
<b>BID CONFERENCE:</b>	<input checked="" type="checkbox"/> None	<input type="checkbox"/> Optional	<input type="checkbox"/> Mandatory-The City will receive bids only from persons/firms shown on the City's attendance list.
	Date:	Time:	Place: <input type="checkbox"/> Purchasing Conf. Room, #4W05, 4 <sup>th</sup> Fl. City Hall, 1300 Perdido St., New Orleans, LA 70112 followed by a site walk-through at _____ or <input type="checkbox"/> Public Works Conference Room, Rm 6W03, 6th Fl. City Hall
<p><i>Note: The City may prepare a conference report showing attendance, summarized Q&amp;A, and matters discussed. Substantive questions must be submitted by proposers in writing to the <u>Point of Contact</u> no later than (7) seven working days prior to bid opening. The City will publish any such report by Invitation to Bid Addendum posted to the Purchasing website (<a href="http://www.purchasing.nola.gov/bs/login.jsp">http://www.purchasing.nola.gov/bs/login.jsp</a>) and provide it in the Purchasing Bureau two working days after the conference. <u>The published conference report is the exclusive, authoritative record of City statements at the conference.</u></i></p>			

**BID INSTRUCTIONS:** Failure to satisfy instructions may render bids non-responsive and remove them from the competition. Bid submissions are City property. Bidders should mark documents or information claimed confidential and justify any claimed exemption from public records disclosure. The City will not credit blanket confidentiality claims. All bids remain valid for 60 DAYS after the final bid deadline. Specification references to certain brands, makes, or manufacturers state only the general style, type, character, and quality desired. Equivalent products are acceptable. The City is not responsible for bid costs. Procurements produce no exclusive right to City work or purchases. Bidders commit to abide by City Code, Chap. 2, Art. XIII, Sect. 2-1120, as adopted by City Ordinance No. 22,888 M.C.S. (relative to the operations and authority of the City Inspector General). **BIDDERS SHOULD CLOSELY MONITOR THE PURCHASING WEBSITE FOR NEW OR REVISED SPECIFICATIONS, BID INSTRUCTIONS, NOTICES, ETC.**

**DOCUMENTS: APPLIES?**  YES  NO Bidding documents may be obtained online at <http://www.purchasing.nola.gov/bs/login.jsp> or through the City of New Orleans webpage [www.nola.gov](http://www.nola.gov), select "City Purchasing Portal". Addenda will be transmitted to all bidders who acknowledge download of bid documents online from the City Purchasing Portal, i.e. answer 'yes' when downloading bid documents.

**APPLIES?**  YES  NO **Printed sets of the Bidding Documents may be obtained from \_\_\_\_\_** A fee or deposit in the amount noted below is required. Bidding Documents will be issued only in completed sets.

**PROJECT NAME:**  
**CONSULTANT:**

**APPLIES?**  YES  NO **A deposit** for printed sets of bidding documents in amount of \$  
**APPLIES?**  YES  NO **A non-refundable fee** for printed sets of bidding documents in amount of \$

DEPOSITS ON THE FIRST SET OF DOCUMENTS FURNISHED BONA FIDE PRIME BIDDERS WILL BE FULLY REFUNDED UPON RETURN OF THE DOCUMENTS NO LATER THAN TEN DAYS AFTER RECEIPT OF BIDS. ON OTHER SETS OF DOCUMENTS FURNISHED TO BIDDERS THE DEPOSIT LESS ACTUAL COST OF REPRODUCTION, WILL BE REFUNDED UPON RETURN OF THE DOCUMENTS NO LATER THAN TEN DAYS AFTER RECEIPT OF BIDS. WHERE THE PUBLIC ENTITY, ITSELF, PREPARES AND DISTRIBUTES THE CONTRACT DOCUMENTS, THE PUBLIC ENTITY MAY, IN LIEU OF A DEPOSIT, CHARGE A FEE FOR THE DOCUMENTS, WHICH SHALL NOT EXCEED THE ACTUAL COST OF REPRODUCTION.

<b>SUBMISSIONS DUE:</b>	Date: <b>3/17/2011</b>	Time: <b>10:00 A.M.</b>	Place: Purchasing Bureau, Room 4W07 City Hall, 1300 Perdido St., New Orleans, LA 70112
<p><i>Note: The City will not accept or consider bids delivered by fax, at any other location or email address, or past the deadline.</i></p>			
<b>SUBMISSION PACKAGE:</b>	<p><b>EITHER:</b>  <b>SEALED ENVELOPE</b> bearing the Proposal Number &amp; Louisiana State Contractor's License Number <b>OR</b>  <b>ONLINE AT</b> <a href="http://purchasing.nola.gov/bs/login.jsp">http:// purchasing.nola.gov/bs/login.jsp</a></p> <p><i>Note: Bidders should submit bids according to means that produce a written proof of delivery. The City will not credit delivery claims lacking a written proof of delivery.</i></p>		
<b>PRICING:</b>	<p><b>APPLIES?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Bidders shall quote prices in the unit of measure specified, excluding excise and/or sales taxes unless otherwise provided, F.O.B. agency warehouse or job site designated by the Purchasing Bureau within City limits.</p>		

<b>REQUIRED CONTENTS:</b>	(1) <b>EITHER:</b> <b>TYPED OR PRINTED BID</b> , bearing original signature IN INK by the bidder or authorized representative, on the bid form provided with required attachments if any, <u>and receipt of all addenda acknowledged.</u> OR <b>BID SUBMISSION ONLINE</b> at <a href="http://purchasing.nola.gov/bsc/login.jsp">http://purchasing.nola.gov/bsc/login.jsp</a> completing bid quote online and attaching required bid documents including <u>receipt of all addenda acknowledged online.</u>
	<b>(2) IF SOMEONE OTHER THAN A CORPORATE OFFICER SIGNS FOR THE BIDDER/CONTRACTOR, A COPY OF A CORPORATE RESOLUTION OR OTHER SIGNATURE AUTHORIZATION SHALL BE REQUIRED FOR SUBMISSION OF BID. FAILURE TO INCLUDE A COPY OF THE APPROPRIATE SIGNATURE AUTHORIZATION, IF REQUIRED, MAY RESULT IN THE REJECTION OF THE BID UNLESS BIDDER HAS COMPLIED WITH LA. R.S. 38:22L2(A)(L)(C) OR RS 38:2212(O)</b>
	<b>REQUIRED?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (For "construction undertaking" valued \$50,000 or more or "hazardous materials" work valued \$1 or more.) <b>THE BIDDER'S APPLIED CURRENT LICENSE(S) NUMBER(S)</b> in the following project classification(s): <i>General Contractor/Electrical/Plumbing</i> must be included in bid. <b>NOTE: THE BIDDER MUST SHOW HIS LICENSE NUMBER ON THE BID ENVELOPE if paper submission.</b>
	<b>REQUIRED?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO A bid bond or security in an amount not less than <input type="checkbox"/> \$ _____ or <input checked="" type="checkbox"/> five percent (5%) of bid amount, conditioned on the bidder's failure to execute a contract with the City to supply the specified goods or services. <b>IF SUBMITTING A BID ONLINE</b> , Electronic bid bond submission is enabled through two participating surety agencies or clearinghouses, <b>InSure Vision Technologies</b> and <b>Surety2000</b> . Contact your bonding agent for information about submitting an online Bid Bond. The City requires a Bid Bond Validation Number entered Online. <b>IF SUBMITTING A BID VIA SEALED ENVELOPE</b> , the City will accept a cashier's check, certified check or satisfactory bid bond payable to the City of New Orleans.  <i>The City will retain bid securities of the three lowest responsible bidders until the Contract is executed or until final bid disposition. The City will return other bid securities after the bid canvass. At contract execution, the City will return bid securities not forfeit for failure to execute a contract with the City.</i>

**BID OPENING:** The City will open the bids in public at  the Purchasing Bureau or  immediately following the bid deadline.

**AWARD:** It may require additional information from bidders and conduct inquiries to determine the bidder's responsibility or the accuracy of furnished information. Subject to merit-based cancellation and confirmed city funding, the City will award the procurement to the responsible bidder that submitted the lowest responsive (including bid and post-bid requirements) bid. The City may award any options or separate work categories separately or together.

<b>CONTRACT:</b>	
<b>TYPE:</b>	<input checked="" type="checkbox"/> Fixed Price: Gets the specified thing(s) or service(s) at the bid price. <input type="checkbox"/> Requirements/Price Protection: Gets a commitment to supply the thing(s) or service(s) at bid price at City request during term.
<b>TERM:</b>	<b>APPLIES?</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> _____ year[s] with City option to renew. <input checked="" type="checkbox"/> As provided in Project Manual.
<b>PROVISIONS:</b>	<b>APPLIES?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO The contract will contain the additional terms and conditions shown in Project Manual or Specifications.
<b>FEES:</b>	The contractor is responsible for any recordation, notary, and copy fees.
<b>ADDITIONAL NEEDS:</b> Selected bidder must satisfy indicated needs before it receives a contract.	<b>REQUIRED?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <b>PERFORMANCE BOND:</b> Supply a performance bond acceptable to the City within ten days after notice of award, issued in the sum of: <input type="checkbox"/> 50_% of bid amount. <input type="checkbox"/> \$ _ _ <input type="checkbox"/> Specified amount
	<b>REQUIRED?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <b>PAYMENT BOND:</b> Supply a payment bond acceptable to the City within ten days after notice of award, issued in the sum of: <input type="checkbox"/> 50_% of bid amount. <input type="checkbox"/> \$ _ _ <input type="checkbox"/> Specified amount
	<b>REQUIRED?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <b>INSURANCE:</b> Supply Insurance certificates showing coverage required in the specifications.
	<b>REQUIRED?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <b>LICENSES:</b> Supply copy of all applicable and required licenses;

	REQUIRED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <u>TAX CLEARANCE:</u> Supply a City tax clearance showing no delinquency in City taxes;
	REQUIRED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <u>CONVICTED FELON AFFIDAVIT:</u> Required by City Code Sec.2-8c;
	REQUIRED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <u>NON-SOLICITATION AFFIDAVIT:</u> Required by City Code Sec. 46-51.

<b><u>POINT OF CONTACT:</u></b>	<b>Direct inquiries to:</b> Name: Bernice Ealy E-mail: brealy@nola.gov. Telephone No. (504) 658-1550. <u>Prospective bidders are prohibited from contacting City employees or officials, other than the designated purchasing official above about this procurement prior to the deadline for submitting questions or bids.</u> <b>NOTE: Solicitation changes issue by formal addendum ONLY.</b>
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<b><u>ATTACHMENTS:</u></b>	<b>APPLIES?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO    "A" Specifications—General Bid, Contracting and Work Provisions—Required City Forms
	<b>APPLIES?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO    "B" Contract Terms and Conditions
	<b>APPLIES?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO    "C" Bid Form
	<b>APPLIES?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO    "D" LCP Tracker Clause
	<b>APPLIES?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO    "E" CDBG Compliance Provisions
	<b>APPLIES?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO    "F" Wage Determination

Rev 09 Nov 2010 AC; Rev 23 Jan 2009 itb FAW 02 Apr

**INVITATION TO BID  
FROM  
CITY OF NEW ORLEANS  
ATTACHMENT “A”**

**SPECIFICATIONS**

This project will require the contractor to include a licensed plumber and a licensed electrician on the team. The contract shall comply with applicable provisions in the City’s Invitation to Bid and corresponding attachments.

The work to be performed will cover two sites, described below:

**Site 1: Second District, Square 212, Lot 1 and Lot 3 (see Surveys “Square 212A Second District”)  
Area bounded by N. Claiborne, Lafitte, Galvez and St. Louis (Not including Lemann Pool)**

Site Description

A portion of this site was recently used to house 126 FEMA trailers with temporary electrical and sewer hook-ups. Most of these lines were at-grade and have been removed informally. There are 4 to 5 spurs off pre-existing sewer and electrical lines under Lafitte street. From the connection points, these spurs run parallel to Lafitte street and measure roughly 80 ft. in length each. Much of the site is severely overgrown, but does contain some mature trees. A large portion of the site is paved or gravel-packed and there are a number of telephone poles on the site. There is a playground in disrepair at the corner of Lafitte and Claiborne. Located near the corner of Galvez and Lafitte is a small structure surrounded by overgrowth. Its previous use is unknown. The site is surrounded by patchy fencing and also contains a few interior fence lines.

Scope of Work

- 1) Remove and cap the sewer and electrical lines on the site.
- 2) Clear all non-mature trees, shrubs, stumps and weeds. The paved and packed portions of the side need not be removed, but any non-mature plant growth in the paved and packed areas should be cleared.
- 3) Remove all playground equipment near corner of N. Claiborne Ave. and Lafitte St.
- 4) Secure the small structure with plywood.
- 5) Remove and salvage interior fencing within the site – bring salvaged materials to a City designated location within 2.0 miles of the work site.
- 6) Repair and replace fence as necessary along the site perimeter.
- 7) Maintain and repair a manually operable gate accessible to vehicles located on Claiborne. Install a locking mechanism. Deliver ten (10) copies of the lock’s key to City.

Other notes

The tall telephone poles shall be maintained as-is.

**Site 2: Second District, Square 280A, Lot 1 and Lot 2 (see Surveys “Square 280A Second District”)  
Area bounded by Galvez, Lafitte, Rocheblave and St. Louis (Not including Sojourner Truth Community Center)**

Site Description

This site was not used for FEMA trailers and does not require utility removal. The site has been partially maintained by community partners, but still has overgrown portions that include shrubs, stumps and weeds. Limited dumping has occurred on the site.

Scope of Work

- 1) Clear all shrubs, stumps, weeds, and trash.

## GENERAL BID, CONTRACTING, AND WORK PROVISIONS AND REQUIRED CITY FORMS

- A. **EXAMINATION OF DOCUMENTS AND SITE:** Bidders shall carefully examine the Bidding Documents and the construction site to obtain first-hand knowledge of the scope and the conditions of the Work. Each Contractor, Subcontractor, and Sub-subcontractor, by submitting a proposal to perform any portion of the Work, represents and warrants that he has examined the Drawings, Specifications project Manual and the site of the Work, and from his own investigation, has satisfied himself as to the scope, accessibility, nature and location of the work; the character of the equipment and other facilities needed for the performance of the Work; the character and extent of other work to be performed; the local conditions; labor availability, practices and jurisdictions and other circumstances that may affect the performance of the Work. No additional compensation will be allowed by the Owner for the failure of such Contractor, Subcontractor, or Sub-subcontractor to inform themselves as to conditions affecting the Work.
- B. **INTERPRETATION OF DOCUMENTS:** If any person contemplating submitting a bid for the proposed Contract is in doubt as to the meaning of any part of the Drawings, Specifications (Project Manual), or other contract documents, he may submit to the Owner, not later than seven (7) working days prior to the date set for opening bids, a written request for an interpretation or clarification.
- C. **ADDENDA:** Interpretations, clarifications, additions, deletions, and modifications to the documents during the Bidding period will be issued in the form of Addenda in accordance to Louisiana R.S. 2212 (C.). Addenda will be transmitted to all bidders who have requested bid documents or acknowledged download of bid documents from the city website by email and regular mail. Addenda will be a part of the Bidding Documents and the Contract Documents, and receipt of them shall be acknowledged in the Bid Form.

D. **CONTRACT TIME:**

1. If the Contractor is notified of the acceptance of his bid within sixty (60) days after the time set for opening of bids, he agrees to execute a contract for the work as described in the contract documents. The Contractor also guarantees completion of this contract within the number of calendar days shown below and any approved extensions from the date of the, "Notice to Proceed".

Calendar Days

**45 calendar days**

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2. The Contractor agrees that he has incorporated into his bid the necessary work forces to accomplish the work in the Contract Time indicated, including the number of days shown below which are expected to be lost due to inclement weather.

Expected Lost Days

**7 calendar days**

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**DAMAGES:** The Contractor agrees that the Owner may retain the sum indicated below from the amount of compensation to be paid him for each day after the above mentioned completion time, Sundays and Holidays included, that the contract remains incomplete. This amount is agreed upon as the proper measure of the Liquidated Damage, which the Owner will sustain per day, by failure of the Contractor to complete the contract at the stipulated time, and is not to be construed, in any sense, as a penalty. Failure of the Contractor to complete all of the work within the time specified in the contract, and the Contractor shall be deemed to be in default by his act of failure to complete.

Liquidated Damages per Diem

**\$ 150 per calendar day**

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- E. **LICENSE:** In order to be awarded a contract, the bidder must comply with Licensing laws of the State of Louisiana, R.S. 37:2151-2163, as amended.

- F. **PREPARATION OF BIDS:** Prices quoted shall include all items of cost, expense, taxes, fees and charges incurred, or arising out of, the performance of the work to be performed under the contract.

Bids containing any conditions, omissions, unexplained alterations, or irregularities of any kind may be rejected as informal.

**SEALED ENVELOPE:** Any bid submitted on other than the required form will be considered informal and may be rejected. Erasures or other changes in a bid must be explained or noted over the initials of the bidder. Bids containing any conditions, omissions, unexplained erasures and alterations, or irregularities of any kind may be rejected as informal.

The prices should be expressed in words and figures or they may be deemed informal and may be rejected. In case of discrepancy between the prices written in the bid and those given in the figures, the price in writing will be considered as the bid. Failure to submit all requested information will make a bid irregular and subject to rejection. Bids shall be signed with name typed or printed below signature. If someone other than a corporate officer signs for the Bidder/Contractor, a copy of a corporate resolution or other signature authorization shall be required for submission of bid. Failure to include a copy of the appropriate signature authorization, if required, may result in the rejection of the bid unless bidder has complied with La. R.S. 38:2212(A)(1)(c) or RS 38:2212(0).

**ONLINE BIDS:** Invitation to Bid documents may be obtained online at <http://www.purchasing.cityofno.com/bsollogin.jsp> or through the City of New Orleans webpage [www.cityofno.com](http://www.cityofno.com), select "City Purchasing Portal". Addenda will be transmitted to all bidders who acknowledge download of bid documents online from the City Purchasing Portal, i.e. answer 'yes' when downloading bid documents. Where bidder is a corporation, evidence of signing official's authority according to LA. Revised Statute 38:2212.A.(1)(c) must be attached and Bid Bond Verification Number, contractor license number and all items completed.

**DISQUALIFICATION:** The Owner reserves the right to disqualify proposals, before or after the opening, upon evidence of collusion with intent to defraud or other illegal practices relating to this proposal upon the part of the bidder.

- G. **SUBMISSION OF POST-BID INFORMATION:** Upon written notification by the sponsoring department to the Apparent Low Bidder of the acknowledgement of its bid and intent to enter into an agreement, the selected bidder shall submit within ten (10) calendar days, the following information:

-Submission of completed Disadvantaged Business Enterprise (DBE) information including Form DBE-1 (Disadvantaged Business Enterprise Responsiveness), Form DBE-2 (Evidence of Best Efforts), and Form DBE-3 (DBE Participation Summary Sheet with DBE letters).

-A designation of the portions of the Work proposed to be performed by the bidder with his own force.

-A list of names of the subcontractors or other persons or organizations, including those who are to furnish materials and equipment fabricated to a special design proposed for such portions of the Work as may be designated in the Bidding Documents or may be requested by the owner. The listing shall also include the dollar value of each subcontract item. The Bidder will be required to establish to the satisfaction of the Owner the reliability and responsibility of the proposed Subcontractors and suppliers to furnish and perform the Work.

-A completed Non Collusion Affidavit Form., Non Felony Affidavit Form, Tax Clearance Form

- Other information or affidavits may be requested of apparent low bidder at time of written notification of post-bid information.

**AWARD:** The Owner reserves the right to accept or reject any and all bids without compensation to bidders and for other causes as defined in R.S. 38:2214.B. The Owner in making his recommendation will consider the following elements:

- a. Whether the bidder is a contractor with experience in the type of work involved.
- b. Whether the bidder has the adequate plant, equipment and personnel to perform the work properly and expeditiously.
- c. Whether the bidder has a suitable financial status and reputation for meeting obligations incidental to work of the kind specified.
- d. Whether the bid price is reasonable and equitable in relation to the Owner's needs and the extent of the work involved. The successful bidder will be required to enter into a contract with the Owner within sixty (60) days of notice by the Owner that his bid has been accepted. Failure to enter into contract within the established time limit without proper justification shall be considered grounds for forfeiture of the bid bond.

## BID BOND FORM

This form must be attached to all written bids. If bid is submitted electronically, see the bid online at the Bureau of Purchasing website: <http://purchasing.nola.gov/bsollogin.jsp> for instruction and requirements.

Enclosed is a CERTIFIED CHECK, PROPOSAL BOND, or CASHIER'S CHECK in the Sum of:

\$ \_\_\_\_\_ DOLLARS  
Numeric Dollars    Written Dollars and Cents

as required by the Specifications, Payable to the City of New Orleans without condition.

Respectfully submitted,

\_\_\_\_\_  
NAME OF BIDDER

\_\_\_\_\_  
BY

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
FEDERAL EMPLOYER'S REGISTRATION NO.

\_\_\_\_\_  
STATE EMPLOYER'S REGISTRATION NO.

\_\_\_\_\_  
STATE LICENSE NUMBER

NOTE: If the instrument of security is a bid or proposal bond from a surety company, the bond along with legal instrument, signed and sealed, binding the Surety Company to the bidder must be attached and included in the bid proposal documents. If a bond is used, the surety or insurance company must be currently on the U.S. Department of Treasury Financial Management Services list of approved bonding companies which is published annually in the Federal Register or by a Louisiana domiciled insurance company with at least an A-rating in the latest printing of the A.M. Best's Key Rating Guide and must be included on the approved list of sureties issued by the U.S. Department of Treasury.



**NON-COLLUSION AFFIDAVIT**

STATE OF \_\_\_\_\_ PARISH OF \_\_\_\_\_

\_\_\_\_\_, being first duly sworn, deposes and says that:

(1) He is (Owner) (Partner) (Office) (Representative) or (Agent), of:

\_\_\_\_\_,  
the Bidder that has submitted the attached Bid:

(2) Such Bid is genuine and is not a collusive or sham Bid:

(3) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties of interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly, or indirectly with any other Bidder, firm or person to submit a collusive or sham bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly sought by agreement or collusion or communication or conference with any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other bidder, or to secure through any advantage against the City of New Orleans of any person interested in the proposed contract; and

(4) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

\_\_\_\_\_  
Signature of (Owner) (Partner) (Office) (Representative) or (Agent)

Subscribed and sworn to, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

**CITY OF NEW ORLEANS  
CONVICTED FELON AFFIDAVIT  
(Pre-requisite to contract according to City Code Section 2-8)**

**STATE OF LOUISIANA**

**PARISH OF \_\_\_\_\_**

Before me, the undersigned authority, came and appeared \_\_\_\_\_, who, being first duly sworn, deposed and said that:

1. He/She is the \_\_\_\_\_ and authorized representative of \_\_\_\_\_  
\_\_\_\_\_, hereafter called "Contractor."
2. The Contractor complies with Section 2-8 (c) of the Code of the City of New Orleans.
3. No Contractor principal, member, or official has, within the preceding five years been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of public records, bribery, falsification or destruction of public records, and/or receiving stolen property.

Sworn to and subscribed before me, in \_\_\_\_\_, Louisiana, this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 201\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Contractor Representative

(Print or type name)

**SAMPLE CORPORATE RESOLUTION**

*Agent for bidder must have a corporate resolution similar to this sample authorizing the agent to represent the bidder and enter into any necessary agreements*

EXCERPT FROM MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF

\_\_\_\_\_,  
INCORPORATED.

AT THE MEETING OF DIRECTORS OF \_\_\_\_\_,  
INCORPORATED, DULY NOTICED AND HELD ON \_\_\_\_\_, 201\_\_\_\_,  
A QUORUM BEING THERE PRESENT, ON MOTION DULY MADE AND SECONDED. IT WAS:

RESOLVED THAT \_\_\_\_\_, BE AND IS HEREBY APPOINTED, CONSTITUTED  
AND DESIGNATED AS AGENT AND ATTORNEY-IN-FACT OF THE CORPORATION WITH FULL POWER  
AND AUTHORITY TO ACT ON BEHALF OF THIS CORPORATION IN ALL NEGOTIATIONS, BIDDING,  
CONCERNS AND TRANSACTIONS WITH CITY PARK IMPROVEMENTS ASSOCIATION, OR ANY OF ITS  
AGENCIES, DEPARTMENTS, EMPLOYEES OR AGENTS, INCLUDING BUT NOT LIMITED TO THE  
EXECUTION OF ALL BIDS, PAPERS, DOCUMENTS, AFFIDAVITS, BONDS, SURETIES, CONTRACTS AND  
ACTS AND TO RECEIVE AND RECEIPT THEREFOR ALL PURCHASE ORDERS AND NOTICES ISSUED  
PURSUANT TO THE PROVISIONS OF ANY SUCH BID OR CONTRACT, THIS CORPORATION HEREBY  
RATIFYING, APPROVING, CONFIRMING AND ACCEPTING EACH AND EVERY SUCH ACT PERFORMED BY  
SAID AGENT AND ATTORNEY-IN-FACT.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE AND CORRECT COPY OF AN  
EXCERPT OF THE MINUTES OF THE ABOVE DATED MEETING OF THE BOARD OF  
DIRECTORS OF SAID CORPORATION, AND THE SAME HAS NOT BE REVOKED OR  
RESCINDED.

\_\_\_\_\_  
SECRETARY-TREASURER

\_\_\_\_\_  
DATE

**SAMPLE AGREEMENT FORM**

**CONTRACT BETWEEN  
THE CITY OF NEW ORLEANS**

**AND**

\_\_\_\_\_

This agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of New Orleans, herein represented by Mitchell J. Landrieu, Mayor ("City"), and \_\_\_\_\_, ("Contractor").

**WITNESSETH**

**WHEREAS**, the City desires to engage a Contractor to provide improvements to \_\_\_\_\_:  
and

**WHEREAS**, in the purpose, the City issued an Invitation to Bid dated \_\_\_\_\_, thereafter tabulated responsive bids, and identified the Contractor to receive the related contract; and the City desires to engage a Contractor to provide repairs to \_\_\_\_\_

and

**WHEREAS**, Contractor, whose office is located at \_\_\_\_\_,  
is qualified; and has the necessary expertise, and both the City and the Contractor desire to enter this agreement; and

**NOW THEREFORE**, the City of New Orleans and the Contractor for the consideration and under the conditions set forth, do agree as follows:

The City hereby grants and confirms unto the said \_\_\_\_\_, the contract for providing the City of New Orleans with Items Nos. \_\_\_\_\_,

for the period of \_\_\_\_\_, effective date hereof, strictly according to Bid Proposal No. \_\_\_\_ and the Contractor's bid thereto, a copy of which is attached hereto and made part thereof.

The Contractor binds itself to perform this contract well and faithfully, strictly in accordance with said Bid Proposal and its bid thereunder, to observe and comply with all the conditions and stipulations contained in the Bid Proposal in every particular, and at all times to abide by and be held amendable and subject to the terms, penalties and conditions of said Bid Proposal and this contract.

For the performance hereunder and according to the Bid Proposal, the City binds and obligates itself to pay the amount set forth in its bid.

And now to these presents personally came and intervened \_\_\_\_\_,  
as Surety: Who declared that it has read and taken full cognizance of the hereinbefore written contract between the City of New Orleans and the said \_\_\_\_\_, and does hereby bind itself as surety for the faithful performance of all work called for in the said contract by the said Contractor in the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_); and does further bind and obligate itself as surety for the payment by the said Contractor of all payments to be made by the said Contractor under the contract, in the full sum of

Dollars

(\$

); each of the said bonds given herein to be considered separate and distinct, and no payment made by the surety under either shall in anyway reduce the obligations of the surety under the other.

**NOW THE CONDITION**, of this obligation is such that if the said Contractor, shall well, and faithful perform all and singular the obligations assumed by it in the aforesaid contract, and shall promptly pay all wages, of laborers, workmen, or mechanics, to be employed by it, for all work done or labor performed by it or by any subcontractor; and shall promptly pay all furnishers of material, supplied to itself or by subcontractors, or furnished to subcontractors, and used in the construction, erection, alteration, or repairs of the work called for by the aforesaid contract; and shall promptly pay for all materials or supplies furnished to the said Contractor, or by any subcontractor, or to any subcontractor, for the use of machines used in the construction, erection, alteration, or repair of the work specified in the aforesaid contract; and shall fully secure and protect the said City of New Orleans, its legal successor and representative, from all loss or expense of any kind, including premises, and from all loss or expense of any kind, including all costs of Court and attorney's fees, made necessary or arising from the failure, refusal or neglect of the aforesaid Contractor, to comply with all of the obligations assumed by it; and likewise to promptly deliver all the work called for by said contract to the City of New Orleans, free from any and all such claims, liens and expenses, then, this said bond shall become null and void, otherwise, to remain in full force and effect.

No modifications, omissions, additions, in or to the terms of said contract, in the plans or specifications, or in the manner and mode of payment, shall in any manner affect the obligations of the undersigned surety in connection with the aforesaid contract.

The proposed Contractor and its Surety shall consent and yield to the jurisdiction of the State Civil Courts of the Parish of Orleans, and formally waive any pleas of jurisdiction on account of the residence elsewhere of the proposed Contractor and Surety, under any applicable bond.

**IN WITNESS WHEREOF**, the parties hereto have made and executed this contract effective the day and year first above written:

WITNESSES:

**CITY OF NEW ORLEANS**

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
By: MITCHELL J. LANDRIEU, MAYOR

\_\_\_\_\_  
By: NANNETTE V. JOLIVETTE BROWN

WITNESSES:

Contractor Name

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
By:  
Title:  
Tax ID No.:

WITNESSES:

Surety Name

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
By:  
AGENT AND ATTORNEY-IN-FACT

**GENERAL CONDITIONS OF THE CONTRACT  
CITY OF NEW ORLEANS**

These General conditions for use on designated City construction projects are based on the general format and responsibilities established in AIA document, A-201 and the supplementary conditions developed and issued by the City after consultation with the American Institute of Architects, local Architects, Engineers, and Contractors and represents a compilation of those requirements into one document.

**ARTICLE 1 - CONTRACT DOCUMENTS**

- 1.1 The Contract documents are made up of the Owner-Contractor Agreement, the Conditions of the Contract, the Drawings if any, the Specifications (Project Manual), and all Addenda issued prior to and all modifications issued after the contract has been executed.
- 1.2 The term, "Project Manual" and/or, "Specifications" if used in the Contract Documents includes the Bidding Requirements, Conditions of the Contract and all divisions or parts of the specifications.
- 1.3 The Contract Documents form the entire agreement between the parties and supersedes all negotiations or agreements, either written or oral.
- 1.4 The Work comprises the completed construction required by the Contract Documents and includes all labor necessary and all materials, equipment, transportation; and services to be incorporated into the construction. The Work shall be complete, and all work, materials, and services not expressly indicated or called for in the Contract Documents which may be necessary for the complete and proper construction of the Work in good faith shall be provided by the Contractor as though originally so indicated, at no increase in cost to the Owner.
- 1.5 The term, "Provide" when used in the Contract Documents means the furnishing of all labor and materials, equipment, transportation, installation, and services required, directly or indirectly.
- 1.6 The Project is the total construction included in the performance of the requirements of the Contract Documents.
- 1.7 By entering into the Contract, the Contractor represents that he has visited the site, familiarized himself with the conditions under which the work is to be performed, and has correlated his observations with the requirements of the Contract Documents.
  - 1.7.1 The intent of the Contract Documents is to include all items necessary for the execution and completion of the work. The Contract Documents are complementary and what is required by one shall be as if required by all Documents
- 1.8 Extra payment will not be authorized for work that could have been determined by a careful examination of the site. This stipulation does not include underground obstructions unless information on such potential obstruction was made available to the Contractor during the Bid Period.
- 1.10 If there should be any discrepancy between information given on the Drawings, either written or drawn and information written in the Specifications, the Contractor shall notify the Owner, who shall make a determination.
- 1.11 The organization of the Specifications or the arrangement of the drawings shall not control the Contractor as to the division of the work among Subcontractors or trade.
- 1.12 Any reference to standards (such as ASTM-American Society for Testing and Materials), where the date is not specified, shall mean the latest edition of such standards published prior to the date of the Specifications, in accordance with the abbreviations referred to in the Technical Provision. Where such a reference is made, the applicable standard is hereby made a part of the Specifications, which refers to it to the same extent as if written out in the specifications in full.

1.13 The ownership of Construction Documents shall be in accordance with state and local laws.

1.14 Unless identified otherwise, the term CONTRACTOR shall apply to all prime CONTRACTORS.

## ARTICLE 2 - CONTRACTOR

- 2.1 The Contractor is the person or body identified as such in the Owner-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender.
- 2.2 The Contractor shall study the Contract Documents and shall report to the Owner any inconsistencies or omissions he may discover. The Contractor shall not be liable to the Owner for any damage resulting from such omissions in the Contract Documents.
- 2.3 The Contractor shall not perform any portion of the work without the Contract Documents.
- 2.4 The Contractor shall verify at the site all aspects relating to his work. If any discrepancy is found to exist between the specifications and actual job, the Contractor shall notify the Owner prior to proceeding with any part of the work affected by such discrepancy.
- 2.5 After reporting to the Owner any error, inconsistency or omission he may discover in the Contract Documents, the Contractor shall not proceed with any work so affected without the Owners written decision.
- 2.6 In case of inconsistencies in the Specifications, or the Drawings, or between the Specifications and Drawings, the Owner will determine which requirement will be the most consistent with the specifications intent.
- 2.7 The Contractor shall direct the work using his full attention and shall be entirely responsible for all construction means and methods.
- 2.8 The Contractor will be responsible to the Owner for the acts and omissions of his employees, Subcontractors, and any other persons performing any of the work with the Contractor.
- 2.9 Unless otherwise provided in the Contract Documents, the Contractor shall provide and include in the scope of his work all labor, materials, equipment, tools, machinery, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the work.
- 2.10 All materials which form a part of the work required to be executed under these Specifications must conform in all respects with the standard requirements named herein, or to other materials which have been submitted to the Owner and have received his approval.
- 2.11 All material delivered on premises, for which the Owner has been billed, which is to form part of the work is to be considered the property of the Owner and is not to be removed without his consent, but the Contractor shall remove all surplus material from the job site.
- 2.12 Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be good quality. The Contractor shall if required furnish satisfactory evidence as to the kind and quality of materials.
- 2.13 Wherever a material, article or piece of equipment is identified in the Specifications by reference to manufacturer's or vendor's name, trade names, catalog numbers, or the like, it is so identified for the purpose of establishing a standard, and any materials, article, or piece of equipment of other manufacture's or vendors which will perform adequately within the duties imposed by the general design will be considered provided the material, article, or piece of equipment so proposed is, in the opinion of the Owner, of equal substance, appearance, and function, and that all technical data for the proposed substitution is submitted to the Owner for approval in accordance with the requirements of this Project Manual.



- 2.14 The Contractor shall secure all written warranties, guarantees, and manuals required in the Specifications and shall deliver them to the Owner at the time of acceptance of Substantial Completion. Warranties on manufactured items shall be by the manufacturer to the Owner. The Contractor shall secure and provide the Owner with a Use and Occupancy Certificate prior to the final payment (retainage) being released by the Owner.
- 2.15 The Contractor shall guarantee, in writing all materials and workmanship for a period of one (1) year from the acceptance of that portion of the work, unless a longer period of time is indicated in a Technical Section of the specifications for a particular item or piece of equipment. Should a material supplier provide a warranty to the Contractor, which expires before the Contractor's warranty to the Owner, it is the Contractor's responsibility to obtain separate or extended warranties as needed to meet the guarantee provisions of this article.
- 2.16 Plumbing and electrical certificates must be secured when roughing-in is completed. The Contractor shall assume all fees for this work. Plumbing, electrical, mechanical, and other applicable inspection certificates must be presented to the Owner prior to or at the time of review for Substantial Completion.
- 2.17 On award of contract, unless otherwise specified, the Contractor shall take immediate steps to notify all Public Utilities and other interested parties of the requirements of the work, making necessary arrangements with these companies for the removal or rearrangement of any wires, poles, pipes, conduits, vaults, sewers, drains, catch basins, service lines, utilities and similar facilities, both overhead and underground, to accommodate in a proper manner the work which, to the fullest extent possible, the Owner has indicated the scope and cost of such work in the Contract Documents. The Contractor shall pay for all replacement, removal, rerouting, relocation or alteration of existing facilities that are within the property limits and are necessary to carry out the work or to conform to the new conditions necessitated by the work.
- 2.18 The Contractor shall secure and pay for all permits, licenses and inspections necessary for the proper execution and completion of the work. Additionally, Contractor shall be responsible for installing any necessary temporary construction power, wiring, and lighting facilities; Developing construction water supply, providing potable water facilities; Establishing fire protection protocol; Having all OSHA required notices and establishment of safety programs; Having the Contractor's superintendent at the job site full time.
- 2.19 It is the Contractor's responsibility to give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the work.
- 2.20 The Contractor shall enforce discipline and good order among his employees and shall not employ on the work any unfit person or anyone not qualified in the task assigned to him.
- 2.21 The Contractor warrants to the Owner that all materials and equipment furnished under this contract will be new unless otherwise specified, and that all Work will be free from faults and defects and in conformance with the Contract Documents. All work not conforming to these requirements may be considered defective. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
- 2.22 The Contractor shall not be responsible for making certain that the Contract Documents are in accordance with applicable laws, statutes, building codes and regulations. If the Contractor observes that any of the Contract Documents are at variance therewith in any respect, he shall promptly notify the City, in writing, and any necessary changes shall be accomplished by appropriate change order.
- 2.23 If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules or regulations, and without such notice to the City, he shall assume full responsibility and shall bear all costs attributable thereto.
- 2.24 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Such persons as directed by the Owner shall supply for such items and amounts covered by these allowances, unless otherwise provided in the Contract Documents.
  - a. These allowances shall cover the cost to the Contractor, less any applicable trade discount, of the materials and equipment required by the allowance delivered at the site, and all applicable taxes;

- b. the Contractor's costs for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the original allowance shall be included in the Contract Sum and not in the allowance;
  - c. whenever the cost is more than or less than the allowance, the Contract Sum shall be adjusted accordingly by Change Order, the amount of which will recognize changes, if any, in handling costs on the site, labor, installation costs, overhead, profit and other expenses.
- 2.25 The Contractor must be fully qualified under all applicable laws for Contractors in effect at the time and at the location of the work before submitting his bid. The Contractor shall be responsible for determining that all of his Subcontractors are duly licensed in accordance with all applicable laws.
- 2.26 The Contractor shall provide competent engineering services to execute the work in accordance with the Contract requirements. He shall verify at the Project site all measurements relating to the work. All construction must be considered in relation to the actual location it shall occupy in the finished structure.
- 2.27 The Contractor will prepare and submit for Owner's information an estimated Critical Path Method (CPM) progress schedule. The schedule will be submitted within fifteen (15) days of the, "Notice to Proceed" or at the pre-construction meeting. The schedule will show the order in which the Contractor proposes to carry on the work, the date on which he will start the major features (including procurement of materials, plant and equipment) and the contemplated dates for completing same. The schedule shall be in the form of a progress chart of suitable scale to indicate approximately the percentage of work scheduled for completion at any time. The Contractor shall enter on the chart the actual progress on a weekly basis. The Contractor shall indicate with his monthly progress payment requests a listing and explanation of any occurrences that will effect a major deviation in the progress schedule. If the Contractor fails to submit the information required by this Article, the Owner shall have the right to withhold payments due the Contractor until such time as the information is submitted.
- 2.28 The Contractor shall maintain at the site for the Owner one record copy of all Drawings, Specifications, Addenda, Change Orders and other modifications, in good order and marked currently to record all changes made during construction, including Shop Drawings, Product Data and Samples.
- 2.29 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the work by the Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the work. Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate a material, product or system for some portion of the work. Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the work will be judged.
- 2.30 The Contractor shall revise as necessary and submit, with reasonable promptness and in such sequence as to cause no delay in the work or in the work of the Owner or any separate contractor, all Shop Drawings, Product Data and Samples required by the Contract Documents. It shall be the Contractor's duty to have Subcontractors provide all necessary details in such numbers as indicated, for review by the Owner, and the Contractor shall make sure that the stamp of review is on details before these are used on the job. All work not in accordance with the approved shop drawings and/or samples shall be rejected and must be removed from the site without delay.
- 2.31 By reviewing and submitting Shop Drawings, Product Data and Samples, the Contractor represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto or will do so, and that he has checked and coordinated the information contained with such submittals with the requirements of the work and of the Contract Documents.
- 2.32 Any and all Shop Drawings used for the fabrication and/or installation of any equipment or materials in connection with this project must bear the proper review stamps of both the the General Contractor. Failure to meet this requirement will be grounds for rejection of the work involved.

- 2.33 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Owner review of Shop Drawings. Product Data or Samples, unless the Contractor has specifically informed the Owner in writing of such deviation at the time of submission and the Owner has given written approval to the specific deviation.
- 2.34 No portion of the Work requiring submission of a Shop Drawing, Product Data or Sample shall be commenced until the submittal has been reviewed and found acceptable by the Owner.
- 2.35 The Contractor shall be entirely responsible for the work under his contract until acceptance as Substantially Complete. Until completion and acceptance of the work, he shall be responsible for the repair of damage or replacement of all or any portions of the Work that are rendered unacceptable.
- 2.36 Upon completion of the work and at the time of Substantial Completion, the Contractor shall provide revised Bid Documents and CD that record all changes made during construction, and shall deliver to the Owner in the form of "record" drawings. Final payment will not be made until the Owner receives these drawings and CD.
- 2.37 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with any materials or equipment.
- 2.38 Except where the Owner specifically grants use of existing facilities for use by the Contractor, he shall provide and maintain sanitary temporary toilets to be located where directed. Said toilets shall be enclosed, weatherproofed, and shall be kept in a sanitary condition at all times and shall meet all requirements of local regulations. At completion of the work, the temporary toilets shall be removed. Contractor shall comply with all health regulations of the State Board of Health. Contractor is to provide sufficient storage space by shed buildings for materials, which might be damaged through exposure to weather, and such sheds as needed for tools, etc. Contractor shall maintain access road and safety fences as required and shall leave site in first class condition at completion of Contract. He shall place all necessary guards and barricades at the job and, at night, he shall maintain suitable and sufficient lights until acceptance of work by Owner.
- 2.39 The Owner shall have the right to use any and all portions of the site that have reached such a stage of completion as to permit occupancy and substantial acceptance, if desirable to the needs or interest of the Owner, provided such occupancy does not hamper the Contractor or prevent his efficient completion of the Contract.
- 2.40 The Contractor shall be responsible for all cutting, fitting or patching that may be required to complete the Work or to make its several parts fit together properly.
- 2.41 The Contractor shall not damage or endanger any portion of the work or the work of the Owner or any separate contractors by cutting, patching, or otherwise altering any work, or by excavation. The Contractor shall not cut or otherwise alter the work of the Owner or any separate contractor except with the written consent of the Owner and of such separate contractor. The Contractor shall not unreasonably withhold from the Owner or any separate contractor his consent to cutting or otherwise altering the work.
- 2.42 The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. At the completion of the work he shall remove all his waste materials and rubbish from and about the Project as well as all his tools, construction equipment, machinery, and surplus materials. If the Contractor fails to clean up at the completion of the work, the Owner may do so as provided in these Documents and the cost thereof shall be charged to the Contractor.
- 2.43 The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights, and shall save the Owner harmless from loss on account thereof.
- 2.45 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Owner's Representative, Construction Manager and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to; attorney's fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or

death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be regardless of whether or not it is caused in part by a party indemnified hereunder. The Contractor further liable, agrees that he shall, at his own expense, defend any and all actions, suits or claims arising out of the performance of work as herein above defined and shall, at his own expense, pay all attorneys fees and all costs and other expenses arising therefrom or incurred in connection therewith; and, if any judgment shall be rendered against the Owner, its agents, officials, or employees as a result of any such claim, Contractor shall, at his own expense, satisfy and discharge the judgment.

- 2.46 In any Claims against the Owner, Owner's Representative, Construction Manager or any of their agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.
- 2.47 The Contractor shall cooperate with the Owner or independent firm for the purpose of any necessary testing or sampling and furnish samples of materials, design mix, equipment, tools, storage, and assistance as requested.
- 2.48 The Contractor shall inspect materials or equipment upon the arrival on the job site and immediately prior to installation, and reject damaged and defective items.
- 2.49 The Contractor's attention is directed to the fact that work may be conducted at the site by other contractors during the performance of the Work under this Contract. The Contractor shall conduct its operations so as to cause a minimum of interference with the work of such other contractors, and shall cooperate fully with such contractors to allow continued safe access to their respective portions of the Site, as required to perform work under their respective contracts.
- 2.50 The Contractor shall cooperate fully with all utility forces of the Owner or forces of other public or private agencies engaged in the relocation, altering, or otherwise rearranging of any facilities which interfere with the progress of the Work, and shall schedule the Work so as to minimize interference with said relocation, altering, or other rearranging of facilities.
- 2.51 Unless the Contract Documents indicate otherwise, the Contractor shall not remove from service, de-energize, or modify settings for any existing operating tank pipeline, valve, channel, equipment, structure, road, or any other facility without permission from the Owner.
- 2.52 If a System Outage is required, a completed System Outage Request form shall accompany each planned Outage. The outage plans shall be coordinated with the construction schedule and shall meet the restrictions and conditions of the Contract Documents. The outage plan shall describe the CONTRACTOR'S method for preventing bypassing of other treatment units; the length of time required to complete said operation; any necessary temporary power, controls, instrumentation or alarms required to maintain control, monitoring, and alarms for the treatment plant processes; and the manpower, plant, and equipment which the CONTRACTOR will furnish for proper operation of associated treatment units. All costs for preparing and implementing the outage plans shall be at no increase in cost to the OWNER. The OWNER shall be notified in writing at least one week in advance of the required outage if the schedule for performing the work has changed or if revisions to the outage plan are required.
- 2.53 Prior to the commencement of Work at the Site, a preconstruction conference will be held at a mutually agreed time and place. The conference shall be attended by the CONTRACTOR'S Project Manager, its superintendent, and its Subcontractors as the CONTRACTOR deems appropriate. Other attendees will be: (a) Representatives of OWNER; (b) Governmental representatives as appropriate; (c) Procurement Contractors as appropriate; (d) Others as requested by CONTRACTOR or OWNER.

The purpose of the conference is to designate responsible personnel and establish a working relationship. Matters requiring coordination will be discussed and procedures for handling such matters established. The complete agenda will be furnished to the CONTRACTOR prior to the meeting date. However, the CONTRACTOR should be prepared

to discuss all of the following items: (a) Status of Contractor's insurance and bonds; (b) Contractor's schedule; (c) Transmittal, review, and distribution of Contractor's submittals; (d) Processing applications for payment; (e) Maintaining record documents; (f) Critical work sequencing; (g) Field decisions and Change Orders; (h) Use of Site, office and/or storage areas, security, designated parking areas, housekeeping, and Owner's needs; (i) Any major equipment deliveries and priorities; (j) CONTRACTOR's assignments for safety and first aid; (k) Review of drawings and specifications; (l) Traffic control plan.

The Contractor will preside at the preconstruction conference and will arrange for keeping and distributing the minutes to all persons in attendance. The Contractor and its Subcontractors should plan on the conference taking no less than one-half full working day.

- 2.54 The Contractor's superintendent shall be present at the site at all times while work is in progress and shall be available by phone for emergencies 24 hours per day, 7 days per week. Failure to observe this requirement shall be considered suspension of the WORK by the CONTRACTOR until such time as superintendent is again present at the Site.
- 2.55 The Contractor shall complete and submit a weekly report by email to the Owner indicating location worked, total manpower for each construction trade, major equipment on Site, each Subcontractor's manpower and equipment, weather conditions, and other related information involved in the performance of the WORK. Failure to provide weekly reports on a timely basis constitutes grounds for the holding of the Contractor's pay application until the daily reports are up to date and complete.
- 2.56 The OWNER may schedule and hold on-Site progress meetings at biweekly intervals and at other times as requested by the CONTRACTOR, the City or as required by progress of the WORK. All CONTRACTORS, and all Subcontractors active on the Site may be obligated to attend each meeting by the Owner. CONTRACTOR may at its discretion request attendance by representatives of its Suppliers, manufacturers, and other Subcontractors. The Contractor will preside at the progress meetings and will arrange for keeping and distributing the minutes. The purpose of the meetings is to review the progress of the WORK, maintain coordination of efforts, discuss changes in scheduling, and resolve other problems which may develop. During each meeting, the CONTRACTOR shall present any issues which may impact its progress with a view to resolve these issues expeditiously. In general, the meeting agenda shall follow the format described below: (a) Review minutes of previous meeting; (b) Review of work progress since previous meeting; (c) Review field observations, problems and conflicts; (d) Review of delivery schedules; (e) Review the status of the project with respect to schedule, and identify corrective measures and procedures to regain projected schedule, if necessary; (f) Review Construction Schedules; (g) Review planned progress during subsequent work periods (until next meeting); (h) Review coordination of schedules; (i) Review maintenance of quality standards; (j) Status of any requests for information; (k) Status of any proposed Change Orders; (l) Other Business
- 2.57 Work performed at the site and in the building to working hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday, except as otherwise indicated or approved by the City
- 2.58 It shall be the responsibility of the Contractor to make timely requests for any additional information not already in his possession which should be furnished by the City under the terms of this Contract, and which he will require in the planning and execution of the work. Requests for Information shall be made to the OWNER. Such requests may be submitted from time to time as the need is approached, but each shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay. Each request shall be in writing, and list the various items and the latest day by which each will be required by the Contractor. The Contractor shall be fully responsible for any delay in his work or to others arising from his failure to comply with the provisions of this section. The Requests for Information shall be submitted on the form provided.
- 2.59 The CONTRACTOR shall maintain one record set of Drawings at the Site. Special attention shall be given to recording the horizontal and vertical location of all buried utilities that differ from the locations indicated, or which were not indicated on the Contract Drawings. Said record drawings shall be supplemented by any detailed sketches as necessary or directed to fully indicate the WORK as actually constructed. These master record drawings of the CONTRACTOR's representation of as-built conditions, including all revisions made necessary by addenda, change orders and field changes shall be maintained up-to-date during the progress of the WORK. Red ink shall be used for alterations and notes. Notes shall identify relevant Change Orders by number and date. Record drawings shall be accessible to the OWNER at all times during the work period.

- 2.60 The Contractor shall protect all utilities encountered while performing its work, whether indicated on the Contract Drawings or not. The Contractor shall maintain utilities in service until moved or abandoned. The Contractor shall exercise due care when excavating around utilities and shall restore any damaged utilities to the same condition or better as existed prior to starting the Work, at no cost to the City. The Contractor shall maintain operating utilities or other services, even if they are shown to be abandoned on the Contract Drawings, in service until new facilities are provided, tested, and ready for use.
- 2.61 The Contractor shall designate a responsible member of its organization at the site whose duty shall be the prevention of accidents and the protection of material, equipment, and property. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the City.
- 2.62 In any emergency affecting the safety of persons or property, the Contractor shall act, at its discretion, to prevent threatened damage, injury, or loss. The Contractor shall notify the City of the situation and all actions taken immediately thereafter. If, in the opinion of the Contractor, immediate action is not required, the Contractor shall notify the City of the emergency situation and proceed in accordance with the City's instructions. Provided, however, if any loss, damage, injury, or death occurs that could have been prevented by the Contractor's prompt and immediate action, the Contractor shall be fully liable for all costs, damages, claims, actions, suits, attorney's fees, and all other expenses arising therefrom or relating thereto. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in General Conditions for Changes in the Work.
- 2.63 CONTRACTOR employee parking will be in designated areas ONLY, and controlled by assigned parking. Unauthorized vehicles parked on site, or vehicles parked in areas other than assigned will be subject to towing. Responsibility for vehicle damage, towing and storage charges remains with the vehicle owner. Signs identifying the area are to be provided by the CONTRACTOR. Vehicles parked, or operated on-site are subject to search without prior notice. Failure to permit search will result in vehicle being barred from the site.
- 2.64 No visitors will be permitted into the construction areas unescorted. Visitors will not be permitted to take photos or videotape on the site without specific written approval of the OWNER. Personal behavior for the maintenance of order or safety is required of every employee and/or visitor. Inappropriate actions by individuals will result in their removal from the site.
- 2.65 Any intended work after hours, weekends or holidays by the CONTRACTOR must be preceded with notice to the OWNER in advance of actual dates of occurrence. Removal of any equipment, tools, etc. in non-standard business hours must be approved in advance and in writing. No late night CONTRACTOR "pull-outs" without notice to the OWNER will be allowed.
- 2.66 Establishing full site security during the entire construction period. Security shall be as required by Contractor's insurance providers to insure full coverage during the entire construction period. Contractor shall inform and assure compliance of all their employees, suppliers and Subcontractors of the site security requirements of the project. .
- 2.67 CONTRACTOR shall maintain the order and responsibility of his employees and that of his Subcontractors and remove from the site personnel or vehicles that are deemed unacceptable by their actions by the OWNER. Plant security will provide copies of any incident reports to OWNER .
- 2.68 All Project employee and visitors are responsible for the following: (a) Displaying parking permit on vehicle at all times while on site; (b) Operating vehicles in a safe manner while on-site, and while leaving site at the end of the work shift. (c) Locking or otherwise securing personal vehicles against theft. Note: By permitting on-site employee/visitor parking, the Owner neither implies nor assumes responsibility for damage, fire or theft; (d) Parking in designated areas only; (e) Security of personal tools and equipment; (f) Allow for search of vehicles when requested without prior notice.
- 2.69 The Contractor shall conduct thorough pre-construction and post-construction Site conditions surveys of the entire Project. Site conditions surveys may consist of photographs, video recordings, and topographic mapping.

2.70 Continuous, unobstructed, safe, and adequate pedestrian and vehicular access shall be provided to fire hydrants, commercial and industrial establishments, churches, schools, parking lots, service stations, motels, fire and police stations, and hospitals. Safe and adequate public transportation stops and pedestrian crossings at intervals not exceeding 300 feet shall be provided. The CONTRACTOR shall cooperate with parties involved in the delivery of mail and removal of trash and garbage so as to maintain existing schedules for such services. Vehicular access to residential driveways shall be maintained to the property line except when necessary construction precludes such access for reasonable periods of time.

2.71 Wherever necessary, the CONTRACTOR shall provide suitable temporary bridges or steel plates over unfilled excavations, except in such cases as the CONTRACTOR shall secure the written consent of the responsible individuals or authorities to omit such temporary bridges or steel plates, which written consent shall be delivered to the OWNER prior to excavation. All such bridges or steel plates shall be maintained in service until access is provided across the backfilled excavation. Temporary bridges or steel plates for street and highway crossing shall conform to the requirements of the authority having jurisdiction in each case, and the CONTRACTOR shall adopt designs furnished by said authority for such bridges or steel plates, or shall submit designs to said authority for approval, as may be required.

Nothing herein shall be construed to entitle the CONTRACTOR to the exclusive use of any public street, alleyway, or parking area during the performance of the WORK hereunder, and it shall conduct its operations to not interfere unnecessarily with the authorized work of utility companies or other agencies in such streets, alleyways, or parking areas. No street shall be closed to the public without first obtaining permission of the proper governmental authority. Where excavation is being performed in primary streets or highways, one lane in each direction shall be kept open to traffic at all times unless otherwise indicated. Toe boards shall be provided to retain excavated material if required by the agency having jurisdiction over the street or highway. Fire hydrants on or adjacent to the WORK shall be kept accessible to fire-fighting equipment. Temporary provisions shall be made by the CONTRACTOR to assure the use of sidewalks and the proper functioning of gutters, storm drain inlets, and other drainage facilities.

For the protection of traffic in public or private streets and ways, the CONTRACTOR shall provide, place, and maintain necessary barricades, traffic cones, warning signs, lights, and other safety devices in accordance with the requirements of the "Manual of Uniform Traffic Control Devices, Part VI - Traffic Controls for Street and Highway Construction and Maintenance Operations," published by U.S. Department of Transportation, Federal Highway Administration (ANSI D6.1).

The CONTRACTOR shall take necessary precautions for the protection of the work and the safety of the public. Barricades and obstructions shall be illuminated at night, and lights shall be kept burning from sunset until sunrise. The CONTRACTOR shall station such guards or flaggers and shall conform to such special safety regulations relating to traffic control as may be required by the public authorities within their respective jurisdictions. Signs, signals, and barricades shall conform to the requirements of Subpart G, Part 1926, of the OSHA Safety and Health Standards for Construction. The CONTRACTOR shall remove traffic control devices when no longer needed, repair damage caused by installation of the devices, and shall remove post settings and backfill the resulting holes to match grade. If closure of any street is required during construction, the CONTRACTOR shall apply in writing to the City DPW and the OWNER and any other jurisdictional agency at least 30 days in advance of the required closure. A Detour and Traffic Control Plan shall accompany the application.

The CONTRACTOR shall notify the owner or occupant (if not owner-occupied) of the closure of the driveways to be closed more than one eight-hour work day at least 3 working days prior to the closure. The CONTRACTOR shall minimize the inconvenience and minimize the time period that the driveways will be closed. The CONTRACTOR shall fully explain to the owner/occupant how long the work will take and when closure is to start.

2.72 The CONTRACTOR shall make its own arrangements for any necessary off-Site storage or shop areas necessary for the proper execution of the WORK.

Should the CONTRACTOR find it necessary to use any additional land for its WORK or for other purposes during the construction of the WORK, it shall arrange for the use of such lands at its own expense.

The CONTRACTOR shall construct and use a separate storage area for hazardous materials used in constructing the WORK. Such materials to be stored in the separate area are all products labeled with any of the following terms: Warning, Caution, Poisonous, Toxic, Flammable, Corrosive, Reactive, or Explosive. In addition, whether or not so labeled, the following materials shall be stored in the separate area: diesel fuel, gasoline, new and used motor oil, hydraulic fluid, cement, paints and paint thinners, two-part epoxy coatings, sealants, asphaltic products, glues, solvents, wood preservatives, sand blast materials, and spill absorbent. The separate storage area shall meet all the requirements of all authorities having jurisdiction over the storage of hazardous materials. All hazardous materials which are delivered in containers shall be stored in the original containers until use. Hazardous materials which are delivered in bulk shall be stored in containers which meet the requirements of authorities having jurisdiction.

- 2.73 Contractor shall implement dust control methods to control dust creation and movement on construction sites and roads and to prevent airborne sediment and any airborne pollutants from reaching receiving streams or storm water conveyance systems, to reduce on-site and off-site damage, to prevent health hazards, and to improve traffic safety. Contractor shall keep streets clean of construction debris and mud carried by construction vehicles and equipment. Contractor shall formulate and implement a system for the collection and disposal of waste materials on the construction site. Methods for ultimate disposal of waste shall be specified and carried out in accordance with applicable local, state, and federal health and safety regulations. Contractor shall make special provisions for the collection and disposal of liquid wastes and toxic or hazardous materials. Contractor shall keep receptacles and waste collection areas neat and orderly to the extent possible. Waste shall not be allowed to overflow its container or accumulate from day-to-day. Contractor shall locate trash collection points where they will least likely be affected by concentrated storm water runoff.
- 2.74 Equipment and vehicles shall be prohibited by the CONTRACTOR from maneuvering on areas outside of dedicated rights-of-way and easements for construction. Damage caused by construction traffic to erosion and sediment control systems shall be repaired immediately by the CONTRACTOR at no additional cost to the CITY. At conclusion of work, Contractor shall maintain grades which have been previously established on areas to be excavated. Existing civil, landscaping, structural, architectural, mechanical, HVAC, electrical, and instrumentation work disturbed or damaged by work activities shall be repaired and rehabilitated as indicated.
- 2.75 On a construction site where designated equipment maintenance areas are not feasible, Contractor shall take precautions during each individual repair or maintenance operation to prevent potential pollutants from washing into streams or conveyance systems. Provide temporary waste disposal receptacles. Vehicles such as dump trucks and other construction equipment shall not be washed at locations where the runoff will flow directly into a watercourse or storm water conveyance system. Contractor shall designate special areas for washing vehicles and locate these areas where the wash water will spread out and evaporate or infiltrate directly into the ground, or where the runoff can be collected in a temporary holding or seepage basin.
- 2.76 To the greatest extent possible for each unit of WORK, the CONTRACTOR shall provide products, materials, and equipment of a singular generic kind from a single source. Where more than one choice is available as options for CONTRACTOR's selection of a product, material, or equipment, the CONTRACTOR shall select an option which is compatible with other products, materials, or equipment. Compatibility is a basic general requirement of product, material and equipment selections. Products shall be stored in accordance with manufacturer's written instructions and with seals and labels intact and legible. Sensitive products shall be stored in weather-tight climate controlled enclosures and temperature and humidity ranges shall be maintained within tolerances required by manufacturer's recommendations. Loose granular materials shall be stored on solid flat surfaces in a well-drained area and shall be prevented from mixing with foreign matter.
- 2.77 The CONTRACTOR shall verify that any utilities connected to structures, equipment, and facilities to be removed, relocated, salvaged, replaced, or abandoned are rendered inoperable, replaced with new utilities, or adequately bypassed with temporary utilities before proceeding with demolition and any reconstruction. The CONTRACTOR shall take precautions to avoid damage to adjacent facilities and to limit the work activities to the extent indicated. Persons shall be afforded safe passages around areas of demolition.
- 2.78 The Contract Documents indicate existing facilities and utilities to be demolished, removed, salvaged, and/or relocated. The CONTRACTOR shall verify the scope of the work to remove the equipment indicated; coordinate its shutdown, removal, replacement, or relocation. The removal of existing facilities for demolition, salvage, and relocation shall



include the following requirements: (a) Any equipment supports, including concrete pads, baseplates, mounting bolts, and support hangers, shall be removed. Damage to the existing structure shall be repaired as indicated; (b) Any exposed piping including vents, drains, and valves shall be removed. (c) Any electrical control panels, junction boxes, motor control centers, and local switches and pushbuttons shall be removed. (d) Exposed electrical conduits and associated wiring shall be removed. Resultant openings in structures shall be repaired as indicated. (e) Connections to embedded electrical conduits shall be removed a minimum of 2 inches inside the finished surface of the existing structure. Wiring shall be removed and the resulting openings shall be repaired as indicated. (f) Associated instrumentation devices shall be removed. (g) Auxiliary utility support systems shall be removed. (h) The area shall be thoroughly cleaned such that little or no evidence of the previous equipment installation will remain. (i) Footings, foundation walls, below-grade construction and concrete slabs on grade shall be demolished and removed to a depth which will not interfere with new construction, but not less than 36 inches below existing ground surface or future ground surface, whichever is lower. (j) Below-grade areas and voids resulting from demolition of structures shall be completely filled. After fill and compaction, surfaces shall be graded to meet adjacent contours and to provide flow to surface drainage structures, or as indicated. (k) When existing pipe is removed, the CONTRACTOR shall plug all resulting open ends whether or not indicated. Where removed piping is exposed, the remaining piping shall be blind-flanged or fitted with a removable cap or plug. (l) When existing piping is removed from existing structures, the CONTRACTOR shall fill all resulting openings in the structures and repair any damage such that the finished rehabilitated structure shall appear as a new homogeneous unit with little or no indication of where the new and old materials join. The openings in water-bearing structures shall be filled with non-shrink grout to be watertight and reinforced as required or indicated. In all locations where the surface of the grout will be exposed to view, the non-shrink grout shall be recessed approximately 1/2-inch and the recessed area filled with cement mortar grout.

2.79 During and upon completion of work, the CONTRACTOR shall promptly remove tools and equipment, surplus materials, rubbish, debris, and dust and shall leave areas affected by work in a clean, approved condition. The CONTRACTOR shall promptly remove from the vicinity of the completed WORK, all rubbish, unused materials, concrete forms, construction equipment, and temporary structures and facilities used during construction. Final acceptance of the WORK by the OWNER will be withheld until the CONTRACTOR has satisfactorily performed the final cleanup of the Site.

2.80 Contractor shall be licensed under LA License R.S. 37:2150-2164

### ARTICLE 3 - SUBCONTRACTORS

- 3.1 A Subcontractor is a person or entity that has a direct contract with the Contractor to perform any of the work. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Subcontractor or his authorized representative.
- 3.2 A Sub-Subcontractor is a person or entity that has a direct or indirect contract with a Subcontractor to perform any of the work. The term Sub-Subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Sub-Subcontractor or an authorized representative.
- 3.3 The Contractor within fifteen (15) days of the notice of intent to award a Contract shall furnish the Owner, in writing, the names of the persons, entities, material suppliers, and fabricators proposed for each principal portion of work. The Owner will reply promptly notifying the Contractor of any proposed person or entity to whom the Owner has a reasonable objection after due investigation.
- 3.4 The Contractor shall not contract with any such proposed person or entity to which the Owner has made reasonable objection. The Contractor shall not be required to contract with anyone to whom he has a reasonable objection after due investigation.
- 3.5 The Owner's approval or disapproval of any Subcontractor, person or organization will not relieve the Contractor of his responsibility for the work, nor will the approval of a particular Subcontractor or person or organization be construed as approval of any particular process or materials.

- 3.6 The Owner will not attempt to settle differences between the Contractor and any of his Subcontractors or a person or organization with whom they have contracted.
- 3.7 By an appropriate written agreement the Contractor shall require each Subcontractor, to the extent of the work to be performed by the Subcontractor to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contract all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner. Said agreement shall preserve and protect the rights of the Owner under the Contract Documents with respect to the work to be performed by the Subcontractor. The Subcontractor shall have the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with his Subcontractors. The Contractor shall make available to each proposed Subcontractor prior to the execution of the Subcontract, copies of the Contract Documents. Each Subcontractor shall similarly make copies of such Documents available to his Sub-Subcontractors.

#### ARTICLE 4 - MISCELLANEOUS PROVISIONS

- 4.1 The contract shall be governed by the laws of the place where the project is located.
- 4.2 The Contractor shall comply with all laws of the State of Louisiana and local ordinances regulating the employment of labor upon public work, and in particular, Louisiana Revised Statute 38:2185 et. seq.
- 4.3 The Owner and the Contractor each binds himself, his partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other.
- 4.4 Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or entity or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified mail to the last business address known to him who gives the notice.
- 4.5 Should either party to the Contract suffer injury or damage because of any act or omission of the other party or any of his employees or agents, a claim shall be made in writing to such other party within a reasonable time after the first observance of such damage.
- 4.6 The Owner shall require the Contractor to furnish bonds covering the faithful performance of the work and payment of all obligations arising thereunder. The surety shall be bound in solido with the Contractor. The executed bonds, together with the bonding agent's power of attorney, shall be furnished to the Owner along with the executed Contract, and six (6) copies. The bonds shall provide that the surety waives the requirements of notice of any change in the work, which does not exceed 20% of the Contract amount and of any extension of time granted to the Contractor. The Contractor shall deliver the required bonds to the Owner not later than the date of execution of the Contract.
- 4.7 The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Owner or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.
- 4.8 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the work to be inspected, tested, or approved, the Contractor shall give the Owner timely notice of its readiness so he may observe such inspection, testing. The Owner shall pay the "direct cost" of all required and/or called for testing of materials to the authorized parties executing such tests. The Owner shall formally authorize all such tests; the Contractor shall be responsible for coordinating such tests.
- 4.9 Claims, disputes, and other matters in question between the Contractor and the Owner shall not be settled by arbitration unless both parties agree to such proceedings. If arbitration is agreed upon, the Construction Industry

Arbitration Rules of the American Arbitration Association shall be followed. No arbitration shall include by consolidation, joinder, or in any other manner, parties other than the Owner, the Contractor and any other persons substantially involved in a common question of fact or law, whose presence is required if complete relief is to be accorded in the arbitration. No person other than the Owner or Contractor shall be included as an original third party or additional third party to arbitration whose interest or responsibility is insubstantial. Any consent to arbitration involving an additional person or persons shall not constitute consent to arbitration of any dispute not described therein or with any person not named or described therein. The foregoing agreement to arbitrate and any other agreement to arbitrate with an additional person or persons duly consented to by the parties to the Owner-Contractor Agreement shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

- 4.10 If arbitration is agreed to, notice of the demand for arbitration shall be filed in writing with the other party to the Owner-Contractor Agreement and with the American Arbitration Association, and a copy shall be filed with the Owner. The demand for arbitration shall be made within a reasonable time after the claim, dispute, or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute, or other matter in question would be barred by the applicable statute of limitations.
- 4.11 Unless otherwise agreed in writing, the Contractor shall carry on the work and maintain its progress during any arbitration proceedings, and the Owner shall continue to make payments to the Contractor in accordance with the Contract Documents.
- 4.12 The Owner shall record the Contract between Owner and Contractor, and will advise Contractor of date, book, and folio numbers. Contractor will be responsible for all costs incurred by the Owner in the execution of the contract, including the Acceptance and Lien and Privilege Certificate. This shall include all fees and/or expenses of the Notary Public.

#### ARTICLE 5 - TIME

- 5.1 The Contract Time is the period of time, based on calendar days, allotted in the Contract Documents for Substantial Completion of the work, including authorized adjustments thereto.
- 5.2 The date of commencement of the work is the date established in a Notice to Proceed, issued by the City of New Orleans' Mayor or Deputy Mayor of Facilities, Infrastructure, and Community Development. The Notice to Proceed shall dictate the timeframe for holding the pre-construction meeting referenced in 2.56.
- 5.3 The Date of Substantial Completion of the work or designated portion thereof is the Date certified by the Owner when construction is sufficiently complete, in accordance with the Contract Documents, so the Owner can occupy or utilize the work or designated portion thereof for the use for which it is intended.
- 5.4 Time is of the essence and completion of the work must be within the time stated in the Contract, subject to such extensions as may be granted. The Contractor agrees to commence work no later than ten (10) days after the date of written Notice to Proceed from the Owner and to substantially complete the project within the time stated in the Contract. The Owner shall suffer financial loss if the Project is not substantially complete in the time set forth in the Contract Documents. The Contractor and his Surety agree that the Owner may deduct the sum indicated in the Form of Proposal from the amount of compensation to be paid him for each day after the above mentioned completion time, Sundays, and holidays included, that the installation remains incomplete. This amount is agreed upon as the proper measure of the liquidated damages that the Owner will sustain per day, by the failure of the Contractor to complete the work at the stipulated time, and is not to be construed in any sense, as a penalty. The expiration of the time stipulated without the work having been completed shall in itself constitute a default without the necessity of any notice being given to the Contractor.
- 5.5 If the Contractor is delayed at any time in the progress of the work by any act or neglect of the Owner or by any employee, or by any separate contractor employed by the Owner, or by changes ordered in the work, or by labor disputes, fire, adverse weather conditions not reasonably anticipatable, unavoidable casualties, or any causes

beyond the Contractor's control, or by delay authorized by the Owner pending arbitration, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

- 5.6 Any claim for extension of time shall be made in writing at the end of each month to the Owner in order for them to be considered; otherwise it shall be waived. In case of a continuing delay only one claim is necessary. The Owner must approve all claims for extension of time.
- 5.7 Forces employed and rate of progress must be sufficient for the work as scheduled. If at any time the work lags, sufficiently increased forces and hours shall be used to maintain the schedule.
- 5.8 The completion date for this project shall be established by the number of days stipulated in the proposal and liquidated damages shall be assessed for every day beyond that date. If, however, the Contractor requests an extension of time beyond that date and the request is made in writing and if it is granted by the Owner, the date on which liquidated damages shall be assessed shall be altered accordingly.
- 5.9 The completion time shall be extended for extreme inclement weather. The time for completion as stated in the Contract Documents includes due allowance for calendar days on which work cannot be performed out-of-doors. The Contractor agrees that the measure of extreme weather during the period covered by this Contract shall be the number of days in excess of the number indicated in the Form of Proposal on which precipitation exceeded 0.1 inch, as recorded at the closest New Orleans Sewerage and Water Board rain gauge, or on which there are site conditions verified with and approved by the Owner at the time of the delay, which does not permit work immediately after previous inclement weather. Changes in the Contract amount will not be authorized because of adjustment of contract time due to weather. For the purposes of the Contract, the Contractor agrees he may expect to be unable to work on the number of calendar days, due to inclement weather, indicated in the Form of Proposal.

#### ARTICLE 6 - PAYMENTS AND COMPLETION

- 6.1 The Contract Sum is stated in the Owner-Contractor Agreement, and including authorized adjustments thereto is the total amount payable by the Owner to the Contractor for the performance of the work under the Contract.
- 6.2 Within fifteen (15) days of the Notice to Proceed, the Contractor shall submit to the Owner a Schedule of Values prepared on 8 2" x 11 or 8 2" x 14" sheets of white paper. The total of all items shall equal the total Contract sum. This schedule, when approved by the Owner, shall be used only as a basis for the Contractor's Application for Payment. In general, the Contract sum shall be distributed in accordance with the types of work designated by the Specifications and if necessary into component parts of the Sections.

The schedule of values shall enable the assignment of monetary values for distinct items of completed work. The schedule of values shall not contain a line item for project costs considered as project overhead. The project costs which are to be considered as project overhead, for which there shall not be a line item in the schedule of values, include, among other things, the following:

- Project Schedule
- Tools and Equipment
- Shop Drawings, Samples and other Submittals
- Field Management and Supervisory Personnel
- Manufacturer's Operation and Maintenance Manuals

The costs of these items are to be distributed evenly among those items of work reflected in the schedule of values line items.

In the event that the Contractor and Owner agree to make adjustments to the original Schedule of Values because of inequities discovered in the original accepted detailed Schedule of Values, increases and equal decreases to values for activities may be made. Approved change orders shall be incorporated into the Schedule of Values as a single unit identified by the change order number.

- 6.3 Monthly, the Contractor shall submit to the Owner an itemized Application for Payment, notarized if required by the Owner, supported by such data substantiating the Contractor's right to payment as the Owner may require, such as the Schedule of Values and CPM Schedule. Application for Payment shall be submitted between the first and the fifth of each month for the value of labor and materials incorporated in the work and of materials and/or equipment stored at the site as of the end of the preceding month, less retainage as follows:
- a. Projects with Contract prices up to \$500,000 - 10% of the Contract amount.
- 6.4 The normal retainage shall not be requested by or due the Contractor until expiration of the forty-five-day lien period and submission to the Owner of a clear Lien and Privilege certificate.
- 6.5 Prior to the request for final (retainage) payment, the Contractor shall secure and provide the Owner with a Use and Occupancy Certificate.
- 6.6 Payments will be made on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site. If approved in advance by the Owner, payments may be made for materials or equipment suitably stored in a bonded warehouse at some other location agreed upon in writing. Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Owner to establish the Owner's title to such materials or equipment or otherwise protect the Owner's interest, including applicable insurance and transportation to the site for materials and equipment stored off the site.
- 6.7 The Owner will, within seven (7) days after the receipt of the Contractor's Application for Payment, either begin routing the Application through the Disaster-CDBG request for payment process, notifying the Contractor, for such amount as the Owner determines is properly due, or notify the Contractor in writing the reasons for withholding a payment or a portion thereof. Owner will, as reasonable, provide Contractor with updates on the status of the Contractor's Application for Payment as it is routed through the Disaster-CDBG request for payment process.
- 6.8 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's work. The Contractor shall by an appropriate agreement with each Subcontractor, require each Sub-Subcontractor to make payments to his Sub-subcontractors in similar manner.
- 6.9 The Owner may, on request, and at his discretion, furnish to any Subcontractor, if practicable, information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken thereon by the Owner on account of work done by such Subcontractor.
- 6.10 The Owner shall have no obligation to pay or to see to the payment of any moneys to a Subcontractor except as may otherwise be required by law.
- 6.11 No progress payment, nor any partial or entire use or occupancy of the Project by the Owner, shall constitute an acceptance of any work not in accordance with the Contract Documents.
- 6.12 When applying for payment, the Contractor shall submit to the Owner an original and three (3) copies of the application for payment. All four (4) copies shall be signed. All copies must be notarized, if required by the Owner, in order to receive consideration.
- 6.13 The Contractor shall submit, if requested by the Owner during the construction period, with each payment request a listing of Subcontractors who have worked during the period covered by the payment requested.
- 6.14 The Owner may decline to certify payment or, because of subsequently discovered evidence or subsequent observations, nullify the whole or any part of any approved payment previously processed, to such extent as to protect the Owner from loss because of:
- a. defective work not remedied;

- b. liens;
  - c. third party claims filed;
  - d. failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
  - e. reasonable evidence that the work cannot be completed for the unpaid balance of the Contract Sum;
  - f. damage to the Owner or another Contractor;
  - g. persistent failure to carry out the work in accordance with the Contract Documents.
- 6.15 When the Contractor considers that the work, or a designated portion thereof which is acceptable to the Owner, is substantially complete he shall prepare for submission to the Owner a list of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all work in accordance with the Contract Documents. When the Owner on the basis of an inspection determines that the work or designated portion thereof is substantially complete, the Owner will then prepare a Certificate of Substantial Completion, which shall establish the Date of Substantial Completion. Warranties required by the Contract Documents shall commence on the Date of Substantial Completion of the work or designated portion thereof unless otherwise provided and agreed upon. The Certificate of Substantial Completion shall be submitted to the Owner and the Contractor for their written acceptance of the responsibilities assigned to them in such Certificate.
- 6.16 When the project has been accepted as, "Substantially Complete" a, "punch list of incomplete items", and/or, "exceptions" and a dollar value related thereto will be prepared. Payment withheld from the Contractor will be the sum of the following items:
- a. Normal retainage for the completed portion of work.
  - b. Value of incomplete or, "punch list" portion of work.
  - c. Value of recorded liens, third party claims filed, payroll under-payment claims as filed with the Contractor by the City.
- 6.17 Upon receipt of written notice that the work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection and, when the Owner finds the work acceptable under the Contract Documents and the Contract fully performed, the Owner will promptly issue a final Approval of Work Complete stating that to the best of the Owner's knowledge, and information, and observations and inspections, the work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance noted in said final Certificate, may be requested and is payable.
- 6.18 If all punch list items have not been completed by the end of the thirty (30) day lien period, through no fault of the Owner, the Owner may hold the Contractor in default. If the Owner finds the Contractor is in default, the Surety shall be notified. If within thirty (30) days after notification, the Surety has not completed the punch list, through no fault of the Owner, the Owner may, at the Owner's option, contract to have the balance of the work completed and pay for such work with the unpaid funds remaining in the Contract sum. Finding the Contractor in default shall constitute a reason for disqualification of the Contractor from bidding on future City contracts. If the Surety fails to complete the punch list within the stipulated time period, the Owner may no accept bonds submitted, in the future, by the Surety.
- 6.19 Neither the final payment nor the remaining retained percentage shall become due until the Contractor submits to the Owner (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the work for which the Owner or his property might in any way be responsible, have been paid or otherwise satisfied including submission of a clear Lien and Privilege Certificate, (2) Consent of Surety, if any, to final payment, (3) a Use and Occupancy Certificate (4) satisfactory completion of all compliance requirements and

acceptance by the City of all compliance documents and, (5) if required by the Owner, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as may be designated by the Owner. If any Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify him against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

- 6.20 If, after completion of the work, final completion thereof is materially delayed through no fault of the Contractor or by the issuance of Change Orders affecting final completion, the Owner shall, upon application by the Contractor, and without terminating the Contract, make payment of the balance due for that portion of the work fully completed and accepted. If the remaining balance for work not fully completed or corrected is less than the retainage stipulated in the Contract Documents, the written consent of the surety to the payment of the balance due for that portion of the work fully completed and accepted shall be submitted.
- 6.21 The making of final payment shall constitute a waiver of all claims by the Owner except those arising from:
- a. unsettled liens,
  - b. faulty or defective work appearing after Substantial Completion,
  - c. failure of the work to comply with the requirements of the Contract Documents, or
  - d. terms of any special warranties required by the Contract Documents.

The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the final Application for Payment.

- 6.22 Should there be any defects in labor, material, or installations which were not previously discovered, and/or which have not been corrected by the time final payment is due, the Owner may, if he wishes, withhold from the final payment sufficient funds to cover the cost of making such corrections.
- 6.23 Contractor shall submit to Owner an original and three copies of all warranties, guarantees, and maintenance manuals.
- 6.24 Payment shall be contingent upon the Contractor's weekly submittal of certified payrolls to the City through the LCP tracker for Prevailing Wage verification.

#### ARTICLE 7 - PROTECTION OF PERSONS AND PROPERTY

- 7.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs. He shall take all reasonable precautions for the safety and shall take all reasonable steps to prevent damage, injury, or loss of the work itself and all material and equipment incorporated; other property at the site or adjacent thereto, and all employees or other persons affected by the work.
- 7.2 The Contractor shall give all notices and comply with all applicable law, ordinances, rules, regulations, and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.
- 7.3 The Contractor shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

- 7.4 When the use or storage of hazardous materials or equipment is necessary for the execution of the work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.
- 7.5 The Contractor shall be entirely responsible for the work under his contract until acceptance as Substantially Complete. Until completion and acceptance of the work, he shall be responsible for the replacement of broken, cracked, scarred or otherwise damaged glass as well as for the proper repair of damage to or replacement of all or any other parts or portions of the work including materials, fixtures and equipment furnished by the Contractor, his Subcontractors, or their Subcontractors.
- 7.6 The Contractor shall be responsible for the adequate strength and safety of all scaffolding, staging and hoisting equipment and for temporary shoring, bracing and tying.
- 7.7 The Contractor shall comply with applicable safety and health regulations for construction published and in force as of the bid date by the Department of Labor, Bureau of Labor Standards, and any subsequent relations issued by the Department of Labor requiring compliance with the Occupational Safety and Health Act of 1970.
- 7.8 The Contractor shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner.
- 7.9 The Contractor shall not load or permit any part of the work to be loaded so as to endanger its safety.
- 7.10 In any emergency affecting the safety of persons or property, the Contractor shall act, at his discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided elsewhere in these conditions.

#### ARTICLE 8 - CHANGES IN THE WORK

- 8.1 A Change Order is a written order to the Contractor signed by the Owner and Contractor, issued after execution of the Contract, authorizing a change in the work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order. A Change Order signed by the Contractor indicates the Contractor's agreement therewith, including the adjustment in the Contract Sum or the Contract Time.
- 8.2 The Owner, without invalidating the Contract, may order changes in the work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and the contract Time being adjusted accordingly. All such changes in the work shall be authorized by Change Order, and shall be performed under the applicable conditions of the Contract Documents.
- 8.3 The cost to the Owner resulting from a change in the work shall be determined by unit prices stated in the Contract Documents or by the sum of: (a) material, supervision, and labor costs, (b) sub-contract costs, and (c) overhead and profit. The credit to the Owner resulting from a change in the work shall be the sum of: (a) material and labor costs including supervision, and (b) sub-contract cost.
- 8.4 Before a Change Order is prepared, the Contractor shall provide and deliver to the Owner the following information within ten (10) days after being notified to prepare the information:
- a. An itemized list of material costs and labor costs for all subcontract work.
  - b. An itemized list of material costs and labor costs including supervision for all Contractor's work.
  - c. Overhead and Profit shall be computed by one of the following methods:
    - i. When all of the work is general contract work; 15% of the cost of the work as defined hereafter.



- ii. When the work is all subcontract work; 15% of the cost of the work for Subcontractor's Overhead and Profit plus 10% of the cost of the work for General Contractor's Overhead and Profit.
- iii. When the work is a combination of General Contract work and subcontract work, 15% of the subcontract for Subcontractor's Overhead and Profit plus 10% of the cost of the subcontract work for General Contractor's Overhead and Profit plus 15% of the cost of general contract work for General Contractor's Overhead and Profit.

d. Estimated extension, if any required, to the Contract in calendar days.

8.5 Cost of the work for the purposes of Change Orders shall be cost necessarily incurred in performance of the work and paid by the Contractor, which shall consist of:

- a. Wages paid for labor including supervision, determined by actual rates or if not available by the prevailing wages of this Contract.
- b. Cost of all materials and supplies not including cash discounts, at cost consistent with those prevailing in the area.
- c. Cost of necessary machinery and equipment rental, exclusive of labor, used at the site of the Work at rental charges consistent with those prevailing in the area.
- d. Cost of applicable taxes, applicable insurance, bonds, fringe benefits, unemployment compensation, social security, old age and unemployment contributions and additional premiums for all bonds.

8.6 Subcontract costs shall consist of the items indicted in sub-article 8.5.

8.7 Cost of Work, whether General Contractor or subcontractor cost, shall not apply to or include the following:

- a. Salaries or other compensation of the Contractor's personnel at the Contractor's principal office and any branch offices.
- b. Expenses of the Contractor's principal office or branch.
- c. Any part of the Contractor's capital expenses, including interest on the Contractor's capital utilized for the work.
- d. Overhead and general expenses of any kind or cost of any item not specifically included in 8.5.

8.8 When applicable, as provided by the Contract, the cost to the Owner for Change Orders shall be determined by quantities and unit prices. The quantity of any item shall be submitted by the Contractor and approved by the Owner. Unit prices shall cover cost of Material, Labor, Equipment, Overhead and Profit.

8.9 Any Change Order resulting in an addition or reduction to the Contract must be presented to and approved in writing by the Owner before proceeding to execute the work. Approval may be in the form of a letter of intent issued by the Owner.

8.10 If the Contractor wishes to make a claim for an increase in the Contract Sum, he shall give the Owner written notice thereof within twenty days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the work, except in an emergency endangering life or property.

8.11 If the Contractor claims that additional cost is involved because of, but not limited to; (1) any written interpretation, (2) any order by the Owner to stop the work where the Contractor was not at fault, (3) any written

order for a minor change in the work, or (4) failure of payment by the Owner, the Contractor shall make such claim within twenty days after the occurrence.

- 8.12 If the Contractor wishes to make a claim for an increase in the Contract Sum, he shall give the Owner written notice thereof within twenty days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the work, except in an emergency endangering life or property.

#### ARTICLE 9 - UNCOVERING AND CORRECTION OF WORK

- 9.1 If any portion of the work should be covered contrary to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Owner, be uncovered for the Owner's observation and replaced at the Contractor's expense.
- 9.2 If any other portion of the work has been covered which the Owner has not specifically requested to observe prior to being covered, the Owner may request to see such work and it shall be uncovered by the Contractor. If such work is found in accordance with the Contract Documents, the cost of uncovering and the replacement thereof shall, by appropriate Change Order, be charged to the Owner. If such work is found not in accordance with the Contract Documents, the Contractor shall pay such costs unless it is found that this condition was caused by the Owner or a separate contract in which event the Owner shall be responsible for the payment of such costs.
- 9.3 The Contractor shall bear all costs involved in promptly correcting any work that fails to conform to the Contract Documents.
- 9.4 If, within one year after the Date of Substantial Completion of the work or designated portion thereof or within one year after acceptance by the Owner of designated equipment, or within such longer period of time as may be prescribed by law, or by the terms of any applicable special warranty required by the Contract Documents, any of the work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. This obligation shall survive termination of the Contract. The Owner shall give such notice promptly after discovery of the condition.
- 9.5 If the Contractor does not proceed with correction of such defective or non-conforming work within a reasonable time fixed by written notice from the Owner, the Owner may remove it and may store the materials or equipment at the expense of the Contractor. If the Contractor does not pay for the cost of such removal and storage within ten days thereafter, the Owner may upon ten additional days and written notice, sell such work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor. If such proceeds of sale do not cover all costs that the Contractor should have borne, the difference will be charged to the Contractor and an appropriate change Order will be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor will pay the difference to the Owner.
- 9.6 If the Owner prefers to accept defective or non-conforming Work, he may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect a reduction in the Contract Sum where appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

#### ARTICLE 10 – AUDIT AND OTHER OVERSIGHT

- 10.1 The Contractor understands and will abide by all provisions of the Code of the City of New Orleans, Chapter 2, Art. XIII, Sect. 2-1120, as adopted by City Ordinance No. 22,888 M.C.S., (relative to the operations and authority of the City Inspector General).
- 10.2 City Officials and/or their designated representatives shall have the right to audit, inspect and review all books and records (in whatever form they may be kept whether written, electronic or other) relating or pertaining to this contract or agreement (including any and all documents and other materials, in whatever form they may be kept

which support or underlie those books and records), kept by or under the control of the Contractor, including, but not limited to those kept by the Contractor, its employees, agents, assigns, successors and subcontractors.

- 10.3 The Contractor shall maintain such books and records together with such supporting or underlying documents and materials for the duration of this contract or agreement and for at least 5 years following the completion of this contract or agreement, including any and all renewals thereof. The books and records, together with the supporting or underlying documents and materials shall be made available, upon request to the City, through its employees, agents' representatives, contractors or other designees, during normal business hours at the Contractor's office or place of business. In the event that no such location is available, then the books and records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location at, location, which is convenient for the City.
- 10.4 It is agreed that the contractor will abide by all provisions of City Code Sec. 2-1170, including but not limited to City Code Sec. 2-1120 (12) which requires the contractor to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests shall constitute a material breach of the contract.

#### ARTICLE 11 - SURETY

- 11.1 R.S. 38:2219 Any surety bond written for a public works project shall be written by a surety or insurance company currently on the U.S. Department of Treasury Financial Management Services list of approved bonding companies which is published annually in the Federal Register or by a Louisiana domiciled insurance company with at least an A-rating in the latest printing of the A.M. Best's Key Rating Guide to write individual bonds up to ten percent of policyholder's surplus as shown in the A.M. Best's Key Rating Guide.
- 11.2 No surety or insurance company shall write a bond which is in Excess of the amount indicated as approved by the U.S. Department of Treasury Financial Management Service list or by a Louisiana domiciled insurance company with an A-rating by A.M. Best up to a limit of ten percent of policyholder's surplus as shown by A.M. Best.
- 11.3 The surety bond submitted must be written by a surety or insurance company that is currently licensed to do business in the State of Louisiana.
- 11.4 The surety bond must be countersigned by a Louisiana licensed agent authorized to represent the surety or insurance company writing the bond and that agent's power of attorney must be attached to the bond submitted.

#### ARTICLE 12 - NOTARIAL FEE

- 12.1 The Contractor is to sign before and pay the fee of the City Notary for his Contract. Forty-five (45) days after the City Notary has filed the acceptance of the Contract, the Contractor is entitled to payment of his final retainage subject to presentation of a Clear Lien Certificate from the Recorder of Mortgages. The cost incurred in recording the Lien Certificate shall be paid for by the Contractor. Indicated below is the fee schedule, which applies to the notarial work for this project:

Under \$1,000.00	\$ 150.00
Between \$1,000.00 and \$49,999.99	\$ 275.00
Between \$50,000.00 and \$499,999.99	\$ 700.00
Between \$500,000.00 and \$999,999.99	\$ 1,500.00
Between \$1,000,000.00 and \$5,000,000.00 or over	\$ 3,000.00

In addition to the above fees, also to be collected are the actual costs of recording said act and photocopying at the rate of 50 cents per page. All affidavits of acceptance or substantial completion are \$60.00 plus actual recordation costs.

## ARTICLE 13 - BROKERAGE FEE

13.1 The Contractor warrants that he has not employed any person to solicit or secure this Contract upon an agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give the City of New Orleans the right to terminate the Contract, or, at the discretion of the City of New Orleans, to deduct from the Contract price or consideration, the amount of such commission, percentage, brokerage or contingent fee. This warranty shall not apply to commissions payable by contractors upon contracts or commissions secured or made through bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. No elected official or employee of the City of New Orleans shall be permitted to share any part of this Contract or any benefit that may arise therefrom, and any Contract made by the City of New Orleans in which he shall be personally interested shall be void, and no payments shall be made thereon by the City of New Orleans or any officers thereof, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

## ARTICLE 14 - LEAD BASE PAINT

14.1 Paints containing lead shall not be used in connection with this project.

## ARTICLE 15 - SECTION 2-42 ORDINANCE 828 M.C.S.

AN ORDINANCE to amend and re-ordain Section 2-42 of Ordinance 828 M.C.S. known as the Code of the City of New Orleans, relating to provisions to be contained in the advertised specifications submitted to prospective bidders for contracts in excess of Twenty-Five Thousand and NO/100 (\$25,000.00) Dollars, for construction, alteration or repair, including painting and decorating, of public buildings or public works of the City of New Orleans, providing for the payment of minimum wages to laborers and mechanics employed on such projects.

- a. The Contractor and each of his Subcontractors shall pay all mechanics and laborers employed directly upon the site of work, unconditionally and not less than once a week, without subsequent deduction of rebate on any account except deductions required by law or authorized by the employee, wages at rates of pay not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the Contractor and Subcontractor or Sub-Subcontractor and such laborers and mechanics.
- b. The scale of wages to be paid shall be posted by the Contractor and each Subcontractor in a prominent and easily accessible place at the site of the Work.
- c. After notification of the award of Contract the principal Contractor shall submit to the Director of Finance of the City a list of all Subcontractors employing mechanics and laborers for the performance of work directly upon the site of the project.
- d. Each Contractor shall submit to the Director of Finance of the City, simultaneously with each request for payment of Contract funds pursuant to the terms of his Contract with the City, or at least one time each week, whichever is the shorter period, but not later than seven work days following completion of the work week reported upon in a payroll, a certified copy of each weekly payroll, including the payroll of each Subcontractor, on work covered by this section, containing the name, job classification, social security number, number of hours worked each day (regular and overtime), rate of pay including overtime rate, fringe benefit payments, all payroll deductions other than those required by federal, state or local statutes, and the total amount earned during said period by each employee on such covered work.
- e. If the Contractor or any of his Subcontractors employing mechanics or laborers directly upon the site of the work fails to pay the wages provided for in the Specification, the Director of Finance may, after thirty (30) days written notice to the prime Contractor, cause to be withheld from the Contractor so much of the accrued payments as may be considered necessary to pay laborers or mechanics employed by the Contractor or any of

his Subcontractors on the work the difference between the rates of pay required by the Contractor to be paid laborers or mechanics on the work and the rates of pay received by such laborers and mechanics.

In the event the Contractor or any of his Subcontractors employing mechanics or laborers directly upon the site of the work fails to submit the payrolls provided for in subsection (4) of this section, the Director of Finance may, after thirty (30) days written notice to the prime Contractor, take such action as may be necessary to cause the suspension of any further payments until such payroll are submitted.

#### ARTICLE 16 - EMPLOYMENT OF STATE RESIDENTS

16.1 Pursuant to Act 361 of the 1984 Regular Session of the State Legislature eighty (80) percent of the persons employed in fulfilling the requirements of this contract shall be residents of the State of Louisiana.

#### ARTICLE 17 - SUSPENSION OF PAYMENTS

17.1 The City may suspend payments to the Contractor for failure to comply with any provisions (including rules, regulations and reporting requirements pertaining thereto) of Executive Order 83-02, Executive Order 84-01, or Sections 2-41 and 2-42 of the Code of the City of New Orleans.

If this contract is wholly or partially funded with federal funds, the City may suspend payments to the Contractor for failure to comply with any provisions (including rules, regulations and reporting requirements pertaining thereto) of the Davis-Bacon Act, the Copeland (Anti-Kickback) Act and the Contract Work Hours and Safety Standards Act, and if funded by the U.S. Department of Housing and Urban Development any provisions of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C.1701U).

#### ARTICLE 18 DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

1. The requirements of the City's DBE Program apply to this contract. It is the policy of the City of New Orleans to practice nondiscrimination based on social and economic disadvantage, race, color, sex, gender, disability or national origin. All firms qualifying under this solicitation are encouraged to submit proposals/bids. Award of this contract shall be conditioned upon satisfying the requirements of the DBE Program. A DBE contract **goal of 35 percent** has been established for this contract. The offeror/bidder shall agree to use its best efforts, as determined by the DBE Compliance Officer in accordance with the factors set forth in the DBE Program, to meet the contract goal for DBE participation in the performance of this contract.

2. The bidder shall be required to submit the following information on the DBE Participation Summary Sheet:

- a. The names and addresses of all DBE firms that will participate in the contract;
- b. The dollar amount commitment of the participation of each DBE firm participating in the contract;
- c. Written confirmation from the named DBE(s), verifying their participation in the contract as provided in the commitments made under (a) and (b) above; and
- d. If the contract goal is not met, evidence of best efforts.

2. Upon receipt of the above-referenced materials, the DBE Compliance Officer shall then make a determination as to whether the bidder/offeror was responsive as to the DBE contract goal. If it is determined that the bidder/offeror was responsive to the DBE contract goal, the contract shall be awarded to the apparent lowest responsible bidder. If it is determined that the bidder/offeror was non-responsive to the DBE contract goal, the bid shall be rejected as non-responsive, and the next apparent lowest responsive bidder, as determined by the Department Head, shall be required to comply with the procedures set forth herein in this Section.

## B. DBE CONTRACT PROVISIONS

1. Contractor agrees to use its best efforts to fully and completely carry out the applicable requirements of the City's DBE Program in the award and administration of this Agreement, including, without limitation, all reporting requirements and specific DBE participation goals. Contractor's failure to carry out these requirements, as determined in good faith by the DBE Compliance Officer, shall be deemed a material breach of this Agreement, which may result in the termination of this Agreement or other such remedy as set forth in the City's Policy Memorandum for the DBE Program.
2. Contractor agrees to provide quarterly written reports to the DBE Compliance Officer on all expenditures made to achieve compliance with the DBE participation goals for this Agreement. The report shall, at a minimum, include the following:
  - a. The name and business address of each DBE involved in the contract;
  - b. A description of the work performed and/or the product or service supplied by each DBE;
  - c. The date and amount of each expenditure made to a DBE; and
  - d. Such other information as may assist the DBE Compliance Officer in determining Contractors compliance with the DBE Program and the status of any DBE performing any portion of the Contract.
3. Access to Books and Records: Contractor agrees to grant DBE Compliance Officer reasonable access to its books and records for purposes of verifying compliance with the DBE Program.

## C. BID PREPARATION

1. Contractor is to use the City of New Orleans, Sewerage & Water Board, and/or New Orleans Aviation Board's most current DBE vendor listing for vendors within the scope of their respective certifications.
2. If the Contractor is unable to meet the proposed DBE participation goal, the Contractor must demonstrate evidence of BEST EFFORTS.

## D. STANDARDS OF DEMONSTRATED BEST EFFORTS

Before receiving an award of the contract, the contractor must meet the DBE goals or prove that he/she has made demonstrated BEST EFFORTS. To determine whether a particular contract bidder has made demonstrated BEST EFFORTS to reach the DBE participation goal, the Office of Supplier Diversity and its staff will consider the following:

1. Whether the Contractor attended pre-bid meetings that may have been scheduled by the City of New Orleans to inform DBE firms of subcontracting opportunities and/or requested the City of New Orleans. Directory of Certified DBE firms;
2. Whether the contractor advertised in general circulation and trade association publications, concerning the DBE subcontracting opportunities, and allowed the subcontractors reasonable time to respond;
3. Whether the contractor provided written notice to a reasonable number of individually named DBE firms and allowed sufficient time for the DBE firms to participate effectively;
4. Whether the contractor followed up initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested in bidding;
5. Whether the contractor selected specific portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goals (including breaking down contracts into smaller units to facilitate DBE

participation;

6. Whether the contractor provided interested DBEs with adequate information about the plans, specifications and requirements of the contracts;
  - a. whether the contractor negotiated in "good faith" with interested DBEs and did not reject DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;
  - b. if the contractor did reject a DBE as unqualified, the contractor must state his or her reason for doing so in writing;
  - c. whether the contractor has used the services of available community organizations and small and/or disadvantaged business groups; local, state and federal small or disadvantage business assistance offices; and other organizations that provide assistance in the recruitment and placement of DBE firms;
  - d. whether the contractor has made sufficient efforts to negotiate with DBEs for specific sub-bids, including at a minimum:
    - i. Names, addresses, telephone numbers of DBEs that the contractor contacted,
    - ii. Description of information provided to those DBE firms, and
    - iii. Statement of why additional agreements with DBEs were not reached to include but not limited to proof the DBEs' price exceeded that of non-DBEs.

**DISADVANTAGED BUSINESS ENTERPRISE (DBE) RESPONSIVENESS FORM**

This form or a similar form should be provided by the lowest responsible Prime Contractor within ten (10) days of receipt of written notification by the DBE Compliance Officer.

The undersigned bidder/offeror or has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

\_\_\_ The bidder/offeror is committed to a minimum of \_\_\_% DBE utilization on this contract.

\_\_\_ The bidder/offeror is unable to meet the DBE goal of \_\_\_%) is committed to a minimum of \_\_\_% DBE utilization on this contract and will submit documentation demonstrating best efforts.

**Name of bidder/offeror's firm:** \_\_\_\_\_

State Registration No. \_\_\_\_\_

By \_\_\_\_\_  
(Signature) (Title)

**Name of DBE firm:** \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by DBE firm:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$ \_\_\_\_\_.

Affirmation: The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By \_\_\_\_\_  
(Signature) (Title)

If the bidder/offeror does not receive award of the prime contract, any and all representations in this DBE Responsiveness Form and Affirmation shall be null and void.



EVIDENCE OF BEST EFFORTS

This form should be provided by the lowest responsible bidder within ten (10) days of receipt of written notification by the DBE Compliance Officer if the bidder/offeror is unable to meet the DBE goal. The DBE Compliance Officer shall be responsible for determining whether the general contractor has made his best efforts to achieve the DBE Program contracting objectives in either bid submission commitments or, upon award of the contract, actual achievement of their stated contractual DBE participation commitment. In making this determination, the DBE Compliance Officer shall consider the following factors:

Name of bidder/offeror's firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

\_\_\_ PRE-BID MEETINGS: The general contractor or subcontractor attended any pre-bid meetings scheduled by the City to inform DBEs of contracting and subcontracting opportunities.

\_\_\_ SUBCONTRACTORS LISTS: The general contractor or subcontractor requested from the Mayor's Office of Economic Development a list of certified DBEs.

\_\_\_ SMALL CONTRACTS: The general contractor or subcontractor broke down contracts into dollar or work units to facilitate DBE participation, as consistent with the nature of the work to be performed and its relationship to other aspects of the project.

\_\_\_ FOLLOW-UP: The general contractor or subcontractor followed up initial indications of interest by DBEs by contacting those DBEs to determine with certainty if they remained interested in bidding.

\_\_\_ ADVERTISEMENT: The general contractor or subcontractor advertised in general circulation and trade association publications concerning subcontracting opportunities, and allowed subcontractors reasonable time to respond.

\_\_\_ GOOD FAITH NEGOTIATIONS: The general contractor or subcontractor negotiated in good faith with interested DBEs and did not reject DBEs as unqualified without sound business reasons based on a thorough investigation of their capabilities.

\_\_\_ INFORMATION: The general contractor or subcontractor provided interested DBEs with adequate information about the plans, specifications and requirements of the subcontract.

\_\_\_ WRITTEN NOTICE: The general contractor or subcontractor took the necessary steps to provide written notice in a manner reasonably calculated to inform DBEs of subcontracting opportunities and allowed sufficient time for them to participate effectively.

\_\_\_ COMMUNITY RESOURCES: The general contractor or subcontractor used the services available to DBE community organizations, DBE contractors' groups, local state and federal disadvantaged business assistance offices, disability rights organizations, and other organizations that provide assistance in the recruitment and placement of DBE firms.

\_\_\_ CONTRACT RECORDS: The general contractor or subcontractor has maintained the following records for each DBE that bids on any subcontract:

1. Name, address and telephone number;
2. A description of information provided by the general contractor or subcontractor; and
3. A statement of whether an agreement was reached, and if not, why not, including any reasons for concluding that the bidder was deemed unqualified to perform the job.

**Summary of Intended DBE Participation**

Name of Bidder: \_\_\_\_\_ DBE Goal: \_\_\_\_\_

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Project Bid Number: \_\_\_\_\_ Project Name: \_\_\_\_\_

Total Bid Amount: \_\_\_\_\_

Name Address of DBE Participant	Name and Phone Number of Contact	Agency Directory, Page # and Date	Scope of Work to be performed	Dollar Amount of DBE Bid	Percent of Total Bid

Submitted By (Print Name): \_\_\_\_\_ Submitted By (Signature): \_\_\_\_\_

Company's Name: \_\_\_\_\_ Date: \_\_\_\_\_

**On business stationary of the DBE Applicant with attached verification of agreement to stated terms**

**INVITATION TO BID  
FROM  
CITY OF NEW ORLEANS**

**ATTACHMENT "B"  
CONTRACT TERMS AND CONDITIONS**

1. **EQUAL EMPLOYMENT OPPORTUNITY:** In all hiring or employment made possible by, or resulting from this contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry, and (2) where applicable, affirmative action will be taken to ensure that the Contractor's employees are treated during employment without regard to their race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry. This requirement shall apply to, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry.
2. **ASSIGNABILITY:** The Contractor shall not assign any interest in this agreement and shall not transfer any interest in the same without prior written consent of the City of New Orleans.
3. **CONFLICT OF INTEREST:** In the interest of ensuring that efforts of the Contractor do not conflict with the interests of the City, and in recognition of the Contractor's responsibility to the City, the Contractor agrees to decline any offer of employment if its independent work on behalf of the City is likely to be adversely affected by the acceptance of such employment. The initial determination of such a possibility rests with the Contractor. It is incumbent upon the Contractor to notify the City and provide full disclosure of the possible effects of such employment on the Contractor's independent work in behalf of the City. Final decision on any disputed offers of other employment for the Contractor shall rest with the City.
4. **INDEMNIFICATION:** The Contractor shall indemnify and save the City harmless against any and all claims, demands, suits, judgments of sums of money to any party accruing against the City for loss of life or injury or damage to persons or property growing out of, resulting from, or by reason of any act or omission or the operation of the Contractor, its agents, servants or employees while engaged in or about or in connection with the discharge or performance of the services to be done or performed by the Contractor hereunder and shall also hold the City harmless from any and all claims and/or liens for labor, services, or materials furnished to the Contractor in connection with the performance of its obligation under this Agreement.
5. **ACKNOWLEDGMENT OF EXCLUSION OF WORKER'S COMPENSATION COVERAGE:** Contractor herein expressly agrees and acknowledges that it is an independent contractor as defined in R.S. 23:1021 (6) and as such, it is expressly agreed and understood between the parties hereto, in entering into this services agreement, that the City of New Orleans shall not be liable to the Contractor for any benefits or coverage as provided by the Workmen's Compensation Law of the State of Louisiana, and further, under the provisions of R.S. 23:1034 anyone employed by the Contractor shall not be considered an employee of the City for the purpose of Worker's Compensation coverage.
6. **ACKNOWLEDGMENT OF EXCLUSION OF UNEMPLOYMENT COMPENSATION COVERAGE:** Contractor herein expressly declares and acknowledges that it is an independent contractor, and as such is being hired by the City under this agreement for hire as noted and defined in R.S. 23:1472 (E), and therefore, it is expressly declared and understood between the parties hereto, in entering into this services agreement, or agreement for hire, and in connection with unemployment compensation only, that:

- a. Contractor has been and will be free from any control or direction by the City over the performance of the services covered by this contract; and
- b. Services to be performed by Contractor are outside the normal course and scope of the City's usual business; and
- c. Contractor has been independently engaged in performing the services listed herein prior to the date of this agreement.

Consequently, neither Contractor nor anyone employed by Contractor shall be considered an employee of the City for the purpose of unemployment compensation coverage, the same being hereby expressly waived and excluded by the parties hereto.

7. **WAIVER OF SICK AND ANNUAL LEAVE BENEFITS:** It is expressly agreed and understood between the parties entering into this services agreement that the Contractor, acting as an independent agent, shall not receive any sick and annual leave benefits from the City of New Orleans.
8. **JURISDICTION & CHOICE OF LAWS:** The Contractor hereby consents and yields to the jurisdiction of the State Civil Courts of the Parish of Orleans, and does hereby formally waive any pleas of jurisdiction on account of the residence elsewhere of the Contractor. This Agreement shall be construed and enforced in accordance with the laws of the State of Louisiana, excepting its conflict of laws provisions.
9. **DURATION:** The services to be provided under the terms of this agreement shall begin upon execution of contract and shall end no later than twelve (12) months after. It is understood and acknowledged by all signers to this Agreement that work described under these terms is to be accomplished during the time period specified herein. The terms, conditions and duration of this agreement may be modified by an executed, written amendment to this Agreement.
10. **EXTENSION:** This agreement may be extended at the option of the City, provided that funds are allocated by the Council of the City of New Orleans and the extension of the agreement facilitates the continuity of services provided herein. This agreement may be extended by the City on an annual basis for no longer than five one year periods.
11. **TERMINATION FOR CONVENIENCE.:** The City may terminate the agreement at any time during the term of the agreement by giving the other party written notice of said intention to terminate at least (30) days before the date of termination.
12. **SOLICITATION:** The Contractor has not employed or retained any company or person, other than a bona fide employee working solely for him, to solicit or secure the subject contract. The Contractor has not paid or agreed to pay any person, other than a bona fide employee working for him, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the subject contract.
13. **"AUDIT AND OTHER OVERSIGHT:** The Contractor understands and will abide by all provisions of the Code of the City of New Orleans, Chapter 2, Art. XIII, Sect. 2-1120, as adopted by City Ordinance No. 22,888 M.C.S., (relative to the operations and authority of the City Inspector General).

City Officials and/or their designated representatives shall have the right to audit, inspect, and review all books and records (in whatever form they may be kept whether written, electronic or other) relating or pertaining to this contract or agreement (including any and all documents and other materials, in whatever form they may be kept which support or underlie those books and records), kept by or under the control of the Contractor, including, but not limited to those kept by the Contractor, its employees, agents, assigns, successors and subcontractors.

The Contractor shall maintain such books and records together with such supporting or underlying documents and materials for the duration of this contract or agreement and for at least 5 years following the completion of this contract or agreement, including any and all renewals thereof. The books and records, together with the supporting or underlying documents and materials shall be made available, upon request to the City, through its employees, agents' representatives, contractors or other designees, during normal business hours at the Contractor's office or place of business. In the event that no such location is available, then the books and records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location at, location, which is convenient for the City.

It is agreed that the contractor will abide by all provisions of City Code Sec. 2-1170, including but not limited to City Code Sec. 2-1120 (12) which requires the contractor to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests shall constitute a material breach of the contract.

**INVITATION TO BID  
CITY OF NEW ORLEANS  
ATTACHMENT "C"  
BID FORM**

**COMPLETE IN INK**

**Bidder Information:**

**Business Name:** \_\_\_\_\_

**Business Tax ID No:** \_\_\_\_\_

**Business Address:** \_\_\_\_\_

\_\_\_\_\_

**Business Phone:** \_\_\_\_\_

**Business Fax No:** \_\_\_\_\_

**Business E-mail:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Signature**

\_\_\_\_\_

**Printed Name**

\_\_\_\_\_

**Printed Title**

\_\_\_\_\_

**Date**

**TOTAL BID PRICE FOR SITE 1 AND SITE 2: \$** \_\_\_\_\_

<b>BY INITIALING BELOW, BIDDER ACKNOWLEDGES RECEIPT OF ADDENDA ISSUED</b>	<b>One (1)</b>	<b>Two (2)</b>	<b>Three (3)</b>	<b>Four (4)</b>	<b>Five (5)</b>	<b>Six (6)</b>

*Bid is valid for NINETY DAYS after the bid deadline.*

**IF SOMEONE OTHER THAN A CORPORATE OFFICER SIGNS FOR THE BIDDER/CONTRACTOR, A COPY OF A CORPORATE RESOLUTION OR OTHER SIGNATURE AUTHORIZATION SHALL BE REQUIRED FOR SUBMISSION OF BID. FAILURE TO INCLUDE A COPY OF THE APPROPRIATE SIGNATURE AUTHORIZATION, IF REQUIRED, MAY RESULT IN THE REJECTION OF THE BID UNLESS BIDDER HAS COMPLIED WITH LA. R.S. 38:22L2(A)(L)(C) OR RS 38:2212(O).**

**IMPORTANT NOTE:** When completing your bid, do not alter City bid form or attach forms which may contain terms and conditions that conflict with those listed in the City's bid documents(s). Inclusion of additional terms and conditions such as those which may be on your company's standard forms shall result in your bid being declared non-responsive as these channels will be considered a counteroffer to the City's bid.

**INVITATION TO BID  
CITY OF NEW ORLEANS**

**ATTACHMENT “D”  
City of New Orleans partners with LCPTracker**

The City of New Orleans announces its new partnership with LCPTracker, a new program that allows contractors to submit weekly certified payrolls electronically.

The LCPTracker system is a paperless online system of entering certified payrolls. Rather than submitting the familiar paper Certified Payroll Form WH-347, which includes Affidavits of Prime Contractor, Statements of Compliance, and Weekly Payroll Spreadsheets, contractors will enter all payrolls and related information online. All project-specific wage rates & classifications will be online. The contractor will choose specific rates and jobs from a menu. The contractor will need a computer and an internet connection. There are public computers available at most public libraries for those contractors who do not have this ability.

When a contractor is awarded an OCD construction project involving Davis Bacon and Related Acts, the Compliance Analyst assigned to the project will set up the project in the LCPTracker system. The prime contractor will then receive an email from LCPTracker providing them with a log-in and temporary password. The prime contractor will subsequently input the various subcontractors on the project and LCPTracker will provide those subcontractors with log-ins and temporary passwords via email.

Training is available through self-guided online tutorials and live webinars. The trainings are immediately accessible after a contractor logs into the system: [www.LCPtracker.net](http://www.LCPtracker.net). The Compliance Analyst assigned to the project can also provide training and/or technical assistance at the request of any contractor.

There is no cost to the contractors for this program. For many companies who have implemented this system, the biggest benefit appears to be a faster interval between the time the payrolls are entered and project payments are received.

This paperless submittal change is not optional. **All companies contracting with the City of New Orleans on construction projects involving Davis Bacon and Related Acts will be required to utilize the new payroll reporting system.** *Those contractors who submit paper payrolls will have them returned, and will enter them into the online system.*

You can find more information about LCPTracker at <http://www.LCPTracker.com/>.

**INVITATION TO BID  
CITY OF NEW ORLEANS  
ATTACHMENT “E”**

**CDBG COMPLIANCE PROVISIONS  
FOR  
CONSTRUCTION CONTRACTS**

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**1. EQUAL EMPLOYMENT OPPORTUNITY (Equal Opportunity Clause)  
(applicable to contracts and subcontracts above \$10,000)**

During the performance of this contract, the Contractor agrees as follows:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.
- C. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the Contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor.
- E. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and others.
- F. In the event of the Contractor's noncompliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. The Contractor will include the provisions of the sentence immediately preceding paragraph A and the provisions of paragraphs A through G in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246

of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

2. **STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS**

(applicable to contracts and subcontracts above \$10,000)

A. As used in these specifications:

- (1) "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- (2) "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
- (3) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
- (4) "Minority" includes:
  - (a) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
  - (b) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South America or other Spanish Culture or origin, regardless of race);
  - (c) Asian and Pacific Islander (all persons having origins in any of the original people of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
  - (d) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

B. When the Contractor, or any subcontractor, at anytime, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract, in excess of \$10,000, the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

C. If the Contractor is participating (pursuant to 41 CFR 60 4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in compliance with the provisions of any such Hometown Plan. Each Contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

- D. The Contractor shall implement the specific affirmative action standards provided in paragraphs G(1) through G(16) of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing contracts in geographical areas where they do not have a federal or federally-assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
- E. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
- F. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
- G. The Contractor shall take specific affirmative action to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
- (1) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - (2) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.
  - (3) Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
  - (4) Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement have not referred to the

Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

- (5) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly includes minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under G(2) above.
- (6) Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on a bulletin board accessible to all employees at each location where construction work is performed.
- (7) Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foreman, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- (8) Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- (9) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- (10) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
- (11) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60 3.
- (12) Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

- (13) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
- (14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- (15) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitation to minority and female contractor associations and other business associations.
- (16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

- H. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (G(1) through G(16)). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under G(1) through G(16) of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation shall not be a defense for the Contractor's non-compliance.
- I. A single goal for minorities and a separate single goal for women has been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
- J. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any persons because of race, color, religion, sex, or national origin.
- K. The Contractor shall not enter into any subcontract with any person or firm debarred from government contracts pursuant to E.O. 11246.
- L. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to E.O. 11246, as amended.
- M. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph G of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the

implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60 4.8.

- N. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the government and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number where assigned, social security number, race, sex, status (e.g., mechanic, apprenticeship trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.
- O. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application or requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

### 3. **NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION**

(applicable to contracts and subcontract over \$10,000)

- A. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
- B. The goals and timetables for Disadvantaged Business Enterprise (DBE) participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for DBE participation: 35 %

These goals are applicable to all the Contractor's construction work (whether or not it is federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographic area located outside of the covered area, it shall apply the goals established for such geographic area where the work is actually performed.

With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction. The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60 4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60 4.3 (a) and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60 4. Compliance with the goals will be measured against the total work hours performed.

### **MINORITY PARTICIPATION GOALS**

PARISH GOAL (%)	MIN.								
Acadia	24.1	East B.R.	26.1	Madison	27.9	St. Landry	24.1		
Allen	17.8	East Carroll	27.9	Morehouse	27.9	St. Martin	24.1		
Ascension	26.1	East Feliciana	30.4	Natchitoches	29.3	St. Mary	24.1		
Assumption	27.7	Evangeline	24.1	Orleans		35.0	St. Tammany	31.0	
Avoyelles	29.3	Franklin	27.9	Ouachita	22.8	Tangipahoa	27.7		
Beauregard	17.8	Grant	25.7	Plaquemines	27.7	Tensas	27.9		
Bienville	29.3	Iberia	24.1	Pointe Coupee	30.4	Terrebonne	27.7		
Bossier		29.3	Iberville	30.4	Rapides	25.7	Union	27.9	
Caddo	29.3	Jackson		27.9	Red River	29.3	Vermilion	24.1	
Calcasieu	19.3	Jefferson	31.0	Richland	27.9	Vernon	17.8		
Caldwell	27.9	Jeff. Davis	17.8	Sabine	29.3	Washington	27.7		
Cameron	17.8	Lafayette	20.6	St. Bernard	31.0	Webster	29.3		
Catahoula	27.9	Lafourche	27.7	St. Charles	27.7	West B.R.	26.1		
Claiborne	29.3	LaSalle		27.9	St. Helena	30.4	West Carroll	27.9	
Concordia	30.4	Lincoln		27.9	St. James	27.7	W. Feliciana	30.4	
De Soto		29.3	Livingston	26.1	St. John	27.7	Winn	29.3	

C. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the sub-contract; and the geographical area in which the contract is to be performed.

D. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed, giving the State, parish, and city, if any):

4. **CERTIFICATION OF NONSEGREGATED FACILITIES**  
(applicable to contracts and subcontracts over \$10,000)

By the submission of this bid, the bidder, offeror, applicant or subcontractor certifies that he/she does not maintain or provide for his/her establishments, and that he/she does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. He/she certifies further that he/she will not maintain or provide for employees any segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the equal opportunity clause of this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

He/she further agrees that (except where he/she has obtained for specific time periods) he/she will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding

\$10,000 which are not exempt from the provisions of the equal opportunity clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

5. **CIVIL RIGHTS**

The Contractor shall comply with the provisions of Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

6. **SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974**

The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 further provides that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.

7. **SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968- COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT AND BUSINESS OPPORTUNITIES**

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each, and the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any



subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

8. **SECTION 503 OF THE REHABILITATION ACT OF 1973 (29 USC 793)**  
(applicable to contracts and subcontracts over \$10,000)

- A. The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is otherwise qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- B. The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- C. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- D. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- E. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- F. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to

Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

9. **SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED**

The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his disability, be denied the benefits, or be subjected to discrimination including discrimination in employment, any program or activity that receives the benefits from the federal financial assistance.

10. **AGE DISCRIMINATION ACT OF 1975**

The Contractor shall comply with the provisions of the Age Discrimination Act of 1975. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

11. **CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS**

(applicable to contracts and subcontracts exceeding \$100,000)

The Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

- A. A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR Part 15, as amended.
- B. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857 c 8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- C. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.
- D. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the government may direct as a means of enforcing such provisions.

12. **SPECIAL CONDITIONS PERTAINING TO HAZARDS, SAFETY STANDARDS AND ACCIDENT PREVENTION**

**A. Lead-Based Paint Hazards**

The construction or rehabilitation of residential structures is subject to the HUD Lead-Based Paint regulations, 24 CFR Part 35. The Contractor and subcontractors shall comply with the provisions for the elimination of lead-based paint hazards under Subpart B of said regulations. The Owner will be responsible for the inspections and certifications required under Section 35.14 (f) thereof.

**B. Use of Explosives**

When the use of explosives is necessary for the prosecution of the work, the Contractor shall observe all local, state and federal laws in purchasing and handling explosives. The Contractor shall take all necessary precaution to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material shall be covered with suitable timber, steel or rope mats.

The Contractor shall notify all owners of public utility property of intention to use explosives at least 8 hours before blasting is done close to such property. Any supervision or direction of use of explosives by the engineer does not in any way reduce the responsibility of the Contractor or his Surety for damages that may be caused by such use.

**C. Danger Signals and Safety Devices (Modify as Required)**

The Contractor shall make all necessary precautions to guard against damages to property and injury to persons. He shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public. In case the Contractor fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the Contractor. Such action by the Owner does not relieve the Contractor of any liability incurred under these specifications or contract.

**13. FLOOD DISASTER PROTECTION**

This contract is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93 234). Nothing included as a part of this contract is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the National Flood Insurance Program pursuant to Section 201(d) of said Act; and the use of any assistance provided under this contract for such acquisition for construction in such identified areas in communities then participating in the National Flood Insurance Program shall be subject to the mandatory purchase of flood insurance requirements or Section 102(a) of said Act.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Contract shall contain, if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of Flood Disaster Protection Act of 1973.

**14. ACCESS TO RECORDS - MAINTENANCE OF RECORDS**

The State of Louisiana, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to this specific contract, for

the purpose of audits, examinations, and making excerpts and transcriptions. All records connected with this contract will be maintained in a central location by the unit of local government and will be maintained for a period of five (5) years from the official date of the State's final closeout of the grant.

**15. INSPECTION**

The authorized representative and agents of the State of Louisiana and the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

**16. REPORTING REQUIREMENTS**

The Contractor shall complete and submit all reports, in such form and according to such schedule, as may be required by the Owner.

**17. CONFLICT OF INTEREST**

A. No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

B. No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise there from, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

**18. ACTIVITIES AND CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER 11246, AS AMENDED**

(applicable to contracts and subcontracts of \$10,000 and under)

During the performance of this contract, the Contractor agrees as follows:

A. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

C. Contractors shall incorporate foregoing requirements in all subcontracts.

**19. PATENTS**

- A. The Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract including its use by the Owner, unless otherwise specifically stipulated in the Contract Document.
- B. License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized license, direct by the Owner and not by or through the Contractor.
- C. If the Contractor uses any design device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the owner of such patented or copy-righted design device or material. It is mutually agreed and understood, that without exception the contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copy-righted design, device or materials or any trademark or copy-right in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense, or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

20. **COPYRIGHT**

No materials, to include but not limited to reports, maps, or documents produced as a result of this contract, in whole or in part, shall be available to the Contractor for copy-right purposes. Any such materials produced as a result of this contract that might be subject to copyright shall be the property of the Owner and all such rights shall belong to the Owner.

21. **TERMINATION FOR CAUSE**

If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the Owner shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Contractor under this contract shall, at the option of the Owner, become the Owner's property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Contractor shall not be relieved of liability to the Owner for damages sustained by the Owner by virtue of any breach of the contract by the Contractor, and the Owner may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due the Owner from the Contractor is determined.

22. **TERMINATION FOR CONVENIENCE**

The Owner may terminate this contract at any time by giving at least ten (10) days notice in writing to the Contractor. If the contract is terminated by the Owner as provided herein, the Contractor will be paid for the time provided and expenses incurred up to the termination date.

23. **ENERGY EFFICIENCY**

The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

**24. SUBCONTRACTS**

- A. The Contractor shall not enter into any subcontract with any subcontractor who has been debarred, suspended, declared ineligible, or voluntarily excluded from participating in contracting programs by any agency of the United States Government or the State of Louisiana.
- B. The Contractor shall be as fully responsible to the Owner for the acts and omissions of the Contractor's subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by the Contractor.
- C. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractor to the Contractor by the terms of the contract documents insofar as applicable to the work of subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the contract documents.
- D. Nothing contained in this contract shall create any contractual relation between any subcontractor and the Owner.

**25. DEBARMENT, SUSPENSION, AND INELIGIBILITY**

The Contractor represents and warrants that it and its subcontractors are not debarred, suspended, or placed in ineligibility status under the provisions of 24 CFR 24 (government debarment and suspension regulations).

**26. PROTECTION OF LIVES AND HEALTH**

The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the worksite, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume 36, No. 75, Saturday, April 17, 1971, Title 29 - LABOR, shall be observed and the Contractor shall take or cause to be taken, such additional safety and health measures as the Owner may determine to be reasonably necessary.

**27. BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the Contractor or the Contractor's subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this contract. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

**28. PROVISIONS REQUIRED BY LAW DEEMED INSERTED**

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

29. **CHANGES**

The Owner may, from time to time, request changes in the scope of the services of the Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation which are mutually agreed upon by and between the Owner and the Contractor, shall be incorporated in written and executed amendments to this Contract.

30. **PERSONNEL**

The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Owner.

All the services required hereunder will be performed by the Contractor or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

No person who is serving sentence in a penal or correctional institution shall be employed on work under this Contract.

31. **ANTI-KICKBACK RULES**

Salaries of personnel performing work under this Contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. 874; and Title 40 U.S.C. 276c). The Contractor shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to insure compliance by the subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

32. **ASSIGNABILITY**

The Contractor shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of the Owner provided that claims for money due or to become due the Contractor from the Owner under this Contract may be assigned to a bank, trust company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Owner.

33. **INTEREST OF CONTRACTOR**

The Contractor covenants that he presently has no interest and shall not acquire any interest direct or indirect in the above described project or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed.

**34. POLITICAL ACTIVITY**

The Contractor will comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.

**35. COMPLIANCE WITH THE OFFICE OF MANAGEMENT AND BUDGET**

The parties agree to comply with the regulations, policies, guidelines, and requirements of the Office of Management and Budget, Circulars A-95, A-102, A-133, and A-54, as they relate to the use of Federal funds under this contract.

**36. DISCRIMINATION DUE TO BELIEFS**

No person with responsibilities in operation of the project to which this grant relates will discriminate with respect to any program participant or any applicant for participation in such program because of political affiliation or beliefs.

**37. CONFIDENTIAL FINDINGS**

All of the reports, information, data, etc., prepared or assembled by the Contractor under this Contract are confidential, and the Contractor agrees that they shall not be made available to any individual or organization without prior written approval of the Owner.

**38. LOBBYING**

The Contractor certifies, to the best of his or her knowledge and belief that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

**39. FEDERAL LABOR STANDARDS PROVISIONS**

The Contractor shall abide by the requirements of the Federal Labor Standards Provisions (form HUD-4010) as follows.



**Federal Labor Standards Provisions**  
**U.S. Department of Housing and Urban Development**  
**Office of Labor Relations**

**Applicability**

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

**(ii) (a)** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

**(1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and

**(2)** The classification is utilized in the area by the construction industry; and

**(3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise

HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially

responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(ii) (a)** The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

**(b)** Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

**(1)** That the payroll for the payroll period contains the information required to be maintained under 29 CFR 5.5(a)(3)(i) and that such information is correct and complete;

**(2)** That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

**(3)** That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

**(c)** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by subparagraph A.3.(ii)(b).

**(d)** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

**(iii)** The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **4. Apprentices and Trainees.**

**(i) Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(ii) Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 of this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such

workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation;** liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable only where the amount of the prime contract exceeds \$100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.

**(3)** The Contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

**INVITATION TO BID  
CITY OF NEW ORLEANS  
ATTACHMENT "F"  
WAGE DETERMINATION**

General Decision Number: LA100009 01/21/2011 LA9

Superseded General Decision Number: LA20080009

State: Louisiana

Construction Type: Building

Counties: Jefferson, Orleans, Plaquemines, St Bernard, St Charles, St James, St John the Baptist and St Tammany Counties in Louisiana.

BUILDING CONSTRUCTION PROJECTS (Does not include Treatment Plants or single family homes and apartments up to and including 4 stories)

Modification Number	Publication Date
0	03/12/2010
1	05/21/2010
2	06/04/2010
3	07/23/2010
4	07/30/2010
5	10/01/2010
6	11/12/2010
7	12/03/2010
8	01/21/2011

\* ELEC0130-006 12/01/2010

JEFFERSON, ORLEANS, PLAQUEMINES, ST. BERNARD, ST. CHARLES, ST. JAMES, AND ST. JOHN THE BAPTIST PARISHES

	Rates	Fringes
ELECTRICIAN (includes low voltage wiring and installation of fire alarms, security systems, sound and communication systems, telephones, computers, and temperature controls).....	\$ 26.25	9.03
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ELEC1077-003 09/01/2010

ST. TAMMANY PARISH

	Rates	Fringes
ELECTRICIAN (includes low voltage wiring and installation of fire alarms, security systems, sound and communication systems,		

telephones, computers, and  
temperature controls).....\$ 21.50 6.74

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IRON0058-011 06/01/2010

JEFFERSON, ORLEANS, PLAQUEMINES, ST. BERNARD, ST. CHARLES, ST.  
JAMES (Southeastern Portion), ST. JOHN THE BAPTIST, and ST.  
TAMMANY PARISHES

	Rates	Fringes
Ironworker, reinforcing and structural.....	\$ 19.85	7.67

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IRON0623-007 06/01/2010

ST. JAMES PARISH (Northwestern Portion)

	Rates	Fringes
IRONWORKER, REINFORCING AND STRUCTURAL.....	\$ 19.91	7.32

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PAIN1244-001 06/01/2010

	Rates	Fringes
GLAZIER.....	\$ 19.16	5.62
PAINTER (includes brush; roller; spray; and drywall finishing).....	\$ 14.00	3.77

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PLUM0060-007 12/01/2010

JEFFERSON, ORLEANS, PLAQUEMINES, ST. BERNARD, ST. CHARLES, ST.  
JAMES (Southeastern Portion), ST. JOHN THE BAPTIST, AND ST.  
TAMMANY PARISHES

	Rates	Fringes
PIPEFITTER (excludes HVAC).....	\$ 25.77	9.78
PLUMBER (includes HVAC pipe and installation of system).....	\$ 25.77	9.78

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PLUM0198-007 07/01/2010

ST. JAMES PARISH (Northwestern Portion)

	Rates	Fringes
PIPEFITTER (excludes HVAC).....	\$ 24.09	9.68
PLUMBER (includes HVAC pipe and installation of system).....	\$ 24.09	9.68

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\* SFLA0669-003 01/01/2011

	Rates	Fringes
SPRINKLER FITTER.....	\$ 25.27	13.60

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SHEE0214-007 07/01/2009



	Rates	Fringes
Sheet Metal Worker (including HVAC Duct Work).....	\$ 24.54	9.65

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SULA2004-003 03/25/2004

	Rates	Fringes
CARPENTER		
Drywall & Metal Stud Installation.....	\$ 14.00	0.70
Formbuilding/Formsetting....	\$ 12.70	0.56
All Other Work.....	\$ 13.68	0.00
Cement Mason/Concrete Finisher...	\$ 12.28	0.00
Laborers:		
Common.....	\$ 9.55	1.05
Mason Tender.....	\$ 9.32	0.00
Power Equipment Operator		
Backhoe/Excavator.....	\$ 14.00	0.42
Bulldozer.....	\$ 15.17	0.00
Crane.....	\$ 14.00	1.80
ROOFER, Including Built Up, Composition and Single Ply Roofs (includes metal roof).....		
	\$ 12.28	0.00
Sheet Metal Worker (excluding HVAC duct).....		
	\$ 13.26	1.91

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.  
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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.  
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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter

\* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION