

**RESOLUTION NO. 105529**  
**GENERAL CONDITIONS AND AGREEMENT FOR THE PURCHASES OF MATERIALS,  
SUPPLIES OR SERVICES AND PUBLIC WORKS PROJECTS**

**I. INSTRUCTIONS TO BIDDERS**

**SECTION 1. BID FORM**

**A. General**

(1) Sealed bids will be received in the office of the Department of Purchasing, 200 Derbigny Street, Suite 4400, General Government Building, Gretna, Louisiana 70053, until the date and hour specified on Page 1 of the bid proposal, at which time they will be publicly opened. LATE BIDS WILL NOT BE ACCEPTED.

(2) All bids submitted are subject to these instructions and general conditions and any special conditions and specifications contained herein, all of which are made part of this bid proposal.

(3) Jefferson Parish reserves the right to reject any and all bids in whole or in part and to waive any and all formalities in the best interest of Jefferson Parish, pursuant to the law.

(4) ONLY BIDS WRITTEN IN INK OR TYPE WRITTEN AND PROPERLY SIGNED BY A MEMBER OF THE FIRM OR AUTHORIZED REPRESENTATIVE, WILL BE ACCEPTED. PENCIL AND/OR PHOTOSTATIC FIGURES OR SIGNATURES WILL DISQUALIFY BID. HOWEVER, ELECTRONIC SIGNATURES AS DEFINED IN LSA – R.S. 9:2602(8) MAY BE ACCEPTABLE.

(5) For submission of bids, the only form used shall be the bid form provided by the Parish. Necessary copies of this form will be furnished for Bidding.

(a) All papers bound with or attached to the Bid Form are considered a part thereof and must not be detached or altered when the bid is submitted.

(b) The plans, specifications, and other documents designated in the bid form will be considered a part of the bid whether attached or not.

(c) Bid forms not submitted electronically must be made out in ink or typed. Illegibility or ambiguity therein may constitute justification for rejection of the bid.

(d) Resolution No. 105529 will be considered a part of the bid whether attached or not. A copy may be obtained from the Office of the Council Clerk, 200 Derbigny Street, Suite 6700, General Government Building, Gretna, Louisiana 70053.

(6) The purpose and intention of this invitation to bid is to afford all suppliers/contractors an equal opportunity to bid on construction, maintenance, repair, operating, services, supplies and/or equipment listed in this bid proposal. Jefferson Parish will accept one bid only from each vendor. Items bid on must meet or exceed specifications.

(7) USE OF BRAND NAMES AND STOCK NUMBERS. Where brand names, make, manufacturer or stock numbers are specified, it is for the purpose of establishing certain minimum standards of quality. Bids may be submitted for products of equal quality, style, type and character provided brand names and stock numbers are specified. Complete product data may be required prior to award.

- (8) The Parish, its engineers, architects or anyone distributing plans and specifications for Parish public works projects, equal to or over the contract limit as defined in LSA-R.S. 38:2212A(1)(d), shall furnish all prime bidders who request bid documents and who are properly licensed by the Louisiana State Licensing Board for Contractors with at least one set of complete bid documents. A deposit or fee may be charged on the documents as authorized by LSA-R.S. 38:2212A(1)(e).
- (a) Plans and specifications shall be available to bidders on the day of the first advertisement and shall be available until twenty-four (24) hours before the bid opening date, LSA-R.S. 38:2212 A(3)(c). Bid proposal documents will not be issued within the twenty-four- hour period prior to bid opening.
- (b) Addenda may be issued, as authorized by LSA-R.S. 38:2212C, by any of the following means:
- (1) Certified mail, return receipt requested, sent to the address given by the bidder upon obtaining the bidding documents, the transmission of which shall be conclusive evidence of receipt of such notice by the bidder to whom it is addressed;
  - (2) First-class mail with a United States Postal Service Certificate of Mailing, sent to the address given by the bidder upon obtaining the bidding documents, the transmission of which shall be conclusive evidence of receipt of such notice by the bidder to whom it is addressed;
  - (3) Express mail sent to the address given by the bidder upon obtaining the bidding documents. Delivery of the addenda by express mail shall be conclusive evidence of receipt of the addenda by the bidder to whom it is addressed;
  - (4) Facsimile or telecopier transmission sent to the telecopier number given by the bidder upon obtaining the bidding documents, the transmission of which shall be conclusive evidence of receipt of such notice by the bidder to whom it is transmitted; or
  - (5) Electronic transmission sent to the e-mail address given by the bidder upon obtaining the bidding documents. Transmission of the addenda by e-mail shall be conclusive evidence of receipt of the addenda by the bidder to whom it was sent.
  - (6) Hand delivery to the address given by the bidder upon obtaining the bidding documents or if the bidder prefers to receive delivery at the Department of Purchasing, 200 Derbigny Street, Suite 4400, General Government Building.
- (9) Each bidder shall comply with all rules and regulations of the Louisiana State Licensing Board for Contractors in accordance with existing state laws.
- (10) Each bid must be submitted in a sealed envelope bearing on the outside: the name of the Bidder, his address, and the name of the project for which the bid is submitted; and, if the bid is in the amount of \$50,000 or more, the state license number of the Bidder, unless otherwise excepted by law.
- (11) Further, the Parish of Jefferson reserves the right to cancel this contract at anytime and for any reason by issuing a thirty (30) day written notice to contractor.

**B. Price**

- (1) The price quoted for the work shall be stated in figures. In the event there is a difference

in unit prices and totals the unit prices shall prevail. In the event there is a difference in unit prices, written unit prices shall prevail over numerical unit prices.

(2) The price quoted in Proposals to supply labor and materials to Jefferson Parish shall include all costs necessary for the complete performance of the work in full conformity with the conditions of the Contract Documents, and shall include all licenses and permit fees and all applicable Federal, State, County or Parish, Municipal, or other taxes due by the contractor. If the Contractor is to act as the Parish's Purchasing Agent for tax exempt purposes, the Parish shall specifically state so within this bid specification.

(3) The quantities listed on the bid form are prepared for comparison of bids and may be approximate. Payment to the contractor will be made in accordance with measurement and payment requirements for bid items and other requirements of the project specifications.

Bid

item quantities may be increased, decreased, or omitted as provided in the specifications.

(4) SALES TAXES. Jefferson Parish is exempt from paying sales taxes under LSA-R.S. 47:301(8)(c). All prices for purchases by Jefferson Parish of supplies and materials shall be quoted in the unit of measure specified and unless otherwise specified, shall be exclusive of State and Parish taxes. All quotations shall be based on F.O.B. Agency warehouse, or job site, anywhere within Jefferson Parish, as designated by the Purchasing Department.

(5) DISCOUNTS. Unless otherwise specified, our regular terms are 2%, 10 days from date of delivery. Time shall be counted from date of delivery at destination, or from date correct invoice is received from contractor, if later date is later than date of delivery.

### **C. Signing**

(1) The Proposal shall be properly signed with ink by the Bidder unless submitted electronically. If the Bidder is an individual, his name and his post office address should be shown; if a firm or partnership, the name and post office address of each member of the firm or partnership should be shown; if a joint venture, the name and post office address of each member or officer of the firm represented by the joint venture should be shown; if a corporation, the name of the corporation and business address of its corporate officials should be shown; and if a limited liability company, the name and business address of each managing member should be shown.

(2) Evidence of agency, corporate, limited liability or partnership authority is required for submission of bid. Such fact shall be contained in the bid documents and proof shall be provided with the bid in accordance with the provisions of LSA-R.S. 38:2212 O. FAILURE TO DO SO SHALL RESULT IN BID BEING REJECTED.

### **D. Insurance**

Proof of insurance required under this resolution, for this particular project, should be supplied with bid. However, certificate of insurance shall be supplied within twelve (12) calendar days after receipt of notice of award of the Contract by the Owner.

### **E. Bid Guarantee**

(1) When required, a Bid Guarantee in the proper amount and in the proper form must accompany the proposal. No bid will be considered unless it is so guaranteed. Cashier's check, certified check or money order must be made payable to the order of the Owner. Cash deposits will not be accepted. The Owner reserves the right to cash or deposit the cashier's check, certified check or money order.

- (2) The amount of the bid guarantee shall be not less than five (5%) percent of the amount of the bid and at the option of the bidder may be a cashier's check, certified check, money order or a satisfactory bid bond attached to the bid form, unless, a project, funded in whole or in part by State and/or Federal Funds, is governed by State and/or Federal Regulations or Laws which require a bid guarantee in a different amount, in which event the State and/or Federal Regulations or Laws shall take precedence.
- (3) Bid Guarantees of the three lowest bidders will be retained by the Owner until the Contract is executed or until final disposition is made of the bids submitted. Bid Guarantees of all other bidders will be returned within ten (10) days after the canvass of bids.
- (4) Bids shall remain binding for at least forty-five (45) days after the date set for Bid Opening. In the event the Owner issues the Letter of Award during this period, the bid accepted shall continue to remain binding until the Execution of Contract. Jefferson Parish and the lowest responsible bidder, by mutually written consent, may agree to extend the deadline for award by one or more extensions of thirty (30) calendar days.
- (5) The successful bidder upon his failure or refusal to execute Contract with Owner and deliver bonds within a period of twelve (12) calendar days after original date of Owner's Letter of Award, as defined in the General Specifications, shall forfeit to Owner, as liquidated damages for such failure or refusal, the security deposited with his bid.
- (6) To the extent permitted by law, the Bond requirements as set forth herein are waived insofar as Community Development housing rehabilitation construction contracts are concerned for single family, owner-occupied dwellings. The Parish Attorney's office will omit the requirements in connection with Community Development housing rehabilitation construction contracts for single family, owner-occupied dwellings.
- (7) **Maintenance, Repair and Supply Contracts Only** - In the event that the successful bidder cannot furnish a specific item or material and labor in the required time, Jefferson Parish may purchase on an emergency basis from the next lowest bidder, or available source, until such time the successful bidder has notified Jefferson Parish in writing that his stock or labor capability has been replenished. The difference in price will be charged against the successful bidder of this contract, and evidence of purchases and prices will be provided. **Contractor by bidding this proposal acknowledges and agrees to these provisions.**

**F. Licensing Requirements (Ordinance No. 13574 as Amended)**

- (1) No person shall undertake, attempt, or submit a bid or offer to construct, supervise, superintend, oversee, direct, or in any manner assume charge of the construction, alteration, repair, improvement, movement, demolition, putting up, tearing down, or furnishing labor, material or equipment and installing same for any building, highway, road, railroad, sewer, grading, excavation, pipeline or public utility structure, project, development, improvement or any other undertaking within the jurisdiction of this parish where the cost of same is fifty thousand dollars (\$50,000.00) or more unless such person shall first have acquired a valid contractor's license from the state when required by R.S. 37:2150-37:2163.

(2) These provisions shall not apply to a residence to be occupied by not more than four families, provided however, that the definition shall include a four-family residence when the cost of construction exceeds \$75,000.00; provided, further, that the definition shall not include architects duly licensed by the State Board of Architects and Examiners or engineers duly licensed by the State Board of Registration for Professional Engineers and Land Surveyors whose only financial interest in the project shall be the professional fee for preparing plans and specifications, supervision, and normal and ordinary engineering services (that is, usual architectural and/or engineering services), and that they shall not be liable for any other fees, licenses, or assessments than those provided by the laws of the State of Louisiana, or an architect or engineer who receives an additional fee for employment and direction of labor, purchase of materials, and sub-letting parts of the undertaking.

(3) There are excepted from the provisions of this article any person acting as a contractor, submitting bids or proposals to construct highways, highway bridges, overpasses or any other project incidental to the construction of highways or any other project, building, structure or public work when such projects are federal aid projects, are financed with federal funds and the provisions of this article shall not apply to any public utility subject to regulation by the state public service commission, nor to any work performed by or for such public utility in furnishing its authorized service; provided, however, that any successful bidder on any such project, or projects, shall comply with provisions of R.S. 37:2150-2163.

(4) No building permit shall be issued to any owner or contractor for work within the parish on any project which requires a licensed contractor for all or any part of such work, within the definition and requirements of this article and the provisions of R.S. 37:2150-2163 unless and until the permit applicant furnishes to the permit official of the parish, the license number of all such contractors required to be licensed hereunder.

## **SECTION 2. WITHDRAWAL OR REVISION OF BIDS**

- A. A bid may be withdrawn at any time prior to the scheduled closing time for receipt of bids, provided a request in writing, executed by the Bidder or his duly authorized representative, is filed with the Owner prior to that time. When such a request is received, the bid will be returned to the Bidder unopened.
- B. Written communications, over the signature of the Bidder, to modify bids will be accepted and the bids corrected in accordance therewith if received by the Owner prior to the scheduled closing time for receipt of bids. Oral, telephonic, telegraphic modifications will not be considered.
- C. No bid can be modified or corrected after the hour set for opening such bids.
- D. No bid can be withdrawn after the hour set for opening such bid except as provided in LSA-R.S. 38:2214C, i.e. bids containing patently obvious, unintentional, and substantial mechanical, clerical, or mathematical errors, or errors of unintentional omission of a substantial quantity of work, labor, material, or services made directly in the compilation of the bid, may be withdrawn by the contractor if clear and convincing sworn, written evidence of such errors is furnished to the Department of Purchasing, 200 Derbigny Street, Suite 4400, General Government Building, Gretna, Louisiana 70053 within forty-eight (48)

hours of the bid opening excluding Saturdays, Sundays, and legal holidays. Such errors must be clearly shown by objective evidence drawn from inspection of the original work papers, documents, or material used in the preparation of the bid sought to be withdrawn. If the Parish of Jefferson determines that the error is a patently obvious mechanical, clerical, or mathematical error, or unintentional omission of a substantial quantity of work, labor, material, or service, as opposed to a judgment error, and that the bid was submitted in good faith it shall accept the withdrawal and return the bid security to the contractor. A contractor who attempts to withdraw a bid under these provisions shall not be allowed to resubmit a bid on the project (LSA-R.S. 38:2214D).

### **SECTION 3. INTERPRETATION OF CONTRACT DOCUMENTS**

A. No oral interpretation will be made to any Bidder as to the meaning of the drawings, specifications, or contract documents. Every request for such interpretation shall be made in writing and addressed and forwarded to the Engineer, Architect or person distributing plans and specifications. No inquiry received within five (5) days prior to the day fixed for opening of the bids will be given consideration. Every interpretation made to the Bidder shall be in the form of an addendum to the Specifications and shall be issued as set forth above in Section 1A(8)(b). All such addenda shall become a part of the Contract Documents. Failure of any Bidder to receive any such interpretation shall not relieve any Bidder from any obligation under his Bid as submitted without modification.

B. The specifications and plans are complementary of each other and all work called for or reasonably implied by either shall be performed as if called for by both. In case of conflict between the requirements of the specifications and plans, the specifications shall take precedence. Figured dimensions shall take precedence over scale dimensions, and larger scale details shall take precedence over smaller scale details in the general work drawings.

### **SECTION 4. REJECTION OF BIDS**

A. The Owner reserves the right to reject any or all Bids, to waive informalities, and to make award as it may elect, pursuant to the law. Incomplete, informal, or unbalanced Bids may be rejected. Reasonable grounds for belief that any one Bidder is concerned, directly or indirectly, with more than one Bid will cause rejections of all Bids wherein such Bidder is concerned. If required, a Bidder shall furnish satisfactory evidence of his competence and ability to perform the work stipulated in his Proposal. If satisfactory evidence of competence to perform work is not furnished, the bid shall be rejected.

B. Additionally, bids may be considered irregular and be rejected for any of the following, but is not limited to the following circumstances;

- (1) If the bid form is on a form other than that furnished by the Parish or if the form is altered or any part thereof is detached.

- (2) If **affidavits** included in bid form and/or required by law are not returned with the bid or are not properly executed and notarized.
- (3) If there are unauthorized additions, conditional or alternate bids or irregularities which alter the general terms and conditions, the plans or specifications, or make the bid incomplete, indefinite, or ambiguous as to its meaning.
- (4) If the bidder adds provisions reserving the right to accept or reject the award or to enter into the contract pursuant to the award.
- (5) If an owner or a principal officer of the bidding firm is an owner or a principal officer of a firm which has been declared by the Parish to be ineligible to bid.
- (6) If the proposed bid guaranty does not meet the requirements of Section 1E Bid Guaranty.
- (7) If more than one proposal for the same work, services, materials or supplies is received from an individual, partner, firm, corporation, joint venture, other legal entity, or combination thereof under the same or a different name.
- (8) The bid is not properly signed or the authority of the signed person submitting the bid is deemed insufficient or unacceptable.
- (9) Any other reasons for rejection set forth by State or Parish laws, ordinances or resolutions.

## **SECTION 5. FAMILIARITY WITH LAWS AND ORDINANCES**

- A. Bidders shall familiarize themselves with and shall comply with all applicable Federal and State Laws, parish/municipal ordinances, resolutions, and the rules and regulations of all authorities having jurisdiction over construction of the project, which may directly or indirectly affect the work or its prosecution.
- B. These laws and/or ordinances will be deemed to be included in the contract, the same as though herein written in full.
- C. In case of conflict between the requirements of these specifications and any State and/or Federal Regulations or Laws, the State and/or Federal Regulations or Laws shall take precedence in all cases in which State and/or Federal Funding of the contract, in whole or in part, depends upon compliance with said State and/or Federal Regulations or Laws.

## **SECTION 6. EXAMINATION OF SITE, DRAWINGS, ETC.**

- A. Prior to submitting a bid each Bidder shall visit the site of the proposed work and fully acquaint himself with all surface and subsurface conditions as they may exist so that he may fully understand the facilities, difficulties, and restrictions attending the execution of the Work under this Contract. Bidders shall also thoroughly examine and be familiar with Drawings,

Specifications, and Contract Documents. The failure or omission of any Bidder to receive or examine any form, instrument, drawing, or document or to visit the site and acquaint himself with conditions there existing, shall in no way relieve any Bidder from any obligation with respect to his Bid and the responsibility in the premises rests with him. Submission of a bid shall be considered prima facie evidence that the bidder has made such examination and is satisfied as to the conditions to be encountered in performing the work and as to requirements of the plans, project specifications, Resolution No. 105529, and contract forms.

B. Any pre-bid test and boring data in connection with subsurface conditions which have been completed by the Parish or its engineers and furnished to the bidder shall not be considered as fully representative of subsurface conditions existing throughout the area tested nor shall they in any way be binding upon the Parish, it being understood that said data is furnished the bidder for his convenience only and the bidder shall be solely responsible for conducting his own boring explorations he deems necessary in preparing his bid.

C. No claims shall be made against the Parish for additional compensation due to unforeseen subsurface conditions arising during progress of the work and which might be in variance with the Parish's pre-bid boring data.

## **SECTION 7. COMMUNIST COUNTRY PROHIBITIONS**

In awarding contracts for materials and supplies, Jefferson Parish shall reject the lowest bid if received from a bidder domiciled in a Communist country, or if the materials or supplies are manufactured in a Communist country, including but not limited to the China, North Korea and Vietnam and to award the contract to the next lowest bidder. This Section shall not apply to any country having established trade relations agreements or approvals from the government of the United States. (LSA-R.S. 38:2212.3)

## **SECTION 8. AWARD OF CONTRACT**

A. The award of the Contract, if it be awarded, will be by the Owner to the lowest responsible Bidder whose Proposal shall have complied with all the requirements necessary to render it formal. The successful Bidder will be notified by telegram or letter mailed to the address shown on the Proposal that his bid has been accepted and that he has been awarded the Contract. No contract shall be executed with any Contractor until their certificates of insurance, performance bonds, labor and materials payment bonds, or any other bonds required are made satisfactory to the Owner.

B. Jefferson Parish reserves the right to award contracts or place orders on a lump sum or individual item basis, or such combination as shall, in its judgment, be in the best interest of Jefferson Parish. Every contract or order shall be awarded to the LOWEST RESPONSIBLE BIDDER, taking into consideration the CONFORMITY WITH THE SPECIFICATIONS, and the DELIVERY AND/OR COMPLETION DATE.

C. Preference will be given, to bidders requesting a preference in their bid in accordance with LSA-R.S. 38:2251, to materials, supplies, and provisions, produced, manufactured or grown in Louisiana, quality being equal to articles offered by competitors outside the State of Louisiana.

## **SECTION 9. DISQUALIFICATION OF BIDDERS**



1. The causes for disqualification from consideration for award of a contract with Jefferson Parish are as follows (Jefferson Parish Code of Ordinances, Section 2-914):

A. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

B. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a parish contractor;

C. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

D. Violation of contract provisions, as set forth below, of a character which is regarded by the Chief Buyer for Jefferson Parish to be serious as to justify disqualification:

(1) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

(2) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for disqualification;

E. Any other cause the Chief Buyer determines to be so serious and compelling as to affect responsibility as a parish contractor, including debarment by another governmental entity for any cause;

F. Violation of the State Code of Ethics or the ethical standards set forth in the Jefferson Parish Code of Ordinances;

G. Failure to secure and/or maintain necessary licenses and/or permits;

H. Failure to comply with the Jefferson Parish Code of Ordinances and/or the Jefferson Parish Comprehensive Zoning Ordinance; or Failure to comply with or meet bid specifications and or failure to be a responsible bidder.

2. The procedures for disqualification from consideration for award of a contract with Jefferson Parish are as follows:

A. Step 1 - Prior to making a recommendation to the Council regarding a bid acceptance, the Department head shall send a Notice of Disqualification to the disqualified low bidder. This letter shall contain the reasons for disqualification and shall be sent Certified Mail with Return Receipt Requested. At the same time, a copy of said letter shall be sent to the Bid Disqualification Review Committee Chairman and the Parish Attorney's Office. When the postal receipt is returned to the Department head, he/she then proceeds with step 2 below.

B. Step 2- Prepare the normal recommendation packet to the Council, with the following exceptions:

(1) The letter to the Council Chairman shall indicate the low bidder was disqualified,

(2) The letter to the Council Chairman shall include a copy of the Notice of Disqualification together with the postal receipt, indicating delivery to the low bidder, and

(3) Attach a resolution accepting the lowest responsible bidder. The acceptance, however, shall be contingent upon the disqualification being affirmed or dismissed by the Bid Disqualification Review Committee.

C. Step 3 - If a bid disqualification review hearing is requested by a disqualified bidder, the Bid Disqualification Review Committee Chairman shall be notified and he will schedule the hearing.

D. The above procedure will allow the bid disqualification review process to take place simultaneously with the recommendation packet being routed for Administration approval and Council action.

## **SECTION 10. EXECUTION OF CONTRACT**

The successful Bidder shall execute the Contract with the Owner in the form of the Contract included in the Specifications, a copy of which is annexed hereto, in such number of counterparts as the Owner may request within twelve (12) days after receipt of notice of award of the Contract by the Owner. One copy of the executed contract with all documents forming a part thereof shall be filed at the expense of the Contractor, with the Recorder of Mortgages in Jefferson Parish.

## **SECTION 11. MISCELLANEOUS**

A. If your company is unable to bid on this project, please state the reason on the bid form and return it to the Department of Purchasing, 200 Derbigny Street, Suite 4400, General Government Building, Gretna, Louisiana 70053 before bid opening date. Failure to comply will result in the removal of your company from the Parish's vendor list.

B. Bids will be posted on the bulletin board inside the Department of Purchasing, 200 Derbigny Street, Suite 4400, General Government Building, Gretna, Louisiana 70053 for a period of five (5) working days after bid opening date. Advertised bids will be tabulated and a copy thereof forwarded to each responding bidder.

C. The successful bidder may be required to furnish a statement of the origin, composition, and manufacture of materials to be used in construction of the work together with samples, which samples may be subjected to testing to determine their quality and fitness for the work, as specified.

D. Bidders are not to exclude from participation in, deny the benefits of, or subject to discrimination under any program or activity, any person in the United States on the grounds of race, color, national origin, sex or religion except that any exemption from such prohibition against discrimination on the basis of religion as provided in the Civil Rights Acts of 1964, or Title VI and VII of the Act of April 11, 1968 shall also apply, as amended; nor discriminate on the basis of age under the Age Discrimination Act of 1975, as amended; nor with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended. This assurance includes compliance with the administrative requirements of the Revenue Sharing final

handicapped discrimination provisions contained in Section 51.55 (c), (d), (e), and (k) (5) of the Regulations.

**GENERAL CONDITIONS AND AGREEMENT FOR THE PURCHASES OF MATERIALS,  
SUPPLIES OR SERVICES AND PUBLIC WORKS PROJECTS**

**GENERAL CONDITIONS**

**SECTION 1. EXECUTION OF CONTRACT**

The successful bidder shall execute the Contract with the Owner in the form of the Agreement included in the Bid Documents, in such number of counterparts as the Owner may request within twelve (12) days after receipt of Notice of Award of the Contract by the Owner unless the Owner and the Contractor otherwise mutually agree. One copy of the executed Contract with all documents forming a part thereof shall be filed at the expense of the Contractor, with the Recorder of Mortgages in Jefferson Parish immediately, but in any event before Contractor commences the Work, and evidence of such filing shall be provided to Owner.

**SECTION 2. PERFORMANCE AND PAYMENT BONDS**

A. 1. In order to insure the faithful performance of each and every condition, stipulation, and requirement of the Contract and to indemnify and save harmless the Owner from any and all damages, either directly or indirectly, arising out of any failure to perform same, the successful bidder to whom the Contract is awarded shall furnish a surety Bond in an amount at least equal to one hundred (100%) percent of the Contract Price, unless otherwise specified. The successful bidder to whom the Contract is awarded shall also furnish a labor and materials payment Bond in an amount at least equal to one hundred percent (100%) of the Contract Price, unless otherwise specified. The Contract shall not be in force or binding upon the Owner until such satisfactory Bonds have been provided. The Sureties shall be selected by the Contractor, subject to the approval of the Owner, and the cost of the Bonds shall be paid for by the Contractor, unless otherwise stipulated in the Supplementary Provisions.

2. The Owner may, in its discretion, accept alternative security, modify or waive the bonding requirement set forth in paragraph A.1 above, pursuant to the requirements set forth in the Louisiana public contract law (LSA-R.S. 38:2181 *et seq.*). If the bond is on an annual coverage basis, renewal of each succeeding year shall be submitted to the "City" thirty (30) days prior to the termination date of the existing bond.

B. Any surety Bond written for a Jefferson Parish public works project or any other Jefferson Parish Contract requiring a bond shall be written by a surety or insurance company currently on the U.S. Department of Treasury Financial Management Service 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 or by a surety company that complies with the requirements of LSA-R.S. 38:2219.

C. No Surety Company will be accepted as bondsman which does not have a permanent agent or representative in the State of Louisiana upon whom notices referred to in these General Conditions may be served. Service of said notice on said agent or representative in the State of Louisiana shall be equal to service of notice on the president of the Surety Company, or such other officer as may be concerned.

D. Should the Contractor's surety, even though approved and accepted by the Owner, subsequently remove its agency or representative from the State of Louisiana or terminate its residency or license in this State or become insolvent, bankrupt, or otherwise fail, the Contractor

shall furnish a new Bond by another company approved by the Owner, at no additional cost to the Owner. The new Bond shall be executed under the same terms and conditions as the original Bond.

E. To the extent permitted by law, the Bond requirements as set forth herein are waived insofar as Community Development housing rehabilitation construction contracts are concerned for single family, owner-occupied dwellings. The Parish Attorney's office will omit the requirements of compliance with the Bond requirements in connection with Community Development housing rehabilitation construction contracts for single family, owner-occupied dwellings.

### **SECTION 3. SCOPE OF THE BOND AND OBLIGATION OF THE BONDSMAN**

A. The Contractor's bondsman shall obligate himself to all the terms and covenants of the Contract Documents covering the Work to be executed hereunder including, but not limited to, the obligations for actual damages and liquidated damages in accordance with the provisions in the Agreement and these General Conditions regarding delay in completion of the Work within the Contract Times. The Owner reserves the right to order extra Work or make changes by altering, adding to, or deducting from the Work under the conditions and in the manner hereinbefore described without notice to the Contractor's surety and without in any manner affecting the liability of the bondsman or releasing him from any of his obligations hereunder.

B. The Bond shall also secure for the Owner the faithful performance of the Contract in strict accordance with these General Conditions, the Drawings and Specifications. It shall protect the Owner against all lien laws of the State of Louisiana and shall provide for payment of reasonable attorney's fees for enforcement of the Contract and institution of concursus proceedings, if such proceedings become necessary. Likewise, it shall provide that if the Design Professional is put to labor or expense by enforcement of the Contract and institution of concursus proceedings or through delinquency or insolvency of the Contractor, they shall be equitably paid for such extra expense and services involved.

C. The surety of the Contractor shall be and does hereby declare and acknowledge himself by acceptance to be bound to the Owner as guarantor, jointly and in solido with the Contractor, for fulfillment of the terms of the foregoing conditions.

### **SECTION 4. ROYALTIES AND PATENTS**

The Contractor shall indemnify and save harmless the Owner from any and all suits, costs, penalties, or claims for infringement by reason of use or installation of any patented design, device, material, or process, or any trademark or copyright in connection with the Work agreed to be performed under the Contract, and shall indemnify and save harmless the Owner for any costs, expenses, and damages which it may be obliged to pay by reason of any such infringement at any time during the prosecution or after completion of the Work.

### **SECTION 5. PREVAILING WAGES**

Every contract for construction, alteration, repair, maintenance, or other public works project, which is financed in whole or in part with federal or state funds, shall contain appropriate provisions for the payment of prevailing wages to the various categories of workmen, mechanics, and/or laborers in accordance with any and all applicable federal or state statutes, rules, or regulations regarding prevailing wages.

### **SECTION 6. SUBCONTRACTS**

A. The Contractor shall not award any Work to any Subcontractor without the prior written approval of the Owner, which approval will not be given until the Contractor submits to the Owner a written statement concerning the proposed award to the Subcontractor, which statement shall contain such information as the Owner may require.

B. If such consent is given, the Contractor will be permitted to sublet a portion of the Work, but shall perform with his own organization Work amounting to at least 50 percent of the total Contract cost. Any items designated in the Contract as "Specialty Items" may be performed by subcontract and the costs of such may be deducted from the total cost before computing the amount of Work required to be performed by the Contractor with his own organization.

C. If the Contractor shall sublet any part of the Contract, the Contractor shall be as fully responsible to the Owner for the acts and omissions of his Subcontractor, and of any persons either directly or indirectly employed by his Subcontractor, as he is for the acts and omissions of persons directly employed by himself.

D. Except as provided by law, this provision requiring at least 50 percent of the Work or services to be performed by the Contractor may be waived in whole or in part on Building Construction contracts by resolution, and the Chairman of the Council is authorized to use his discretion in regard to waiving this requirement. Additionally, except as otherwise provided by law, the Parish Attorney's Office is authorized to omit from Building Construction contracts in whole or in part the provision requiring at least 50 percent of the Work or services to be performed by the Contractor. Determination to waive requirement in whole or in part that at least 50 percent of the Work or services to be performed by the Contractor must be set forth in the bid specifications or addenda.

## **SECTION 7. SUBCONTRACTORS**

A. If the Supplementary Conditions or the Bid Instructions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with these requirements, Owner's written acceptance of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Design Professional to reject defective Work. Nothing in the Contract Documents shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Design professional and any such Subcontractor, Supplier or other individual or entity, nor shall it create any obligation on the part of Owner or Design Professional to pay or to see to the payment of any monies due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

B. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Design Professional.

C. An approved Subcontractor shall not subcontract any portion of his authorized Work. However, except as provided by law, this provision may be waived in whole or in part by

resolution, and the Chairman of the Council is authorized to use his discretion in regard to waiving this requirement.

## **SECTION 8. INTENT OF DRAWINGS AND SPECIFICATIONS**

The Work to be done under the Contract shall consist of the complete construction of each and every unit described in the Drawings, these General Conditions, the Construction Specifications, the Supplementary Conditions, the Contract, and the Notice to Proceed, together with all authorized alterations. The Contractor shall furnish, unless definitely and expressly provided to the contrary in the Specifications, the Supplementary Conditions, or the Drawings, all materials, implements, machinery, equipment, tools, supplies, transportation, and labor necessary to the prosecution and completion of the Work. Owner makes no warranties, express or implied, with respect to the fitness of the Drawings or Specifications prepared by the Design Professional, and Contractor waives any claims against the Owner arising out of any implied or express warranties of the fitness of the Drawings and Specifications for their intended purpose.

## **SECTION 9. ERRORS AND DISCREPANCIES**

Should any discrepancies exist between the Drawings and the Specifications, or any part of either or should any parts of the Specifications or of the Contract Documents be ambiguous or doubtful, the Design Professional shall decide as to the true intent and meaning. Any discrepancies found between the Drawings and Specifications and the Site conditions or any errors or omissions in the Drawings or Specifications shall be immediately reported to the Design Professional, who shall promptly provide an interpretation or clarification of such error or omission in writing. Any Work done by the Contractor after his discovery of such discrepancies, errors, or omissions shall be done at the Contractor's risk.

## **SECTION 10. COPIES OF DRAWINGS FURNISHED**

Unless otherwise provided in the Contract Documents, the Design Professional will furnish to the Contractor, free of charge, not to exceed six (6) copies of all drawings and specifications for the execution of the Work. The Drawings and Specifications are the property of the Design Professional and are to be returned to him when they have served the purpose for which they are intended. The Contractor shall keep one copy of all Drawings and Specifications, including revisions, Addenda, details, Shop Drawings, etc., on the Work in good order available to the Design Professional or his representative.

## **SECTION 11. SHOP DRAWINGS**

A. Contractor shall submit Shop Drawings to Design Professional for review and approval in accordance with a schedule of Shop Drawings and Sample submittals acceptable to Design Professional and agreed upon before the submission of the first Application for Payment. All submittals will be identified as Design Professional may require and in the number of copies specified in the General Requirements. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Design Professional the services, materials, and equipment Contractor proposes to provide and to enable Design Professional to review the information for the limited purposes required by paragraph E.

B. Contractor shall also submit Samples, if any, to Design Professional for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. Each Sample will be identified clearly as to material, Supplier, pertinent data such as catalog numbers, and the use for which intended and otherwise as Design Professional may require to

enable Design Professional to review the submittal for the limited purposes required by paragraph E. The numbers of each Sample to be submitted will be as specified in the Specifications.

C. Where a Shop Drawing or Sample is required by the Contract Documents or the schedule of Shop Drawings and Sample submittals acceptable to Design Professional as required herein, any related Work performed prior to Design Professional's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

D. Submittal Procedures

1. Before submitting each Shop Drawing or Sample, Contractor shall have determined and verified:

a. all field measurements, quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

b. all materials with respect to intended use, fabrication, shipping, handling, storage, assembly and installation pertaining to the performance of the Work;

c. all information relative to means, methods, techniques, sequences, and procedures of construction and safety precautions and programs incident thereto; and

d. Contractor shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.

2. Each submittal shall bear a stamp or specific written indication that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.

3. At the time of each submittal, Contractor shall give Design Professional specific written notice of such variations, if any, that the Shop Drawing or Sample submitted may have from the requirements of the Contract Documents, such notice to be in a written communication separate from the submittal; and, in addition, shall cause a specific notation to be made on each Shop Drawing and Sample submitted to Design Professional for review and approval of each such variation.

E. Design Professional's Review

1. Design Professional will timely review and approve Shop Drawings and Samples in accordance with the schedule of Shop Drawings and Sample submittals acceptable to Design Professional. Design Professional's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Design Professional's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident hereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. Design Professional's review and approval of Shop Drawings or Samples shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has in writing called Design Professional's attention to each such variation at the time of each submittal as required by paragraph D.3. above and Design Professional has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample approval; nor will any approval by Design Professional relieve Contractor from responsibility for complying with the requirements of paragraph D.1.

F. Resubmittal Procedures

Contractor shall make corrections required by Design Professional and shall return the required number of corrected copies of Shop Drawings and submit as required new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Design Professional on previous submittals.

G. The Contract price shall include the cost of furnishing all working or Shop Drawings, and the Contractor will be allowed no extra compensation for such drawings.

## **SECTION 12. RECORD AND AS-BUILT DRAWINGS**

The Contractor shall keep an accurate record, in a manner approved by the Design Professional, of all changes in the Contract Documents during construction. In Work concerning underground utilities, the Contractor shall keep an accurate record in a manner approved by the Design Professional of all valves, fittings, etc. Before the Work is accepted by the Owner, and said acceptance is recorded, the Contractor shall furnish the Design Professional a copy of this record.

## **SECTION 13. PROSECUTION AND PROGRESS**

A. The Contractor shall conduct the Work in such a manner and with sufficient materials, equipment, and labor as is considered necessary to insure its completion within the time limit specified.

B. Should the Contractor fail to start the Work within the time limit specified herein or at any time fail to provide a sufficiency of skilled workmen, materials, and well maintained and functioning equipment, or should the Design Professional at any time become convinced that the Work will not be completed within the time specified, or should the Contractor become bankrupt or insolvent, or fail to remedy or correct defects or deficiencies within reasonable time, the Contractor shall be deemed to have violated the provisions of the Contract, and the Owner may then proceed to terminate the Contract as herein elsewhere provided.

C. The Contract Times will commence to run on the day indicated in the Notice to Proceed. The Owner shall issue a Notice to Proceed in accordance with La. R.S. 38:2215. The Contractor is to commence Work under the Contract within ten (10) days from the date the Notice to Proceed is issued by the Owner. In no event will Owner have any obligations or duties to Contractor under the Agreement until the Notice to Proceed is given to Contractor.

D. The grades, elevations, dimensions, locations, and field measurements or any Drawings or Specifications issued by the Design Professional, or the Work installed by other contractors, are not guaranteed by the Design Professional or the Owner. Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify the accuracy of all grades, elevations, dimensions, locations, and field measurements. In all cases of the interconnection of Work with existing or other Work, Contractor shall verify at the Site all dimensions relating to such existing or other Work. Contractor shall promptly report in



writing to Design Professional any conflict, error, ambiguity, or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from Design Professional before proceeding with any Work affected thereby. Any errors due to the Contractor's failure to verify all such grades, elevations, locations, dimensions, or field measurements shall be promptly rectified by Contractor without any additional costs to Owner or extensions of Contract Times.

E. Within ten days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Design Professional for its timely review:

1. a preliminary progress schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, indicating any Milestones specified in the Contract Documents;

2. a preliminary schedule of Shop Drawings and Sample submittals which will list each required submittal and the times for submitting, reviewing, and processing such submittal; and

3. a preliminary schedule of values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

F. Contractor shall not start any Work at the Site unless and until Contractor has in place and in full force and effect all of the insurance and Bonds which the Contractor is required to obtain by the Agreement, the Contract, or the Supplementary Conditions. Any delay in obtaining confirmation of the existence of the insurance, Bonds, and other security required by the Contract and compliance with the terms of the Contract therefor shall be counted as workdays if the start of Work is delayed beyond the time set forth in paragraph C above. The Contract shall not be in force or binding on Owner until satisfactory Bonds and insurance have been provided in accordance with the Contract Documents.

G. Unless otherwise provided in the Contract Documents, at least ten days before submission of the first Application for Payment a conference attended by the Council as Owner, represented herein by its Council Chairman or his authorized agents; Contractor; Design Professional; and others as appropriate will be held to review for acceptability to Design Professional as provided below the schedules submitted in accordance with paragraph E. Contractor shall have an additional ten days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Design Professional.

H. 1. The progress schedule will be acceptable to Design Professional if it provides an orderly progression of the Work to completion within any specified Milestones and the Contract Times. Such acceptance will not impose on Design Professional responsibility for the progress schedule, for sequencing, scheduling, or progress of the Work nor interfere with or relieve Contractor from Contractor's full responsibility thereof.

2. Contractor's schedule of Shop Drawings and Sample submittals will be acceptable to Design Professional if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's schedule of values will be acceptable to Design Professional as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

## **SECTION 14. OWNER'S RIGHT TO PROCEED WITH PORTIONS OF THE WORK**

Upon failure of the Contractor to comply with any notice given in accordance with the provisions hereof, the Owner shall have the alternative right, instead of assuming charge of the entire Work, to place additional forces, tools, equipment, and materials on parts of the Work. The cost incurred by the Owner in carrying on such parts of the Work shall be payable by the Contractor; such Work shall be deemed to be carried on by the Owner on account of the Contractor; and the Contractor shall be allowed the Contract Price. The Owner may retain the amount of the cost of such Work from any sum or sums due, or to become due the Contractor under the Contract Documents.

## **SECTION 15. TIME OF COMPLETION**

A. The Work covered by the Drawings, Specifications, and Contract Documents must be completed sufficient for acceptance within the number of calendar days specified in the Bidding Documents and/or the Contract, commencing from the date specified in the Notice to Proceed.

B. It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the time of completion is an essential condition of the Contract; and it is further mutually understood and agreed that if the Contractor shall neglect, fail, or refuse to complete the Work within the time specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a part of the consideration for the awarding of the Contract, to pay to the Owner the amount specified in the Contract, not as a penalty but as stipulated ("liquidated") damages for such breach of contract, for each and every calendar day that the Contractor shall be in default after the time stipulated in the Contract for completing the Work.

C. The Owner shall have the option of using the working day system in lieu of the calendar day system for time allowed to complete the Project. The working day system will be as defined in the latest edition of the Louisiana Standard Specifications for Roads and Bridges. Any Work necessary to be performed after regular working hours, on Sundays or Legal Holidays, shall be performed without additional expense to the Owner.

D. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, and Contractor will not permit overtime Work or the performance of Work on Saturday, Sunday, or any legal holiday without the Owner's written consent (which shall not be unreasonably withheld) given after prior written notice to Design Professional.

E. Contractor shall establish a normal work schedule which does not exceed 40 hours per week. Whenever Contractor's Work requires scheduled overtime, Contractor shall reimburse Owner for the extra costs incurred for providing Resident Project Representative services provided the additional costs are above the budgeted amount for the contracted project, and further provided that the specifications or bidding documents include the average hourly rate to be charged for inspections and specify a reasonable budget for such inspections. Overtime shall be scheduled only after Contractor obtains written permission from Owner. For purposes of the foregoing sentence and the Contract, "regular working hours" shall mean between 7:00 a.m. and 6:00 p.m. Emergency Work may be performed without prior permission.

F. Requests to work during other than regular working hours must be submitted to the Design Professional at least 72 hours in advance of the period proposed for such overtime Work and shall set forth the proposed schedule for overtime Work to give the Design Professional ample time to arrange for its personnel to be at the Site. The additional Design Professional charges required to be paid by Contractor as provided above shall be a subsidiary obligation of

the Contractor and no extra payment shall be made by Owner on account of such Work by the Design Professional.

## **SECTION 16. EXTENSION OF TIME**

A. The Owner may grant an extension of time to the Contractor for unusual circumstances which are beyond the control of the Contractor and could not reasonably be foreseen by the Contractor prior to bidding. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners, or other contractors performing other work as contemplated by the Contract, fires, floods, epidemics, abnormal weather conditions, or acts of God. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

B. Requests for time extensions must be made in writing to the Design Professional within five (5) days following the event occasioning the delay. The Owner shall be the sole judge of the validity of any claims for extension of time.

C. Apart from extension of time for unavoidable delays and the waiving of any applicable liquidated damages, in no event shall Owner or Design Professional be liable to the Contractor, any Subcontractor, any Supplier, or any other person or organization, or any surety for or any employee or agent of any of them, and no payment or allowance of any kind shall be made to the Contractor as compensation for damages because of hindrance or delay for any cause in the progress of the Work, whether such delay be avoidable or unavoidable. Time limitations required by Owner shall be for the benefit of Owner and contractors under other contracts who have entered into such contracts with Owner in reliance on the time limitations set forth in these Contract Documents. Any claim by Contractor for damages due to delay by another contractor shall be asserted against that contractor. Contractor shall accept the risk of any delays caused by the rate of progress of the Work to be performed under the Contract or other contract.

D. The Contractor shall note that weather conditions shall not be an automatic cause for time extension. The Contract Times specified in the Bidding Documents and Agreement include an allowance as stated in the Bidding Documents for inclement weather. In order to document and claim days lost to inclement weather conditions, the Contractor shall, on a monthly basis submit a report to the Design Professional, stating the time lost to inclement weather, within seven (7) days to the end of the report period. The Design Professional will review the report for submittal to the Owner within seven days of receipt of the report and make recommendations for either acceptance or rejection of each claimed time period lost to inclement weather. The Owner will then instruct the Design Professional to approve or reject the report. There shall be no additional compensation due the Contractor for inclement weather days allowed hereunder.

The report for lost days due to inclement weather shall account for all days during the reporting period, including weekends and holidays. Claims for lost days on either weekends or holidays will not be considered unless the Contractor can show that the inclement weather affected Work production on the following work day. The reporting periods shall be from the first day of the month through and including the last day of the month. Lost time accounting shall be in one-half day increments. Non-work days shall be defined as days in which the Contractor worked less than four (4) hours due to inclement weather conditions.

Lost time shall be considered only if the weather occurrence is in excess of the normal weather patterns as established by the nearest office of the National Weather Service, U.S. Department of Commerce. When the Contract utilizes critical path method scheduling (C.P.M.), the Design Professional will determine if the days lost due to weather conditions actually affected the critical path activities. If weather conditions did not affect the progress of the critical path activities then no time extension will be granted.

## SECTION 17. LIQUIDATED DAMAGES

A. Owner and Contractor recognize and agree that time is of the essence of this Agreement and that the Work must be completed in every respect appropriate within the applicable time limits set forth in the Contract Documents, commencing from the date specified in the Contract Documents. Owner and Contractor further understand and agree that it is difficult at this time to estimate the damage which the delay in completion of the Work would cause the Owner and that, accordingly, if the Contractor shall neglect, fail, or refuse to complete the Work in accordance with the Contract Times specified in the Contract Documents, or any extension thereof granted by the Owner in accordance with the applicable provisions of the Contract Documents then, in addition to the other stipulated damages provided for in paragraph E below, the Contractor agrees, as a part of the consideration for the award of this Contract, that Owner shall be entitled to receive the amount or amounts per day set forth in B below from Contractor, not as a penalty but as stipulated ("liquidated") damages for delay for such breach of contract, such amounts being specifically herein agreed upon in advance as the measure of damages to the Owner on account of such delay in the completion of the Work.

B. The Contractor shall owe Owner liquidated damages in the amount specified in the Agreement for each and every calendar day after the time specified in the Agreement for Substantial Completion of the Work until the Work is determined to be substantially complete in accordance with the Contract Documents. After Substantial Completion, if the Contractor shall neglect, fail, or refuse to complete the Work within the time specified in the Agreement for final completion, or any proper extension thereof granted by the Owner, Contractor shall owe Owner liquidated damages in the amount specified in the Agreement for each and every day after the time specified in the Agreement for final completion until the Work is determined to be finally completed in every respect in accordance with the Contract Documents.

C. The number of calendar days in default shall be calculated exclusive of the day on which the applicable completion time was specified and shall include each and every other calendar day up to and including the day that the Contractor has been determined to satisfy its obligation for the applicable degree of completion under the Contract Documents.

D. Contractor further agrees that the expiration of the Contract Time shall, ipso facto, constitute a putting in default where Contractor has failed to complete the Work in accordance with the applicable Contract Times, and Owner need not formally place the Contractor in default, the Contractor hereby expressly waiving any and all notices of default.

E. In addition to and not in lieu of the liquidated damages provided above, Owner shall also be entitled to recover from Contractor or Contractor's surety additional liquidated damages arising out of the breach of contract for delay in completion of the Work in accordance with the Contract Times for the same amount of time calculated pursuant to paragraphs B and C.

These additional liquidated damages may include, but are not limited to the following, in the amounts and for each of the items identified in the Supplementary Conditions:

- (1) Extended architectural and/or engineering fees \$\_\_\_\_\_;
- (2) Extended Resident Project Representative fees \$\_\_\_\_\_;
- (3) Extended construction management fees \$\_\_\_\_\_;
- (4) Extended Owner's overhead and personnel expenses \$\_\_\_\_\_; and
- (5) Owner's other costs directly related to the delay in completion beyond the Contract Times.

F. Contractor agrees and consents that the liquidated and additional liquidated damages may be deducted from progress payments payable to Contractor pursuant to the Contract

Documents and that Contractor shall accept the Contract Price, reduced by the aggregate amount of the liquidated and additional liquidated damages so deducted, in full satisfaction of all Work executed under the Contract Documents.

## **SECTION 18. OTHER CONTRACTS**

The Owner may award other contracts for additional work, and the Contractor shall fully cooperate with such other contractors and carefully fit his own Work to that provided under other contracts as may be directed by the Owner. The Contractor shall not commit or permit any act which will interfere with the performance of the work by any other contractors.

## **SECTION 19. RIGHTS OF VARIOUS INTERESTS**

Whenever work being done by the Owner's forces or by other contractors is contiguous to Work covered by the Contract, the respective rights of the various interests involved shall be established by the Owner.

## **SECTION 20. QUALITY OF MATERIALS**

A. Unless otherwise specifically provided for in the Specifications, all workmanship, equipment, materials, and articles incorporated in the Work covered by the Contract are to be new and of the best grade of their respective kinds for the purpose intended. Samples of materials, where furnished under the Contract, shall be submitted for approval to the Design Professional when and as directed or as otherwise provided herein.

B. Whenever a material or article required is specified or shown on the Drawings by using a particular brand, make of material, device, or equipment, such brand, make of material, device, or equipment shall be regarded merely as a standard, any material or article which shall perform adequately the duties imposed by the general design will be considered equal, and satisfactory in accordance with the Laws and Regulations, providing the material or article so proposed is of equal substance and function and that all technical data concerning the proposed substitution be approved by the Design Professional in accordance with the Laws and Regulations, specifically LSA-R.S.38:2295. The Design Professional shall be the sole judge of quality and suitability.

If a potential bidder wishes to submit for prior approval a particular product other than a product specified in the contract documents, he shall do so no later than seven (7) working days prior to the opening of bids.

## **SECTION 21. STORAGE OF MATERIALS**

Materials shall be stored so as to insure the preservation of their quality and fitness for the Work, and in a manner that leaves the material accessible to inspection. Materials or equipment may not be stored on the Site in a manner such that it will interfere with the continued operation of streets and driveways. Contractor shall also comply with the following specific requirements if the Owner has paid for materials stored offsite:

1. The aggregate cost of materials stored offsite shall not, at any time, without written approval of the Owner exceed the amount identified in the Supplementary Conditions.

2. Title to such materials shall be vested in the Owner, as evidenced by documentation satisfactory in form and substance to the Owner, including, without limitation, recorded financing statements, UCC filings, and UCC searches.

3. With each Application for Payment, the Contractor shall submit to the Owner a

written list identifying each location where materials are stored off the Project Site and the value of materials at each location. The Contractor shall procure insurance satisfactory to the Owner for materials stored off the Project Site in an amount not less than the total value thereof.

4. The consent of any surety shall be obtained to the extent required prior to payment for any materials stored off the Project Site.

5. Representatives of the Owner shall have the right to make inspections of the storage areas at any time.

6. Such materials shall be (1) protected from diversion, destruction, theft and damage to the satisfaction of the Owner; (2) specifically marked for use on the project; and (3) segregated from other materials at the storage facility.

## **SECTION 22. QUANTITIES**

Wherever the estimated quantities of Work to be done and materials to be furnished under the Contract are shown in any of the Contract Documents, including the Bidding Documents, they are given for use in comparing bids and the right is especially reserved, except as herein otherwise specifically limited, to increase or diminish them by the Owner to complete the Work contemplated by the Contract. Such increase or diminution shall in no way vitiate the Contract, nor shall any such increase or diminution give cause for claims or liability for damages.

## **SECTION 23. AUTHORITY OF THE DESIGN PROFESSIONAL AND/OR RESIDENT PROJECT REPRESENTATIVE**

A. The Design Professional, or his authorized representative, shall decide any and all questions which may arise as to the quality or acceptability of materials furnished and Work performed, and as to the manner of performance and rate of progress of the Work, and shall decide all questions which may arise as to the interpretation of the Drawings and Specifications, and all questions as to the acceptable completion of the Project.

B. 1. Except as otherwise provided below, the decision of the Design Professional shall be final and binding on all technical questions concerning the execution of the Work and interpretation of the Drawings and Specifications. In case any question shall arise between the parties hereto relative to said Contract or Specifications, the determination or decision of the Design Professional shall be a condition precedent to the right of the Contractor to receive any money or payment for Work under the Contract affected in any manner or to any extent by such question.

2. Notwithstanding the foregoing, the decision of the Design Professional shall not be final and binding if a written notice of intention to appeal from the Design Professional's written decision is delivered by Owner or Contractor to the other and to the Design Professional within 30 days after the date of such decision, and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction within 60 days after the date of such decision (unless otherwise agreed in writing by Owner and Contractor), to exercise such rights or remedies as the appealing party may have with respect to such decision in accordance with applicable Laws and Regulations.

3. Contractor shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, including any appeal thereof, except as Owner and Contractor may otherwise agree in writing.

C. The Design Professional or his authorized representative shall have authority to suspend operations at any time when the Work, in his opinion, is not being carried out in conformity with the Drawings and Specifications.

D. If Owner and the Design Professional agree, the Design Professional shall furnish a Resident Project Representative to assist the Design Professional in providing more extensive observation of the Work. The Resident Project Representative will be authorized to inspect all Work done and materials furnished. Such inspections may extend to all or to any part of the Work and to the preparation or manufacture of the materials to be used. He may be stationed on the Site to report to the Design Professional as to the progress of the Work and the manner in which it is being performed, to call attention whenever it appears that materials furnished or Work performed fails to fulfill requirements of the Specifications. The Resident Project Representative will have authority to reject materials or to suspend Work until the question at issue can be referred to and settled by the Design Professional. The Resident Project Representative will not be authorized to revoke, alter, enlarge, or release any requirements of the Specifications, nor to approve or accept any portion of the Work, nor will he be authorized to issue instructions contrary to the Drawings and Specifications. He will in no case act as foreman, nor will he interfere with management of the Work. The Resident Project Representative shall have the other responsibilities, authority and limitations provided in Exhibit A which is attached to and incorporated in these General Conditions.

#### **SECTION 24. SUPERVISION AND GENERAL FOREMAN**

A. The Contractor shall employ and keep on the Work at all times a competent general supervisor or foreman as his representative who shall not be replaced without prior written notice to Owner and Design Professional except under extraordinary circumstances and, in the absence of the Contractor from the Site, instructions given or notices served on this supervisor or foreman shall be binding upon the Contractor.

B. For purposes of giving or receiving notice, directives, Change Orders, or any other information from Design Professional or Owner to Contractor, the Contractor shall designate one person as Project Manager to receive such notice, directives, Change Orders, or other information. If the person so identified by Contractor is not present on the job Site during normal working hours for any consecutive 48 hour period, the Contractor shall in writing addressed to Design Professional and Owner identify the individual who is acting as Project Manager. Contractor may designate the resident superintendent as the Project Manager.

C. All workmen employed in the performance of the Contract shall be skilled in their particular trades. No mediocre Work will be accepted or countenanced.

D. Any foreman or workman employed on this Project who disregards orders or instructions, does not perform his work in a proper and skillful manner, or is otherwise objectionable, shall be removed from the Work and shall be replaced by a suitable foreman or workman.

E. The Contractor shall personally see to it that all sub-contracts and divisions of the Work are executed in a proper and workmanlike manner on scheduled time, and with due and proper cooperation.

F. Failure of the Contractor to keep the necessary qualified personnel on the Work shall be considered cause for termination of the Contract by the Owner.

#### **SECTION 25. TAXES, CERTIFICATES, AND LAWS**

A. All Federal, State, and local taxes due or payable during the time of Contract on materials, equipment, labor, or transportation, in connection with this Work, must be included in the amount bid by the Contractor and shall be paid to proper authorities before acceptance.

B. The Contractor shall furnish all necessary permits and certificates and comply with all laws or ordinances applicable to the locality of the Work.

## **SECTION 26. CONFERENCES**

After the Effective Date of the Agreement and prior to the time the Contract Times start to run and before any Work at the Site is started, a conference attended by Contractor, Design Professional, Owner, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules required by the Contract Documents, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records. Other conferences between the Design Professional, the Contractor, Subcontractor, and other interested parties will be held periodically at the time and place as selected by the Design Professional. The Contractor's Superintendent, as well as a person in authority to make decisions, must be present as well as authorized and accredited representatives of the various Subcontractors and other persons and parties of interest.

## **SECTION 27. INJURIES TO PERSONS AND PROPERTY**

A. The Contractor shall be held alone responsible for all injuries to persons and for all damages to the property of the Owner or others caused by or resulting from the negligence of himself, his employees or his agents, during the progress of or in connection with the prosecution of the Work, whether within the limits of the Work or elsewhere and whether under the Contract proper or as extra Work.

B. The Contractor must protect and support all water and gas pipes or other conduits and buildings, walls, fences, or other properties which are liable to be damaged during the execution of his Work. He shall take all reasonable and proper precautions to protect persons, animals, and vehicles of the public from injury, and wherever necessary, shall erect and maintain a fence or railing around any excavation, and place a sufficient number of lights about the Work and keep them burning from twilight until sunrise, and shall employ one or more watchmen as an additional security whenever they are needed. He must, as far as practicable and consistent with good construction, permit access to private and public property and leave fire hydrants, catch basins, streets, etc., free from encumbrances. He must restore at his own expense all injured property caused by any negligent act of omission or commission on his part or on the part of his agent, including sidewalks, curbing, sodding, pipes, conduits, sewers, buildings, fences, bridges, retaining walls, tanks, power lines, levees, or any other building or private property to a condition as good as it was when he entered upon the Work.

C. In case of failure on the part of the Contractor to restore such property or make good such damage, the Owner may upon forty-eight (48) hours notice proceed to repair, rebuild, or otherwise restore such property as may be deemed necessary, and the cost thereof will be deducted from any monies due or which may become due under the Contract.

D. The Contractor shall indemnify and save harmless the Owner, or the Design Professional acting in behalf of the Owner, from all suits and actions that may be brought against it by reason of any injury, or alleged injury, to the person or property of another resulting from negligence or carelessness in the execution of the Work, or on account of any negligent act or omission, or from improper methods or means of construction on the part of the Contractor, his representatives, or employees. The Contractor shall have the sole responsibility of determining the best and proper method or means of construction and the Owner, or the Design



Professional acting on behalf of the Owner, shall not be held responsible for determining or suggesting a method or means of construction, except as expressly indicated in the Contract Documents.

## **SECTION 28. CORRECTION OF WORK**

A. The Contractor shall re-execute any Work that fails to conform to the requirements of the Contract and any defective Work that appears during the progress of the Work, and shall remedy any defects due to faulty materials or workmanship which appear within a period of one (1) year from the date of completion of the Contract or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents. The provisions of this article apply to Work done by direct employees of the Contractor, and by Subcontractors as well.

B. Nothing herein, in the Agreement, or any of the other Contract Documents shall be construed as a waiver, modification, or alteration of the Contractor's or its surety's obligations under LSA-R.S. 38:2189. Nothing in this section or any other provision in the General Conditions or other Contract Documents concerning any correction period shall establish a period of limitation with respect to any other obligation which Contractor has under the Contract Documents. The establishment of time periods relates only to the specific obligations of Contractor to correct the Work, and has no relationship to the time within which Contractor's obligations under the Contract Documents may be sought to be enforced, nor to the time within which the proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than specifically to correct the Work.

C. If Contractor does not promptly comply with the terms hereof, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced, and all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

## **SECTION 29. DEDUCTION FOR UNCORRECTED WORK**

If the Owner and the Design Professional deem it inexpedient to require the Contractor to correct the Work injured or not done in accordance with the Contract Documents, an equitable deduction from the Contract Price shall be made.

## **SECTION 30. REMOVAL AND DISPOSAL OF STRUCTURES AND OBSTRUCTIONS**

### **A. General**

The Contractor shall remove any existing structure or part of structure, fence, building, or other encumbrances or obstructions that interfere in any way with the new construction. Compensation for the removal of any structure not listed as a pay item in the Bidding Documents and with a Contract Bid Price shall be included in the Contract unit prices bid for the pay items of the Work.

### **B. Privately and Publicly Owned Materials**

If called for in the Supplementary Conditions, all privately and publicly owned materials in structures removed shall be salvaged without damage and shall be piled neatly and in an acceptable manner upon the premises if it belongs to an abutting property owner, otherwise at

accessible points along the improvements. Material in structures which is property of the Owner or property of any public body, private body, or individual which is fit for use elsewhere, shall remain property of the original owner. It shall be carefully removed without damage, in sections which may be readily transported, and shall be piled neatly in an accessible point by the Contractor. When materials of Owner, State, Municipality, or Parish are stored on or beyond the right of way, the Contractor will be held responsible for their care and preservation for a period of ten (10) days following the day the last or final portion of the materials stored at a particular location are placed thereon. When privately owned materials are stored beyond the right of way, the Contractor will be held responsible for their care and preservation for a period of ten (10) days (computed as set forth above); provided, however, that as of the day the ten (10) days responsibility period for care and preservation of the materials begins, the Contractor must furnish the Design Professional with evidence satisfactory to the latter that the proper owner of the materials has been duly notified by the Contractor that the said owner must assume responsibility for his materials on the date following the Contractor's ten (10) day responsibility.

### **SECTION 31. SANITARY PROVISIONS**

The Contractor shall provide and maintain in a neat, sanitary condition such accommodations for the use of his employees as may be necessary to comply with the rules and regulations of the State Board of Health or of the other authorities having jurisdiction, and shall permit no public nuisance.

### **SECTION 32. PUBLIC CONVENIENCE AND SAFETY**

#### **A. Road Closure**

In the event that it becomes necessary to close any roadway or partially close any major road due due to scheduled construction work being performed by contractor the public must be notified and made aware of the closure in a timely manner.

In order to utilize both the print and electronic media to disseminate this information to the public, the Jefferson Parish Public Information Office must receive pertinent information from the contractors concerning the closure.

Notice of a road closure or partial road closure of a major road must be sent to Jefferson Parish in care of its Public Information Officer, 1221 Elmwood Park Blvd., Suite 1002, Jefferson, Louisiana 70123.

**THAT NOTIFICATION MUST CONTAIN THE FOLLOWING INFORMATION AND MUST BE RECEIVED BY THE PUBLIC INFORMATION OFFICE AT LEAST 10 DAYS PRIOR TO THE SCHEDULED CLOSURE:**

- a.) Name of the contractor, engineer, etc., involved in the work/project who is responsible for the action.
- b.) A brief description of the project (Example: "...drain line installation," "...to remove and replace concrete slabs," etc.)
- c.) The date and time the action will take place and when re-opening is scheduled. (Example. "...will be closed from 6 a.m. on Friday, July 23, 1999 to 8 p.m. on Monday, July 26, 1999.")
- d.) The exact location of action. (Example: "...closed on David Drive from W. Napoleon Avenue to Veterans Memorial Boulevard," or "...the 900 block of David Drive")
- e.) Define the action that will be taken. (Example: eastbound, westbound, inside or outside lanes or both, etc.)
- f.) If the roadway will be closed completely to traffic and a detour will be in effect, a map illustrating the detour route must accompany the information.
- g.) Contact person for additional information.

#### **B. Care of Traffic**

No road shall be closed by the Contractor to the public except by written permission of the Design Professional, and except while so closed, the Contractor shall maintain traffic over, through, or around the Work included in his Contract, with the maximum practical convenience, for the full twenty-four hours of each day of the Contract, whether or not Work has ceased temporarily. The Contractor shall notify the Design Professional at the earliest possible date after the Contract has been executed, and in any case before the starting of any construction that might in any way inconvenience or endanger traffic, so that the necessary arrangements may be determined.

C. General Public

The convenience of the general public and of residents along the Work shall be provided for in a reasonably adequate and satisfactory manner. Where existing roads are not available for use as detours, unless otherwise provided, all traffic shall be permitted to pass through the Work. In such cases the vehicles of the traveling public shall have precedence over Contractor's vehicles to the end that the traveling public's vehicles shall not be unduly delayed for the convenience of the Contractor. In order that all unnecessary delay to the traveling public may be avoided, where ordered by the Design Professional, the Contractor shall provide and station competent flagmen whose sole duties shall consist of directing and controlling the movement of public traffic either through or around the Work.

D. Temporary Roads, Driveways, etc.

The Contractor shall provide and maintain, in a manner approved and deemed practicable by the Design Professional, such temporary roads as may be necessary to provide convenient access to driveways, houses, buildings, or other property abutting the Work. Where temporary bridges are necessary for traffic and pedestrians, these bridges shall be constructed at the expense of the Contractor as directed by the Design Professional.

E. Arranging the Work

The Contractor shall arrange his Work so that no undue or prolonged blocking of business establishments will occur.

F. Storage of Materials

Materials and equipment stored on the right of way or Project Site shall be so placed and the Work at all times shall be so conducted as to insure minimum danger and obstruction to the traveling public.

G. Control During Work

During grading operations where traffic is being permitted to pass through construction, the Contractor shall provide a smooth, even surface that will provide a satisfactory passageway for use of traffic. The road bed shall be sprinkled with water if necessary to prevent a dust nuisance, provided the dust nuisance is a result of the Work.

H. Fire Protection

Fire hydrants shall be accessible at all times to the Fire Department. No material or other obstructions shall be placed closer to a fire hydrant than permitted by ordinances, rules, or regulations or within fifteen (15') feet of a fire hydrant, in the absence of such ordinances, rules, or regulations.

## **SECTION 33. STRUCTURES AT RAILROAD CROSSINGS**

### **A. Notification**

No Work of any character shall be commenced on railroad right of way until the Railroad Company has issued a permit to the Owner and has been duly notified by the Contractor in writing (with a copy forwarded to the Design Professional) of the date he proposes to begin Work, and until an authorized representative of the Railroad Company is present, unless the Railroad Company waives such requirement.

### **B. Inspection by Railroad Company**

All Work performed by the Contractor within the right of way limits of the railroad shall be subject to the inspection and approval of the chief engineer of the Railroad Company, or his authorized representative and any precautions considered necessary by said chief engineer to safeguard the property, equipment, employees, and passengers of the Railroad Company shall be taken by the Contractor without extra compensation.

### **C. Cooperation with Railroad Company**

The Contractor shall, without extra compensation, take such precautions and erect and maintain such tell-tale or warning devices as the Railroad Company considers necessary to safeguard the operation of its trains. The temporary vertical and horizontal clearances specified by the chief engineer of the Railroad Company in approving these shall be maintained at all times. No steel, brick, pipe, or any other loose material shall be left on the ground in the immediate vicinity of the railway tracks.

### **D. Insurance**

Before any Work is done within the Railroad right of way, the Contractor shall provide and pay all costs of any special insurance requirements of the Railroad.

## **SECTION 34. PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE**

### **A. Contractor's Responsibility**

The Contractor shall not enter upon private property for any purpose without first obtaining permission from the owners and lessees. The Contractor shall use every precaution necessary for the preservation of all public and private property, monuments, highway signs, telephone lines, other utilities, etc., along and adjacent to the Work; shall use every precaution necessary to prevent damage to pipes, conduits, and other underground structures; and shall protect carefully from disturbance or damage all land monuments and property marks until an authorized agent has witnessed or otherwise referenced their location and shall not remove them until directed. The street and highway signs and markers that are to be affected by the Work shall be carefully removed when the Work begins and stored in a manner to keep them clean and dry. The Contractor must obtain all necessary information in regard to existing utilities, and shall give notice in writing to the owners or the proper authorities in charge of streets, gas, water, pipes, electric, sewers, and other underground structures, including conduits, railways, poles and pole lines, manholes, catch basins, fixtures, appurtenances, and all other property that may be affected by the Contractor's operations, at least forty-eight (48) hours before his operations will affect such property. The Contractor shall not hinder or interfere with any person in the protection of such work or with the operation of utilities, at any time. When property or the operation of railways, telephone lines, telegraph lines, or other public utilities are endangered, the Contractor shall, at his own expense, maintain flagmen or watchmen and any other necessary precautions to avoid interruption of service or damage to

life or property, and he shall promptly repair, restore, or make good any injury or damage caused by his negligent operations in an acceptable manner. The Contractor must also obtain all necessary information in regard to the installation of new cables, conduits, and transformers, and make proper provision and give proper notifications, so that these can be installed at the proper time without delay to the Contractor or unnecessary inconvenience to the Owner.

B. Undercutting Buildings

Where provided in the Supplementary Conditions, when the Work involves the undercutting of any buildings along the Work, the Contractor must give property owners and lessees due and sufficient notice of the undercutting and the Contractor shall adequately support such buildings. The Contractor and his surety shall hold the Owner and their representatives harmless from any damages resulting from undercutting any such buildings.

C. Removal/Relocation of Trees on Public Property

\_\_\_\_\_The Director of the Jefferson Parish Parkways Department shall be contacted and advised of trees that are on public property prior to the removal/relocation of such trees by the Contractor. Furthermore, the Department of Parkways shall be given a reasonable period of time to respond and when necessary remove the trees.

D. Trees, Shrubs, Plants, or Grass

The Contractor shall not remove, injure, cut, or destroy trees, shrubs, plants, or grass that are to remain in the streets or those which are privately owned, without proper authority. Unless otherwise provided in the Supplementary Conditions or the Bidding Documents, the Contractor shall replace and replant all plants, shrubs, and grass and restore the grounds back to its original good condition to the satisfaction of the Owner and property owner. The Contractor shall assume the responsibility of replanting and guarantees that plants, shrubs, and grass will be watered, fertilized, and cultivated until they are in a growing condition. No direct payment will be made for removing and replanting of trees, shrubs, plants, or grass unless such items are set forth in the Bidding Documents.

E. Reparation

When or where any direct damage or injury is done to public or private property by or on account of any negligent act, omission, neglect, or otherwise of the Contractor, he shall make good such damage or injury in an acceptable manner.

**SECTION 35. BARRICADES, DANGER, WARNING, AND DETOUR SIGNS**

A. General

The Contractor shall, without extra compensation, provide, erect, paint, and maintain all necessary barricades. Also without extra compensation, the Contractor shall provide suitable and sufficient lights, torches, reflectors, or other danger signals and signs, provide a sufficient number of watchmen and flagmen, and take all necessary precautions for the protection of the Work and safety of the public.

B. Warning Signs, Painting, Illumination

The Contractor shall erect warning signs beyond the limits of the Project, sufficiently in advance of any place on the Project where operations interfere with the use of the road by traffic, including all intermediate points where the new Work crosses or coincides with the existing road. Barricades shall be kept well painted and suitable warning signs shall be placed thereon.

All barricades and obstructions shall be illuminated at night and all lights or devices for this purpose shall be kept burning from sunset to sunrise.

C. Hazards and Compensation

Whenever traffic is maintained through or over any part of the Project, the Contractor shall clearly mark all traffic hazards. No direct payment will be made for barricades, signs, and illumination thereof, or for watchmen or flagmen.

**SECTION 36. RIGHTS OF WAY**

A. The Owner will furnish the Contractor with all necessary rights of way for the prosecution of the Work. The rights of way herein referred to shall be taken to mean only permission to use or pass through the location or space in any street, highway, or public or private property in which the Contractor is to prosecute the Work.

B. It is possible that all lands and rights of way may not be obtained as herein contemplated before construction begins, in which event the Contractor shall begin his Work upon such land and rights of way as the Owner may have previously acquired. Any delay in furnishing these lands by the Owner shall be deemed proper cause for adjustment in the Contract amount and/or in the time of completion.

**SECTION 37. CONTRACTOR'S RESPONSIBILITY FOR WORK**

Until final acceptance of the Work by the Owner as evidenced by the Design Professional's approval and issuance of the final payment certificate, the Work shall be in the custody and under the charge and care of the Contractor and he shall take every necessary precaution against injury or damage to any part thereof by the action of the elements or from any other cause, whether arising from execution or from the non-execution of the Work; unless otherwise provided elsewhere in the Specifications or Contract. The Contractor shall rebuild, repair, restore, and make good, without extra compensation, all injuries or damages to any portion of the Work occasioned by any of the above causes before its completion and acceptance, and shall bear the expenses thereof. In case of suspension of the Work from any cause whatever, the Contractor shall be responsible for all materials and shall properly store them, if necessary, and shall provide suitable shelter from damage and shall erect temporary structures where necessary. If, in the opinion of the Design Professional, any Work or materials shall have been damaged or injured by reason or failure on the part of the Contractor or any of his Subcontractors to so protect his Work, such materials shall be removed and replaced at the expense of the Contractor.

**SECTION 38. OWNER'S RIGHT TO OCCUPANCY**

The Owner shall have the right to use at any time, any and all portions of the Work that have reached such a stage of completion as to permit occupancy, provided such occupancy does not hamper the Contractor or prevent his efficient completion of the Contract. Such occupancy will not in any manner vitiate any part of the Contract, or be construed as constituting an acceptance of any part of the Work.

**SECTION 39. INSURANCE AND INDEMNIFICATION**

A. The Contractor shall not commence Work under the Contract until he has obtained all insurance required by these provisions.

B. That the insurance requirements, indemnity provisions, and waiver provisions for all Contractors engaged in performing Work or services for the Owner shall be as follows:

## **INDEMNITY**

The **indemnity provisions on all construction projects** shall be as follows:

"To the fullest extent permitted by law, Contractor agrees to protect, defend, indemnify, and save the Owner, its agents, officials, employees, servants, including volunteers, or any firm, company, organization, or individual, or their contractors, or sub-contractors with whom the Owner may be contracted, harmless from and against any and all claims, demands, loss or destruction of property, actions, and causes of action of every kind and character, including but not limited to claims based on negligence, strict liability, and absolute liability which may arise in favor of any person or persons on account of illness, disease, loss of property, services, wages, death or personal injuries resulting from operations contemplated by the Contract, regardless whether others may be wholly, concurrently, partially, or solely negligent, or strictly liable, or absolutely liable or otherwise at fault, and regardless of any defect in the premises, equipment, or materials, irrespective of whether same pre-existed this Agreement, except damages arising out of injuries or property claims to third parties caused by the sole negligence of Owner, its employees or agents.

Further, Contractor hereby agrees to indemnify, the Owner for all reasonable expenses including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or other dispute resolution costs incurred by or imposed upon the Owner in connection therewith for any loss, damage, injury or other casualty. Contractor further agrees to pay all reasonable expenses and attorneys' fees incurred by the Owner in establishing the right to indemnity pursuant to the provisions of this section."

**On contracts for purchase and installation and/or maintenance of equipment or purchase of materials, supplies, or services the following indemnity provision shall apply:**

"To the fullest extent permitted by law, Contractor, agrees to protect, defend, indemnify and save the Owner, its agents, officials, employees, volunteers or any firm, company, organization, or individual, or their contractors, or subcontractors with whom the Owner may be contracted harmless from and against any and all claims, demands, actions, and causes of action of every kind and character including but not limited to claims based on negligence, strict liability, and absolute liability which may arise in favor of any person or persons on account of illness, disease, loss of property, services, wages, death or personal injuries resulting from acts or omissions of Contractor, its agents, employees, assigns, or subcontractors, during the operations contemplated by the Contract.

This indemnity does not extend to the sole negligence of the Owner and the Contractor shall not be liable to the Owner for its lost profits or revenue or consequential damages except claims advanced in tort and/or claims advanced in contract due to the bad faith of Contractor. Bad faith shall mean a breach of some motive or interest of ill will on the part of the Contractor.

Further, Contractor hereby agrees to indemnify the Owner for all reasonable expenses including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or other dispute resolution costs incurred by or imposed upon the Owner in connection therewith for any such loss, damage, injury or other casualty. Contractor further agrees to pay all reasonable expenses and attorneys' fees incurred by the Owner in establishing the right to indemnity pursuant to the provisions in this agreement."

The insurance requirements shall be as follows:

ALL POLICIES AND CERTIFICATES OF INSURANCE OF THE CONTRACTORS/SUB-  
CONTRACTORS SHALL CONTAIN THE FOLLOWING CLAUSES:

A. The Contractor/Subcontractor insurers will have no right of recovery or subrogation against the Owner, it being the intention of the parties that the insurance policy so affected shall protect both parties and be the primary coverage for any and all losses covered by the below described insurance.

B. The Owner shall be named as additional insured as regards to negligence by the contractor [ISO Forms CG 20 10 (Form B) or latest applicable ISO form], or equivalent.

C. The insurance companies issuing the policy or policies shall have no recourse against the Owner for payment of any premiums or for assessments under any form of policy.

D. Any and all deductible in the below described insurance policies shall be assumed by and be for the amount of \$10,000.00, and at the sole risk of the Contractor/Subcontractor, but the deductible may be increased based upon the company's most recent financial audit if such increase is expressly approved in advance of the bid opening, in writing, by the Parish Attorney's Office with the concurrence of the Director of Risk Management.

E. Each insurance company issuing a policy or certificate as required herein shall include in such policy or certificate a clear, definite, and conspicuous statement that the policy or the certificate is issued for the Contractor/Subcontractor, who shall be named therein, and each such policy or certificate and all communications to the Owner and Contractor/Subcontractor regarding insurance required to be issued in accordance with this Contract shall include the name of the Contractor/Subcontractor, the Project number, the Proposal number, the Project name or title, and the Owner's name and address.

**INSURANCE:**

The Contractor/Subcontractor prior to commencing Work, shall provide at its own expense, proof of the following insurance coverage required by the Contract to the Owner by insurance companies authorized to do business in the State of Louisiana. Insurance is to be placed with insurers with an A.M. Best rating of no less than A:VI. This requirement will be waived for worker's compensation coverage only for those Contractors whose worker's compensation coverage is placed with companies who participate in the State of Louisiana Worker's Compensation Assigned Risk Pool or the Louisiana Worker's Compensation Corporation.

Thirty (30) days prior notice of cancellation shall be given to the Owner by registered mail, return receipt requested, on all of the required coverages provided to Jefferson Parish. All notices will name the Contractor/Subcontractor and identify the Contract number.

A. **Worker's Compensation Insurance:** As required by Louisiana State Statute exception; employer's liability shall be \$1,000,000 per occurrence when Work is to be over water and involves maritime exposures, otherwise this limit shall be no less than \$500,000 per occurrence.

B. **Commercial General Liability Insurance** with a Combined Single Limit per Occurrence for bodily injury and property damage. This insurance shall include coverage for bodily injury and property damage, and indicate on the certificate of insurance the following:

- 1) Premises - operations;
- 2) Broad form contractual liability;
- 3) Products and completed operations;



- 4) Use of contractors and sub-contractors;
- 5) Personal Injury;
- 6) Broad form property damage;
- 7) Explosion, collapse and underground [XCU] coverage.

NOTE: On the certificate of insurance, under the description of operations, the following wording is required: The aggregate loss limit applies to each project or a copy of ISO Form CG 25 03 [ed. 11-85 or latest form] shall be submitted.

**COMBINED SINGLE LIMITS [CSL] - AMOUNT OF INSURANCE REQUIRED**  
**CONTRACTS UP TO / CONTRACTS OVER**

<u>\$1,000,000</u>	<u>\$1,000,000</u>	
<b>GENERAL CONTRACTS</b>		
-EACH OCCURRENCE/ MINIMUM LIMITS	\$500,000	\$1,000,000
<b>NEW CONSTRUCTION/RENOVATIONS:</b>		
-EACH OCCURRENCE/ MINIMUM LIMITS	\$500,000*** [DEPENDING ON	\$1,000,000*** DEPENDING ON
[DEPENDING ON BUILDING VALUE]	BUILDING VALUE]	BUILDING VALUE]

\*\*\*WHILE THE MINIMUM COMBINED SINGLE LIMITS OF \$500,000 IS REQUIRED FOR ALL RENOVATIONS, THE VALUE OF THE BUILDING SHALL BE MULTIPLIED BY 10% AND THE INSURANCE REQUIREMENTS WILL BE INCREASED AT \$1,000,000 INTERVALS AND ROUNDED TO THE NEAREST MILLION.

EXAMPLE: RENOVATIONS ON A THIRTY-THREE MILLION DOLLAR BUILDING WOULD REQUIRE THREE MILLION DOLLARS, [3,000,000] MINIMUM COMBINED SINGLE LIMITS OF COVERAGE

**C. Business Automobile Liability Insurance** with a Combined Single Limit of \$500,000 per Occurrence for bodily injury and property damage, unless otherwise indicated. This insurance shall include for bodily injury and property damage the following coverage:

- 1) Any automobiles;
- 2) Owned automobiles;
- 3) Hired automobiles;
- 4) Non-owned automobiles.

D. An **umbrella policy or excess** may be used to meet minimum requirements.

**All property losses shall be payable to and adjusted with the Owner.**

**All policies of insurance shall meet the requirements of the Owner prior to the commencing of any Work. The Owner has the right but not the duty to approve all insurance policies prior to commencing of any Work.**

**Other insurance that may be required on construction and/or renovation projects is as follows:**

**E. Owner's Protective Liability:** The Contractor shall take out and maintain a policy of Owner's Protective Liability for the same limits of liability for bodily injury and property damage liability and conditions as provided hereinabove under "Comprehensive General Liability Insurance". The cost of this coverage is at the Contractor's expense.

**F. Builder's Risk Insurance:** The Contractor shall take out and maintain Builder's Risk Insurance at his expense, unless otherwise provided for in the Supplementary Conditions, to

insure both the Owner and Contractor as their interests may appear. These policies must cover for such amount of the Work as is determined by the Design Professional and shall be the all-risk type of coverage, unless otherwise provided for in the Supplementary Conditions. Although the insurance takes account of payments during the course of the construction from the Owner to the Contractor, it is understood that the Work shall be at the risk of the Contractor until accepted by the Owner as a whole. Except as otherwise provided by law, the Parish Attorney's Office with the concurrence of the Director of Risk Management is authorized to omit in whole or in part the insurance requirements of this section in connection with such contracts.

If at any time any of the said policies shall be or becomes unsatisfactory to the Owner as to form or substance; or if a company issuing any such policy shall be or become unsatisfactory to the Owner, the Contractors/Sub-contractors shall promptly obtain a new policy, submit the same to the Owner for approval and submit a certificate thereof as provided above.

Upon failure of a Contractor/Subcontractor to furnish, to deliver and maintain such insurance as above provided, the Contract, at the election of the Owner, may be forthwith declared suspended, discontinued or terminated. Failure of the Contractor/Subcontractor to take out and/or to maintain insurance shall not relieve the Contractor/Subcontractor from any liability under the Contract, nor shall the insurance requirements be construed to conflict with the obligation of the Contractors/Sub-contractors concerning indemnification.

**Waiver:** Except as otherwise provided by law, the coverage requirements of this section may be waived in whole or part on Contracts under \$100,000.00, and the Chairman of the Council is authorized to use his discretion in regard to insurance requirements for such contracts.

Except as otherwise provided by law, the Parish Attorney's Office with the concurrence of the Director of Risk Management is authorized to omit in whole or part the insurance requirements of this section in connection with such contracts.

#### **SECTION 40. CHANGES IN THE WORK**

The Design Professional shall have the right to make alterations in the line, grade, Drawings, form, or dimensions of the Work herein contemplated, provided such alterations do not change the total cost of the Project, based on the originally estimated quantities, and the unit prices bid by more than twenty-five (25%) percent, and provided further that such alterations do not change the total cost of any major item, based on the originally estimated quantities and the unit price bid by more than twenty-five (25%) percent. (A major item shall be construed to be any item, the total cost of which is equal to or greater than ten (10%) percent of the total Contract Price, computed on the basis of the Bidding Documents quantity and the Contract unit price.) Should it become necessary, for the best interest of the Owner, to make changes in excess of that herein specified, the same shall be covered by supplemental agreement either before or after the commencement of the Work and without notice to the sureties. If such alterations diminish the quantity of Work to be done, they shall not constitute a claim for damages for anticipated profits for the Work dispensed with, but when the reduction in amount is a material part of the Work contemplated, the Contractor shall be entitled to compensation as determined by the Design Professional for overhead and equipment charges which he may have incurred in expectation of the quantity of Work originally estimated, unless specifically otherwise provided herein; if the alterations increase the amount of Work, the increase shall be according to the quantity of Work actually done and at the price established for such Work under the Contract excepting where, in the opinion of the Design Professional, the Contractor is clearly entitled to extra compensation.

#### **SECTION 41. EXTRA AND/OR ADDITIONAL WORK AND CHANGES**

A. Without invalidating the Contract, the Design Professional with the approval of the

Owner may order extra Work or make changes by altering, adding to, or deducting from the Work, the Contract sum being adjusted accordingly, and the consent of the surety being first obtained when necessary or desirable. All the Work of the kind bid upon shall be paid for at the price stipulated in the Bid, and no claims for any extra Work or material shall be allowed unless the Work is ordered in writing by the Owner.

B. Extra Work for which there is no price or quantity included in the Contract shall be paid for at a unit price or lump sum to be agreed upon in advance in writing by the Design Professional and the Contractor and approved by the Owner. Where such price and sum cannot be agreed upon by both parties, or where this method of payment is impracticable, the Owner may order the Contractor to do such Work on a Force Account Basis.

1. For any equipment used that is owned by the Contractor, the Contractor shall be allowed a rental based upon the latest prevailing rental price, but not to exceed a rental price as determined by the Associated Equipment Distributors.

2. The Contractor shall also be paid the actual costs of transportation for any equipment which he owns and which he has to transport to the Project for the extra Work.

3. If the Contractor is required to rent equipment for extra Work, but not required for Contract items, he will be paid the actual cost of rental and transportation of such equipment, to which no percent shall be added. The basis upon which rental costs are to be charged shall be agreed upon in writing before the Work is started. Actual rental and transportation costs shall be obtained from receipted invoices and freight bills.

4. No compensation for equipment expenses incurred in executing extra Work, other than herein specifically mentioned, will be allowed.

C. A record of extra Work done on Force Account Basis shall be submitted to the Design Professional on the day following the execution of the Work, and no less than three copies of such record shall be made on suitable forms and signed by both the Design Professional's representative on the project and the Contractor. All bills for materials used on extra Work shall be submitted to the Design Professional by the Contractor upon certified statements to which will be attached original bills covering the costs of such materials.

D. Payment for extra Work of any kind will not be allowed unless the same has been ordered in writing by the Design Professional and the additions, deletions, and revisions in the Work or the Contract Documents embodied in a Written Amendment, a Change Order, or a Work Change Directive.

E. A change in the Contract Price or the Contract Times shall be accomplished only by a Written Agreement, a Change Order, or a Work Change Directive. Accordingly, no course of conduct or dealings between the parties, no express or implied acceptance of alterations or additions to the Work, and no claim that the Owner has been unjustly enriched by any alterations or additions to the Work shall be the basis of any claim for an increase in any amount due under the Contract Documents or a change in any time period provided for in the Contract Documents. Nor shall Contractor be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any Work performed that is not required by the Contract Documents as amended, modified, or supplemented as required in this paragraph E.

F. Agreements on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including, but not

limited to, all direct and indirect costs associated with such change and any and all adjustments to the Contract Price and the Contract Times. In the event a Change Order increases the Contract Price, the Contractor shall include the Work covered by such Change Order in applications for payments as if such Work were originally part of the Contract Documents.

## **SECTION 42. SUBSURFACE CONDITIONS**

A. Notice: If Contractor discovers or should have discovered that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed either:

1. is of such a nature as to require a change in the Contract Documents; or

2. differs materially from that shown or indicated in the Contract Documents;

or

3. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in Work of the character provided for by the Contract Documents; then Contractor shall immediately and in any event within 48 hours after Contractor's discovery and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency), notify Owner and Design Professional in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of a written order to do so.

B. Design Professional's Review: After receipt of written notice as required by paragraph A, Design Professional will promptly review the pertinent condition, determine the necessity of Owner's obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Design Professional's findings and conclusion.

C. Possible Price and Times Adjustments

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

a. such condition must meet any one or more of the categories described in paragraph A; and

b. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the relevant Unit Price provision of the Contract Documents.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:

a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner in respect to Contract Price and Contract Times by the submission of a Bid; or

b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or

c. Contractor failed to give the written notice within the time and as required by paragraph A.

3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor. However, Owner, Design Professional, and Design Professional's Consultants shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

#### **SECTION 43. UNDERGROUND FACILITIES**

A. Shown or Indicated: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Design Professional by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. Owner and Design Professional shall not be responsible for the accuracy or completeness of any such information or data; and

2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:

- a. reviewing and checking all such information and data,
- b. locating all Underground Facilities shown or indicated in the Contract Documents,
- c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction, and
- d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. Not Shown or Indicated

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, immediately and in any event within 24 hours after Contractor's discovery and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Design Professional. Design Professional will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

2. If Design Professional concludes that a change in Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not

know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim thereof. However, Owner, Design Professional, and Design Professional's Consultants shall not be liable to Contractor for any claims, costs, losses or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

#### **SECTION 44. HAZARDOUS ENVIRONMENTAL CONDITION AT SITE**

A. Reports and Drawings: Reference is made to the Supplementary Conditions for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the Design Professional in the preparation of the Contract Documents.

B. Limited Reliance by Contractor on Technical Data Authorized: Contractor may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any Claim against Owner, Design Professional or any of Design Professional's Consultants with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or

3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

C. Contractor must take all precautions to discover and locate any Hazardous Environmental Condition at the Site that may present a substantial danger to persons or property exposed thereto in connection with Work at the Site. Contractor shall be responsible for any damages arising out of or caused by a Hazardous Environmental Condition created on the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible. Within 24 hours of the time Contractor discovers a Hazardous Environmental Condition, Contractor shall follow the procedures set forth in paragraph D below.

D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency); and (iii) notify Owner and Design Professional (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Design Professional concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any.

E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered to Contractor written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to

entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a claim therefor.

F. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner, Design Professional, Design Professional's Consultants, and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or other dispute resolution costs) arising out or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this paragraph shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

G. The provisions of Sections 42 and 43 are not intended to apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

#### **SECTION 45. REMOVAL OF IMPROPER MATERIAL**

All material to be provided by the Contractor shall be new material of the first and best quality, and if materials are brought on the Work which do not conform to the Specifications, the Design Professional shall order the same to be removed forthwith, and in case of the neglect or refusal of the Contractor or those employed by him to remove such materials, to cause the same to be removed at the expense of the Contractor and to deduct the cost of such removal and all other expenses incidental thereto from the amount which may be due or may become due the Contractor.

#### **SECTION 46. TERMINATION OF THE CONTRACT**

A. If the Contractor should be adjudged a bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he should persistently or repeatedly refuse or should fail (except in cases for which extension of time is provided) to supply enough properly skilled workmen or proper materials, or if he should fail to make prompt payment to Subcontractors or for material or labor, or persistently disregards laws, ordinances, or the instructions of the Design Professional, or otherwise be guilty of a substantial violation of any provision of the Contract, then the Owner, upon the certificate of the Design Professional that sufficient cause exists to justify such action, may, without prejudice to any other right or remedy and after complying with paragraph C below, terminate the employment of the Contractor and take possession of the premises and of all materials, tools, and appliances thereon and finish the Work by whatever method he may deem expedient.

B. Failure of the Contractor to start the Work within the time limit specified herein or substantial evidence that the progress being made by the Contractor is insufficient to complete the Work within the specified time shall be grounds for termination of the Contract by the Owner.

C. For Convenience, the Owner has the right to terminate the contract upon thirty (30) days written notice to Contractor.

D. Before the Contract is terminated, the Contractor and his surety will first be notified in writing by the Owner of the conditions which make termination of the Contract imminent. Ten (10) days after this is given, if a satisfactory effort has not been made by the Contractor or his surety to correct the conditions, the Owner may declare the Contract terminated and notify the Contractor and his surety accordingly.

E. Upon receipt of notice from the Owner that the Contract has been terminated, the Contractor shall immediately discontinue all operations. The Owner may then proceed with the Work in any lawful manner that he may elect until it is finally completed.

F. The right is reserved to take possession of any machinery, implements, tools, or materials of any description that shall be found upon the Work, to account for said equipment and materials, and to use same to complete the Project. When the Work is thus finally completed, the total cost of same will be computed. If the total cost is less than the Contract Price, the difference will be paid to the Contractor or his surety.

G. In case of termination, all expenses incident to ascertaining and collecting losses under the Bond, including engineering and legal services, shall be assessed against the Bond.

#### **SECTION 47. INSPECTION**

A. Duly authorized representatives or inspectors will be assigned by the Design Professional to supervise the Work. Their duties will be to see that proper materials are used and that the Work is done in accordance with the Drawings and Specifications. The right of final condemnation or acceptance of the Work shall not be waived by the Design Professional at any time during the progress of the Work or after its completion.

B. The Contractor shall be responsible for the faithful execution of the Contract and his presence or absence is in no manner to be presumed to relieve in any degree the responsibility or obligation of the Contractor.

C. The Contractor shall notify the Design Professional as to the exact time at which he proposes to begin the Work so the Design Professional may provide for inspection of all materials, foundations, excavations, equipment, etc., and all or any part of the Work and to the preparation or manufacture of materials to be used whether within the limits of the Work or at any other place.

D. The Design Professional or his representatives shall have free access to all parts of the Work and to all places where any part of the materials to be used are procured, manufactured, or prepared. The Contractor shall furnish the Design Professional all information relating to the Work and the materials, which may be deemed necessary or pertinent, and with such samples of materials as may be required. The Contractor, at his own expense, shall supply such labor and assistance as may be necessary in the handling of materials for proper inspection or for inspection of any Work done by him.

E. The Design Professional's representative shall have authority to reject defective materials and equipment and to suspend any Work that is being improperly done, subject to the final decision of the Design Professional.

#### **SECTION 48. TESTING LABORATORY**

The Design Professional shall select and the Owner shall pay for the services of a competent testing laboratory of recognized standing for all testing required in the technical Specifications.

#### **SECTION 49. CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT**

If the Work should be stopped under an order of any court or public authority, for a period of sixty (60) days, through no act or fault of the Contractor or of anyone employed by him, or if the Owner should fail to pay the Contractor within a reasonable time any sum certified by the Design Professional, then the Contractor may, upon ten (10) days written notice to the Owner,



stop Work or terminate the Contract and recover from the Owner payment for all Work executed and any loss sustained upon any plant or materials and reasonable profit and damages.

## **SECTION 50. APPLICATION FOR PAYMENTS**

### **A. Requirements**

1. At least 20 days before the date established for each progress payment (but not more often than once a month), Contractor shall submit to Design Professional for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the Second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in Section 51.

### **B. Review of Applications**

1. Design Professional will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Design Professional's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Design Professional's recommendations of any payment requested in an Application for Payment will constitute a representation by Design Professional to Owner, based on Design Professional's observations on the Site of the executed Work as an experienced and qualified design professional and on Design Professional's review of the Application for Payment and the accompanying data and schedules, that to the best of Design Professional's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work, and to any other qualifications stated in the recommendation); and

c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Design Professional's responsibility to observe the Work.

3. By recommending any such payment Design Professional will not thereby be

deemed to have represented that: (i) inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Design Professional in the Contract Documents; or (ii) that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Design Professional's review of Contractor's Work for the purposes of recommending payments nor Design Professional's recommendation of any payment, including final payment, will impose responsibility on Design Professional to supervise, direct, or control the Work for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work. Additionally, said review or recommendation will not impose responsibility on Design Professional to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any liens.

5. Design Professional may refuse to recommend the whole or any part of any payment if, in Design Professional's opinion, it would be incorrect to make the representations to Owner referred to in paragraph B.2. Design Professional may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Design Professional's opinion to protect Owner from loss because:

a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;

b. the Contract Price has been reduced by Written Amendment or Change Orders;

c. Owner has been required to correct defective Work or complete Work in accordance with Section 28;

d. Design Professional has actual knowledge of the occurrence of any of the events enumerated in Section 46;

e. Design Professional has knowledge that Contractor has failed to pay Subcontractors or Suppliers or for labor;

f. Contractor has failed to make submittals in accordance with the accepted schedules or otherwise failed to comply with paragraphs G and H of Section 13;

g. Contractor owes or may owe Owner liquidated damages, actual damages, or both, in accordance with the provisions in the Agreement regarding delay in completion of the Work within the Contract Times.

#### C. Reduction in Payment

1. Owner may refuse to make payment of the full amount recommended by Design Professional because:

a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;

b. liens have been filed in connection with the Work, except where Contractor has delivered a specified Bond satisfactory to Owner to secure the satisfaction and discharge of such liens;

c. there are other items entitling Owner to a set-off against the amount recommended; or

d. Owner has actual knowledge of the occurrence of any of the events enumerated in paragraph B.5. or Section 46.

2. If Owner refuses to make payment of the full amount recommended by Design Professional, Owner must give Contractor immediate written notice (with a copy to Design Professional) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld.

Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor corrects to Owner's satisfaction the reasons for such action.

3. If it is subsequently determined that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due.

## **SECTION 51. PAYMENTS TO CONTRACTOR**

A. In accordance with Section 50, certificates for partial payment will be issued to the Contractor by the Design Professional monthly during the progress of the Work, in amounts equal to 90% of both the Work performed and of materials stored at the Site or other agreed place on projects having a Contract Price of less than \$500,000 and 95% of both the Work performed and of the materials stored at the Site or other agreed place on projects having a Contract Price of more than \$500,000. Partial payment certificates shall include only Work, materials, and equipment that are included in official Work orders, meeting the requirements of Drawings, Specifications, and Contract Documents.

B. After final completion and acceptance by the Design Professional of the entire Work, the Design Professional shall issue to the Contractor a certificate of payment in the sum sufficient to increase the total payments to 90% of the Contract Price on projects of less than \$500,000 and 95% of the Contract Price on projects of more than \$500,000.

C. Punch lists generated during a construction project shall include the cost estimates for the particular items of work the design professional has developed based on the mobilization, labor, materials and equipment costs of correcting each punch list item. The Owner shall withhold from payment the value of the punch list as per LSA-R.S. 38:2248 B.

D. The final payment certificate for the remaining balance due will be issued by the Design Professional no earlier than 45 days after the Contractor's filing of acceptance in the mortgage office of Jefferson Parish and a clear lien and privilege certificate dated no less than 45 days after the filing of the acceptance has been secured. Contractor may not apply for final release and payment of retainage or balance due under the Contract until, in the opinion of Design Professional, Contractor has satisfactorily completed all corrections identified during the final inspection provided for in Section 55 and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents, and other documents. The application for final payment shall be accompanied (except as previously delivered) by: (l) all documentation required under the Contract

Documents, including but not limited to the Bonds and the evidence of insurance required herein and (ii) the consent of the surety, if any, to final payment.

Payment of the final balance due, which is otherwise subject to the provisions of Section 50 with respect to withholding, will become due and payable by Owner thirty days after the date of receipt of the final application for payment certificate or the clear lien and privilege certificate dated no less than 45 days after the filing of the acceptance as required by the Laws and Regulations, whichever is later.

E. Also, before issuance of the final payment certificate, the Contractor shall deposit with the Design Professional a certificate from the Clerk of Court and ex-officio recorder of mortgages for the Parish of Jefferson to the effect that no liens have been registered against the Contract Work which have not been satisfied and discharged.

F. On public contracts of \$10,000 or less, no progress payments will be made. Payment will be by lump sum upon completion of the Work. Payment is due five days after the Work is accepted by the Owner and the Contractor provides an affidavit that all Subcontractors, material men, Suppliers, and laborers have been paid.

G. All **annual contracts** shall include a fixed maximum amount of compensation for the services to be rendered. The fixed amount of compensation stated in the Contract shall not be exceeded by a factor of more than ten percent (10%) without an amendment to the Contract authorized by the Jefferson Parish Council (Jefferson Parish Ordinance 19653 - Code of Ordinances, Section (2-933.2).

## **SECTION 52. NOTICE AND SERVICE THEREOF**

Any notice to the Contractor from the Design Professional relative to any part of the Contract shall be in writing and shall be considered delivered and the service thereof completed when said notice is posted, by registered mail, to the said Contractor at his last given address, or delivered in person to said Contractor or his authorized representatives on the Site.

## **SECTION 53. BREAKDOWN OF QUANTITY AND COST**

The Contractor shall submit to the Design Professional periodical estimates supporting partial payment requests. These periodical estimates shall show the amount of the original estimate for each item, the amount due on each item, the gross total, the retained percentage, the amount previously paid, and the net amount of payment due.

## **SECTION 54. CLEANING UP**

The Contractor shall at all times keep the premises free from accumulation of waste material and other debris caused by his employees or Work, and at the completion of the Work, he shall remove all rubbish from and about the Project Site, and all his tools, scaffolding, and surplus materials, including excess excavation, and shall leave his Work "broom clean" or its equivalent, unless more exactly specified.

## **SECTION 55. COMPLETION - FINAL INSPECTION**

When, in the opinion of the Contractor, the Work provided for and contemplated by the Contract Documents has been substantially completed and the final cleaning up performed, the Contractor shall notify the Design Professional in writing that the Work is substantially complete and request a final inspection. The Design Professional shall proceed to perform such final inspection in company with the Owner. Any and all Work found by this inspection to be defective or otherwise not in accordance with the Drawings and Specifications shall be

corrected to the entire satisfaction of the Owner and at the expense of the Contractor. If the Contract is found to be incomplete in any of its details, the Contractor shall at once remedy such defects, and payment will be withheld and formal acceptance delayed until such Work has been satisfactorily completed.

## **SECTION 56. ACCEPTANCE**

At such time that the Owner and Design Professional determine that the Work is complete and acceptable in all respects, the Owner will issue a written acceptance of the Work to the Contractor who will immediately at its own expense thereafter file same with the Clerk of Court and Ex-Officio Recorder of Mortgages for the Parish of Jefferson, and this shall be the only form of acceptance binding upon any party or parties to these operations.

## **SECTION 57. GENERAL GUARANTY**

A. Neither the final certificate of payment nor any provision in the Contract Documents nor partial or entire use of the Work by the Owner shall constitute an acceptance of Work not in accordance with the Drawings, Specifications, and Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibilities for faulty materials or workmanship. The Contractor shall remedy any defects in the Work and pay for any damage to other work resulting therefrom which shall appear within a period of one year from the date of final recorded acceptance unless a longer period is specified in the Detailed Specifications. The Owner will give notice of observed defects with reasonable promptness.

B. The Contractor agrees to assign to the Owner at the time of final completion of the Work any and all manufacturer's warranties relating to equipment, machinery, materials and labor used and incorporated in the Work and Contractor further agrees to perform the Work in such a manner to preserve any and all manufacturer's warranties.

C. Nothing herein, in the Agreement, or any of the other Contract Documents shall be construed as a waiver, modification, or alteration of the Contractor's or its surety's obligations under La. R.S. 38:2189. Nothing in this section or any other provision in the General Conditions or other Contract Documents concerning any specific time periods shall establish a period of limitation with respect to any other obligation which Contractor has under the Contract Documents. The establishment of time periods relates only to the specific obligations of Contractor to correct the Work, and has no relationship to the time within which Contractor's obligations under the Contract Documents may be sought to be enforced, nor to the time within which the proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than specifically to correct the Work.

D. All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work and termination or completion of the Agreement.

## **SECTION 58. LAWS TO BE OBSERVED**

The Contractor shall give all notices and comply with all Laws and Regulations in any manner affecting the conduct of the Work, and all such orders and decrees as exist, or may be enacted by bodies or tribunal having any jurisdiction or authority over the Work, and shall indemnify and save harmless the Owner against any claim or liability arising from, or based on, the violation of any such law, ordinance, regulation, order, or decree, whether by himself or his employees.

## **SECTION 59. SUBMISSION TO JURISDICTION OF JEFFERSON PARISH COURTS**

This Agreement shall be deemed to be a contract made under the laws of the State of Louisiana, and for all purposes shall be interpreted in its entirety in accordance with the laws of said State. The contractor hereby agrees and consents to the jurisdiction of the courts of the State of Louisiana over its person. The parties hereto agree that the sole and exclusive venue of any suit or proceeding brought pursuant to this contract shall be the 24<sup>th</sup> Judicial District Court for the Parish of Jefferson, State of Louisiana.

## **SECTION 60. INDEPENDENT CONTRACTOR**

It is understood and agreed by the Owner and the Contractor that, while in the performance of services or carrying out other obligations under the Contract, the Contractor shall be acting in the capacity of an independent contractor and not as an employee of the Owner and that nothing contained in this Agreement is intended to be or shall be construed as creating any other relationship between the Owner and the Contractor. The Owner shall not be obliged to any person, firm or corporation for any obligations of the Contractor arising from the performance of their services under the Contract. The Contractor and Owner hereby acknowledge and agree that the Owner shall not: (a) withhold federal or state income taxes; (b) withhold federal social security tax (FICA); (c) pay federal or state unemployment taxes for the account of Contractor; or (d) pay worker's compensation insurance premiums for coverage for Contractor. Contractor agrees to be responsible for and to pay all applicable federal income taxes, federal social security tax (or self-employment tax in lieu thereof) and any other applicable federal or state unemployment taxes. Contractor agrees to indemnify and hold the Owner harmless from any and all federal and/or state income tax liability, including taxes, interest and penalties, resulting from the Owner's treatment of Contractor as an independent contractor. Contractor further agrees to reimburse the Owner for any and all costs it incurs, including, but not limited to, accounting fees and legal fees, in defending itself against any such liability.

## **SECTION 61. AFFIDAVIT ATTESTING THAT PUBLIC CONTRACT NOT SECURED THROUGH EMPLOYMENT OR PAYMENT OF SOLICITOR (LSA R.S. 38:2224)**

The Contractor warrants that (1) he has not employed or retained any person, corporation, firm, association, company or other organization, either directly or indirectly, to secure the Contract, other than persons regularly employed by the Contractor and whose services were in the regular course of their duties for the Contractor and (2) that no part of the Contract Price received by Contractor was paid or will be paid to any person, corporation, firm, association, company or other organization, either directly or indirectly, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of the Contract or to solicit or secure the Contract, other than the payment of their normal compensation to persons regularly employed by the Contractor whose services in connection with the Contract were in the regular course of their duties for Contractor. For breach or violation of this warranty, the Owner shall have the right to annul the Contract without liability.

## **SECTION 62. ARBITRATION**

It is agreed and understood that the Owner does not submit to arbitration and any provisions to the contrary shall be null and void.

## **SECTION 63. INTENTION OF GENERAL CONDITIONS**

These General Conditions shall be applicable to all contracts entered into by and between the Owner and contractors for public improvements, contracts for the purchase and installation and/or maintenance of equipment, annual contracts, and contracts for materials, supplies, or services except as they may be altered or amended with the consent of the representative of the Owner, and provided for in the Supplementary Conditions of each contract. Contractor shall presume to have full knowledge of the General Conditions which shall be applicable to all contracts whether he has obtained a copy thereof or not. Copies hereof shall at all times be available from the Clerk of the Jefferson Parish Council.

## **SECTION 64. HISTORICAL OR ARCHAEOLOGICAL DEPOSITS**

If, during the course of construction, evidence of deposits of historical or archaeological interest is found, Contractor shall cease operations affecting the find and shall notify Owner, who shall notify the State Historic Preservation Officer. No further disturbance of the deposits shall ensue until Contractor has been notified by Owner that he may proceed. Owner will issue a notice to proceed only after the state official has surveyed the find and made a determination to the Owner. Compensation to Contractor, if any, for lost time or changes in construction to avoid the find, shall be determined in accordance with changed conditions or change order provisions of the Contract Documents.

## **SECTION 65. ORDER OF PRECEDENCE**

Order of Precedence. In the event of an inconsistency in the Contract Documents, the order of precedence shall be as follows:

- a) Agreement
- b) Addenda/Change Orders/Written Amendment
- c) Contractor's Bid
- d) Supplementary Conditions
- e) General Conditions
- f) Invitation to Bid
- g) Instructions to Bidders
- h) Technical Provisions
- i) Referenced Standard Specifications
- j) Drawings

With reference to the Drawings, the order of precedence is as follows: Figures govern over scaled dimensions; detail drawings over general drawings; addenda/change order drawings govern over standard drawings; standard drawings govern over shop drawings.

## **SECTION 66. DEFINITIONS**

Wherever used in these General Conditions or in the other Contract Documents the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

*Addenda*-Written or graphic instruments issued prior to the opening of Bids which clarify, correct or change the Bidding Requirements or the Contract Documents.

*Agreement*-The written contract between Owner and Contractor covering the Work to be performed; other Contract Documents are attached to the Agreement and made a part thereof as provided therein.

*Application for Payment*-The form accepted by Design Professional which is to be used by Contractor in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

*Asbestos*-Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

*Bid*-The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

*Bidding Documents*-The advertisement or invitation to Bid, instructions to bidders, the Bid form, and the proposed Contract Documents (including all Addenda issued prior to receipt of bids).

*Bidding Requirements*-The advertisement or invitation to Bid, instructions to bidders, and the Bid form.

*Bonds*-Performance and Payment bonds and other instruments or other permissible forms of security.

*Change Order*-A document recommended by Design Professional, which is signed by Contractor and Owner and authorizes an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times, subject to and in accordance with the applicable Laws and Regulations and issued on or after the Effective Date of the Agreement.

*Contract*-The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

*Contract Documents*-The Agreement, Addenda (which pertain to the Contract Documents), Contractor's Bid (including documentation accompanying the Bid and any post Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Notice to Proceed, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all Written Amendments, Change Orders, Work Change Directives, and Design Professional's written interpretations and clarifications issued pursuant to the General Conditions on or after the Effective Date of the Agreement. Shop Drawings submittals approved pursuant to the General Conditions and the reports and drawings referred to in the Bidding Requirements are not Contract Documents.

*Contract Price*-The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions in the Contract Documents in the case of Unit Price Work).

*Contract Times*-The numbers of days or the dates stated in the Agreement: (I) to achieve Substantial Completion, and (ii) to complete the Work so that it is ready for final payment as evidenced by Design Professional's written recommendation of final payment.

*Contractor*-The person, firm or corporation with whom Owner has entered into the Agreement.

*defective*-An adjective which when modifying the word Work refers to Work that is unsatisfactory, faulty or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to Design Professional's recommendation of final payment (unless responsibility for protection thereof has been assumed by Owner at Substantial Completion).



*Design Professional*-The person, firm or corporation named as such in the Agreement and which could be a professional engineer, an architect, or both.

*Design Professional's Consultant*-A person, firm or corporation having a contract with Design Professional to furnish services as Design Professional's independent professional associate or consultant with respect to the Project and who is identified as such in the Supplementary Conditions.

*Drawings*-The drawings which show the scope, extent and character of the Work to be furnished and performed by Contractor and which have been prepared or approved by Design Professional and are referred to in the Contract Documents. Shop drawings are not Drawings as so defined.

*Effective Date of the Agreement*-The date indicated in the Agreement on which it become effective, but if no such date is indicated it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

*General Requirements*-Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

*Hazardous Waste*-The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

*Laws and Regulations; Laws or Regulations*-Any and all applicable laws, rules, regulations, ordinances, codes and orders of any and all governmental bodies, agencies, authorities and courts having jurisdiction.

*Milestone*-A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

*Notice of Award*-The written notice by Owner to the apparent successful bidder stating that upon compliance by the apparent successful bidder with the conditions precedent listed therein, Owner, if Owner decides to proceed with the Work, will sign and deliver the Agreement to the successful bidder. However, the Notice of Award shall not be construed as an agreement, meeting of the minds, contract, or any other legal obligations between the Owner and Contractor. Until the Contractor receives a Notice to Proceed from the Owner, the Contractor has no right or remedy against the Owner.

*Notice to Proceed*-A written notice given by Owner to Contractor (with a copy to Design Professional) fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform Contractor's obligations and the Work under the Contract Documents.

*Owner*-The Jefferson Parish Council, acting, as the context requires, either as the governing body on behalf of itself or the Jefferson Parish agency with whom Contractor has entered into the Agreement and for which agency the Work is to be provided or as the governing authority of the political subdivision which has the legal authority and responsibility for this Contract and for which the Work is to be provided.

*PCBs*-Polychlorinated biphenyls.

*Petroleum*-Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square

inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Wastes and crude oils.

*Project*-The total construction of which the Work to be provided under the Contract Documents may be the whole, or a part as indicated elsewhere in the Contract Documents.

*Radioactive Material*-Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 *et seq.*). as amended from time to time.

*Resident Project Representative*-The authorized representative of Design Professional, Owner, or an independent contractor who may be assigned to the site or any part thereof.

*Samples*-Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

*Shop Drawings*-All drawings, diagrams, illustrations, schedules and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

*Specifications*-The portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

*Subcontractor*-An individual, firm or corporation having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.

*Substantial Completion*-The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Design Professional as evidenced by Design Professional's issued and signed definitive Certificate of Substantial Completion, the Work is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended; or if no such certificate is issued, when the Work is complete and ready for final payment as evidenced by Design Professional's written recommendation of final payment. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

*Supplementary Conditions*-The part of the Contract Documents which amends or supplements these General Conditions.

*Supplier*-A manufacturer, fabricator, supplier, distributor, materialman or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or any Subcontractor.

*Underground Facilities*-All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.

*Unit Price Work*-Work to be paid for on the basis of unit prices.

*Work*-The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials and equipment into the construction, and performing or furnishing services and furnishing documents, all as required by

the Contract Documents. With respect to contracts for the purchase and installation and/or maintenance of equipment, annual contracts, and materials, supply, and services contracts, Work shall mean and include the provision or furnishing of services equipment, materials, or supplies and the performance of or the furnishing of labor and materials for the installation or maintenance of the same, to the extent required by and in accordance with the Contract Documents.

*Work Change Directive*-A written directive to Contractor, issued on or after the Effective Date of the Agreement, recommended by Design Professional and signed by Owner, ordering an addition, deletion or revision in the Work, or responding to differing or unforeseen physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times, but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

*Written Amendment*-A written amendment of the Contract Documents, signed by Owner and Contractor on or after the Effective Date of the Agreement and normally dealing with the nonengineering or nontechnical rather than strictly construction-related aspects of the Contract Documents.

## **EXHIBIT A**

### **Duties, Responsibilities and Limitations of Authority of Resident Project Representative**

Design Professional shall furnish a Resident Project Representative ("RPR"), assistants and other field staff to assist Design Professional in observing progress and quality of the work of Contractor.

Through more extensive on-site observations of the Work in progress and field checks of materials and equipment by the RPR and assistants, Design Professional shall endeavor to provide further protection for Owner against defects and deficiencies in the work of Contractor. However, Design Professional shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work nor shall Design Professional have authority over or responsibility for the means, methods, techniques, sequences or procedures selected by Contractor, for safety precautions and programs incident to the work of Contractor, for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor's performing and furnishing the work, or responsibility of construction for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

The duties and responsibilities of the RPR are limited to those of Design Professional in Design Professional's agreement with the Owner and in the construction Contract Documents, and are further limited and described as follows:

#### **A. General**

RPR is Design Professional's agent at the Site, will act as directed by and under the supervision of Design Professional, and will confer with Design Professional regarding RPR's actions. RPR's dealings in matters pertaining to the on-site Work shall in general be with Design

Professional and Contractor, keeping Owner advised as necessary. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner with the knowledge of and under the direction of Engineer.

## **B. Duties and Responsibilities of RPR**

1. *Schedules:* Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by Contractor and consult with Design Professional concerning acceptability.

2. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

3. *Liaison:*

a. Serve as Design Professional's liaison with Contractor, working principally through Contractor's superintendent and assist in understanding the intent of Contract Documents; and assist Design Professional in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-site operations.

b. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.

4. *Shop Drawings and Samples:*

a. Record date of receipt of Shop Drawings and Samples.

b. Receive Samples which are furnished at the Site by Contractor, and notify Design Professional of availability of Samples for examination.

c. Advise Design Professional and Contractor of the commencement of any Work requiring a Shop Drawing or Sample if the submittal has not been approved by Design Professional.

5. *Review of Work, Rejection of Defective Work, Inspections and Tests:*

a. Conduct on-site observations of the Work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.

b. Report to Design Professional whenever RPR believes that any Work will not produce a completed Project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Design Professional of Work that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

c. Verify that tests, equipment and systems start-ups and operating and maintenance training are conducted in the presence of appropriate personnel, and that Contractor maintains adequate records thereof; and observe, record and report to Design Professional appropriate details relative to the test procedures and start-ups.

d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to Design Professional.

6. *Interpretation of Contract Documents:* Report to Design Professional when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Design Professional.

7. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to Design Professional. Transmit to Contractor in writing decisions as issued by Design Professional.

8. *Records:*

a. Maintain at the job Site orderly files for correspondence, reports of job conferences, Shop Drawings and Samples, reproductions of original Contract Documents including all Work Change Directives, Addenda, Change Orders, additional Drawings issued subsequent to the execution of the Contract, Design Professional's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing submittals received from and delivered to Contractor and other Project related documents.

b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the job Site, weather conditions, data relative to questions of Work Change Directives, Change Orders or changed conditions, list of job Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Design Professional.

c. Record names, addresses and telephone numbers of all Contractors, subcontractors and major suppliers of materials and equipment.

9. *Reports:*

a. Furnish to Design Professional periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.

b. Consult with Design Professional in advance of scheduled major tests, inspections or start of important phases of the Work.

c. Draft proposed Change Orders and Work Change Directives, obtaining backup material from Contractor and recommend to Design Professional Change Orders, and Work Change Directives.

d. Report immediately to Design Professional and Owner the occurrence of any accident.

10. *Payment Requests:* Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Design Professional, noting particularly the relationship of the payment requested to the schedule of values, Work completed and materials and equipment delivered at the Site but not incorporated in the Work.

11. *Certificates, Maintenance and Operation Manuals:* During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to Design Professional for review and forwarding to Owner prior to final payment for the Work.

12. *Completion:*

- a. Before Design Professional issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
- b. Observe whether Contractor has had performed inspections required by laws, rules, regulations, ordinances, codes, or orders applicable to the Work, including but not limited to those to be performed by public agencies having jurisdiction over the Work.
- c. Conduct a final inspection in the company of Design Professional, Owner and Contractor and prepare a final list of items to be completed or corrected.
- d. Observe whether all items on final list have been completed or corrected and make recommendations to Design Professional concerning acceptance and issuance of the Notice of Acceptability of the Work.

**C. Limitations on Authority of RPR**

Resident Project Representative:

1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items), unless authorized by Design Professional.
2. Shall not exceed limitations of Design Professional's authority as set forth in the Agreement or the Contract Documents.
3. Shall not undertake any of the responsibilities of Contractor, Subcontractor, Suppliers, or Contractor's superintendent.
4. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
5. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
6. Shall not accept Shop Drawing or Sample submittals from anyone other than Contractor.
7. Shall not authorize Owner to occupy the Project in whole or in part.
8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by Design Professional.

**AGREEMENT  
BETWEEN  
THE JEFFERSON PARISH COUNCIL  
AND  
(INSERT NAME OF CONTRACTOR)**

THIS AGREEMENT made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the Jefferson Parish Council, acting, as the context requires, either on its own behalf or as the governing authority of the political subdivision which has the legal authority and responsibility for this agreement and for whom the Work is being performed, hereinafter called "Owner", represented herein by its Chairman \_\_\_\_\_ and his authorized agents, duly authorized to act by virtue of Resolution No. \_\_\_\_\_ which is made a part hereof, and (INSERT NAME OF CONTRACTOR), hereinafter called "Contractor".

NOW THEREFORE, for the considerations hereinafter expressed, the parties do agree as follows:

## SCOPE OF WORK

The Chairman of the Jefferson Parish Council, \_\_\_\_\_, by virtue of Resolution No. \_\_\_\_\_, does hereby grant and confirm unto Contractor the contract in the amount of (INSERT AMOUNT IN WORDS) (\$ INSERT AMOUNT IN FIGURES), (INSERT NATURE OF WORK), as per the General Conditions, any Supplementary Conditions, the Drawings and Specifications on file in the Office of the Chief Buyer for the Parish of Jefferson under Proposal No. \_\_\_\_\_, and the Contractor's written Bid proposal dated \_\_\_\_\_, copies of which are attached hereto and made a part hereof.

The Contractor and its successors and assigns hereby agree to perform the Contract well and faithfully in strict conformity with the terms and conditions of the Contract, including the General Conditions, any Supplementary Conditions, the Drawings and Specifications, the Instructions to Bidders, and Contractor's written Bid proposal attached hereto.

## OWNER'S REPRESENTATIVE

\_\_\_\_\_ is responsible for or designed the Project which is the subject of this Agreement and is hereinafter referred to as the Design Professional, who is to act as Owner's representative, and who is to assume all duties and responsibilities and have the rights and authority assigned to the Design Professional in the General Conditions in connection with the completion of Work in accordance with the General Conditions.

## PAYMENT AND PERFORMANCE BOND

Contractor hereby firmly and truly binds himself as principal with \_\_\_\_\_, as surety, unto the Owner in the full and true sum of \$\_\_\_\_\_ for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents, according to the terms and conditions of the attached performance and/or labor and materials payment bond(s).

## CONTRACT TIMES OR TERM

For construction contracts, the Contract Times, as set forth herein, shall commence to run on \_\_\_\_\_ or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. The Work will be substantially completed within \_\_\_\_\_ days after the date when the Contract Times commence to run as provided above, and completed and ready for final acceptance in accordance with the General Conditions within \_\_\_\_\_ days after the date when the Contract Times commence to run. This time allocation allows for \_\_\_\_\_ days of lost production due to inclement weather.

For Annual Contracts, the Contract shall be effective on \_\_\_\_\_, \_\_\_\_ and shall terminate on \_\_\_\_\_, \_\_\_\_.

## LIQUIDATED DAMAGES

In accordance with Section 17 of the General Conditions, Owner and Contractor agree that as stipulated ("liquidated") damages for delay (but not as a penalty) Contractor shall pay the Owner \_\_\_\_\_ (\$ \_\_\_\_\_) for each day after the time specified for Substantial Completion until the Work is substantially complete. After Substantial Completion of the Work Contractor shall pay to the Owner \_\_\_\_\_ (\$ \_\_\_\_\_) for each day after Substantial Completion until the Work is complete and ready for final acceptance in accordance with the General Conditions.

Also, in addition to and not in lieu of the foregoing liquidated damages, Owner and Contractor agree that Owner shall be entitled to recover from Contractor or Contractor's surety additional liquidated damages in accordance with Section 17 of the General Conditions.

## PAYMENT AND TERMS

The Owner binds and obligates itself to pay to said Contractor on proper completion of the Work under this Agreement those amounts due under the terms and conditions set forth in the General Conditions attached hereto.

Notwithstanding anything to the contrary in the foregoing, Contractor acknowledges and agrees that, pursuant to the applicable Laws and Regulations, this Agreement is subject to an annual appropriation dependency requirement to the effect that the renewal and/or continuation of this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the Agreement. If the Owner fails to appropriate sufficient monies to provide for payments under this Agreement, the Agreement shall terminate on the last day of the last fiscal year for which funds were appropriated. This ground for termination is in addition to any other grounds that are identified in the General Conditions or the Supplementary Conditions.

## **CONTRACTOR'S REPRESENTATIONS**

In order to induce Owner to enter into this Agreement, the Contractor makes the following representations:

1. Contractor has visited the Site, has familiarized himself with and is satisfied as to the nature and extent of the Contract Documents, Work, locality, and as to all general, local and Site conditions and federal, state, and local Laws and Regulations, which may affect cost, progress, performance or furnishing of the Work.
2. Contractor has examined and carefully studied the Contract Documents (including any Addenda) and the other related data identified in the Bidding Documents including "technical data."
3. Contractor has carefully studied all (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Bidding Documents or in the Supplementary Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Bidding Documents or in the Supplementary Conditions. Contractor accepts the determination, if any, set forth in the Bidding Documents of the extent of the "technical data" contained in such reports and drawings upon which Contractor is entitled to rely. Contractor acknowledges that such reports and drawings are not Contract Documents and may not be complete for Contractor's purpose. Contractor acknowledges that Owner and Design Professional do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the Site. Contractor has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.
4. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
5. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.
6. Contractor has given Design Professional written notice of all conflicts, errors, ambiguities or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof by Design Professional is acceptable to Contractor, and the Contract Documents are generally sufficient to indicate and convey an understanding of all terms and conditions for performance and furnishing of the Work.

## **CONTRACTOR'S REPRESENTATIONS FOR NON-CONSTRUCTION CONTRACTS**



1. Contractor has visited the Site, has familiarized himself with and is satisfied as to the nature and extent of the Contract Documents, Work, Locality, and as to all general, local and Site conditions and federal, state, and local Laws and Regulations, which may affect cost, progress, performance or furnishing of the Work.
2. Contractor has examined and carefully studied the Contract Documents (including any Addenda) and the other related data identified in the Bidding Documents including "technical data." relating to the requirements for the services, equipment, materials or supplies.
3. Contractor is aware of the general nature of work to be performed by Owner and others that relates to the Work as indicated in the Contract Documents.
4. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.
5. Contractor has given the Owner or the Design Professional, if any, written notice of all conflicts, errors, ambiguities or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof is acceptable to Contractor, and the Contract Documents are generally sufficient to indicate and convey an understanding of all terms and conditions for performance and furnish of the Work.

#### **ASSIGNMENT**

Neither the Owner nor the Contractor shall assign, sell, transfer or otherwise convey any interest in this Agreement, including any monies due or to become due to the Contractor under the contract, without the prior written consent of the other, nor without the consent of the surety unless the surety has waived its right to notice of assignment. Unless specifically stated to the contrary in any written consent, no assignment, sale, transfer, or conveyance will act as a release or discharge of a party from any duty or responsibility under this Agreement or the General Conditions.

#### **SUBMISSION TO JURISDICTION OF JEFFERSON PARISH COURTS**

This Agreement shall be deemed to be a contract made under the laws of the State of Louisiana, and for all purposes shall be interpreted in its entirety in accordance with the laws of said State. The contractor hereby agrees and consents to the jurisdiction of the courts of the State of Louisiana over its person. The parties hereto agree that the sole and exclusive venue of any suit or proceeding brought pursuant to this contract shall be the 24<sup>th</sup> Judicial District Court for the Parish of Jefferson, State of Louisiana.

#### **ENTIRE AGREEMENT**

This Agreement and the attached documents represent the entire agreement between the Owner and Contractor and supersede all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both the Owner, through its Council Chairman, and the Contractor.

#### **SEVERABILITY CLAUSE**

Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

Thus done and signed on the date first above written, in the presence of the undersigned competent witnesses.

WITNESSES:

PARISH OF JEFFERSON

\_\_\_\_\_

JEFFERSON PARISH COUNCIL

BY:

\_\_\_\_\_, CHAIRMAN

\_\_\_\_\_

WITNESSES:

(NAME OF CONTRACTOR)

\_\_\_\_\_

BY: \_\_\_\_\_

STATE OF LOUISIANA

PARISH OF JEFFERSON

BEFORE ME, the undersigned authority, duly commissioned, qualified and sworn within and for the State and Parish aforesaid, personally came and appeared \_\_\_\_\_, who being by me duly sworn, deposed and said that \_\_\_\_\_ was one of the subscribing witnesses to the foregoing instrument; that the same was signed by \_\_\_\_\_ of \_\_\_\_\_ own free will, act and deed, for uses, purposes and considerations therein expressed in the presence of the appearer and in the presence of \_\_\_\_\_, the other subscribing witness.

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

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF LOUISIANA

PARISH OF JEFFERSON

BEFORE ME, the undersigned authority, duly commissioned, qualified and sworn within and for the State and Parish aforesaid, personally came and appeared \_\_\_\_\_, who being by me duly sworn, deposed and said that \_\_\_\_\_ was one of the subscribing witnesses to the foregoing instrument; that the same was signed by \_\_\_\_\_ of \_\_\_\_\_ own free will, act and deed, for uses, purposes and considerations therein expressed in the presence of the appearer and in the presence of \_\_\_\_\_, the other subscribing witness.

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

\_\_\_\_\_  
NOTARY PUBLIC