

SECTION 00500

AGREEMENT

THIS AGREEMENT is dated as of the 24<sup>th</sup> day of August, 2000 in the year 20   by and between St. Charles Parish, hereinafter called the OWNER, and QDS Systems, Inc. hereinafter called the CONTRACTOR.

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. WORK

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents for the above Contract: Water Tower Monitoring System in accordance with the drawings and specifications.

ARTICLE 2. ENGINEER

The Project has been designed by FM Systems, Inc., who is hereinafter called ENGINEER and who will assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3. CONTRACT TIME

- 3.1 The CONTRACTOR shall commence work under this Contract on a date to be specified by written order of the Engineer. Time of performance is of the essence of the Contract and the work shall be complete, as certified by the Engineer, within 180 calendar days, from the date of commencement of the work.
- 3.2 Liquidated Damages - OWNER and CONTRACTOR recognize that the OWNER will suffer direct financial loss if Work is not completed within the Contract times specified in paragraph 3.1 above plus any extensions thereof allowed in accordance with Article 12 of the General Conditions, and therefore, time is of the essence. They also recognize the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, CONTRACTOR agrees to forfeit and pay OWNER as liquidated damages for delay (but not as a penalty) the amount of Two Hundred Dollars (\$200.00) for each calendar day that expires after the time specified in paragraph 3.1 for final completion and ready for final acceptance until the Work is completed.

ARTICLE 4. CONTRACT PRICE

- 4.1 OWNER shall pay CONTRACTOR for performance of the Work in accordance with the Contract Documents in current funds at the lump sum or unit prices presented in the Schedule of Prices. The Contractor agrees to perform all of the work described in these documents for the sum of \$ 33,300.00.
- 4.2 The parties expressly agree that the Contract Price is a stipulated sum except with regard to the items in the Bid which are subject to unit prices.

## ARTICLE 5. PAYMENT PROCEDURES

CONTRACTOR shall submit applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

- 5.1 Progress Payments: OWNER shall make progress payments on account of the Contract price on the basis of Contractor's Applications for Payment, as recommended by ENGINEER, on or about the thirtieth (30th) day following receipt by the OWNER.

Progress payments will be based upon estimated quantities of completed Contract unit price items or upon estimated percentages of completion of the schedule of lump sum values of labor and materials incorporated into the Work on the last day of each month or other mutually agreed regular monthly date ending the progress payment period. No allowance will be made for materials received which have not been incorporated into the Work except where the Contract price is based on a lump sum bid and is not computed on the basis of unit price items.

- 5.2 Retainage: shall be withheld and payments will be made by the OWNER in the payment amount of ninety percent (90%) of the approved Payment Applications on a Contract amount of less than five hundred thousand dollars (\$500,000) and in the payment amount of ninety-five percent (95%) of the approved Payment Applications on a Contract amount of five hundred thousand dollars (\$500,000) or more.

- 5.3 Final Acceptance and Final Payment: Upon the final completion of all Work and upon completion of the lists of items identified in the punch list prepared by the Engineer, the CONTRACTOR may request a final inspection and may make a final Application for Payment as provided by paragraph 14.12 of the General Conditions, upon the OWNER's Certificate of Completion.

The Certificate of Completion is filed by the Contractor with the Recorder of Mortgages of the Parish in which the work was done. This begins the not-less-than-forty-five (45) day lien period as prescribed for public works by Louisiana Revised Statutes 38:2248.

At the expiration of the lien period it is the CONTRACTOR's responsibility to obtain a certificate from the Recorder of Mortgages that the Contract is clear of any liens or privileges, and said certificate shall be presented to the ENGINEER for final payment and release of retainage, less any such sums as may be lawfully withheld under the Contract.

## ARTICLE 6. CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

- 6.1 CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work site, locality, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance or finishing of the Work.

- 6.2 In exercising its responsibility with respect to subsurface conditions and physical conditions at the site, Contractor has or will obtain or perform at no additional cost to the Owner such additional examinations, investigations, explorations, tests, reports, studies, or similar information or data as may be required by Contractor for such purposes.

#### ARTICLE 7. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR are attached to this Agreement, made a part hereof and consist of the following:

- 7.1 This Agreement.
- 7.2 Construction Performance and Payment Bonds and Insurance Certificates.
- 7.3 Notice of Award and Notice to Proceed, Change Order and Certificate of Completion.
- 7.4 General Conditions.
- 7.5 Duties, responsibilities and limitations of authority of resident project representative.
- 7.6 Technical Specifications.
- 7.7 Drawings.
- 7.8 Contractor's Bid.
- 7.9 Documentation submitted by Contractor prior to Notice of Award, if any required.
- 7.10 Non-collusive and Non-solicitation Affidavit and authority to execute contract.
- 7.11 All applicable provisions of State and Federal law and any Modification, including all Change Orders, duly delivered after execution of Agreement.

#### ARTICLE 8. MISCELLANEOUS

- 8.1 Terms used in this Agreement which are defined in Article I of the General Conditions shall have the meanings indicated in the General Conditions, as modified in the Supplementary Conditions. Section 00700, General Conditions, pages 00700-1 through 00700-31 and Section 00800, Supplementary Conditions, pages 00800-1 through 00800-25, and Second Supplementary Conditions have been adopted by the St. Charles Parish Council as a Standard General Conditions and Supplementary Conditions for Construction Contracts. Those General Conditions and Supplementary Conditions are to referred to in the agreement and contract as "GEN.COND, CONST - 7/98 filed in MOB 682, Folio 230 filed with the St. Charles Parish Clerk of Court," and, a copy is attached for bidding purposes.

- 8.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and, unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents. Notwithstanding the foregoing, the OWNER may assign this contract to the State of Louisiana or any political subdivision, municipality, special district or authority thereof without CONTRACTOR's consent and without recourse.
- 8.3 OWNER and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 8.4 CONTRACTOR shall pay promptly, before final payment, any and all claims or liens incurred in and about this Work and shall execute a final receipt form.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on their behalf

This Agreement will be effective on August 24, 2000.

OWNER: St. Charles Parish

CONTRACTOR: QDS Systems, Inc.

By: Albert D. Laque

By: Stanley Joseph Prutz

Title: Parish President

Title: President

Signature: Albert D. Laque

Signature: Stanley Joseph Prutz

Attest: Carolyn H. Lavoie

Attest: Edna M. Utter

(SEAL)

(SEAL)

Louisiana State Contractor

License No. 32231

(If CONTRACTOR is a corporation, attach evidence of authority to sign.)