

2018-0234

**INTRODUCED BY: LARRY COCHRAN, PARISH PRESIDENT
(DEPARTMENT OF PUBLIC WORKS)**

ORDINANCE NO. 18-9-2

An ordinance to approve and authorize the execution of a professional service multi-phase project contract with DIGITAL ENGINEERING, for providing all necessary professional engineering services for a concrete-lined channel in a section of the Ormond Oaks ditch. (Parish Project Number P180802).

WHEREAS, the St. Charles Parish Council desires to design a concrete-lined channel in a section of the Ormond Oaks ditch to improve drainage and maintenance for this watercourse; and,

WHEREAS, the attached contract between the Parish and Digital Engineering describes the details of the proposed services and compensation; and,

WHEREAS, the following work phases will be authorized by individual task orders as required for the continuation of the capital improvement project.

- Phase 1: Engineering Design
- Phase 2: Bidding Phase Services
- Phase 3: Construction Phase Services
- Phase 4: Resident Inspection

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

SECTION I. That the Professional Services Contract between Digital Engineering and St. Charles Parish for services as required and assigned via Task Order by the Department Of Public Works is hereby approved and accepted.

SECTION II. That the Parish President is hereby authorized to execute said Professional Services Contract on behalf of St. Charles Parish.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS: HOGAN, WILSON, CLULEE, GIBBS, WOODRUFF, BELLOCK,
FLETCHER, FISHER-PERRIER

NAYS: NONE

ABSENT: BENEDETTO

And the ordinance was declared adopted this 17th day of September, 2018, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: _____
 SECRETARY: Michelle Dupastato
 DLVD/PARISH PRESIDENT: 9-18-2018
 APPROVED: _____ DISAPPROVED: _____

PARISH PRESIDENT: _____
 RETD/SECRETARY: 9-20-18
 AT: 2:45 pm RECD BY: (Signature)

CONTRACT FOR ENGINEERING SERVICES

THIS AGREEMENT made and effective as of the 26th day of September, 2018, by and between ST. CHARLES PARISH acting herein by and through its President, who is duly authorized to act on behalf of said Parish, hereinafter called the Owner, and Digital Engineering a corporation hereinafter called Engineer. Whereas the Owner desires to employ a professional consulting engineering firm to perform engineering services for the Ormond Oaks Concrete Channel Lining project as described in Ordinance No. 18-9-2, which is attached hereto and made a part hereof.

1.0 GENERAL

The Owner agrees to employ the Engineer, and the Engineer agrees to perform professional services required for the project described above. The project will be implemented in phases and the Engineer will conform to the requirements of the Owner and to the standards of the agencies participating with the Owner in the Project. The Engineer will coordinate all work between the Owner and all participating agencies and regulating agencies, where specified in Engineer's proposal dated August 13, 2018 (Proposal), which is attached hereto and made a part hereof.

A task order will be issued for each phase and shall specify the work to be performed, basis of payment, and time for completion. Each Task Order shall become an Addendum to and a part of this Contract in accordance with Exhibit A. The Owner may terminate the Contract or any Task Order by written notification and without cause per Section 7.0. Issuance of a Task Order will serve as the Owner's approval to begin a subsequent phase.

2.0 CHARACTER AND EXTENT OF BASIC SERVICES OF THE ENGINEER

2.1 General

2.1.1 Engineer shall provide for Owner professional engineering services in all phases of the Project to which this Agreement applies and as hereinafter provided to properly plan and execute the work on the project(s) assigned to the Engineer. These services will include but will not be limited to serving as Owner's professional engineering representative for the Project, providing professional engineering consultation and advice, and furnishing customary civil, structural, and construction engineering and inspection.

2.1.2 In general the Project consists of the design, bidding, and construction phase services phases shown in the Proposal. Implementation of each phase will not necessarily be done in the order listed. As this project progresses, phases may be deleted or added to complement achieving a successful project.

The project understanding is described in the Proposal and the attached Figure 1.

2.1.3 Services provided by the Engineer shall be performed in accordance with generally accepted professional engineering practice at the time and the place where the services are rendered.

2.1.4 Engineer shall obtain from Owner a task order authorization to proceed for each phase of the Project.

2.1.5 Engineer shall provide minutes of all meetings with St. Charles Parish to include but not limited to meetings regarding any phase of the Project, Pre-Bid Conferences, Progress Meetings, Technical review Committee Meetings, etc.

2.2 Task Order – Engineering Design: Perform the services for engineering design described in the Proposal. Submit one paper copies and one PDF file of the construction documents at 60, 90 and 100 percent complete phases to the Parish for review and comments. Based on the Parish's review comments, revise the construction documents as necessary.

- 2.3 Task Order – Bidding Phase: Perform the bidding assistance services described in the Proposal.
- 2.4 Task Order – Construction Phase Services: Perform the construction-phase services described in the Proposal.
- 2.5 Task Order – Resident Inspection: Perform the resident inspection services described in the Proposal.

3.0 SERVICES OF THE OWNER

- 3.1 Provide full information as to the requirements of the Task Order.
- 3.2 Assist the Engineer in planning and design services by placing at his disposal all existing plans, maps, field notes, statistics, computations and other data in its possession relative to existing facilities.
- 3.3 Guarantee access to and make all provisions for the Engineer and his subconsultants to enter upon public property as required for performing the services.

4.0 COMPENSATION

- 4.1 For performance of Basic Engineering as outlined in Section 2 above, the Owner shall authorize and pay the Engineer a not-to-exceed fee, based on the Standard Hourly Rate Schedule in the Proposal, and actual time and costs. The not-to-exceed fees for each phase are as follows:
 - 4.1.1 Engineering Design, Bidding and Construction Services \$80,123
 - 4.1.2 Resident Inspection \$59,000
- 4.2 If a Task Order, or any portion thereof, is not completed for any reason, the final fee for basic engineering services shall be negotiated between Owner and Engineer as per Section 7.0
- 4.3 The following documentation shall be required for payment to Engineer and shall be attached to the monthly invoice.
 - 4.3.1 A copy of the Owner’s written authorization to perform the service.
 - 4.3.2 Timesheets for all hours invoiced.
 - 4.3.3 Invoice copies, logs or other substantiation of non-salary expenses.
- 4.4 For additional engineering and other services described in Section 5, Owner shall pay Engineer for the fee negotiated at the time the work is assigned by the method stipulated in the contract amendment.

5.0 CHARACTER AND EXTENT OF ADDITIONAL ENGINEERING

- 5.1 The Owner reserves the right to request Engineer to provide Additional Engineering and/or Additional Services described in Section 5, Paragraphs 5.1.1 through 5.1.2.9 inclusive. It is mutually understood that the Owner reserves the right to reevaluate any/all interested Engineering Firms concerning Additional Engineering or Additional Services as described in Section 5.0. The Owner shall issue written authorization to the Engineer to provide Additional Engineering and/or Additional Services prior to the performance of any Additional Engineering and/or Additional Services as described in Section 5, Paragraph 5.1 through 5.1.2.9 inclusive.
 - 5.1.1 Additional Engineering. Provide Basic Design and Construction Engineering Services for a negotiated fee. The fee for Basic Engineering Services related to the design and construction for the associated work shall be negotiated at the time the work is assigned and this Contract shall be amended to include that work in accordance with Section 4.0 of this Contract.
 - 5.1.2 Additional Services. Furnish or obtain from others Additional Services of the following types. The fee for Additional Services shall be authorized at the time the work is assigned in accordance with Section 4.4 of this contract.

- 5.1.2.1 Furnish survey personnel to lay out and stake out for construction, giving line locations and grade stakes at the required intervals.
- 5.1.2.2 Prepare to and serve as an expert witness for the Owner in any litigation.
- 5.1.2.3 Act as the Owner's representative in coordination of and be present during negotiations between Owner and other Governmental Bodies, Utility Companies, Transportation Companies, etc. (Prepare necessary data for such activities and review and make recommendations on data submitted by such agencies.)
- 5.1.2.4 Services resulting from significant changes in the general scope, extent or character of the Task Order or its design including, but not limited to, changes in size, complexity, Owner's schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents or are due to any other causes beyond Engineer's control as approved by Owner.
- 5.1.2.5 Providing renderings or models for Owner's use.
- 5.1.2.6 Preparing documents in addition to those furnished under Engineering Design and Construction Documents for alternate bids requested by Owner for Contractor's work which is not executed or documents for out-of-sequence work.
- 5.1.2.7 Providing any type of property surveys or related engineering services needed for the transfer of interests in real property.
- 5.1.2.8 Assistance in connection with re-bidding or renegotiating contracts for construction, materials, equipment or services.
- 5.1.2.9 Provide technical consultation and advice on the completed project after the initial thirty (30) day start-up period.

6.0 OWNERSHIP OF DOCUMENTS

- 6.1 Documents including but not limited to plans, specifications, maps, basic survey notes, sketches, charts, computations and all other data prepared or obtained under the terms of this authorization shall become the property of the Owner and shall be made available for Owner's inspection at anytime during the Task Order and, shall be delivered to the Owner prior to termination or final completion of the Contract.
- 6.2 Engineer may retain a set of documents for its files.
- 6.3 Reuse of Documents. Any reuse of documents or materials without written authorization or adaptation by Engineer to the specific purpose intended will be at Owner's sole risk and without liability or legal exposure to Engineer or to Engineer's independent professional associates, subcontractors, and consultants.
- 6.4 No materials, to include but not limited to reports, maps or other documents produced as a result of this Contract, in whole or in part, shall be available to Engineer for copyright purposes. Any such materials produced as a result of this Contract that might be subject to copyright shall be the property of the Owner and all such rights shall belong to the Owner, and the Owner shall be sole and exclusive entity who may exercise such rights.

7.0 TERMINATION.

- 7.1 This Agreement or any Task Order may be terminated by either party upon thirty (30) days written notice.

- 7.2 The Engineer, upon receipt of such notice, shall immediately discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement.
- 7.3 The Engineer shall, as soon as practicable after receipt of notice of termination, submit a statement showing in detail the services performed and payments received under this Agreement to the date of termination.
- 7.4 The Owner shall then pay the Engineer promptly that portion of the prescribed fee to which both parties agree.
- 7.5 Failure to meet agreed delivery dates or authorized extensions are considered substantial failures.

8.0 COMPLIANCE WITH LAWS AND ORDINANCE.

- 8.1 The Engineer hereby agrees to comply with all Federal, State and Local Laws and Ordinances applicable to the work or services under this Contract.

9.0 SUCCESSORS AND ASSIGNS

- 9.1 Owner and Engineer each bind himself, his successors, executors, administrators and assigns to the other party to this Agreement, and to the successors, executors, administrators and assigns of each other party in respect to all covenants of this Agreement.

10.0 INSURANCE

- 10.1 The Engineer shall secure and maintain at his expense such insurance that will protect him and the Owner, from claims under Workmen's Compensation Acts and from claims for bodily injury, death or property damage which may arise from performance of services under this Agreement. Insurance for bodily injury or death shall be in the unencumbered amount of \$500,000.00 for one person and not less than \$1,000,000.00 for all injuries and/or deaths resulting from any one occurrence. The insurance for property damage shall be in the unencumbered amount of \$250,000.00 for each accident and not less than \$1,000,000.00 aggregate.
- 10.2 The Engineer shall also secure and maintain at his expense professional liability insurance in the unencumbered sum of \$500,000.00.
- 10.3 All certificates of insurance SHALL BE FURNISHED TO THE OWNER and shall provide that insurance shall not be cancelled without ten (10) days prior written notice to the Owner. The Owner may examine the policies.
- 10.4 Engineer shall include all subcontractors and/or subconsultants as insured under its policies or shall furnish separate certificates for each. All coverages for subcontractors and/or subconsultants shall be subject to all the requirements stated herein.
- 10.5 St Charles Parish shall be named as an additional insured on general liability insurance policies.
- 10.6 For all purposes under Louisiana law, the principals of this Contract shall be recognized as the statutory employer of all contract employees as provided in LSA-R.S. 23:1061.

11.0 GENERAL

- 11.1 The Engineer shall indemnify and save harmless the Owner against any and all claims, demands, suits or judgments for sums of money to any party for loss of life or injury or damages to person or property, growing out of, resulting from or by reason of any negligent act by the Engineer, its agent, servants or employees, while engaged upon or in connection with the services required or performed hereunder.
- 11.2 While in the performance of services or carrying out other obligations under this Agreement, the Engineer shall be acting in the capacity of the independent contractors and not as employees of the Owner. The Owner shall not be obligated to any person, firm or corporation for any obligations of the Engineer arising from the performance of their services under this

Agreement. The Engineer shall be authorized to represent the Owner with respect to services being performed, dealing with other agencies and administrations in order to perform the services under this Contract.

- 11.3** The Engineer warrants that he has not employed or retained any company or person other than a bona-fide employee working solely for the consultant, to solicit or secure this Contract, and that they have not paid or agreed to pay any company or person other than bona-fide employees working solely for the consultant, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the Owner shall have the right to annul this Contract without liability.
- 11.4** This Agreement being for the personal services of the Engineer shall not be assigned or subcontracted in whole or in part by the Engineer as to the services to be performed hereunder without the written consent of the Owner.
- 11.5** Should either party to this Agreement have to file suit in order to enforce the provisions of hereof, the losing party hereby agrees to pay the attorney's fees of the prevailing party.
- 11.6** No member of the Governing Body of the Owner and no other officer, employee or agent of the Owner who exercises any functions or responsibilities in connection with the planning and carrying out to the Program, shall have any personal financial interest, direct or indirect, in this Contract, and the Engineer shall take appropriate steps to assure compliance.
- 11.7** No member of the Governing Body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the Program, shall have any personal financial interest, direct or indirect, in this Contract, and the Engineer shall take appropriate steps to assure compliance.
- 11.8** The Engineer covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the project area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Engineer further covenants that in the performance of this Contract no person having any such interest shall be employed.

12.0 ACCESS TO SITE

- 12.1** Owner shall be fully responsible for obtaining the necessary access authorizations to allow Engineer, its agents, subcontractors and representatives, to have access to all areas of public and private property as required by Engineer in order to perform its services under this Agreement.

13.0 WARRANTY

- 13.1** Engineer warrants that it will perform its design services with the degree of skill and to the standard of care required of the engineering profession to meet all Federal, State and Local requirements
- 13.2** If Engineering Services for a task order designed by Engineer does not meet those requirements noted in 13.1 above, then to the extent that this occurs as a direct result of Engineer's failure to meet the standard of care in its design services, Engineer will indemnify the Parish for Engineer's share of the costs incurred to bring Engineering Services for project to the limitations mandated.
- 13.3** The obligations expressed in 13.1 and 13.2 in no way limits the Engineer's obligations expressed elsewhere in this Contract.

14.0 EXCLUSIVE JURISDICTION AND VENUE

14.1 For all claims arising out of or related to this agreement, ENGINEER hereby consents and yields to the exclusive jurisdiction and venue of the Twenty-Ninth Judicial District Court for the Parish of St. Charles and expressly waives any (a) pleas of jurisdiction based upon ENGINEER'S residence and (B) right of removal to Federal Court based upon diversity of citizenship.

IN WITNESS WHEREOF, the parties to these presents have hereunto caused these presents to be executed the day, month and year first above mentioned.

WITNESSES:

ST. CHARLES PARISH

Ro S. Delchance

Michelle Lypostato



Larry Cochran
Parish President

WITNESSES:

Digital Engineering

Cheryl Boudreau

[Handwritten Signature]



THOMAS P. HICKEY, P.E.
PRESIDENT

EXHIBIT A

TASK ORDER

ST.CHARLES PHASED DELIVERY TYPE CONTRACT

Is hereby attached to and is part of the
**CONTRACT FOR ENGINEERING SERVICES BETWEEN
ST. CHARLES PARISH AND DIGITAL ENGINEERING**

TASK ORDER No. _____

TASK ORDER DESCRIPTION

SCOPE OF SERVICES

COMPENSATION

Basic Services

Additional Services

If you agree with the Scope of Services, and Compensation as outlined herein, please indicate your acceptance by signing on the line provided below, dating and returning a copy to our office.

DIGITAL ENGINEERING

ST CHARLES PARISH

Clayton "Snookie" Fauchaux
Director of Public Works and Wastewater

Date

Date

EXHIBIT B

The following contract documents are to be assembled, bound using plastic comb binders, and delivered to St. Charles Parish Public Works Office. The contract document is basically the bid document with forms completed according to the instructions below.

Five (5) contract documents with the following (in sequence):

- Cover sheet prepared by engineer with stamp.
- Copy of the Table of Contents from bid book.
- Copy of the actual Advertisement for Bid showing all dates (section 00010).
- Copy of Instructions to Bidders (section 00100) and Information Available to Bidders (section 00200) from bid book.
- Copy of the completed Bid Form from selected/winning bid (section 00300) and a copy of all addendums.
- Copy of the bid opening and tabulation forms.
- Copy of the signed Bid Bond from selected/winning bid (section 00410) and its corresponding power of attorney.
- Copy of the completed Questionnaire from selected/winning bid (section 00430).
- Copy of the Schedule of Suppliers from selected/winning bid (section 00450).
- Original Non-Collusive and Non-Solicitation Affidavit signed, dated, and notarized (section 00480). All books must have an originally signed document.
- Original and current Corporate Resolution authorizing execution of contract signed and dated (section 00485). All books must have an originally signed document. The resolution on corporate stationary is acceptable as long as it follows the wording of St Charles Parish's standard form (section 00485).
- Original signed agreement (section 00500) and not dated. Document will be dated when Parish President signs agreement. Contract price must agree with Bid Form amount. Blanks in article 7 must also be completed. All books must have an originally signed document.
- Original Performance and Payment Bond (section 00610) completed, signed, dated, and sealed. The date on page 00610-1 is to be left blank and will be dated when the Parish President signs the agreement form. An original power of attorney must accompany each bond document. All books must have originally signed documents.
- Original certificate of insurance. Computer generated signature acceptable. The Certificate must name St Charles Parish as an additional insured on all general liability policies and the standard cancellation clause must read as follows:

“Should any of the above described policies be canceled or changed by restricted amendment before the expiration date thereof, the issuing Company will give thirty (30) days written notice to the below named certificate holder.
- Copy of the following documents from the bid document: Certificate of Owner's Attorney (section 00670); General Conditions, Supplementary Conditions, and Second Supplementary Conditions (sections 00700, 00800, 00801); and forms Change Order, Certificate of Substantial Completion, Notice of Award, and Notice to Proceed (sections 00806, 00808, 00810, 00812).
- Copy of all Division 01 through Division 16 Specifications.

One (1) contract document with the following:

Cover sheet prepared by engineer with stamp and marked Court File Copy.

All the above documents/forms except for General Conditions (section 00700), Supplementary Conditions (section 00800), and Second Supplementary Conditions (section 00801).