

AGREEMENT FOR ENGINEERING SERVICES

THIS AGREEMENT made and effective as of the ____ day of _____, 2019, 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 N-Y Associates, Inc., a corporation hereinafter called Engineer. Whereas the Owner desires to employ a professional consulting engineering firm to perform engineering services for the Destrehan Pump Station No. 1 Piping Improvements project as described in Ordinance No. _____, which is attached hereto and made a part hereof.

1.0 GENERAL

The proposed project is described in the attached Executive Summary from the report entitled "Installation of New Discharge Pipes at Destrehan Pump Station No. 1, Concept Study", dated January 2019, by N-Y Associates, Inc.

The Owner agrees to employ the Engineer, and the Engineer agrees to perform professional services required for the project described above. The Engineer will provide final plans where specified in Engineer's proposal dated March 29, 2019 (Proposal), which is attached hereto and made a part hereof. Final plans will be signed and sealed by a Louisiana Professional Engineer. The Engineer will provide technical specifications on the final plans and/or in a separate document.

The Engineer may proceed upon receipt of this Agreement after it has been fully executed. The Owner may terminate the Agreement by written notification and without cause per Section 7.0.

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 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 and structural engineering.

2.1.2 In general the Project consists of the design services phases shown in the Proposal. As this project progresses, phases may be added to complement achieving a successful project.

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 provide minutes of all meetings with St. Charles Parish.

2.2 Final Engineering Design: Perform the services for final engineering design. Submit one paper copies and one PDF file of the construction documents at 90-percent 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.

3.0 SERVICES OF THE OWNER

3.1 Provide full information as to the requirements of the Agreement.

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 fee is \$13,495.

- 4.2 If the Agreement 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 Agreement 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 Additional Design Services, and Bidding Assistance, 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 Agreement shall be amended to include that work in accordance with Section 4.0 of this Agreement.
 - 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 Agreement.
 - 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 Agreement 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.
- 5.1.2.10 Provide topographic surveying and/or permitting services.

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 any time during the Agreement and shall be delivered to the Owner prior to termination or final completion of the Agreement.
- 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 Agreement, in whole or in part, shall be available to Engineer for copyright purposes. Any such materials produced as a result of this Agreement 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 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 ORDINANCES.

- 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 Agreement.

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 Agreement 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 Agreement.
- 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 Agreement, 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 Agreement. For breach or violation of this warranty, the Owner shall have the right to annul this Agreement 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 Agreement, 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 Agreement, 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 Agreement 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 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 Agreement.

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

Larry Cochran
Parish President

WITNESSES:

Constantine Nicoladis
N-Y Associates, Inc.
