

Ord.

2012-0394

**INTRODUCED BY: V.J. ST. PIERRE, JR., PARISH PRESIDENT
(DEPARTMENT OF EMERGENCY PREPAREDNESS)**

ORDINANCE NO. 12-11-19

An ordinance to approve and authorize the execution of an Agreement between M S Benbow and Associates Professional Engineering Corporation and St. Charles Parish to provide telecommunications engineering services in the implementation of the EOC Communications Tower project, FEMA Port Security Grant Program #2010-PU-TO-K035.

WHEREAS, the Parish intends to construct a 250 foot free-standing EOC communications tower at 15026 River Road in Hahnville; and,

WHEREAS, it is the desire of the Parish to engage a qualified firm to provide telecommunications engineering services in the implementation of said project; and,

WHEREAS, the cost of said services is reimbursable through the FEMA Port Security Grant Program #2010-PU-TO-K035; and,

WHEREAS, the Parish has complied with Federal procurement regulations by conducting a qualifications based procurement process to select a qualified firm, including advertising a Request for Statements of Qualifications and forming a selection committee to evaluate respondents' qualifications to select the most qualified respondent; and,

WHEREAS, the results of the evaluation yielded M S Benbow and Associates Professional Engineering Corporation as the highest scoring respondent; and,

WHEREAS, it is the desire of the Parish and M S Benbow and Associates Professional Engineering Corporation to enter into an agreement for said services.

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

SECTION I. That the Agreement between M S Benbow and Associates Professional Engineering Corporation and St. Charles Parish to provide telecommunications engineering services in the implementation of the EOC Communications Tower project, FEMA Port Security Grant Program #2010-PU-TO-K035, is hereby approved and accepted.

SECTION II. That the Parish President is hereby authorized to execute said Agreement on behalf of St. Charles Parish and to act on behalf of St. Charles Parish in all matters pertaining to this project.

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

YEAS: SCHEXNAYDRE, FAUCHEUX, WILSON, BENEDETTO, HOGAN, COCHRAN, FLETCHER
NAYS: NONE
ABSENT: TASTET, NUSS

And the ordinance was declared adopted this 19th day of November, 2012, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: _____

SECRETARY: _____

DLVD/PARISH PRESIDENT: 11/20/12

APPROVED: _____ DISAPPROVED: _____

PARISH PRESIDENT: VJ St Pierre

RETD/SECRETARY: 11/21/12

AT: 8:45am RECD BY: [Signature]

**ST. CHARLES PARISH
EOC Communications Tower**

**Agreement
for
Telecommunication Engineering Services**

This Agreement for telecommunication engineering services, is made and entered into this 5th day of November, 2012, by and between St. Charles Parish, State of Louisiana (hereinafter called the OWNER), acting herein by V.J. St. Pierre, Jr., Parish President, hereunto duly authorized, and M S Benbow and Associates Professional Engineering Corporation, a corporation organized under the laws of the State of Louisiana (hereinafter called the CONSULTANT), acting herein by Leo L. Holzenthal, Jr., P.E., President, hereunto duly authorized;

WITNESSETH THAT:

WHEREAS, the OWNER intends to develop a new radio communications tower, which involves the planning, programming, and implementation of said tower in accordance with all local, state, and federal regulations; and

WHEREAS, the OWNER desires to engage the CONSULTANT to render telecommunication engineering services in the development of said tower:

NOW, THEREFORE, the parties do mutually agree as follows:

1. Employment of CONSULTANT

The OWNER hereby agrees to engage the CONSULTANT, and the CONSULTANT hereby agrees to perform the Scope of Services set forth herein under the terms and conditions of this agreement.

2. Scope of Services

The CONSULTANT shall, in a satisfactory and proper manner, perform the following services:

- a. Finalization of all St. Charles Parish Department of Homeland Security and Emergency Preparedness (SCP DHS&EP) antenna and cable loads for the structure.
- b. Assist SCP DHS&EP with finalizing antenna and cable loads for 3rd party agencies.
- c. Detailed tower foundation design with drawings stamped by a Louisiana Registered Professional Civil/Structural Engineer.
- d. Coordination with the Architect & Contractor for construction of the Communications Tower and new EOC facility.
- e. Federal Communications Commission (FCC) Tower registration and RF licensing for all SCP DHS&EP infrastructure installed on the tower.
- f. Development of Request for Proposal documents for the project. All documents must be stamped by a Louisiana Registered Professional Engineer in the discipline specific to the drawings and/or specifications.
- g. Assist SCP DHS&EP with review of the RFP responses and contract negotiations.
- h. Review of all submittal packages from the Contractor.
- i. File all government paperwork required for tower projects with applicable Federal agencies.
- j. Provide construction oversight throughout the project.
- k. Provide "As Built" drawings and final project documentation.
- l. Provide an assessment of the current radio infrastructure at the EOC.
- m. Develop recommendations and specifications for procurement of new antennas, RF cable and radio hardware as required.
- n. Develop a transition and cutover plan for all radio infrastructure located at both the current and new EOC facilities.
- o. Provide drawings and related documentation for radio infrastructure at the new EOC.
- p. Provide technical oversight during testing and commissioning of all radio infrastructure the new EOC.

Services in each of the work areas shall be performed under and at the direction of the Parish President, or his/her designee.

3. Time of Performance

The services of the CONSULTANT shall commence upon the issuance of the "Notice to Proceed" by the OWNER. Such services shall be continued in such sequence as to assure their relevance to the purposes of this agreement.

4. Access to Information

It is agreed that all information, data, reports, records, and maps as are existing, available, and necessary for carrying out the work outlined above, shall be furnished to the CONSULTANT by the OWNER. No charge will be made to the CONSULTANT for such information, and the OWNER will cooperate with the CONSULTANT in every way possible to facilitate the performance of the work described in this contract.

5. Compensation and Method of Payment

The compensation and method of payment is as follows:

DESCRIPTION	LUMP SUM FEE
Telecommunication Engineering Services	\$57,713

Consultant's compensation will be per the following schedule of payments:

Telecommunication Engineering Services Schedule of Payments		
Phase	Scope of Services	Lump Sum Fee
Project Kick-off, Finalize Tower Loads	Services outlined in Section 2, a and b of this agreement.	\$5,000
Project Planning & Develop RFP Package	Services outlined in Section 2, c and f of this agreement.	\$25,000
Review RFP Responses & Provide Recommendation for RFP Award	Services outlined in Section 2, g of this agreement.	\$10,000
Construction Management	Services outlined in Section 2, h and j of this agreement.	\$15,213
Final Documentation	Services outlined in Section 2, k of this agreement.	\$2,500
Total		\$57,713

The CONSULTANT shall submit invoices to the OWNER monthly for payment. These invoices shall summarize the percent complete of each telecommunication engineering services phase. Payment terms are net 30 days.

The OWNER agrees to compensate the CONSULTANT for additional services requested by the OWNER and rendered by the CONSULTANT'S principals and employees, as outlined in, but not limited to, Section 2, d, e, i, l, m, n, o, and p, on the basis of CONSULTANT'S Standard Hourly Rate Charges, included herein and as set forth in Exhibit A – "2012 Professional Services Fee Schedule", not to exceed \$32,000.00.

The OWNER agrees to compensate the CONSULTANT for additional services of independent professional associates and consultants employed by the CONSULTANT, for the purpose of third party tower inspection, the amount billed to the CONSULTANT not to exceed \$3,000.00. Copies of invoices from independent professional associates and consultants will be provided with the CONSULTANT'S monthly invoice(s) as services are rendered and payment due.

Charges for reproduction of drawings requested by the OWNER will be billed at the CONSULTANT'S cost times a factor of 1.15. Copies of invoices for reproduction of drawings will be provided with the CONSULTANT'S monthly invoice(s).

6. Ownership of Documents

All documents, including original drawings, estimates, specifications, field notes, and data are the property of the OWNER. The CONSULTANT may retain reproducible copies of drawings and other documents.

7. Liability

CONSULTANT shall perform its Services hereunder in accordance with prevailing local standards for the engineering field(s) in which CONSULTANT is providing services under this Agreement. CONSULTANT'S liability in the event of defect, error, omission, or failure (hereinafter "Defect" or collectively called "Defects") in any of CONSULTANT'S Services under this Agreement shall be limited to Defects arising out of its sole negligence and further limited to the correction of Defects in CONSULTANT'S original Services. In the event of any such Defect, and provided that CONSULTANT is notified by Owner in writing of such Defect within one (1) year after completion of CONSULTANT'S Services under this Agreement, and such notice specifically includes a request for re-performance, CONSULTANT shall re-perform the defective portion of the Services without any additional costs to the OWNER. However, CONSULTANT shall not be liable for any other costs, including but not limited to, replacement materials, equipment, or labor incurred by OWNER in connection with the correction of any such Defects.

8. Insurance

The CONSULTANT 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 amount of \$1,000,000.00 for one person and not less than \$2,000,000.00 for all injuries and/or deaths resulting from any one occurrence. The insurance for property damage shall be in the amount of \$1,000,000.00 for each

accident and not less than \$2,000,000.00 aggregate. The CONSULTANT shall also secure and maintain at his expense professional liability insurance in the sum of \$3,000,000.00.

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.

The CONSULTANT 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.

The OWNER shall be named as an additional insured on general liability insurance policies.

9. Records and Audits

The CONSULTANT shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the contract and such other records as may be deemed necessary by the OWNER to assure proper accounting for all projects funds, both federal and non-federal shares. These records will be made available for audit purposes to the OWNER or any authorized representative, and will be retained for five (5) years from the official date of the final closeout of the federal grant, unless permission to destroy them is granted by the OWNER.

10. Terms and Conditions

This agreement is subject to the provisions titled, "Compliance Provisions for Federally Assisted Professional Services Contracts" consisting of eleven (11) pages, attached hereto, and incorporated by reference herein.

11. Address of Notices and Communications

Mr. V.J. St. Pierre, Jr.
Parish President
St. Charles Parish
Post Office Box 302
Hahnville, LA 70057

Leo L. Holzenthal, Jr., P.E.
President
M S Benbow and Associates
Professional Engineering Corporation
2450 Severn Ave., Suite 400
Metairie, LA 70001

12. Jurisdiction

For all claims arising out of or related to this agreement, the CONSULTANT 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 pleas of jurisdiction based upon the CONSULTANT'S residence or right to federal court based upon diversity of citizenship.

13. Captions


Each paragraph of this contract has been supplied with a caption to serve only as a guide to the contents. The caption does not control the meaning of any paragraph or in any way determine its interpretation.

14. Entire Agreement

All negotiations, proposals and agreements prior to the date of this Agreement are merged herein and superseded hereby, there being no other agreements, warranties or understandings other than those written or specified herein. In the event of a conflict between this Agreement and the Proposal, the terms of this Agreement shall control.


15. Authorization

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.



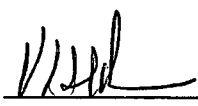
Witness

ST. CHARLES PARISH

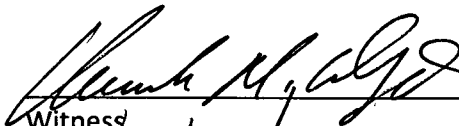


Witness

BY:




V. J. St. Pierre, Jr.
Parish President



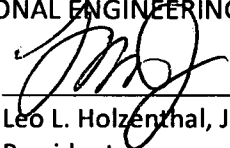
Witness

M.S.BENBOW AND ASSOCIATES
PROFESSIONAL ENGINEERING CORPORATION



Witness

BY:



Leo L. Holzerthal, Jr., P.E.
President

**Compliance Provisions for Federally Assisted
Professional Services Contracts**

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

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

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

authorized in Executive Order 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- G. The CONTRACTOR will include the provisions of the sentence immediately preceding paragraph A and the provisions of paragraphs A through G in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the FEMA may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the FEMA, the CONTRACTOR may request the United States to enter into such litigation to protect the interest of the United States.

2. CERTIFICATION OF NON-SEGREGATED FACILITIES

(Applicable to contracts and subcontracts over \$10,000)

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

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

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

3. CIVIL RIGHTS

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

4. SECTION 503 OF THE REHABILITATION ACT OF 1973 (29 USC 793)

(Applicable to contracts and subcontracts over \$10,000)

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

Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

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

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

6. **AGE DISCRIMINATION ACT OF 1975**

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

7. **CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS**
(Applicable to contracts and subcontracts exceeding \$100,000)

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

In addition to the foregoing requirements, all nonexempt CONTRACTORS and subcontractors shall furnish to the OWNER, the following:

- A. A stipulation by the CONTRACTOR or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR Part 15, as amended.
- B. Agreement by the CONTRACTOR to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- C. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.

D. Agreement by the CONTRACTOR that he will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the CONTRACTOR will take such action as the government may direct as a means of enforcing such provisions.

8. FLOOD DISASTER PROTECTION

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

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

9. ACCESS TO RECORDS - MAINTENANCE OF RECORDS

The State of Louisiana, FEMA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the CONTRACTOR which are directly pertinent to this specific contract, for the purpose of audits, examinations, and making excerpts and transcriptions. All records connected with this contract will be maintained in a central location by the unit of local government and will be maintained for a period of five (5) years from the official date of the State's final closeout of the grant.

10. INSPECTION

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

11. REPORTING REQUIREMENTS

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

12. CONFLICT OF INTEREST

- A. No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the CONTRACTOR shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.
- B. No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

13. ACTIVITIES AND CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER 11246, AS AMENDED
(Applicable to contracts and subcontracts of \$10,000 and under)

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

- A. The CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONTRACTOR shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- B. The CONTRACTOR shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause. The CONTRACTOR shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. CONTRACTORS shall incorporate foregoing requirements in all subcontracts.

14. PATENTS

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

15. COPYRIGHT

No materials, to include but not limited to reports, maps, or documents produced as a result of this contract, in whole or in part, shall be available to the CONTRACTOR for 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.

16. TERMINATION FOR CAUSE

If, through any cause, the CONTRACTOR shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the CONTRACTOR shall violate any of the covenants, agreements, or stipulations of this contract, the OWNER shall thereupon have the right to terminate this contract by giving written notice to the CONTRACTOR of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the CONTRACTOR under this contract shall, at the option of the OWNER, become the OWNER's property and

the CONTRACTOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the OWNER for damages sustained by the OWNER by virtue of any breach of the contract by the CONTRACTOR, and the OWNER may withhold any payments to the CONTRACTOR for the purpose of set-off until such time as the exact amount of damages due the OWNER from the CONTRACTOR is determined.

17. TERMINATION FOR CONVENIENCE

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

18. ENERGY EFFICIENCY

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

19. SUBCONTRACTS

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

20. DEBARMENT, SUSPENSION, AND INELIGIBILITY

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

21. BREACH OF CONTRACT TERMS

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

22. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

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

23. CHANGES

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

24. PERSONNEL

The CONTRACTOR represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of the OWNER.

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

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

25. ANTI-KICKBACK RULES

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

26. ASSIGNABILITY

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

27. INTEREST OF CONTRACTOR

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

28. POLITICAL ACTIVITY

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

29. COMPLIANCE WITH THE OFFICE OF MANAGEMENT AND BUDGET

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

30. DISCRIMINATION DUE TO BELIEFS

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

31. CONFIDENTIAL FINDINGS

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

32. LOBBYING

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

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

2012 Professional Services Fee Schedule

<i>PROFESSIONAL SERVICES</i>	<i>Hourly Rate</i>
Supervising Professional Engineer	175.00
Engineer III	130.00
Engineer II	100.00
Engineer I	85.00
Senior Project Manager	140.00
Project Manager	120.00
Project Engineer	120.00
Construction Manager	110.00
Senior Designer	90.00
Designer	80.00
Telecommunications Technician	80.00
Technical Specialist	70.00
Resident Project Representative (RPR)	70.00
Senior Field Construction Coordinator	105.00
Senior Code Inspector	100.00
Senior Construction Inspector	95.00
CADD Technician	70.00
CADD Drafter	55.00
Senior Design Coordinator	53.00
Senior Engineering Assistant	65.00
Engineering Assistant	55.00
Clerical	35.00
Job Cost Accountant	65.00

This information is intended for the use of the named individual or entity above and contains information that is privileged and confidential and may not be disclosed, or permitted to be disclosed, in any form, to other entities, or to individuals representing themselves or other entities without the written consent of M S Benbow and Associates.



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