

Ord.

2009-0379

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

ORDINANCE NO. 09-10-2

An ordinance to approve and authorize the execution of a Contract by and between the Parish of St. Charles and Barowka & Bonura Engineers and Consultants, L.L.C. for Debris Management and Monitoring Services, Parish Project No. P090903.

WHEREAS, when a disaster event occurs that produces large amounts of debris, effective coordination is required between the Parish, State and Federal Emergency Management Agency (FEMA) to ensure that debris removal operations are efficient, effective and eligible for FEMA Public Assistance grant funding; and,

WHEREAS, St. Charles Parish issued a Request for Qualifications for Debris Management and Monitoring Services which was publicly advertised and proposals were received on July 9, 2009; and,

WHEREAS, all proposals received have been reviewed and evaluated in accordance with the Award Criteria as set out in the Request for Qualifications and it is recommended that the Contract for Debris Management and Monitoring Services be awarded to Barowka & Bonura Engineers and Consultants, L.L.C.

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

SECTION I. That the Contract for Debris Management and Monitoring Services by and between the Parish of St. Charles and Barowka & Bonura Engineers and Consultants, L.L.C. is hereby approved.

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

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

YEAS: SCHEXNAYDRE, AUTHEMENT, RAYMOND, TASTET, BENEDETTO, HOGAN, COCHRAN, LAMBERT, NUSS
NAYS: NONE
ABSENT: NONE

And the ordinance was declared adopted this 5th day of October, 2009, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: [Signature]
SECRETARY: [Signature]
DLVD/PARISH PRESIDENT: October 6, 2009
APPROVED: [Signature] DISAPPROVED: _____
PARISH PRESIDENT: [Signature]
RETD/SECRETARY: October 6, 2009
AT: 3:55 p.m RECD BY: BGT

DEBRIS MANAGEMENT AND MONITORING
PROFESSIONAL SERVICES AGREEMENT
ST. CHARLES PARISH PROJECT NO. P090903

THIS AGREEMENT made and effective as of the 20th day of Oct., 2009 by and between ST. CHARLES PARISH, P. O. Box 302, 15045 River Road, Hahnville, LA 70057, acting herein by and through its Parish President, V. J. St. Pierre, Jr., who is duly authorized to act on behalf of said Parish, hereinafter called the OWNER,

AND, Barowka & Bonura Engineers and Consultants, L.L.C., 209 Canal Street, Metairie, LA 70005, acting herein by and through its Contracting Officer, hereinafter called CONTRACTOR. Whereas the OWNER desires to employ a professional consulting firm for the Debris Management and Monitoring Services, St. Charles Parish Project No. P090903 project as described in Ordinance No. 09-10-2 which is attached hereto and made a part hereof.

SECTION 1. THE PROJECT

The OWNER hereby contracts with the CONTRACTOR to perform all necessary professional debris managing and monitoring services in connection with the Project as described herein.

All work shall be under the direction of the Parish President or his designated representative, hereinafter called the Debris Manager, and all plans, specifications, etc. shall be submitted to him and all approvals and administration of this contract shall be through him.

The Owner may terminate or suspend the Contract by written notification and without cause per Section 7.0 during any phase of the project.

CONTRACTOR must provide sufficient staff to manage and monitor all operations of the debris removal contractor.

SECTION 2. SERVICES

The CONTRACTOR shall provide all basic services required to complete the project including all necessary services described herein or usually implied as a prerequisite for performance of the services whether or not specifically mentioned in this agreement, including attendance by the CONTRACTOR at project conferences and public hearings.

When requested and authorized OWNER, services provided by CONTRACTOR shall include:

The contract monitors necessary to assure all Federal Emergency Management Agency (FEMA) emergency plan and debris removal contract requirements are met by monitoring the debris removal from public access roads, rights-of-way, and in-use Parish owned/maintained public property, monitoring the debris management sites, as well as roving debris monitors, to assure that the debris management plan and contracts are effectively and efficiently implemented.

When authorized, CONTRACTOR shall provide similar services related to private property demolition and / or debris removal, too. OWNER will assign a Debris Manager. The Debris Manager will be the primary point of contact for CONTRACTOR and will resolve contract administration issues and disputes.

The debris management services shall coordinate all debris related activities between St. Charles Parish, State and Federal Agencies, and debris removal contractor. Debris related activities include, but are not limited to, performing assessments of debris, assisting with the development of and administration of grants, planning and permitting of temporary debris sites or permanent disposal facilities, construction contract administration, coordination with other agencies, verification of quantities, and any other services necessary to ensure that the debris is adequately removed and disposed of, and all local, state, and federal requirements are met by OWNER.

Within 48 hours of notification, CONTRACTOR shall provide an adequate number of professionals and qualified personnel to monitor all debris loading sites and debris management sites along with associated roving debris monitors. CONTRACTOR will be required to increase its staffing upon OWNER approval from this point depending on the severity of the debris managing event. At the discretion of the OWNER, CONTRACTOR may be required to replace any debris monitor.

CONTRACTOR shall provide all debris monitors with appropriate personal protective equipment to include, but not be limited to, eye protection, hearing protection, safety shoes, safety vests, hard hats, and wet and cold weather clothing, to comply with all federal, state, and local requirements.

CONTRACTOR shall provide debris monitors with the means to communicate (cell phone, satellite phone, radio, etc.) with their supervisor or the Debris Manager as may be necessary. Contact information will be provided.

CONTRACTOR shall provide temporary office space and temporary sanitary facilities as necessary.

Loading Site Monitoring Services

Loading Site Monitors shall issue debris load tickets for eligible debris cleared and provide documentation as required by FEMA reimbursement requirements. The Loading Site Monitors must verify that only eligible debris is being removed from designated public rights-of-way and public property within assigned debris pickup zones within the Parish.

CONTRACTOR shall, within 48 hours, be prepared to provide qualified on site personnel to monitor debris removal preparation and operations at all debris loading sites that may be provided by the Parish or at any additional locations that may be provided by the Debris removal contractor(s). Each loading site may operate on a 24 hour basis, 7 days per week depending on the situation as approved by the Parish. Exact number and location of loading sites may be determined by Debris Manager in coordination with the debris removal contractor.

Each truck driver shall be given a load ticket that validates where the material originated and that it is eligible for pickup. Load tickets will be issued in accordance with established procedures and as a minimum must contain either a street address or the nearest intersection to be valid. The volume of debris hauled will be estimated at the debris management site by the Debris Management Site Monitor.

CONTRACTOR shall provide all management, supervision, labor, transportation, mobile communications equipment, all safety equipment, digital cameras, video cameras, and other equipment necessary to initiate debris load tickets to document the removal of eligible debris from public access roads, public rights-of-way, and public property within the Parish.

CONTRACTOR must be prepared to provide a Loading Site Monitor per site, per day covered in a 24 hour period. CONTRACTOR must provide personnel with transportation to and from loading site(s), mobile communications equipment necessary to remain in contact with dispatch and supervisor(s) at all times, and all logistic support.

All Loading Site Monitors shall: Speak English, be a minimum of eighteen (18) years of age and have a valid driver's license issued in the United States;

1. Be capable of working in an outside environment and be physically able to execute his/her duties as required;
2. Have experience in at a minimum one (1) of the following:
 - a. Entry level engineer in solid waste site operations
 - b. Construction Inspection and Supervision
 - c. Previous monitoring or inspection experience
 - d. Other experience allowed only when approved by the Debris Manager.

Debris Management and Disposal Site Monitoring Services

Debris Management and Disposal Site Monitors shall complete the load ticket and estimate volumes that have been transported to the debris management and/or disposal site(s) for processing or storage, and/or disposal. CONTRACTOR must provide Debris Management and Disposal Site Monitors with transportation to and from the debris management sites and mobile communications equipment necessary to remain in contact with dispatch and supervisor(s) at all times, logistic support, and all safety equipment, digital cameras, video cameras, and other equipment necessary to safely perform the site monitoring functions.

All Debris Management and Disposal Site Monitors shall:

1. Speak English, be a minimum of eighteen (18) years of age and have a valid driver's license issued in the United States;
2. Be capable of working in an outside environment and be physically able to execute his/her duties as required;
3. Have experience in at a minimum one (1) of the following:
 - a. Entry level engineer in solid waste site operations
 - b. Construction Inspection and Supervision
 - c. Previous monitoring or inspection experience
 - d. Other experience allowed only when approved by the Debris Manager.

Debris Management Consulting Services

CONTRACTOR shall provide the services of an experienced professional to assist the Parish in the operations and coordination of all activities associated with the Debris Management. The qualified individual (Project Manager) must have direct debris management experience including the management of debris removal operations, the oversight of temporary debris storage and reduction sites, debris recycling and disposal. Emphasis on management and coordination of post debris causing event recovery and FEMA reimbursement guidelines are required.

CONTRACTOR shall report to the Debris Manager or the Debris Manager's designee. CONTRACTOR shall perform work as assigned which may include, but not be limited to, review of plans and procedures, drafting task orders, work plans and reports, audit of Debris Removal Contractor efforts and operations, disposal site location with right of-entry, hold harmless, environmental review, and other documentation, develop information for public dissemination on debris removal, reduction, and disposal, and other duties as assigned.

CONTRACTOR shall be available at all times to the Debris Manager. The Debris Manager will establish the service requirements and length of time those services are needed based on the needs of the Parish.

CONTRACTOR shall provide adequate supervision (Monitor Supervisor) of its Debris Monitors to ensure that the Debris Monitors perform their duties properly and efficiently.

The Monitor Supervisor(s) shall be responsible for review of all documentation prepared by the Debris Monitors, and assist the Debris Monitors in making eligibility determinations, when necessary.

CONTRACTOR shall measure and certify capacity of the debris removal contractor's hauling vehicles and maintain a database of the vehicles for the project record.

CONTRACTOR shall provide adequate support staff to assist the Project Manager in managing the project and coordinating the work with the Parish and other agencies.

Support staff includes:

1. Project Coordinator (must be experienced in debris removal activities, FEMA eligibility criteria, reviewing of debris contractor invoices and submittal for reimbursement, and coordinating debris removal work with federal and state agencies)
2. Clerical
3. Geographic Information System Specialist

CONTRACTOR shall submit daily reports as required by the Parish. Reports may include amount of debris collected, locations of operations, amount of debris disposed, overall project status, and problems that may affect progress.

CONTRACTOR shall provide the following financial reporting:

1. Electronic listing of all load tickets in a format determined by the Parish
2. Original load tickets
3. Truck measurement certificates as related to the load tickets
4. Monitor Supervisor's log of load ticket distribution

SECTION 3. DOCUMENTS

The CONTRACTOR shall furnish to the Debris Manager sufficient sets of drawings, specifications and contract documents for checking and approval at each review stage of the PROJECT.

The OWNER shall furnish without charge all standard plans and specifications and any other information which the OWNER now has in its files which may be of use to the CONTRACTOR.

The CONTRACTOR shall use the most current version of the standard forms of documents adopted and specified by the OWNER in the performance of the Design Phase of this contract. Construction contract related documents (Agreement General Conditions, etc.) will not be part of the design documents.

OWNERSHIP OF DOCUMENTS,

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 Project and, shall be delivered to the OWNER prior to termination or final completion of the Contract.
2. CONTRACTOR may retain a set of documents for its files.
 3. Reuse of Documents. Any reuse of documents or materials without written authorization or adaptation by CONTRACTOR to the specific purpose intended will be at OWNER'S sole risk and without liability or legal exposure to CONTRACTOR or to CONTRACTOR'S independent professional associates, subcontractors, and consultants.
 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 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, and the OWNER shall be sole and exclusive entity who may exercise such rights

SECTION 4. SUPPLEMENTARY SERVICES:

The CONTRACTOR shall provide, when approved in writing by the Debris Manager, supplementary services not included in the basic services.

Such supplementary services shall include the following:

1. Soils investigations.
2. Laboratory inspection of materials and equipment.
3. Right-of-way, easement and property acquisition surveys, plats, maps and documents.
4. Any major revisions, for which the CONTRACTOR is not responsible, that are authorized by the OWNER after the completion and approval of either the preliminary or final plans and specifications.
5. Services concerning replacement of any work damaged by fire or other causes during construction.
6. Services made necessary by the default of the contractor in the performance of the construction contract.
7. Serving as an expert witness in connection with court proceedings.
8. Traffic Engineering.
9. Topographic Survey.

10. Preparation of Environmental Assessment documents and/or Environmental Permits.

The compensation to the CONTRACTOR for the above supplemental services, when performed by the CONTRACTOR'S forces, shall be in the form of a lump sum which is mutually agreeable to the OWNER and to the CONTRACTOR.

If the parties hereto are unable to agree on the basis of such additional work, the CONTRACTOR shall be paid on the basis of their certified and itemized salary costs plus a fee to cover overhead costs and profit in accordance with the rate schedule established by the Louisiana Department of Transportation and Development at the beginning of each calendar year. In each case, the work is to be initiated only upon receipt of a written work order from the Debris Manager which must include the scope of work and a maximum fee that can be charged.

All invoices submitted covering services rendered on an hourly basis shall include time sheets showing actual hours worked by each individual, their classifications and a brief description of the work performed. All other supplemental services shall be invoiced monthly according to percentage of work completed.

Payments to the CONTRACTOR for Supplementary Services shall be made monthly upon presentation of the invoice for work performed during the preceding month.

SECTION 5. NOTICE TO PROCEED:

The OWNER through the Debris Manager shall notify the CONTRACTOR in writing to undertake the services stated in 24 hours days after receipt of such notification.

If the Debris Manager desires to divide the Project into various parts, a Notice to Proceed shall be issued for each part, and the Debris Manager and the CONTRACTOR shall mutually agree upon the period of time within which services for each part of the Project shall be performed.

The CONTRACTOR will be given time extensions for delays beyond their control or for those caused by tardy approvals of work in progress by various official agencies, but no additional compensation shall be allowed for such delays.

SECTION 6. PAYMENTS:

For all services outlined in SECTION 2, the CONTRACTOR payment will be based on an hourly rate in accordance with the following subsection. For supplemental services listed in SECTION 4 and any other services required for this project, the OWNER will determine if payment to the CONTRACTOR will be on an hourly rate or lump sum basis for each supplemental service. The maximum cumulative fee that can be charged for all work on this contract shall not exceed \$350,000.00 unless increased by contract amendment approved by the OWNER. Reimbursement for mileage shall be at the current federal rate.

PAYMENT BASED ON HOURLY RATES

For services outlined in Section 2, the OWNER shall pay the CONTRACTOR on the basis of their certified and itemized salary costs plus a fee to cover overhead costs and profit in accordance with the rate schedule as follows:

<u>Job Classification</u>	<u>Hourly Rate</u>
Project Manager	130.00
Project Coordinator	85.00
Monitor Supervisor	70.00
Debris Monitor	55.00
GIS Specialist	75.00
Clerical	45.00

All invoices submitted covering services rendered on an hourly basis shall include time sheets showing actual hours worked by each individual, their classification and a brief description of the work performed. Payment to the CONTRACTOR shall become due and payable on a monthly basis for hourly services rendered.

If the OWNER has an active annual contract for Supplementary Services such as Surveying, Geotechnical, etc., the OWNER reserves the right to use that contract. In the event that the OWNER uses an annual contract as specified above, the amount paid for the Supplementary Service will not be considered a part of the annual cap for this contract. In addition, the CONTRACTOR will not be eligible for a 10% increase for management of the Supplementary Service. The OWNER assumes all liability arising from the use of any such separate contract and agrees to hold harmless the CONTRACTOR from any claims, lawsuits or damages that arise or are attributable to the CONTRACTOR'S use of the products derived from the OWNER's separate contracts.

SECTION 7. TERMINATION OR SUSPENSION:

1. By mutual agreement and consent, this AGREEMENT shall automatically terminate on December 31, 2011.
2. This contract may be terminated or suspended by OWNER by written notification and without cause during any phase of the project.
3. Should OWNER suspend the work, but not terminate the contract, fourteen (14) days written notice shall be given by the Debris Manager to that effect, and the work may be reinstated and resumed in full force and effect upon receipt from the Debris Manager of fourteen (14) days notice in writing to that effect. CONTRACTOR shall receive no additional compensation.
4. This contract may be terminated by either party upon thirty (30) days written notice.

5. OWNER may terminate as a consequence of the failure of the CONTRACTOR to comply with the terms, progress or quality of work in a satisfactory manner, proper allowance being made for circumstances beyond the control of the CONTRACTOR.
6. The CONTRACTOR, upon receipt of such notice, shall immediately discontinue all services in connection with the performance of this contract and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement.
7. The CONTRACTOR 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 contract to the date of termination.
8. OWNER shall then pay the CONTRACTOR promptly that portion of the prescribed fee to which both parties agree.
9. Upon termination, under 5 above, the CONTRACTOR shall deliver to the OWNER all original documents, notes, drawings, tracings, computer files, and files except the CONTRACTOR'S personal and administrative files.

SECTION 8 INSURANCE

The CONTRACTOR shall secure and maintain at his expense such insurance that will protect him, and the OWNER, from claims under the Workmen's Compensation Acts and from claims for bodily injury, death or property damage which may arise from the performance of services under this agreement. All certificates of insurance shall be furnished to the OWNER and shall provide that insurance shall not be canceled without thirty (30) days prior notice of cancellation given to the Parish of St. Charles, in writing, on all of the required coverage provided to St. Charles Parish. All notices will name the CONTRACTOR, and identify the Council Ordinance approving the terms of the contract. The OWNER may examine the policies.

A. ALL POLICIES AND CERTIFICATES OF INSURANCE OF THE CONTRACTOR SHALL CONTAIN THE FOLLOWING CLAUSES:

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

2. The OWNER shall be named as additional insured as regards to automobile and general liability with respect to negligence by the CONTRACTOR [ISO Forms CG 20 10 (Form B)].
 3. The insurance companies issuing the policy or policies shall have no recourse against the OWNER for payment of any premiums or for assessments under any form of policy.
 4. Any and all deductible in the below described insurance policies shall be assumed by and be at the sole risk of the CONTRACTOR.
- B. Prior to the execution of this agreement the CONTRACTOR, shall provide at its own expense, proof of the following insurance coverage required by the contract to the OWNER by insurance companies authorized to do business in the State of Louisiana. Insurance is to be placed with insurers with an A.M. Best rating of no less than A: VI. This requirement will be waived for worker's compensation coverage only for those CONTRACTORS whose worker's compensation coverage is placed with companies who participate in the State of Louisiana Worker's Compensation Assigned Risk Pool or the Louisiana Worker's Compensation Corporation.

1. Worker's Compensation Insurance:

As required by Louisiana State Statute exception; employer's liability shall be at least \$1,000,000 per occurrence when work is to be over water and involves maritime exposures, otherwise this limit shall be no less than \$500,000 per occurrence.

2. Commercial General Liability Insurance with a Combined Single Limit of at least \$500,000.00 per Occurrence for bodily injury and property damage. This insurance shall include coverage for bodily injury and property damage, and indicate on the certificate of insurance the following:

- a) Premises - operations;
- b) Broad form contractual liability;
- c) Products and completed operations;
- d) Use of contractors and sub-contractors;
- e) Personal Injury;
- f) Broad form property damage;
- g) Explosion, collapse and underground [XCU] coverage.

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

85 or latest form] shall be submitted."

3. Business Automobile Liability Insurance with a Combined Single Limit of \$500,000 per Occurrence for bodily injury and property damage, unless otherwise indicated. This insurance shall include for bodily injury and property damage the following coverage:
 - a) Any automobiles;
 - b) Owned automobiles;
 - c) Hired automobiles;
 - d) Non-owned automobiles;
 - e) Uninsured motorist.
4. An umbrella policy or excess may be used to meet minimum requirements.
5. Owner's Protective Liability: The CONTRACTOR shall take out and maintain a policy of Owner's Protective Liability for the same limits of liability for bodily injury and property damage liability and conditions as provided herein above under "Comprehensive General Liability Insurance". The cost of this coverage is at the CONTRACTOR'S expense.
6. The CONTRACTOR shall also secure and maintain at his expense professional liability insurance in the sum of at least One Million Dollars (\$1,000,000.00).

All policies of insurance shall meet the requirements of the OWNER prior to the commencing of any work. The OWNER has the right but not the duty to approve all insurance policies prior to commencing of any work. If at any time any of the said policies shall be or becomes unsatisfactory to the OWNER as to form or substance; or if a company issuing any such policy shall be or become unsatisfactory to the OWNER, the CONTRACTOR shall promptly obtain a new policy, submit the same to OWNER for approval and submit a certificate thereof as provided above.

Upon failure of the CONTRACTOR to furnish, to deliver and maintain such insurance as above provided, this contract, at the election of the OWNER, may be forthwith declared suspended, discontinued or terminated. Failure of the CONTRACTOR to take out and/or to maintain insurance shall not relieve the CONTRACTOR from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligation of the CONTRACTOR concerning indemnification.

SECTION 9. GENERAL

The CONTRACTOR shall, at all times during the term of this contract, maintain a valid Louisiana Engineering License.

The professional and technical adequacy and accuracy of designs, drawings, specifications, documents, and other work products furnished under this AGREEMENT will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession. Where OWNER must have work done by change order or addition resulting from an error or omission by the CONTRACTOR, CONTRACTOR shall provide, at no costs to OWNER, all professional services attributable to the change order. This is in addition to OWNER'S right to recover from CONTRACTOR damages for CONTRACTOR'S errors and omissions.

The CONTRACTOR shall indemnify and hold harmless the OWNER against any and all claims, demands, suits, costs, liabilities or judgments for sums of money, and fines or penalties asserted by any party, firm or organization for loss of life or injury or damages to person or property, growing out of, resulting from, or by reason of any negligent acts, errors, and/or omissions, by the CONTRACTOR, its agents, servants or employees, while engaged upon or in connection with the services required to be performed by the CONTRACTOR under this AGREEMENT.

Further, CONTRACTOR hereby agrees to indemnify the OWNER for all reasonable expenses and attorneys' fees incurred by or imposed upon the OWNER in connection therewith for any loss, damage, injury or other casualty pursuant to this section. CONTRACTOR further agrees to pay all reasonable expenses and attorneys' fees incurred by the OWNER in establishing the right to indemnity pursuant to the provisions of this section.

Should the OWNER direct the CONTRACTOR to perform work associated with private property debris removal, OWNER shall indemnify and hold harmless the CONTRACTOR against any and all claims, demands, suits, costs, liabilities or judgments for sums of money, and fines or penalties asserted by any party, firm or organization for loss of life or injury or damages to person or property, growing out of, resulting from, or by any reason whatsoever, while engaged upon or in connection with the services required to be performed by the CONTRACTOR under this AGREEMENT relative to work on private property.

While in the performance of services or carrying out other obligations under this agreement, the CONTRACTOR shall be acting in the capacity of independent contractors and not as employees of OWNER. The OWNER shall not be obliged to any person, firm or corporation for any obligations of the CONTRACTOR arising from the performance of their services under this agreement. The CONTRACTOR shall be authorized to represent the OWNER with respect to services being performed, dealings with other agencies, and administration and control of construction contracts as intended by the provisions of SECTION 2 hereof.

It is understood and agreed by the parties hereto that the CONTRACTOR is entering into this Agreement in the capacity of an independent contractor and that

nothing contained in the Agreement is intended to be construed as creating any other relationship between OWNER and CONTRACTOR. The parties hereto acknowledge and agree that OWNER shall not: (a) withhold federal or state income taxes; (b) withhold federal social security tax (FICA); (c) pay federal or state unemployment taxes for the account of the CONTRACTOR; or (d) pay workman's compensation premiums for coverage for CONTRACTOR. CONTRACTOR agrees to be responsible for and to pay all applicable federal income taxes, federal social security tax (or self-employment tax in lieu thereof) and any other applicable federal or state unemployment taxes. CONTRACTOR agrees to indemnify and hold OWNER harmless for any and all federal and/or state income tax liability, including taxes, interest and penalties, resulting from OWNER's treatment of CONTRACTOR as independent contractor. CONTRACTOR further agrees to reimburse OWNER for any and all costs it incurs, including, but not limited to, accounting fees and legal fees, in defending itself against any such liability.

The CONTRACTOR 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.

This agreement shall be binding upon the successors and assigns for the parties hereto. This agreement being for the personal services of the CONTRACTOR, shall not be assigned or subcontracted in whole or in part by the CONTRACTOR as to the services to be performed hereunder without the written consent of the OWNER.

This agreement represents the entire Agreement between OWNER and CONTRACTOR. This Agreement may be amended only by authority of the OWNER and in writing, signed by both Debris Manager and CONTRACTOR.

EXCLUSIVE JURISDICTION AND VENUE

For all claims arising out of or related to this agreement, CONTRACTOR 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 CONTRACTOR'S residence and (B) right of removal to Federal Court based upon diversity of citizenship.

In the event that the CONTRACTOR modified the OWNER'S contract documents without the express prior written consent of the OWNER, whether such modification is made by the Supplementary Conditions, the Specifications, Addenda, Written Amendments, Change Orders, or in any manner, the CONTRACTOR shall indemnify and hold harmless the OWNER from

any claims, lawsuits, or damages that arise out of or are attributable to the modification. In particular, this shall include, but not be limited to, modifications to any contract warranties; liquidated damages; payment terms; substantial or final completion; subsurface conditions; drawing requirements; "or-equal" materials, insurance; notice to proceed; change orders; contract amendments; obligations, duties, or responsibilities of the CONTRACTOR, etc. This indemnification and hold harmless obligation shall include not only the damages suffered by the OWNER but also all reasonable expenses including, but not limited to, any and all litigation or other dispute resolution costs and any and all professional fees incurred by the OWNER as a result of the CONTRACTOR's deviation from the OWNER's contract documents.

SECTION. 10:

This agreement is executed in six (6) originals. IN TESTIMONY WHEREOF, they have executed this agreement, the day and year first above written.

WITNESSES

PARISH OF ST. CHARLES
STATE OF LOUISIANA

Nicole Breau

BY V. J. St. Pierre, Jr.
V. J. St. Pierre, Jr., Parish President
St. Charles Parish, Louisiana

Valerie Berthelot

CONTRACTOR
Barowka & Bonura Engineers and
Consultants, L.L.C.

Timothy J. Vial

BY Jeffrey Bonura
Jeffrey Bonura

Arsen Wilson