

ORD.

**2004-0441**

**INTRODUCED BY: ALBERT D. LAQUE, PARISH PRESIDENT  
(DEPARTMENT OF WASTEWATER)**

**ORDINANCE NO. 04-12-1**

An ordinance to approve and authorize the execution of a contract with Insituform Technologies, Inc., to perform preventative maintenance of existing sanitary and storm sewers including service laterals at various locations in the Parish sewer system.

**WHEREAS,** Jefferson Parish has accepted a bid proposal from Insituform Technologies, Inc., to perform preventative maintenance of existing sanitary and storm sewers including service laterals at various locations in the Parish sewer system; and,

**WHEREAS,** Insituform Technologies, Inc. has provided to St. Charles Parish its contract with Jefferson Parish and has agreed to furnish all labor, materials, tools, equipment, etc., and to perform all work required in accordance with the specifications, terms and conditions for those stipulated in the Jefferson Parish bid package; and,

**WHEREAS,** the selection of Insituform Technologies, Inc., to perform sewer rehabilitation through a cooperative purchasing agreement (joint action L.A.R.S. 33:1321) with Jefferson Parish will expedite the implementation of repairs that will minimize infiltration and inflow in parish sewers, and allow the Parish to take advantage of the bid pricing.

**THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:**

**SECTION I.** That the contract by and between St. Charles Parish and Insituform Technologies, Inc. is hereby approved.

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

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

- YEAS: MARINO, FAUCHEUX, HILAIRE, RAMCHANDRAN, WALLS, BLACK, DUHE
- NAYS: NONE
- ABSENT: FABRE, MINNICH

And the ordinance was declared adopted this 6th day of December, 2004, to become effective five (5) days after publication in the Official Journal.

Contract with Insituform Technologies Inc.

CHAIRMAN: Lance Marmon  
 SECRETARY: Barbara Jacob Fisher  
 DLVD/PARISH PRESIDENT: December 7, 2004  
 APPROVED:  DISAPPROVED:

PARISH PRESIDENT: Albert D. Laque  
 RETD/SECRETARY: December 7, 2004  
 AT: 12:00 pm RECD BY: BJD

**STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND CONTRACTOR**

**THIS AGREEMENT** is by and between St. Charles Parish (hereinafter called OWNER) and Insituform Technologies, Inc. (hereinafter called CONTRACTOR).

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

**ARTICLE 1 – WORK**

1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Preventative Maintenance of Existing Sanitary and Storm Sewers including Laterals at various locations in St. Charles Parish

**ARTICLE 2 – THE PROJECT**

2.01 The Project for which Work under the Contract Documents may be the whole or only a part is generally described as follows:

Two-Year Preventative Maintenance Contract  
Effective October 25, 2004  
Expiring October 25, 2006

**ARTICLE 3 – ENGINEER**

3.01 The Project has been designed by Jefferson Parish and St. Charles Parish acting jointly who is hereinafter called ENGINEER and who is to act as OWNER'S representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

## ARTICLE 4 – CONTRACT TIMES

### 4.01 *Time of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

### 4.02 *Days to Achieve Substantial Completion and Final Payment*

- A. The Work will be substantially completed within two years after the date when the Contract Times commence to run as provided in the General Conditions, and completed and ready for final payment in accordance with the General Conditions within two years after the date when the Contract Times commence to run.

### 4.03 *Liquidated Damages*

- A. CONTRACTOR and OWNER recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 4.02 above, plus any extensions thereof allowed in accordance with the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER N/A for each day that expires after the time specified in paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER N/A for each day that expires after the time specified in paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

## ARTICLE 5 – CONTRACT PRICE

5.01 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraphs 5.01A, below:

- A. For all Work, at the prices stated in CONTRACTOR'S Bid, attached hereto as an exhibit.

As provided in the general conditions, estimated quantities are not guaranteed, and determinations of actual quantities, classifications, and work directives to install all units are to be made by Engineer as provided in the general conditions.

## ARTICLE 6 – PAYMENT PROCEDURES

### 6.01 *Submittal and Processing of Payments*

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

### 6.02 *Progress Payments; Retainage*

A. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment on or about the 1<sup>st</sup> day of each month during performance of the Work as provided in paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. OWNER shall retain the following percentages of each progress payment until payment is due under the terms and conditions governing Substantial Completion or final payment:

<b>Contract Amount</b>	<b>Retainage</b>
\$0 - \$1,000,000	10%
\$1,000,000 or Greater	5%

### 6.03 *Final Payment*

A. Upon final completion and acceptance of the Work in accordance with the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided.

## ARTICLE 7 – INTEREST

7.01 All moneys not paid when due as provided in the General Conditions shall bear interest at the rate of 0% per annum.

## ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS

- 8.01 In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:
- A. CONTRACTOR has visited the Site, has familiarized himself with and is satisfied as to the nature and extent of the Contract Documents, Work, Locality, and as to all general, local, and Site Conditions and federal, state, and local Laws and Regulations, which may affect cost, progress, performance or furnishing of the Work.
  - B. CONTRACTOR has examined and carefully studied the Contract Documents (including all Addenda) and the other related data identified in the Bidding Documents including “technical data”, relating to the requirements for the services, equipment, materials, or supplies.
  - C. CONTRACTOR is aware of the general nature of the work to be performed by Owner and others that relates to the Work as indicated in the Contract Documents.
  - D. CONTRACTOR has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.
  - E. CONTRACTOR has given the Owner or the Design Professional, if any, written notice of all conflicts, errors, ambiguities or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof is acceptable to Contractor, and the Contract Documents are generally sufficient to indicate and convey an understanding of all terms and conditions for performance and furnish of the Work.

## ARTICLE 9 - CONTRACT DOCUMENTS

### 9.01 *Contents*

- A. The Contract Documents consist of the following:
  - 1. This Agreement (pages 1 to 7, inclusive)
  - 2. Performance Bond
  - 3. Payment Bond
  - 4. Other Bonds
  - 5. General Conditions (pages 1 to 7, inclusive)
  - 6. Supplementary Conditions (pages N/A to N/A, inclusive)
  - 7. Specifications as listed in the table of contents of the Project Manual
  - 8. Drawings consisting of a cover sheet and sheets numbered N/A through N/A, inclusive, with each sheet bearing the following general title: N/A
  - 9. Addenda (numbers N/A to N/A, inclusive)
  - 10. Exhibits to the Agreement (enumerated as follows):
    - a. CONTRACTOR'S Bid
    - b. Notice to Proceed (pages N/A to N/A, inclusive)
    - c. Jefferson Parish Resolution 101941
    - d. Documentation submitted by CONTRACTOR prior to Notice of Award (pages N/A to N/A inclusive)
  - 11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
    - a. Written Amendments
    - b. Work Change Directives
    - c. Change Order (s)
- B. The documents listed in paragraph 9.01.A are attached to the Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

## ARTICLE 10 – MISCELLANEOUS

### 10.01 *Terms*

- A. Terms used in this Agreement will have the meanings indicated in the General Conditions.

### 10.02 *Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound, and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

### 10.03 *Successors and Assigns*

- A. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

### 10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

### 10.05 *Other Provisions*

IN WITNESS THEREOF, OWNER and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or on their behalf.

This Agreement will be effective on 12-7-04 (which is the Effective Date of the Agreement).

OWNER:

Albert D. Logue  
By: Albert D. Logue, Parish President

[Corporate Seal]

Attest: Burhan Joub Tache

Address for giving notices:

P. O. Box 302  
Hahnville, LA 70057

(If OWNER is a corporation, attach evidence to sign. If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of OWNER-CONTRACTOR Agreement.)

Designated Representative:

Name: Greg Bush, Public Works/

Title: Wastewater Director

Address: P. O. Box 705  
Luling, LA 70070

CONTRACTOR:

H. Douglas Thomas  
By: H. Douglas Thomas, Vice President Project Support

[Corporate Seal]

Attest: Denise Carroll  
Denise Carroll, Contracting and Attesting Officer

Address for giving notices:

702 Spirit 40 Park Drive  
Chesterfield, MO 63005  
636-53-8000

License No. 26836

Agent for service of process: \_\_\_\_\_

C T Corporation System

If CONTRACTOR is a corporation Or partnership, attach evidence of Authority to sign.)

Designated Representative:

Name: Fred Fleshman, Contracting

Title: and Attesting Officer

Address: 795 S. Morrison Blvd  
Hammond, LA 70403