

# PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT made and effective as of the \_\_\_\_ day of \_\_\_\_\_, 2022 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 Principal Engineering, Inc., a corporation and/or limited liability company acting herein by and through its Contracting Officer, hereinafter called CONSULTANT, duly authorized by corporate resolution or certificate of authority attached hereto and made a part hereof. Whereas the Owner desires to employ a professional consulting firm to perform consulting work and services for A/E Services for Department of Waterworks East and West Bank Generators and Structure Project No. WWKS 111.

## 1.0 GENERAL TERMS

The Owner agrees to employ the Consultant and the Consultant agrees to perform professional services required for the project described above. Consultant will conform to the requirements of the Owner and to the standards of the agencies participating with the Owner in the Project. The Consultant will coordinate all work between the Owner and all participating agencies and regulating agencies, if needed. Written authorization to begin different phases of the project will be given to the Consultant by the Owner, including Conceptual, Preliminary Design, Final Design, Bidding Assistance and Construction and Services. The Owner may terminate the Contract by written notification and without cause per Section 11.0 during any phase of the project.

The Consultant shall at all times during this Agreement maintain a valid Louisiana Consulting License and any other applicable licenses necessary for performance of the Project.

All work shall be under the direction of the Owner, and all plans, specifications, etc. shall be submitted to the Owner and all approvals and administration of this contract shall be through the Owner.

## 2.0 PROJECT

2.1 The Owner hereby contracts with the CONSULTANT to perform all necessary professional services in connection with the project as defined as follows:

A/E Services for Department of Waterworks East and West Bank Generators and Structure

Project No. WWKS 111

2.2 The Project consist of the scope of services and work as defined in Attachment "A" hereto.

- 2.3 Consultant shall perform all scope of services and work in accordance with the Schedule as defined in Attachment “B” hereto unless otherwise mutually agreed upon by the parties in writing.
- 2.4 The Consultant agrees to comply with all Federal, State, and Local Laws and Ordinances applicable to the scope of services and work or in entering any other agreement with any another party to complete the work.

### **3.0 SERVICES OF CONSULTANT**

- 3.1 Consultant shall provide Owner professional work and services in all phases of the Project to which this Agreement applies and as hereinafter provided to properly plan and execute the work on the project(s) assigned to the Consultant. These services may include but may not be limited to serving as Owner’s professional consulting representative for the Project, providing professional consultation and advice, and furnishing customary architectural, civil, surveying, geotechnical, structural, mechanical, electrical, instrumentation and control consulting services and construction consulting and inspection.
- 3.2 Services provided by the Consultant shall be performed in accordance with generally accepted professional consulting practice at the time and the place where the services are rendered.
- 3.3 Consultant shall obtain from Owner authorization to proceed in writing for each phase of the Project.
- 3.4 Consultant shall provide minutes of all meetings with St. Charles Parish regarding any phase of the Project.
- 3.5 Consultant shall provide work and services to complete the project, including all necessary services described herein or usually implied as a prerequisite for the performance of the services whether or not specifically mentioned in this agreement, including attendance by the Consultant at project conferences and public hearings.
- 3.6 The Phases of the Project are as defined in Attachment “A”.

### **4.0 OWNERSHIP OF DOCUMENTS**

- 4.1 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 Project and, shall be delivered to the Owner prior to termination or final completion of the Contract.

- 4.2 Consultant may retain a set of documents for its files.
- 4.3 Reuse of Documents. Any reuse of documents or materials without written authorization or adaptation by Consultant to the specific purpose intended will be at Owner's sole risk and without liability or legal exposure to Consultant or to Consultant's independent professional associates, subcontractors, and consultants.
- 4.4 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 Consultant 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.

## **5.0 SUPPLEMENTARY SERVICES**

The Consultant shall provide, when requested in writing by the Owner, supplementary services not included in the basic work and services.

The compensation to the Consultant for the supplemental services, when performed by the Consultant, shall be in the form of a lump sum, billable hours, or "not to exceed" hourly rate which is mutually agreeable to the Owner and the Consultant in writing.

Such supplementary services may include the following:

- A. Soil investigations
- B. Laboratory inspection of materials and equipment
- C. Right-of-Way, easement and property acquisition surveys, plats, maps and documents
- D. Any major revisions for which the Consultant is not responsible, that are authorized by the Owner after the completion and approval of either the preliminary or final plans and specifications
- E. Services concerning replacement of any work damaged by fire or other causes during construction
- F. Services made necessary by the default of the contractor in the performance of the construction contract
- G. Services as an expert witness in connection with court proceedings
- H. Traffic consulting if necessary
- I. Topographic Survey
- J. Preparation of Environmental Assessment documents and/or Environmental Permits
- K. If all or part of the work is to be financed by a Federal or State Grant, the Consultant shall assist the Owner in the preparation of the Grant application and with the Grant Administration, unless otherwise specifically agreed upon previously herein.

## **6.0 DEFECTIVE WORK**

During such visits and on the basis of such observations, Consultant may disapprove of or reject Contractor's work while it is in progress if Consultant believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the Project as reflected in the Contract Documents

## **7.0 NOTICE TO PROCEED**

The Owner shall notify the Consultant in writing to undertake the services stated in this Agreement, and the Consultant shall commence the services within ten (10) days after receipt of such notification.

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

The Consultant 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.

## **8.0 PAYMENTS**

8.1 Owner shall pay Consultant for the performance of work and services as outlined in Attachment "C" to this Agreement.

8.2 Payment for Consultant work and services on projects that do not require construction services, such as feasibility studies or drainage studies, shall be made based upon Consultant's estimate of the proportion of the services actually completed at the time of billing and shall be made in partial payments at monthly intervals.

8.3 If the Project, or any portion thereof, is not completed for any reason, the final fee for consulting work and services shall be negotiated between Owner and Contractor. If the final fee for work and services is not mutually agreed upon, either party may elect in writing to submit the dispute to mediation. If mediation is not mutually agreed upon, written notice will be submitted to the other party of the intent to submit the dispute to the 29<sup>th</sup> Judicial District Court of St. Charles Parish, State of Louisiana.

8.4 If authorized in writing by Owner, for the performance of, or for obtaining from others Additional Services which are not considered normal or customary consulting, the Owner shall pay Consultant based on monthly invoices submitted by the Consultant, within sixty (60) days of receipt of Consultant's invoice.

Consultant shall provide written notice to Owner when no services or work have been performed during a given month.

- 8.5 For Additional Authorized Services provided by the Consultant such as, but not limited to, wetlands permitting, land and right-of-way acquisition, surveying, NPDES and LADEQ permit renewal or acquisition work, etc. Owner shall pay Consultant based on an agreed upon hourly rate(s) between the Owner and Consultant. Payment shall be not-to-exceed based on hourly rates and actual hours worked.
- 8.6 The following documentation shall be required for payment to Consultant and shall be attached to the monthly invoice.
- a. A copy of the Owner's written authorization to perform the service.
  - b. Timesheets for all hours invoiced.
  - c. Invoice copies, logs or other substantiation of non-salary expenses.
- 8.7 For Additional Authorized Services that Consultant acquires from subcontractors and/or subconsultants, Owner shall pay Consultant a fixed sum previously agreed upon by Owner and Consultant, such sum to be established in each case when the scope of the work involved has been determined and before any of the Additional Services are provided. The use of subcontractors and/or subconsultants shall be subject to the provisions set forth in this Agreement. The following documentation shall be required for payment to Consultant and shall be attached to the monthly invoice:
- a. A copy of the Owner's written consent for the subcontractor and/or subconsultant to perform the service stating the Owner's and Consultant's agreed upon fixed sum established for the service performed.
  - b. Evidence that the subcontractor and/or subconsultant is insured as required by this Agreement.
- 8.8 For Supplementary Services described in Section 5, Owner shall pay Consultant for the fee negotiated at the time the work is assigned by the method stipulated in the contract amendment.

## **9.0 BUDGET LIMITATIONS**

The construction budget for this Project shall be determined by the Owner, and the Consultant shall be advised of the budget limitation in writing by the Owner and the Consultant shall indicate his acceptance of same in writing to the Owner. Any subsequent budget revisions shall be confirmed in writing.

If, at the completion of the Preliminary or Design Phase, the Consultant does not concur with the construction budget, he shall so notify the Owner, and the Consultant and Owner shall mutually agree on a revised construction budget prior to any work on the Design Phase.

If no bid is received within the budget limitation and a redesign of the project if required by the Owner, such redesign shall be accomplished by the Consultant at no additional cost to the Owner, provided, however, if the receipt of bids is, for any reason, delayed beyond a period of six (6) months from the date of the completion of the Design Phase the amount stated as the construction budget shall be adjusted, immediately prior to the time bids are received, by use of a construction cost index acceptable to both parties of this agreement.

## **10.0 FUNDS**

No work shall be authorized until funds are established for each individual task.

## **11.0 TERMINATION OR SUSPENSION**

- 11.1 This Agreement may be terminated for any reason by either party upon thirty (30) days written notice.
- 11.2 The Consultant, 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.
- 11.3 The Consultant 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.
- 11.4 The Owner shall then pay the Consultant promptly that portion of the prescribed fee to which both parties agree.
- 11.5 Consultant fully acknowledges that no payment will be made for any work performed or expenses incurred after receipt of the termination by either party unless mutually agreed upon in writing.
- 11.6 Failure to meet agreed delivery dates or authorized extensions are considered substantial failures and breach of this contractual agreement by Consultant.
- 11.7 This agreement shall automatically terminate upon satisfactory completion of all services and obligations described herein or three (3) years from the date of its execution, whichever event occurs first.

## **12.0 INSURANCE**

- 12.1 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 unencumbered amount of \$1,000,000.00 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 \$1,000,000.00 for each accident and not less than \$1,000,000.00 aggregate.

- 12.2 The Consultant shall also secure and maintain at his expense professional liability insurance in the unencumbered sum of \$1,000,000.00.
- 12.3 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.
- 12.4 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.
- 12.5 Contractor shall secure and maintain at his expense Comprehensive Automobile Liability - Bodily Injury Liability \$1,000,000 each person: \$1,000,000 each occurrence. Property Damage Liability \$1,000,000 each occurrence. The Comprehensive Automobile Liability policy must have coverage for loading and unloading and must include owned, hired and leased autos.
- 12.6 St Charles Parish shall be named as an additional insured on general liability insurance policies.
- 12.7 For all purposes under Louisiana law, the principals of this Contract shall be recognized as the statutory employer of all contract employees as provided in LSA-R.S. 23:1061.
- 12.8 Insurance policies shall be endorsed to provide for a waiver of subrogation in favor of St. Charles Parish for worker's compensation policies. The certificate of insurance shall reference the waiver of subrogation endorsement.
- 12.9 The Worker's Compensation Policy Territory Coverage must include Louisiana.

### **13.0 INDEMNIFICATION**

Consultant shall indemnify and hold harmless the Owner, its employees, agents and representatives, 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 any reason of any negligent act by the Consultant, its employees, agents, servants or representatives, while engaged upon or in connection with the services required or performed hereunder.

## **14.0 WARRANTY**

- 14.1 Consultant warrants that it will perform its design services with the degree of skill and to the standard of care required of the consulting profession to meet all Federal, State and Local requirements.
- 14.2 If Consulting Services for project designed by Consultant does not meet those requirements noted herein above, then to the extent that this occurs as a direct result of Consultant's failure to meet the standard of care in its design services, Consultant will indemnify the Parish for Consultant's share of the costs incurred to bring Consulting Services for project to the limitations mandated.
- 14.3 The obligations expressed in Section 14 above in no way limit the Consultant's obligations expressed elsewhere in this Contract.

## **15.0 EXCLUSIVE JURISDICTION AND VENUE**

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

## **16.0 COMPLIANCE WITH FEDERAL AND STATE LAWS**

CONSULTANT further agrees to comply with all federal and state laws, including those identified in Attachment "D".

## **17.0 OTHER**

This Agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified withing this Agreement. This Agreement may not be modified, supplemented or amended in any manner, except by written agreement signed by both parties.



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:

\_\_\_\_\_

\_\_\_\_\_

WITNESSES:

\_\_\_\_\_

\_\_\_\_\_

ST. CHARLES PARISH

\_\_\_\_\_  
By: Matthew Jewell  
Parish President

\_\_\_\_\_  
Date:

PRINCIPAL ENGINEERING, INC.

\_\_\_\_\_  
By: Henry I. DiFranco, Jr.  
President

\_\_\_\_\_  
Date:

## ATTACHMENT “A”

A/E Services for Department of Waterworks East and West Bank Generators and Structure  
Project No. WWKS 111

### PROJECT SCOPE:

CONSULTANT shall perform the scope of services described in the following paragraphs.

CONSULTANT shall provide professional architectural and engineering services for the following scope of work:

### EAST BANK:

The project objective is to size and replace an existing generator at the East Bank WTP with (2) smaller generators (500KW each) and connecting each to operate in parallel. Replace existing automatic transfer switch with new paralleling switchgear. This option will allow the plant to operate only (1) generator when working at a normal load. It would allow the single generator to operate at a much more efficient load. The (2) generators could alternate operation thus extended the life of each unit. It would also allow for routine maintenance to have (1) generator offline and not be without backup. The paralleling feature would allow weekly operation and testing of the generators that would sync with the utility and not create a “blink” in power. The typical 5-8 second blink in power creates a quick start/stop of the pumps and occasionally creates maintenance problem with piping and valves due to water hammer; therefore, this option allows plant managers a more efficient operation. In addition, the project includes the design of a metal building cover with associated foundation, slab, and site runoff considerations.

### WEST BANK:

The project included the replacement of the existing generator with (2) smaller units (preliminary estimate is 350KW each) and to connect to existing automatic transfer switches. The design services are based on the site visit and discussion with plant operators. The design scope will include electrical details and specifications for replacement of the existing generator and is outlined briefly by the following: (1) Electrical service and relative panels, two MCCs, and motors will be reviewed for load study; (2) Coordination will be required with plant operators to determine which motors are no longer being used and which motors operate in sequence or simultaneously; (3) Evaluation of two existing automatic transfer switches; (4) Evaluation of existing main electrical service switchgear; (5) Replacement or Upgrade of two existing ATS and (6) Sizing of two generators to be operated in parallel and properly operate the plant under “real” load conditions. Generators will be sized such that (1) generator will operate plant under normal load conditions. During emergency or higher volume operations, the 2nd generator will operate in parallel. The use of dual generators will allow for more efficient load conditions and allow for maintenance and/or alternating use of each generator unit.

## BASIC SERVICES:

The CONSULTANT 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 CONSULTANT at project conferences and public hearings.

### A. PRELIMINARY DESIGN PHASE:

1. Coordinate all topographic surveys and other investigations as may be required to prepare construction plans. Investigations and/or surveys shall locate existing utilities (private and public) affected by the project and shall locate and define such utilities sufficiently to enable proper plans to be made to modify such utilities to fit the project.
2. Prepare a program of borings and other soil investigations that may be required for proper design.
3. Plot information obtained from surveyor on proper plan.
4. Prepare preliminary layouts and sketches as required to develop design criteria.
5. Prepare a preliminary cost estimate outlining all expected items of work and current unit prices for these items.
6. Assist the OWNER with the preparation of State and Federal Grant applications.
7. Provide written notice to all utility companies (private and public) about the project and request utility "as-built" information from them.

### B. DESIGN PHASE:

1. Prepare detailed construction plans, specifications, and contract documents. These plans are to include locations of all utilities affected, and ownership and taking lines of rights-of-way where required. The existence and ownership of any existing utilities shall be determined by contacting each utility provider in writing to obtain such records as may be available and information from the topographic survey conducted by the CONSULTANT. At the earliest time at which the state of completion of the plans will allow an effective review of the design work, sufficient sets of plans and specifications shall be furnished the OWNER for examination. Upon receipt by the CONSULTANT of comments by the OWNER, the CONSULTANT shall revise and complete the plans.
2. Prepare necessary applications for permits for submission to and approval of local, state, and federal authorities.
3. Prepare a detailed Final Cost Estimate.
4. Coordinate with proper utility companies the adjustment, relocation or removal of existing utility lines and structures within the project that are in conflict with the proposed improvements.

### C. BIDDING PHASE:

1. Assist the OWNER in obtaining bids, attend bid opening, make tabulation and analysis of bids received, make recommendations and render assistance in award of contracts.
2. Furnish sufficient sets of plans and specifications for the bid process.

3. Prepare and distribute all necessary addenda.

#### D. CONSTRUCTION PHASE:

1. Prepare formal contract documents for the execution of the construction contract.
2. Provide a competent Project Engineer or Architect, as applicable, and such assistants as may be required to administer the construction contract and to observe and inspect the materials and construction procedures at the site of the work as it progresses. This shall not include the furnishing of inspection services but shall include periodic job visits as are necessary.
3. The CONSULTANT is not responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, except as may be expressly indicated in the Plans and Specifications prepared by the CONSULTANT.
4. Establish construction monuments, project baseline, and benchmarks as necessary.
5. Coordinate with owners of utilities for relocation of their facilities to clear the site for construction.
6. Require and review tests of materials necessary for the project.
7. Determine contract pay quantities, including necessary materials checking.
8. Verify and approve contractor's pay estimates and submit same to OWNER.
9. Prepare progress reports for the OWNER when requested.
10. Prepare detailed drawings as necessary to supplement the construction drawings.
11. Review shop drawings and samples for conformance with the design concept of the project and for compliance with the result required in the contract documents.
12. Perform final inspection and make a recommendation for acceptance.
13. Verify and approve Testing Laboratory pay estimates and submit same to OWNER.
14. Prepare all necessary documentation required for construction change orders.
15. Prepare written recommendation for all required changes to plans and specifications during construction.
16. Attend Council meetings and other meetings as necessary to discuss issues associated with the project.

#### E. RECORD DRAWINGS:

The CONSULTANT shall furnish "RECORD" drawings, based on information provided by the contractor, on CD in both ACAD and PDF formats. The CONSULTANT shall also furnish 3 sets of full-size plots/copies of "RECORD" drawings.

#### SUPPLEMENTAL SERVICES:

##### A. PERMITTING PHASE:

CONSULTANT shall obtain all necessary permits required for the construction and installation of the new generators and new structure.

**B. TOPOGRAPHIC SURVEYING:**

CONSULTANT shall perform a topographic survey to site the improvements and obtain all existing utility and elevations necessary for the project.

**C. GEOTECHNICAL ENGINEERING:**

CONSULTANT shall obtain a soil boring and prepare a geotechnical report to determine soil capacities and foundation recommendations for the new structure.

**D. RESIDENT PROJECT REPRESENTATIVE (RPR):**

CONSULTANT will use an experienced Resident Inspector on staff that will be available to be onsite for the duration of construction should the OWNER request this service. The inspector will provide detailed descriptions and photos of construction progress to Owner per Owner's delivery schedule. Resident Inspection Services will be performed per the EJCDC's "Duties, Responsibilities and Limitations of Authority of the Resident Project Representative".

## ATTACHMENT “B”

A/E Services for Department of Waterworks East and West Bank Generators and Structure  
Project No. WWKS 111

### Project Schedule:

The CONSULTANT shall complete the following phases of the project within the number of days shown after Notices to Proceed:

	<u>Number of Days to Complete</u>
Evaluation/Programming Phase	60
Preliminary Design Phase	90
Design Phase	120
Bidding Phase	60
Construction Phase	180
Record Drawing Phase	45

**ATTACHMENT “C”**

A/E Services for Department of Waterworks East and West Bank Generators and Structure  
Project No. WWKS 111

**A/E FEES:**

**BASIC SERVICES:**

Basic Service A/E Fees are established utilizing the State of Louisiana Facility Planning and Control (FP&C) 2021 Fee Formula/Curve, Attached as Attachment C-1. The estimate of probable construction cost is \$2.7M. An interpolation of the FP&C Curve for the estimate of probable construction cost establishes a Basic Services Fee percentage of 8.05%. The Total Basic Services Fee is therefore, \$2,700,000 x .0805 = \$217,350. The Basic Services Fee is a Lump Sum (LS) fee payable upon a percentage complete of each phase of the project through construction.

FP&C Curve Fee (100%) - \$217,350.00 (LS)

The Basic Services Fee is proportioned as follows:

Preliminary Design Phase (25%)	-	\$54,337.50 (LS)
Design Phase (45%)	-	\$97,807.50 (LS)
Bidding Phase (5%)	-	\$10,867.50 (LS)
Construction Phase (20%)	-	\$43,470.00 (LS)
Record Drawing Phase (5%)	-	\$10,867.50 (LS)

**SUPPLEMENTAL SERVICES:**

For performance of supplemental services, the Owner shall authorize and pay the CONSULTANT a not-to-exceed fee, based on the hourly rates attached as Attachment C-2 and actual time worked and direct expenses incurred or if performed by sub-consultant, equal to the actual amount invoiced time 1.10 up to the amount of the contract not-to-exceed.

Topographic Survey	-	\$10,000 (NTE)
Geotechnical Engineering	-	\$10,000 (NTE)
Project Permitting	-	\$5,000 (Hourly Not-to-Exceed)
Resident Project Representative*	-	\$75,000 (Hourly Not-to-Exceed)

\*Only as requested by OWNER per the written Scope of Work in Attachment “A”. Established RPR budget is based on an estimated construction period of 120 calendar days.

Additional Services as described in the agreement and requested by the OWNER in writing shall be based on the hourly rates and direct expenses attached as Attachment C-2.

## ATTACHMENT “D”

A/E Services for Department of Waterworks East and West Bank Generators and Structure  
Project No. WWKS 111

**2 CFR Part 200 - PROVISIONS FOR FEMA PUBLIC ASSISTANCE FUNDING** - Since this contract may be eligible for FEMA reimbursement, the following provisions may be applicable to this bid solicitation and subsequent Contract.

**EQUAL EMPLOYMENT OPPORTUNITY (2 CFR 200 Appendix II(C))** – Applies to all construction contracts - *"During the performance of this contract, the contractor agrees as follows:* The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965 entitled “Equal Employment Opportunity,” as amended by Executive order 11375 of October 13, 1967, as supplemented in Department of Labor regulation. Contractors are not to exclude from participation in, deny the benefits of, or subject to discrimination under any program or activity, any person in the United States on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or veteran status; nor discriminate on the basis of age under the Age Discrimination Act of 1975, or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, or on the basis of religion, except that any exemption from such prohibition against discrimination on the basis of religion as provided in the Civil Rights Act of 1964, or Title VI and VII of the Act of April 11, 1968, shall also apply.

**COMPLIANCE WITH REPORTING REQUIREMENTS (2 CFR 200.327-.329)** – Applies to all contracts - In the event of a declared emergency, Contractors are subject to FEMA and/or GOHSEP reporting requirements, i.e. program performance, financial and progress reports. Contractor shall complete and submit all reports, in such form and according to such schedule as may be required by the Owner / Agency.

**BYRD ANTI-LOBBYING AMENDMENT (2 CFR 200 Appendix II (I))** – Applies to all contracts - Contractor that apply or bid for a contract must certify that it will not and has not used any Federal funds to influence an employee or member of Congress in obtaining any Federal Award.

**ACCESS TO RECORDS (2 CFR 200.336)** – Applies to all contracts - The State of Louisiana, the Federal agency providing the assistance for this contract, the Comptroller General of the United States, St. Charles Parish, 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 Contractor and St. Charles Parish, respectively, for a period of three (3) years from the date of the submission of the grantee’s final expenditure report.

**RETENTION OF RECORDS (2 CFR 200.333)** – Applies to all contracts - In the event of a declared emergency, contractor shall retain all required records for three years after the termination date of the contract and all other pending matters are closed.



**ENERGY EFFICIENCY – Appendix II(H) – Applies to all contracts** - Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan (LA RS 40:1730.49) issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163, as amended).

**PROHIBITIONS OF AWARDS TO DEBARRED AND SUSPENDED PARTIES (2 CFR 200 Appendix II (I)) – Applies to all contracts** - The Contractor represents and warrants that it and its Subcontractors are not debarred, suspended, or placed in ineligibility status under the provisions of the provisions of E.O.s 12549 and 12689. To ascertain whether a Contractor or Subcontractor has been excluded from participating in a contract or subcontract receiving Federal financial assistance, a search of the Excluded Parties List System can be conducted using the System for Award Management provided by the General Services Administration at <https://www.sam.gov>.

The Contractor must notify the Owner in the event of it and its Subcontractors being debarred, suspended, or declared ineligible by any department or agency of the Federal Government, or upon receipt of a notice of a proposed debarment or suspension, either prior to or after execution of a contract.

Upon notice of debarment, suspension, or declaration of ineligibility, the Contractor and/or its Subcontractors is/are ineligible to enter into contracts with the Owner, any department, or agency of the Federal Government. The Owner reserves the right to review cause for said debarment, suspension, or declaration of ineligibility, and to terminate this contract according to the terms of this section.

**PROCUREMENT OF RECOVERED MATERIALS (2 CFR 200 Appendix II (J) See 200.322) – Applies to all contracts** - The Contractor and its Subcontractors will comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA). The requirements of Section 6002 include procuring only items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the Contractor purchases \$10,000 or more worth of one of these items during the course of the fiscal year or where the cost of such items or of functionally equivalent items purchased during the preceding fiscal year was \$10,000 or more; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for the procurement of recovered material identified in the EPA guidelines.

**BONDING REQUIREMENTS (2 CFR 200.325) – Applies to all construction or facilities improvement contracts in excess of the Simplified Acquisition Threshold (SAT = \$250,000 as of 8/31/2020)** – Bonding requirements include:

- a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

- b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract.
- c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

**COPELAND “ANTI-KICKBACK” ACT (2 CFR 200 Appendix II (D)) – Applies to all construction or repair contracts in excess of \$2,000.00** - Whoever, by force, intimidation, or threat of procuring dismissal from employment or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined under this title or imprisoned not more than five years, or both. The Contractor shall comply with all applicable “Anti-Kickback” regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to ensure 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.

**TERMINATION FOR CAUSE AND CONVENIENCE (2 CFR 200 Appendix II(B)) – Applies to all contracts in excess of \$10,000.00** - 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.

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.

**ADMINISTRATIVE AND LEGAL REMEDIES FOR VIOLATION OR BREACH OF CONTRACT (2 CFR 200 Appendix II (A)) – Applies to all contracts in excess of the Simplified Acquisition Threshold (SAT = \$250,000 as of 8/31/2020)** - 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.

**CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (2 CFR 200 Appendix II(E)) – Applies to all construction contracts greater than \$100,000.00 where mechanics and laborers are employed** - Contractor shall be in compliance with section 40 U.S.C. 3702 and 3704 of the Contract Work Hours and Safety Standards Act as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL (CLEAN WATER) ACT (2 CFR 200 Appendix II (G)) – Applies to all contracts greater than or equal to \$150,000** - Contractor shall be in compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES (2 C.F.R. § 200.216) - Applies to all contracts**

- (a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—
- (b) Prohibitions.
  1. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
  2. Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
    - i. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

- ii. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- iii. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
- iv. Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

- 1. This clause does not prohibit contractors from providing—
  - i. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
  - ii. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- 2. By necessary implication and regulation, the prohibitions also do not apply to:
  - i. Covered telecommunications equipment or services that: i. Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system.
  - ii. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement.

- 1. In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
- 2. The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
  - i. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

- ii. Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.
- (e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.”

**DOMESTIC PREFERENCE FOR PROCUREMENTS (2 C.F.R. § 200.322) - Applies to all contracts and purchase orders for work or products** - As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause: Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.