

# **SOLICITATION FOR SERVICES**

**“Leaking Underground Storage Tank (LUST) Post Hurricane Corrective  
Action at Discount Zone”**

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**



**SFS No: 3901-11-08**

**April 5, 2011**

**Solicitation Response Due Date/Time:**

**April 19, 2011, 3:00 P.M. CST**

## **SOLICITATION FOR SERVICES**

### **“Leaking Underground Storage Tank (LUST) Post Hurricane Corrective Action at Discount Zone”**

#### **Louisiana Department of Environmental Quality**

#### **1.0 ADMINISTRATIVE INFORMATION**

##### **1.1 Solicitation for Services (SFS)**

The Louisiana Department of Environmental Quality (the Department)/Underground Storage Tank and Remediation Division (USTRD) has determined that remedial action in response to a petroleum release from a regulated underground storage tank site is required.

The Department requires the services of a Department listed Response Action Contractor (RAC) to perform corrective action in accordance with defined remediation goals at Discount Zone. This is not a Request for Proposal.

The objective is to reduce the concentrations of petroleum contamination in the groundwater and/or soil at or below defined site-specific remediation standards established in accordance with the Department’s Risk Evaluation/Corrective Action Program (RECAP).

##### **1.2 Contract Term and Compensation**

The term of the contract resulting from this SFS will be determined at the time of award (see Attachment C, Corrective Action Solicitation Response # 2).

Compensation for contract services will be based on the rates listed in Attachment B, Scope of Services #8, Payments to be incorporated into the contract, with a maximum total contract cost based on Attachment C, Corrective Action Solicitation Response # 3 and the price resulting from the SFS process. This contract and any amendments require the approval of the Department and the Division of Administration.

Although the contract will be federally funded, neither the United States Environmental Protection Agency, nor any other federal departments, agencies, or employees are, or will be, a party to this SFS or any resulting contract.

##### **1.3 Mandatory Site Visit**

The Louisiana Department of Environmental Quality will hold a site visit for all contractors on **April 12, 2011, 10:30 a.m. CST**. Attendance is mandatory, and solicitation responses will not be accepted from contractors who fail to attend the site visit.

**Any firm intending to submit a solicitation response must have at least one duly authorized representative attend the mandatory site visit in order to become familiar with the site**

**conditions and scope of services involved. Driving directions to the location of the site is provided on Attachment I, Driving Directions.**

On the day of the site visit, all potential contractors must:

- (a) register with the Department representative; and
- (b) sign Attachment H, Hold Harmless Agreement in the presence of the Department representative and provide photo identification.

Individuals not meeting all of these requirements will not be allowed on the site.

The Department personnel will not answer any questions regarding the corrective action of the site or the Scope of Services.

#### **1.4 Questions and Answers**

**Any and all questions regarding this Solicitation for Services must be submitted in writing to the LDEQ Financial Services Division, no later than 4:00 p.m. local time on or before April 13, 2011. Do not contact other Department program personnel with questions regarding this SFS.**

Questions may be mailed to:

Robyn Geddes  
Financial Services Division  
Louisiana Department of Environmental Quality  
P. O. Box 4303  
Baton Rouge, LA 70821-4303

or submitted by e-mail to: [Robyn.Geddes@la.gov](mailto:Robyn.Geddes@la.gov)

Questions will also be accepted by FAX at (225) 219-3823. Responses to these questions will be posted to our website and an e-mail will be sent to all Response Action Contractors to notify of the posting.

#### **1.5 Submission of Corrective Action Solicitation Responses**

If you desire to submit a Corrective Action Solicitation Response, one (1) original of the Corrective Action Solicitation Response and the financial information shall, and two (2) copies of the Corrective Action Solicitation Response should, be submitted to the Louisiana Department of Environmental Quality (LDEQ), Financial Services Division, **no later than 3:00 p.m. CST on or before April 19, 2011. Corrective Action Solicitation Responses, amendments, and any other information received after this date and time will not be considered.** All solicitation responses should be delivered to:

Lisa Miller, Financial Services Division  
Louisiana Department of Environmental Quality  
602 N. Fifth Street – Galvez Building  
Baton Rouge, Louisiana 70802

Mail through the U. S. Postal Services is not delivered directly to the Department headquarters building. Therefore, contractors are advised to hand deliver or send their solicitation responses by some means other than the U.S. Mail. Contractors are further advised not to wait until the last day to dispatch their solicitation responses. Maximum competition is encouraged but time extensions for messenger delays, traffic, fogbound airplanes, or other causes will not be granted. Solicitation responses will not be accepted by facsimile (FAX) or electronic mail (e-mail).

Contractors are solely responsible for the timely delivery of their solicitation responses. The Department will not acknowledge by mail or telephone timely receipt of solicitation responses.

### **1.6 Changes, Addendum, or Withdrawal of Corrective Action Solicitation Responses**

Any changes or addenda to a solicitation response must be submitted in writing, signed by an authorized representative of the contractor, cross-referenced clearly to the relevant solicitation response section, and received by the Department prior to the solicitation response due date and time. All changes and addenda must meet all requirements for the solicitation response. Any contractor choosing to withdraw its solicitation response must submit a written withdrawal request to the Department.

### **1.7 SFS Schedule Summary**

The events and dates summarized in Table 1 represent milestones in the Department’s SFS process; however, the Department reserves the right to deviate from this schedule.

**Table 1. SFS Schedule Summary.**

<b>Event</b>	<b>Date</b>	<b>Local Time</b>
The Department sends Solicitation for Services to Contractors	4/5/11	
<b>Mandatory Site Visit</b>	4/12/11	10:30 am
Deadline for the Department receipt of written questions from prospective contractors	4/13/11	4:00 pm
Solicitation Response due date and time	4/19/11	3:00 pm
Estimated award date	Approximately 4/26/11	
Estimated initiation of the contract period	Approximately 5/24/11	

## **2.0 GENERAL INFORMATION**

### **2.1 “Foreign” Corporations Contracting with the State of Louisiana**

According to the provisions of LSA R.S. 12:301-302, any corporation which is incorporated in another state must have a certificate of authority to transact business in Louisiana from the Louisiana Secretary of State, Corporations Division, 3851 Essen Lane, Baton Rouge, Louisiana, 70809, (225) 925-4704. The Certificate of Authority must be provided prior to contracting with the Department.

### **2.2 Disclosure of Ownership Affidavit**

All for-profit corporations whose stock is not publicly traded must file a Disclosure of Ownership Affidavit with the Louisiana Secretary of State's office before contracting with state government. Non-profit corporations and for-profit corporations whose stock is publicly traded are exempt from this requirement. The Disclosure of Ownership Affidavit must be provided prior to contracting with the Department.

### **2.3 Response Action Contractor Requirements**

The Contractor must appear on the approved current Response Action Contractor (RAC) listing as defined in LAC 33:XI.1205.A. The Contractor shall maintain the minimum qualification requirements of a RAC throughout the duration of this contract. Failure to maintain the required qualifications, or promptly correct any lapse, may be considered as a failure to perform within the terms of this contract.

### **2.4 Laboratory Accreditation**

In accordance with LAC 33:I.4501, any commercial laboratory (as defined in LAC 33:I.4503) shall be accredited by the Louisiana Environmental Laboratory Accreditation Program (LELAP) prior to commencing analytical work. Each such laboratory must be certified for the method/matrix/analytes necessary to perform the analytical work required in Attachment B, Scope of Services. The Department shall not accept analytical data generated by any commercial laboratory that is not accredited by LELAP in accordance with LAC 33:I.4501 through 5915. All analytical data must be submitted in a format approved by the Department project manager and shall meet the requirements of LAC 33:I.5313 and the 2003 National Environmental Laboratory Accreditation Conference (NELAC) Standards.

Any laboratory other than a commercial laboratory (as defined in LAC 33:I.4503) shall meet at a minimum the quality systems requirements found in LAC 33:I.Chapter 53 and in Chapter 5 of the 2003 NELAC Standards. All analytical data must be submitted in a format approved by the Department project manager and meet the requirements of LAC 33:I.5313 and the 2003 NELAC Standards.

Evidence of LELAP accreditation for any/all laboratories proposed to be used by the successful Contractor must be provided and approved by the Department before work begins.

## 2.5 Corrective Action Solicitation Response Costs

Contractors are responsible for all costs incurred for the preparation of their solicitation responses. Solicitation responses received in response to this SFS are subject to the Louisiana Public Records Law and become the property of the Department and will not be returned.

## 3.0 CORRECTIVE ACTION SOLICITATION PREPARATION INSTRUCTIONS

### 3.1 Required Elements for Corrective Action Solicitation Response (Volume I)

Each contractor should address the elements described by this section in his Solicitation Response. **Any solicitation response that does not include the following mandatory items shall be disqualified by the Department and shall not be evaluated:**

#### 3.1.1 Solicitation for Services Cover Sheet

Each contractor must complete Attachment A, Solicitation for Services Cover Sheet.

#### 3.1.2 Corrective Action Solicitation Response

Each contractor must complete and submit Attachment C, Corrective Action Solicitation Response. Each contractor is solely responsible for the accuracy and completeness of his solicitation response.

### 3.2 Required Elements for Financial Information (Volume II)

Financial information is used for determination of responsibility, and not as evaluation criteria. In a separate volume, proposals must include evidence demonstrating the proposer's financial capability to carry out this project. Evidence can include, but is not limited to:

- (Preferred) Financial Statements reviewed by an independent CPA for the past three 3 years. This includes:
  - Notes to the Financial Statements, and
  - The CPA's reviewed Report for each year
- Letter of intent to obtain a Letter of Credit
- Letter of intent to obtain a 100% Performance Bond

If a performance bond is required, the successful proposer shall be required to provide a performance (surety) bond in the amount of 100% of the contract to insure the successful performance under the terms and conditions of the contract negotiated between the successful proposer and the State. Any performance bond furnished shall be written by a surety or insurance company currently on the U.S. Department of the Treasury Financial Management Service list of approved bonding companies which is published annually in the *Federal Register*, or by a Louisiana domiciled insurance company with at least an A-rating in the latest printing of the A.M. Best's Key Rating Guide to write individual bonds up to 10 percent of policyholders'

surplus as shown in the A.M. Best's Key Rating Guide or by an insurance company that is either domiciled in Louisiana or owned by Louisiana residents and is licensed to write surety bonds.

No surety or insurance company shall write a performance bond which is in excess of the amount indicated as approved by the U.S. Department of the Treasury Financial Management Service list or by a Louisiana domiciled insurance company with an A-rating by A.M. Best up to a limit of 10 percent of policyholders' surplus as shown by A.M. Best; companies authorized by this Paragraph who are not on the treasury list shall not write a performance bond when the penalty exceeds 15 percent of its capital and surplus, such capital and surplus being the amount by which the company's assets exceed its liabilities as reflected by the most recent financial statements filed by the company with the Department of Insurance.

The selected contractor may be required to provide additional information as requested by the Department.

### **3.3 Use and Disclosure of Confidential Information**

Pursuant to LSA-R.S. 30:2030 and R.S. 44:1, et seq., Department records obtained in response to this SFS shall be available to the public. If a proposer wishes to secure nondisclosure of information contained in his proposal, the proposer must submit a written request to the Secretary of the Department in accordance with LAC 33:I. Chapter 5 and applicable laws. Upon review of the written request, the Secretary of the Department will determine if the information requires confidentiality.

### **4.0 CORRECTIVE ACTION SOLICITATION RESPONSE EVALUATION AND SELECTION PROCESS**

The low bid submitted and accepted by the Department will be considered the reasonable cost by the Department to complete site rehabilitation as described in the solicitation for services.

**Any solicitation response that does not provide the following mandatory items shall be disqualified by the Department and shall not be evaluated:**

- (1) a signed Attachment A, Solicitation for Services Cover Sheet (Corrective Action Solicitation Preparation Instructions, Section 3.1.1); and
- (2) a completed and signed Attachment C, Corrective Action Solicitation Response. (Corrective Action Solicitation Preparation Instructions, Section 3.1.2).

In accordance with the provisions of R.S. 39:2182, in awarding contracts after August 15, 2010, any public entity is authorized to reject the lowest bid from, or not award the contract to, a business in which any individual with an ownership interest of five percent or more, has been convicted of, or has entered a plea of guilty or nolo contendere to any state felony or equivalent federal felony crime committed in the solicitation or execution of a contract or bid awarded under the laws governing public contracts.

Attachments to this SFS:

Attachment A ..... Solicitation for Services Cover Sheet  
Attachment B ..... Scope of Services  
Attachment C ..... Corrective Action Solicitation Response  
Attachment D ..... Additional Terms and Conditions  
Attachment E ..... Pay-For-Performance Payment Request Form  
Attachment F ..... Sample Contract  
Attachment G ..... Payment Bond  
Attachment H ..... Hold Harmless Agreement – Contractor Site Visit  
Attachment I ..... Driving Directions

**ATTACHMENT A**  
**Solicitation for Services Cover Sheet**

SFS No.: 3901-11-08 Amount of Corrective Action Solicitation Response: \_\_\_\_\_

**Project Title:** “Leaking Underground Storage Tank (LUST) Post Hurricane Corrective Action at Discount Zone”

**Contractor:**

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_  
\_\_\_\_\_

**Contractor’s Contact Person:**

Name \_\_\_\_\_ Title \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No. ( \_\_\_\_\_ ) \_\_\_\_\_ FAX No. ( \_\_\_\_\_ ) \_\_\_\_\_

Email Address: \_\_\_\_\_

**I hereby certify that:**

1. This Corrective Action Solicitation Response will remain in effect for at least ninety (90) days from the solicitation response due date.
2. I possess an established system of accounting and financial controls adequate to permit the effective administration of this contract or willingness to modify the present system to meet State of Louisiana requirements.
3. I will be ready and able to begin work within fifteen (15) days after contract award.
4. I accept the mandatory Department of Environmental Quality contract provisions (Attachment F).
5. I am authorized to represent \_\_\_\_\_ and can commit the organization to all provisions of this Solicitation for Services.
6. Proposer certifies, by signing and submitting a solicitation response for \$25,000 or more, that their company, any subcontractors, or principals are not suspended or debarred by the General Services Administration (GSA) in accordance with the requirements in OMB Circular A-133 (A list of parties who have been suspended or debarred can be viewed via the internet at [www.epls.gov](http://www.epls.gov)).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**ATTACHMENT B**  
**Scope of Services**

**“Leaking Underground Storage Tank (LUST) Post-Hurricane Corrective Action at  
Discount Zone”**  
**Louisiana Department of Environmental Quality**

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**1. Scope of Services**

The Louisiana Department of Environmental Quality (the Department) has determined that remedial action in response to a petroleum release from a regulated underground storage tank site is required. The Department is seeking the services of a contractor to perform the corrective action in accordance with defined remediation goals. The objective is to reduce the concentrations of petroleum contamination in the groundwater and/or soil at or below defined site-specific remediation standards established in accordance with the Department’s Risk Evaluation/Corrective Action Program (RECAP). All corrective action must be performed under the direction of a Department listed Response Action Contractor (RAC).

The scope of work proposed in this Contract consists of the activities described below.

- a) The Contractor shall complete and submit a *Corrective Action Plan* (CAP) in triplicate detailing the corrective action method(s) or technology(ies) proposed in the *Corrective Action Solicitation Response* for the release at Discount Zone, Agency Interest (AI) No. 78793, in Orleans Parish, within forty-five (45) days after the signing of this contract. **[Notes: Costs should not be included in the CAP. The cost to prepare the CAP is included in the total cost of the PFP Contract.]** The CAP should define all active (pump and treat, vapor extraction, sparge, excavation of impacted soils, bioremediation, chemical injection, ex-situ soil treatment, etc.) and/or passive (intrinsic remediation, monitoring, etc.) corrective action method(s) proposed to reduce contaminant levels to the site-specific limiting RECAP standards. **[Note: Soil excavation shall be limited to a maximum removal of 500 cubic yards.]** A remediation timetable including plugging and abandonment of wells and removal of the equipment should be included in the CAP. Remediation as defined in the CAP will begin upon initiation of any active or passive corrective action method(s). Implementation of the CAP shall begin within sixty (60) days of Department approval of the CAP.
  
- b) The Contractor shall be responsible for removal of any unknown tank(s) or obstruction(s) encountered during corrective action (i.e. source removal by excavation) **that impedes corrective action.** The Contractor shall suspend corrective action activities and notify the Department Project Manager or his designee immediately upon discovery of a tank or obstruction encountered during corrective action activities. An unregistered tank must be registered for closure and assigned a tank number by the Department prior to removal. The Department’s Project Manager shall complete a UST-REG-01 form on behalf of the owner and notify the Contractor with the assigned tank number prior to

commencement of closure activities. UST removal as part of a corrective action shall be conducted in accordance with all applicable federal and state laws and regulations, including but not limited to the most recent version of the “UST Closure/Change-in-Service Guidance Document” and LAC 33:I.Chapter 13 (Risk Evaluation/Corrective Action Program (RECAP). Confirmatory soil samples shall be collected as required by RECAP and the most recent version of the “UST Closure/Change-in-Service Guidance Document” and analyzed in accordance with EPA SW-846. The Contractor shall submit a “Notification of Intent to Perform a Closure of a UST System” form (NOI) in accordance with the most recent edition of the “UST Closure/Change-in-Service Guidance Document”. The NOI form shall be submitted to the Department’s Project Manager for processing. Owner information will be completed by the Department’s Project Manager upon receipt. The Contractor shall submit a signed “Appointment of Agent for Solid Waste Disposal” form for Department review and approval. The “Appointment of Agent for Solid Waste Disposal” form will authorize the Contractor to complete and sign Generator Waste Profile Sheets, Generator Waste Profile Sheet-Recertifications, Amendments to Generator Waste Profile Sheets, certifications necessary to comply with landfill requirements, and manifests to initiate shipment to disposal facilities on behalf of the Department. The Contractor shall complete and submit a “UST Closure/Assessment” form in accordance with the most recent edition of the “UST Closure/Change-in-Service Guidance Document”. The “UST Closure/Assessment” form shall be submitted to the Department Project Manager for processing. Owner information shall be completed by the Department’s Project Manager upon receipt. **[Note: All costs associated with UST removal as part of corrective action at the direction of the Department Project Manger shall be included in the total cost of the PFP Contract.]**

- c) Response to public and Department comments, both written and verbal (this could include attending public meetings on the CAP) and, if requested by the Department, amending the final CAP to take into account substantive comments. Additionally, the Contractor must notify site owner(s) of the proposed corrective action and the dates of implementation.
- d) Installation of all components of the remediation system as described in the approved CAP. Installation as defined in this section means: all subsurface and surface components of the treatment system(s) have been completely installed as proposed; all down hole equipment, fittings, etc., are installed; all trenching is complete; piping trenches properly backfilled and resurfaced; proper disposal of contaminated soil generated during the installation; installation of piping manifold, pumps, blowers and all other parts of the remedial system; hook-ups to utilities, treatment and discharge lines, etc. Modification to the approved remedial system may be made in the field as site conditions warrant, provided prior notification to the Department is made and approval granted. Additionally, all necessary permits required for operation must be in place before the system is turned on. The Contractor will be responsible for preparation of *CAP Construction and Operation Report* including as-built drawings if a remediation system is installed, and submission of same to the Department within sixty (60)

days after completion of CAP implementation. Remedial system start-up and/or corrective action shall occur within 120 days of Department approval of the CAP (see Attachment B, "8." Milestone #1).

- e) Sampling of Key and Perimeter Monitoring Wells: Key Monitoring Wells will be sampled on a quarterly basis unless otherwise specified by the Department (see Attachment B, "2." for identification of Key Monitoring Wells). Groundwater samples shall be collected from the Key Monitoring Wells during the two (2) week period prior to the implementation of any active and/or passive corrective action. These data shall be called "Baseline Concentrations" and used as the benchmark to calculate the performance (ie. milestone) payments for Constituent(s) of Concern (COC) concentration reductions in groundwater. The baseline concentration for a Key Monitoring Well with measurable free product (thickness > 0.01 ft.) shall be determined at the time of the first groundwater sampling event, subsequent to the removal of the free product to less than 0.01 foot.

Perimeter Monitoring Wells will be sampled on a quarterly basis until such time as the COC concentration in the well remains at or below the limiting RECAP standard specified in the attached Table 2, "Limiting RECAP Standards", for four (4) consecutive quarterly monitoring events (see Attachment B, "3." for identification of Perimeter Monitoring Wells). Once these criteria have been achieved, the sampling frequency may be reduced to once per year.

**During the four (4) consecutive quarters of the post remediation monitoring period, only the Key Monitoring Wells shall be sampled on a quarterly basis. However, all Key and Perimeter Monitoring Wells shall be sampled during the last quarter of the post remediation monitoring period.**

- f) Monitoring/O&M Reporting: Monitoring/O&M Reports shall be submitted at least semiannually during the duration of this Contract. The reports are due by January 15<sup>th</sup> and July 15<sup>th</sup>. At a minimum the reports must include:
- A narrative that documents current site conditions, verification of system operation or CAP implementation, and effectiveness in achieving the remediation goals. A discussion of any down time and associated reasons shall be included within the report.
  - Laboratory analytical and gauging data for all monitoring wells, presented in tabular format for the past eight (8) quarters.
  - Potentiometric surface maps based on the most recent gauging data for the reporting period, including an arrow(s) depicting the groundwater flow direction.

- Tabulate and graphically present in isopleth format, the total COC concentrations above site-specific RECAP standards from each monitoring well sampled (this information is obtained from the Groundwater COC Concentration Reduction spreadsheet).
  - Analytical data, laboratory quality assurance/quality control (QA/QC) and chain-of-custody forms for the reporting period.
  - Conclusions and recommendations based on the reported data.
- g) All necessary permits must be in place prior to initiation of corrective action. Corrective action shall occur within 120 days of Department approval of the CAP (see Scope of Services #8, Milestone #1).

## 2. Key Monitoring Wells

Key Monitoring Wells are defined as wells containing contaminant concentrations exceeding the limiting RECAP groundwater standards. If groundwater monitoring wells are not currently installed at the site, then wells shall be installed at all boring locations where contaminant concentrations have been determined to exceed the limiting RECAP groundwater standards. Key Monitoring Wells utilized to assess the progress of reduction of the contaminant concentrations will consist at a minimum of SB-2/MW-2, SB-4/MW-4, and SB-5/MW-5, or replacement wells. If a Key Monitoring Well is used as a remediation well, then use of this well for remediation must be discontinued for at least 48 hours prior to sampling the well. All samples will be analyzed for the COC identified in the attached Table 2, “Limiting RECAP Standards”, using a Department accredited laboratory. **Any well installed subsequent to the initiation of corrective action and exhibiting contaminant concentrations exceeding the limiting RECAP groundwater standards shall be declared a Key Monitoring Well. The designation of Key Monitoring Wells and associated sampling may be subject to change by mutual written agreement between the Contractor and the Department.**

## 3. Perimeter Monitoring Wells

Perimeter Monitoring Wells are defined as wells containing contaminant concentrations less than or equal to the limiting RECAP groundwater standards. Any well installed that contains constituent concentrations less than or equal to the limiting RECAP groundwater standard shall be referred to as a “Perimeter Monitoring Well.” All samples will be analyzed for the COC identified in the attached Table 2, “Limiting RECAP Standards”, using a Department accredited laboratory. **The designation of Perimeter Monitoring Wells and associated sampling may be subject to change by mutual written agreement between the Contractor and the Department.**

## 4. Initial Baseline Monitoring Report

*An Initial Baseline Monitoring Report* documenting “Baseline Concentrations” (see Attachment B, “1.d.”) and potentiometric conditions prior to initiation of any active and/or passive corrective

action should be submitted to the Department within forty-five (45) days after corrective action implementation.

### 5. Sampling Procedure and Verification

The Department shall be given at least two (2) weeks notice prior to any sampling event that will be used for performance (i.e. milestone) payment verification to allow the Department or its subcontractor the opportunity to take split or duplicate samples. If notification is not provided, the Department may not accept the sampling results. In the event the results of the split or duplicate samples taken by the Department differ by 20% for groundwater or 30% for soil from the results of the samples taken by the contractor and/or one set of sample results fail to achieve the performance milestone level, then re-sampling shall occur prior to any further consideration of milestone attainment. If the differences persist, the use of alternative labs or third party sampling may be required. The following chart provides clarification to the decision making process for performance (i.e. milestone) payment verification.

Scenario	Duplicate or split samples differ by 20% for groundwater or 30% for soil	One or more set of sample results fail to achieve the performance milestone level	Additional sampling required for consideration of milestone attainment
1	No	No	No
2	Yes	No	No
3	No	Yes	Yes
4	Yes	Yes	Yes

### 6. Milestone Measurement

Specific criteria for meeting a given milestone are listed below. Milestone calculation shall be based on the reduction in COC concentrations in each Key Monitoring Well. Milestone reports will include tables and graphs showing the COC concentrations in Key Monitoring Wells, the total percent of COC reduction from baseline concentrations for all Key Monitoring Wells, the laboratory data sheets, and the methods of data calculation. **Any of the Monitoring/O&M Reports can also serve as a milestone report if clearly identified as such.**

### 7. Terms

The Contractor agrees to perform the corrective action as set out in this Contract for the total amount of \$\_\_\_\_\_. **It is agreed that this will be the full and exclusive compensation paid to the Contractor for the performance of the corrective action work plan.**

### 8. Payments

Payments shall only be made for achieving the performance criteria as specified in this Contract. Payment to the Contractor shall be made when the Department verifies and agrees the performance criteria have been achieved and will be paid according to the following:

- Milestone #1 40% (\$\_\_\_\_\_) of the total contract amount will be payable after the Department has verified the remedial system has been installed and daily operation has been implemented. If the remedial technology includes a single event (e.g. excavation of impacted soils, chemical injection), then 20% of the total contract amount not to exceed 40%, will be payable upon completion of the event and verification that the remediation standards have been achieved. **This performance criterion shall be completed within 120 days of Department approval of the CAP. The milestone shall be verified by the Department with Field Interview Form documentation.**
- Milestone #2 10% (\$\_\_\_\_\_) of the total contract amount will be payable based on the removal of all measurable free product (< 0.01 ft.) and a 25 percent reduction in COC baseline concentrations from Key Monitoring Wells as compared to the total site-specific RECAP standards (see **Table 1, “Example of Groundwater COC Concentration Reduction Calculation”**). **The milestone shall be verified by the Department with split sampling of groundwater.**
- Milestone #3 10% (\$\_\_\_\_\_) of the total contract amount will be payable based on a 50 percent reduction in COC baseline concentrations from Key Monitoring Wells as compared to the total site-specific RECAP standards (see **Table 1, “Example of Groundwater COC Concentration Reduction Calculation”**). **The milestone shall be verified by the Department with split sampling of groundwater.**
- Milestone #4 10% (\$\_\_\_\_\_) of the total contract amount will be payable based on a 75 percent reduction in COC baseline concentrations from Key Monitoring Wells as compared to the total site-specific RECAP standards (see **Table 1, “Example of Groundwater COC Concentration Reduction Calculation”**). **The milestone shall be verified by the Department with split sampling of groundwater.**
- Milestone #5 10% (\$\_\_\_\_\_) of the total contract amount will be payable based on a 100 percent reduction (ie. the limiting RECAP standards have been met) in COC baseline concentrations from Key Monitoring Wells as compared to the total site-specific RECAP standards (see **Table 1, “Example of Groundwater COC Concentration Reduction Calculation”**). **The milestone shall be verified by the Department with split sampling of groundwater.**
- Milestone #6 20% (\$\_\_\_\_\_) of the total contract amount will be payable upon verification that the following has been achieved:
- The limiting RECAP standards as specified in **Table 2, “Limiting RECAP Standards”**, have been met for each COC in groundwater samples from all Key Monitoring Wells and those standards have been maintained for a period of at least four (4) consecutive quarterly sampling events after remediation has been completed. However, all Key and Perimeter Monitoring Wells shall be sampled during the last quarter of the post remediation monitoring period. **The milestone**

shall be verified by the Department with split sampling of groundwater during the last quarter of the post remediation monitoring period.

- The limiting RECAP standards as specified in **Table 2, “Limiting RECAP Standards”**, have been met for each COC in soil from all former soil sample locations that were previously documented as being impacted above the limiting RECAP standards and/or all soil sample locations used for verification of soil remediation. A **minimum of five (5) soil borings** shall be made within each area of remediation to verify that the RECAP standards for soil in **Table 2, “Limiting RECAP Standards”**, have been reached. One (1) of these soil borings shall be made in the vicinity of previous soil boring location SB-2. **The cost of this verification sampling is included in the total cost of the PFP Contract. The Department shall approve the locations and depths of sampling prior to the sampling event.**
- Completion of site restoration including the removal or proper abandonment of all remedial and assessment items installed by all contractors that have performed work at the site. The site shall be restored to its pre-assessment condition as nearly as practicable and the restoration work shall be performed in accordance with State regulations, guidance documents and generally accepted industry practices. **The Department shall conduct an on-site verification inspection with Field Interview Form documentation prior to final payment.**

## 9. Product Performance and Warranty

Performance based corrective action includes but may not be limited to submitting all reports required by regulation, all reports necessary to obtain payment, all remediation system operating, repair, and replacement costs, disposal of all wastes generated during the remediation activities and a warranty of meeting the limiting RECAP standards within the estimated timeframe of initiation of any active and/or passive corrective action method(s). **If the limiting RECAP standards are not achieved within the estimated timeframe the Contractor will continue performance based corrective action at their sole cost for an additional twelve (12) month warranty period or until the limiting RECAP standards are reached, whichever comes first.**

**If the limiting RECAP standards are not achieved within the estimated timeframe, but the original technology is anticipated to be able to achieve the limiting RECAP standards within the twelve (12) month warranty period, the Contractor shall, at a minimum, continue the original technology on a full-time basis during the twelve (12) month warranty period.**

**If the original technology is not projected to achieve the limiting RECAP standards by the end of the twelve (12) month warranty period, the contractor shall implement an additional active corrective action technology that has been approved by the Department.**

Monitored natural attenuation alone is not considered to be an active methodology and will not be accepted during the warranty period if it is the only remediation method utilized.

If the limiting RECAP standards have not been met at the end of the twelve (12) month warranty period, the Contractor may be released from any further obligation under this Contract, but the payment for any unachieved milestones shall not be due the Contractor. Termination of this Contract pursuant to this paragraph will not constitute “site abandonment” under Attachment D, Additional Terms and Conditions “17”. **However, failure to achieve the remediation goals by the end of the warranty period will result in the Contractor being ineligible to bid or received any contracts on this site for continued efforts to reach corrective action.**

### 10. Milestone Summary Tables

The following tables summarizing the milestones for this Contract are provided for convenience only. The text of this Contract shall take precedence in any discrepancy between the text and this table.

Milestone Summary Tables

Milestone Number	Criteria	Payment Percent	Payment Amount	Performance Period	Dated Achieved
1	Single Event System operational	20% 20%	\$ \$	120 days after CAP Approval	
2	25% Reduction	10 %	\$	not specified	
3	50% Reduction	10 %	\$	not specified	
4	75% Reduction	10 %	\$	not specified	
5	100% Reduction	10 %	\$	Specify total remediation period	
6	Groundwater (for 12 consecutive months) and Soil RECAP standards, site restoration	20 %	\$		
Total		100 %	\$		

The following formula shall be used to calculate the percent reduction in groundwater COC concentration:

*Total baseline COC concentrations above site-specific limiting RECAP standards minus total COC concentrations from subsequent sampling above the site-specific limiting RECAP standards divided by the total baseline COC concentrations above the site-specific limiting RECAP standards.*

**TABLE 1**  
**Example of Groundwater COC Concentration Reduction Calculation**

Well		Benzene	Toluene	Ethylbenzene	Xylenes	TPH-G	Total conc. > RS
<b>MW- 1</b>	Baseline concentration	1,800	160	420	1,400	18,000	
	RECAP Standard (RS)	5	1,000	700	10,000	150	
	Baseline > RS	1,795	0	0	0	17,850	19,645
	Subsequent conc.	500	9	170	320	4,100	4,445
	RS	5	1,000	700	10,000	150	
	Subsequent > RS	495	0	0	0	3,950	
<b>MW- 3</b>	Baseline	6,500	9,700	2,600	11,000	110,000	
	RS	5	1,000	700	10,000	150	
	Baseline > RS	6,495	8,700	1,900	1,000	109,850	127,945
	Subsequent conc.	150	31	9	80	1,800	1,795
	RS	5	1,000	700	10,000	150	
	Subsequent > RS	145	0	0	0	1,650	
<b>MW- 4</b>	Baseline	2,000	12,000	2,000	14,000	80,000	
	RS	5	1,000	700	10,000	150	
	Baseline > RS	1,995	11,000	1,300	4,000	79,850	98,145
	Subsequent conc.	110	680	110	2,600	14,000	13,955
	RS	5	1,000	700	10,000	150	
	Subsequent > RS	105	0	0	0	13,850	
<b>Totals</b>	Baseline conc. > RS	(sum of the baseline concentrations > the RS for all wells)					245,735 <sup>A</sup>
	Subsequent conc. > RS	(sum of the subsequent concentrations > the RS for all wells)					20,195 <sup>B</sup>

**Notes:**

If subsequent sampling indicates a COC concentrations at or below the site-specific RECAP Standard (RS) or the COC concentration is reported as BDL and the detection level is at or below the RS, then the value entered for the contaminant reduction calculation shall be 0.

If subsequent sampling reports a COC concentration as BDL, but, the reporting limit is above the RS, then the value entered for contaminant reduction calculations shall be the analytical reporting limit.

All concentrations should be reported in parts per billion (ppb).

**Concentration Reduction Calculation:**

$$\text{COC Conc. Reduction} = \frac{(A - B)}{(A)} = \frac{(245,735 - 20,195)}{(245,735)} = 0.9178 \times 100 = 91.8 \% \text{ COC Reduction}$$

**TABLE 1  
LIMITING RECAP STANDARDS**

**AI 78793 – Discount Zone**

<b>Constituents of Concern (COC)</b>	<b>Soil (mg/kg)</b>	<b>Groundwater (mg/L)</b>
Benzene	3.1	24.726
Toluene	340	530
Ethylbenzene	N/A	170
Xylenes	205	160
MTBE	N/A	51,000
Lead	N/A	12.4
Aliphatics C <sub>6</sub> -C <sub>8</sub>	N/A	5800
Aliphatics C <sub>8</sub> -C <sub>10</sub>	600	200
Aromatics C <sub>8</sub> -C <sub>10</sub>	600	1325
Aliphatics C <sub>10</sub> -C <sub>12</sub>	600	140
Aromatics C <sub>10</sub> -C <sub>12</sub>	N/A	2025
Aliphatics C <sub>12</sub> -C <sub>16</sub>	N/A	160
Aromatics C <sub>12</sub> -C <sub>16</sub>	N/A	3500
Aliphatics C <sub>16</sub> -C <sub>35</sub>	N/A	10,000
Aromatics C <sub>16</sub> -C <sub>21</sub>	N/A	5952
Aromatics C <sub>21</sub> -C <sub>35</sub>	N/A	5952
2-Methylnaphthalene	N/A	6.696
Naphthalene	N/A	31

**Notes:**

**N/A: Not Applicable**

**Any deviation from the Limiting RECAP Standards must be by mutual written agreement between the Contractor and the Department in the form of an approved amendment.**

**ATTACHMENT C**  
Corrective Action Solicitation Response  
**Louisiana Department of Environmental Quality**  
**Leaking Underground Storage Tank (LUST) Post Hurricane**  
**Pay-For-Performance**

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**Facility Name: Discount Zone**  
**Facility Address: 1620 Veterans Blvd., Metairie, Jefferson Parish**  
Agency Interest No. 78793

Please respond to the following questions:

1. The corrective action method(s) or technology(ies) that will be proposed in the Corrective Action Plan will be (please list and briefly describe all active and/or intrinsic methods or technologies for the remediation of groundwater and/or soil): **While natural attenuation is an important consideration in PFP remediation, natural attenuation alone is not considered to be an active methodology and will not be accepted if it is the only remediation method proposed.**

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2. The estimated time in months to reduce the Constituents of Concern (COC) in groundwater and/or soil to the site-specific limiting RECAP standards from the date of initiation of any active and/or passive corrective action is approximately \_\_\_\_\_ months (i.e. time to reach Milestone #5). **The time required for post-remediation verification, warranty period, or site restoration is not to be included.**
3. The total cost in dollars to treat the area of concern such that the thickness of free product (if any) does not exceed 0.01 foot and the concentrations of the COC do not exceed the site-specific limiting RECAP standards defined in Attachment B, Table 1, "Limiting RECAP Standards"; prepare all plans, reports, correspondence, and submittals as stipulated in the PFP Contract; complete all associated monitoring and post-remediation monitoring; obtain and meet all terms and conditions of all required permits and licenses; design, install, monitor, operate, maintain, and when completed, properly abandon or remove all assessment and remediation related items installed as part of corrective action; and any other items outlined in this solicitation is: \$\_\_\_\_\_.

**Acceptance and Delivery Statement**

In compliance with this solicitation and subject to all conditions thereof, the Contractor agrees, if this bid is accepted, to complete the corrective action as specified at the price set forth.

For the purpose of this submittal and acceptance of financial approval, should it occur, I certify that this company understands the nature of the release and the geologic conditions at this facility as documented in the technical file and this solicitation. I certify that this company understands that acceptance is based on total cost to provide corrective action to the area of concern.

\_\_\_\_\_  
Contractor (Print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Representative (Print)

\_\_\_\_\_  
Signature

**ATTACHMENT D**  
**Additional Terms and Conditions**  
**Leaking Underground Storage Tank Post Hurricane Corrective Action**  
**Pay-For-Performance**

1. The Contractor agrees to perform all activities and services under this Contract in accordance with Attachment B, Scope of Services. The Contractor also agrees that the site characterization is complete within the identified Area of Investigation (AOI) as defined in the Site Investigation/ Risk Evaluation/Corrective Action Program (RECAP) Report. The Site Investigation/RECAP Evaluation Report may be accessed through the Louisiana Department of Environmental Quality (the ‘Department’) Public Records Center, Room 127, 602 N. Fifth Street, Baton Rouge, LA 70802 or through <http://www.deq.louisiana.gov/pubRecords/>. Contamination discovered at a later date in the AOI will not change the terms of this Contract with the exception specified under Additional Terms and Conditions #7.
2. The remediation services provided by the Contractor will comprise, without exception, every discipline and expertise necessary to meet all the requirements of Attachment B, Scope of Services. The Contractor will perform all remediation activities in accordance with all applicable federal, state and local statutes, rules, regulations, procedures, and guidelines. Although the Contractor’s role will be the management of all aspects of site remediation, in no way does this Contract supersede the responsibilities and liabilities of the owner/operator.
3. The Department’s performance and obligation to pay under this Contract is contingent upon the availability of sufficient funds in the United States Environmental Protection Agency (USEPA) Grant Nos. LP-966394-01 and LP-966467-01. The Department will encumber the funds necessary to conduct the remediation at the Site as specified in this Contract. If, however, after execution of this Contract, there are not adequate funds to support this Contract, then the Department will notify the Contractor immediately and the Contractor may withdraw from this Contract. If the Contractor does withdraw from this Contract, then the Department will reimburse the Contractor for all necessary and appropriate time and material costs for work performed from the period of the previously paid milestone to the date of contract termination as funds become available. Payment in this situation cannot exceed the amount of the next unpaid milestone. Such a termination shall not be considered as failure to perform by the Contractor and shall be handled in accordance with Additional Terms and Conditions #11.
4. The Department agrees to authorize payments in accordance with Attachment B, Scope of Services upon receipt, verification, and acceptance of a request for milestone payment. **For every milestone payment request, an original Pay-For-Performance Payment Request Form must be completed and submitted in triplicate along with the supporting documentation to: LDEQ, Financial Services Division, P.O. Box 4303, Baton Rouge, Louisiana, 70821-4303.** The Department Project Manager will notify the Contractor within thirty (30) days following receipt of the request for payment as to whether or not the Department agrees that the milestone has been attained. If the

Department agrees that the milestone has been met, then the Department will process the request for payment.

5. All plans, reports, correspondence, and submittals such as the *Corrective Action Plan (CAP)*, *CAP Construction and Operation Report*, *Initial Baseline Monitoring Report*, *Monitoring/O&M Reports*, etc., shall be submitted in triplicate to: LDEQ, Underground Storage Tank and Remediation Division – UST Support Section, P.O. Box 4312, Baton Rouge, Louisiana, 70821-4312.
6. The Contractor agrees to be responsible for the fulfillment of all work elements included in any subcontract and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the Contractor that the Department shall not be liable to any vendor or subcontractor for any expenses or liabilities incurred under the subcontract and that the Contractor shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.
7. The Contract will be final and will not be increased or cancelled for any reason (e.g. unanticipated iron fouling of a system, wells clogging because of biological activity or sediments, increased subcontractor costs, increased utility costs, loss of utilities, modification to the system to meet the remediation goals, etc.) with the exception of the following conditions:
  - a. Identification of a new release that affects attainment of a milestone;
  - b. migration of off-site contamination onto the subject site that affects attainment of a milestone;
  - c. changes in applicable regulatory requirements or policies that affect remedial design, operations or remediation goals;
  - d. events beyond the control of the parties that make performance or timely performance impossible; and
  - e. other conditions that are mutually agreed to by the Contractor and the Department.
8. In the event that the remediation schedule is delayed for more than ninety (90) calendar days and such delay is due to circumstances beyond the control of the Contractor, then the time for the performance of remediation may be extended. However, any such delay shall not be cause for an increase in the price of the Contract. In the event that the remediation schedule is delayed for more than one-hundred and eighty (180) calendar days, then either the Contractor or the Department may terminate this Contract. Such a termination shall not be considered as failure to perform by the Contractor and shall be handled in accordance with Additional Terms and Conditions #11.
9. The Contractor shall be responsible for payment of all utilities necessary to complete the remediation, including electricity, propane, sanitary sewer, telephone, etc.
10. All applicable certification, training, permits, applications, and fees associated with well installation; injection, discharge, treatment, or transportation of groundwater, air, or soil; construction or operation of a remediation system; and any other action requiring a permit are the responsibility of the Contractor.

11. In the event that this Contract is terminated and such termination is not due to failure to perform by the Contractor, then payment for any unachieved milestones shall not be due the Contractor. However, the Contractor may be paid for all necessary and appropriate time and material costs for work performed from the period of the previously paid milestone to the date of contract termination, not to exceed the amount of the next unpaid milestone. The Contractor may also be paid actual costs for demobilization but such costs shall not exceed 5% of the total amount of this Contract. Any such payments made shall completely satisfy the Department's obligation to the Contractor under this Contract.
12. The Contractor shall immediately notify the Department [within twenty-four (24) hours] upon discovery of a significant change in site conditions. This notification must be followed up in writing within seven (7) days upon discovery of the significant change. The following are examples of significant changes in site conditions:
  - a. An emergency or imminent hazard which could require the contractor to make changes to the remedial system to mitigate the hazard;
  - b. measurable free product is found at a monitoring point for the first time;
  - c. the remediation system has shut down for more than a week;
  - d. a sensitive receptor has been impacted, such as elevated VOCs in indoor air, utility lines, and water supply wells.
13. The Contractor must notify the Department, in writing, at least ten (10) days before making any modification to the remedial system or its operation that may be subject to regulations or results in a modification in air or water treatment. Changing to another remediation technology not previously discussed and approved in the Corrective Action Plan will require the Contractor to prepare and submit a Corrective Action Plan Addendum for approval by the Department.
14. The Contractor shall be responsible for gaining access to all properties to sample monitoring wells and install remediation equipment, as required. The Contractor will also be responsible for returning the site to the condition, as it existed prior to installation of the remediation or monitoring systems, (e.g. asphalt paved areas will be paved with asphalt, concrete areas will be replaced with concrete, grass areas will have soil replaced to the original grade and seeded or sodded with grass, etc.).
15. The Contractor shall coordinate all work activities at the site with the Owner/Operator to minimize interference with business operations. During work activities, the Contractor shall also maintain the site free of debris and in good condition.
16. The Department reserves the right to conduct its own sampling events, to install groundwater monitoring wells, and/or to advance soil borings, at any time and at its sole cost and discretion. The Department shall provide notice to the Contractor at least two (2) weeks in advance of such events so that the Contractor will have the option to observe the Department's activities and split samples with the Department. Any and all costs incurred by the Contractor for such participation shall be borne solely by the Contractor.

17. The Contractor acknowledges that the Department may terminate the Contractor's eligibility for future work under a Pay-For-Performance Agreement if the Department determines that the Contractor has failed to perform its duties for site rehabilitation tasks set forth in this Contract, including a failure to correct deficiencies noted by the Department (see Additional Terms and Conditions #18). In the event that the Contractor is determined ineligible for future work under a Pay-For-Performance Agreement, the Department will not accept future Contracts or work proposals from the Contractor for a period of two (2) years. For the purposes of this paragraph, the term "Contractor" shall mean the individual or business entity submitting the Contract or work proposal, and includes a parent or subsidiary corporation of the Contractor; a partner of the Contractor; or a corporate officer, director, stockholder, or other person or group of persons that has the legal or *de facto* authority to control the progress of the site rehabilitation tasks proposed for Contract.
  
18. If the Contractor abandons the project prior to completion of remediation or the end of the warranty period as defined in Attachment B, Scope of Services whichever occurs first, or otherwise fails to fulfill the terms of this Contract, such abandonment or other failure shall be considered failure to perform by the Contractor and handled in accordance with Additional Terms and Conditions #17 of this Contract. Failure to achieve the remediation goals, as specified in Attachment B, Scope of Services by the end of the warranty period, shall not be construed as failure to perform under this Contract if the Contractor has continued, throughout the duration of this Contract, to make a good faith effort towards achieving those remediation goals.



# Attachment E Pay-For-Performance Payment Request Form

## “Leaking Underground Storage Tank (LUST) Post-Hurricane Corrective Action at Discount Zone”

Louisiana Department of Environmental Quality  
hereafter known as “the Department”  
Leaking Underground Storage Tank Post Hurricane Corrective Action

Agency Interest No.: \_\_\_\_\_ Facility Name: \_\_\_\_\_

Facility Address (Street & City): \_\_\_\_\_

Total Amount of Contract: \_\_\_\_\_

Payment Request Based on Sampling Event/Report Dated: \_\_\_\_\_

### Request Payment for the following Pay-For-Performance Milestone(s) as checked:

**Milestone #1** – Verification of the remedial system installation and daily operation implementation  
(  40  % of Contract Amount = \$ \_\_\_\_\_ )

**Milestone #2** – 25% reduction in COC baseline concentrations from Key Monitoring Wells  
(  10  % of Contract Amount = \$ \_\_\_\_\_ )

**Milestone #3** – 50% reduction in COC baseline concentrations from Key Monitoring Wells  
(  10  % of Contract Amount = \$ \_\_\_\_\_ )

**Milestone #4** – 75% reduction in COC baseline concentrations from Key Monitoring Wells  
(  10  % of Contract Amount = \$ \_\_\_\_\_ )

**Milestone #5** – 100% reduction (i.e. the limiting RECAP standards have been met) in COC baseline concentrations from Key Monitoring Wells  
(  10  % of Contract Amount = \$ \_\_\_\_\_ )

### Milestone #6 –

- The limiting RECAP standards as specified in **Table 2, “Limiting RECAP Standards”**, have been met for each COC in groundwater samples from all Key Monitoring Wells and those standards have been maintained for a period of at least four

(4) consecutive quarterly sampling events after remediation has been completed. However, all Key and Perimeter Monitoring Wells shall be sampled during the last quarter of the post remediation monitoring period. **The milestone shall be verified by the Department with split sampling of groundwater during the last quarter of the post remediation monitoring period.**

- The limiting RECAP standards as specified in **Table 2, “Limiting RECAP Standards”**, have been met for each COC in soil from all former soil sample locations that were previously documented as being impacted above the limiting RECAP standards and/or all soil sample locations used for verification of soil remediation. A **minimum of five (5) soil borings** shall be made within each area of remediation to verify that the RECAP standards for soil in **Table 2, “Limiting RECAP Standards”**, have been reached. One (1) of these soil borings shall be made in the vicinity of previous soil boring location SB-2. **The cost of this verification sampling is included in the total cost of the PFP Contract. The Department shall approve the locations and depths of sampling prior to the sampling event.**
- Completion of site restoration including the removal or proper abandonment of all remedial and assessment items installed by all contractors that have performed work at the site. The site shall be restored to its pre-assessment condition as nearly as practicable and the restoration work shall be performed in accordance with State regulations, guidance documents and generally accepted industry practices. **The Department shall conduct an on-site verification inspection with Field Interview Form documentation prior to final payment.**

( 20 % of Contract Amount = \$ \_\_\_\_\_ )

*I certify, under penalty of law, that I have personally examined and am familiar with the information submitted in this and any attached documents; and that based on my inquiry of those individuals responsible for obtaining this information, and any other information I may be aware of, I believe that the submitted information is true, accurate and complete.*

Company Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Authorized Company Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

I have thoroughly examined this request for milestone payment and the attached documentation supporting the achieved milestone(s) and, based on the information provided, concur with the Contractor’s request for payment.

Department Project Manager: \_\_\_\_\_ Name: \_\_\_\_\_ Date: \_\_\_\_\_  
(signature) (print)

**ATTACHMENT F**  
**Sample Contract**  
**“Leaking Underground Storage Tank (LUST) Post-Hurricane Corrective**  
**Action at Discount Zone”**

CONTRACT FOR CONSULTING SERVICES

THIS CONTRACT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between the Department of Environmental Quality of the State of Louisiana, hereinafter referred to as “the Department”, and (Name of Contractor), Contractor’s Address, Tax ID No. \_\_\_\_\_ hereinafter referred to as the "Contractor."

The Department hereby contracts and retains the Contractor who agrees to proceed, after proper notice and receipt of written authorization by the Department, with all services necessary to the performance, in proper sequence and in the time specified, of the items of work for the project as hereinafter set forth.

1. PROJECT IDENTITY

This contract will be identified as **“Leaking Underground Storage Tank (LUST) Post-Hurricane Corrective Action at Discount Zone”** with the Contract Financial Management System (CFMS) Number assigned as set forth above. All invoices and other correspondence submitted to the Department in connection with this contract shall be identified by this CFMS Number.

2. CONTRACT TERM

The term for the fulfillment of services to be performed pursuant to this contract shall be from **DATE** through **DATE**. This period shall be known as the base contract. The Department reserves the right to, at its discretion and at any time during the term of the contract, renew the contract for one or more periods. However, the sum of the base contract and all extensions shall not exceed thirty-six (36) months. All term extensions shall be made by written amendment and approved by the Department and the Division of Administration. All extensions shall include the same payment terms and conditions as the base contract.

3. SCOPE OF SERVICES

The Contractor shall provide the necessary personnel, materials, services and facilities to perform the work as set forth in Attachment B, Scope of Services; Attachment C, Corrective Action Solicitation Response; and Attachment D, Additional Terms and Conditions attached hereto and made a part hereof.

4. NOTICE TO PROCEED

The Contractor shall proceed with the work only after receipt of an executed contract which has been approved by the Department and the Division of Administration and participation in a Commencement Conference to be scheduled by the Department.

5. PAYMENT TERMS

The amount which the Department agrees to pay and the Contractor agrees to accept for satisfactory completion of the services to be rendered pursuant to this contract shall not exceed a total sum of \_\_\_\_\_. Work performed by the Contractor during the term of the contract shall be paid at the rates listed in Attachment B, Scope of Services #8 Payments.

The Department will pay the Contractor only for achieving the corrective action criteria as specified in Attachment B, Scope of Services and the Department does not guarantee a maximum payment amount to be earned by the Contractor. The Department will reject any and all claims from the Contractor for damages, anticipated profits, or other related causes resulting from any difference between the amount paid for work actually performed and materials actually furnished and the maximum price of the contract.

The Contractor shall not perform out-of-scope work not authorized by written amendment prior to the expiration date of the contract. Any out-of-scope work performed by the Contractor without written authorization from the Department in the form of an approved contract amendment shall not entitle the contractor to any compensation for any corresponding effort. Verbal directives from any employee of the Department that would result in the performance of out-of-scope work shall carry no authority.

Any increases to the maximum amount shall be made by written amendment and approved by the Department and the Division of Administration. Any additional or out-of-scope work performed by the Contractor without written authorization from the Department in the form of an approved amendment shall not entitle the Contractor to payment or an increase in the maximum contract price.

No authority exists for payments which exceed the approved maximum contract amount except through written amendment prior to expiration date of the contract.

a. Payment:

Payment to the Contractor for services rendered shall be made in accordance with the rates listed in Attachment B, Scope of Services, #8 Payments. Payment shall be made upon completion and approval of each milestone as determined by the Project Manager.

The rate for each item listed in Attachment B, Scope of Services. Payments shall include all associated direct costs (labor, supplies, equipment, incidentals

and expendables, duplication/copying, communications, postage, shipping and handling, transportation, taxes, etc.), all indirect costs (fringe, overhead, general and administrative costs), travel and profit.

No payment shall be owed or made for analytical work or data generated by a commercial laboratory as defined in LAC 33:I.4503 that is not accredited by the Louisiana Environmental Laboratory Accreditation Program at the time the work is done and the data is generated. No payment shall be owed or made for analytical work or data generated by a laboratory other than a commercial laboratory as defined in LAC 33:I.4503 that does not meet at a minimum the quality systems requirements found in LAC 33:I. Chapter 53 and in Chapter 5 of the 2003 NELAC Standards at the time the work is done and the data is generated. No payment shall be owed or made for any analytical data that is not submitted in a format approved by the Department project manager and that meets the requirements of LAC 33:I.5313 and the 2003 NELAC Standards.

b. Payment Procedure:

The procedure for payment shall follow the procedures described in Attachment B, Scope of Services, #8 Payments and Attachment D, Additional Terms and Conditions #4. Invoices must be submitted on Attachment E, Pay-For-Performance Payment Request Form.

- (1) The Contractor shall submit one (1) original and two (2) copies of Attachment E, Pay-For-Performance Payment Request Form signed by the Contractor's Project Manager upon completion of each milestone.
- (2) The Contractor shall submit Attachment E, Pay-For-Performance Payment Request Form to:

Louisiana Department of Environmental Quality  
Financial Services Division  
Accounts Payable  
P.O. Box 4303  
Baton Rouge, LA 70821-4303

Payments shall be made by the Department within approximately thirty (30) days after receipt of a correct invoice, receipt and acceptance of all related deliverables and submittals, and approval of the invoice for payment by the Department's Office of Environmental Compliance/Underground Storage Tank and Remediation Division.

6. FISCAL FUNDING

The continuation of this contract is contingent upon the appropriation of funds to fulfill the requirements of the contract by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of the contract, or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act

to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

7. THE DEPARTMENT OBJECTIVES, MONITORING PLAN, AND PERFORMANCE MEASURES

The Department provides the following information:

- a. The goal of this contract is to perform the corrective action in accordance with defined remediation goals at the Discount Zone site. The objectives to be achieved include the completion and submittal of a Corrective Action Plan (CAP), installation and operation of all components of the remediation system as described in the approved CAP, sampling of key and perimeter monitoring wells, and Monitoring/Operation and Maintenance Progress Reporting.
- b. The Department will monitor the progress of the Contractor during the contract by:
  - (1) designating the Department staff to act as the Project and Contract Managers;
  - (2) meeting with the Contractor as necessary to provide guidance or answer questions;
  - (3) ensuring that deliverables are submitted within the time frame of the contract; and
  - (4) reviewing, requiring correction as necessary, and approving all deliverables.
- c. The Department will measure the successful performance of the Contractor by reviewing and evaluating the acceptability of all deliverables.

8. REPORTING REQUIRMENTS

**The following reports shall be submitted to the LDEQ, Underground Storage Tank and Remediation Division – UST Support Section, P.O. Box 4312, Baton Rouge, Louisiana, 70821-4312 for approval prior to issuance of payments:**

- a) The Contractor shall submit a Corrective Action Plan (CAP) in accordance with Attachment B, Scope of Services 1a and Reports in accordance with Attachment B, Scope of Services 6 and 8.

9. DELIVERABLES

The Contractor shall provide to the Department the deliverables specified in Attachment B, Scope of Services, as products of the services rendered under this contract. The Department reserves the right to reject any deliverable that is unsatisfactory. The Contractor shall correct any omissions or errors and resubmit the deliverable.

10. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this contract, all data collected by the Contractor and all documents, notes, and files collected or prepared specifically in connection with this work, except the Contractor's personnel and administrative files, shall become and be the property of the Department and the Department shall not be restricted in any way whatever in its use of such material. In addition, at any time during the contract period, the Department shall have the right to require the Contractor to furnish copies of any or all data and all documents, notes, and files collected or prepared by the Contractor specifically in connection with this contract within five (5) days of receipt of written notice issued by the Department.

11. CORRECTION OF DEFICIENT WORK

If required by the Department, prior to payment, the Contractor shall promptly, without cost to the Department, correct any deficient work performed by him or his subcontractors. Deficient work is defined as work that is (a) unsatisfactory, faulty, or defective, or (b) does not conform to the requirements of the contract documents. If the Contractor does not correct such deficient work within the time specified by the Department, the Department may have the deficiency corrected by a separate party. All direct and indirect costs for such correction shall be paid by the Contractor. If corrections made to deficient work interfere with any other Department work by other parties, the Contractor shall also bear the expenses caused by that interference.

12. INDEMNIFICATION

The Contractor shall indemnify and save harmless the Department against any and all claims, demands, suits and judgments of sums of money to any party for loss of life or injury or damage to person or property growing out of, resulting from, or by reason of, any negligent act or omission, operation or work of the Contractor, its agents, servants, or employees while engaged upon or in connection with the services required or performed by the Contractor hereunder.

13. NONASSIGNABILITY

The Contractor shall not assign any interest in this contract by assignment transfer, or novation, without the prior written consent of the Department. This provision shall not be construed to prohibit the contractor from assigning his bank, trust company or other financial institution any money due or to become due from approved contracts without

such prior written consent. Notice of any such assignment of transfer shall be furnished promptly to the Department.

14. AUDIT OF RECORDS

The State, through the Legislative Auditor, and/or the Office of the Governor Division of Administration, the Department Audit Services, the U.S. Environmental Protection Agency, or any of their duly authorized representatives, shall be entitled to audit the books, documents, papers, and records of the Contractor and any subcontractors which are reasonably related to this contract.

15. RECORDS RETENTION

The Contractor and its subcontractors shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred and shall make such materials shall be made available at their respective offices at all reasonable times during the contract period and for three (3) years from date of final payment under this contract for inspection or audit and copies thereof shall be furnished if requested.

16. TERMINATION FOR CAUSE

The Department may terminate this contract for cause based upon the failure of the Contractor to comply with the terms and/or conditions of the contract; provided that the Department shall give the Contractor written notice specifying the Contractor's failure. If within thirty (30) days after receipt of such notice, the Contractor shall not have either corrected such failure or, in the case of failure which cannot be corrected in thirty (30) days, begun in good faith to correct said failure and thereafter proceeded diligently to complete such correction, then the Department may, at its option, place the Contractor in default and the contract shall terminate on the date specified in such notice.

The Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed. The Department shall be relieved of liability for costs for any undelivered work as of the effective date of termination and shall be entitled to repayment for any progress payments made on undelivered work.

Notwithstanding the above, the Contractor shall not be relieved of liability to the Department for damages sustained by the Department by virtue of any breach of the contract by the Contractor, and the Department may withhold any payments to the Contractor for the purpose of setoff until such time as the exact amount of damages due the Department from the Contractor is determined.

17. TERMINATION FOR CONVENIENCE

The Department may terminate the contract at any time by giving thirty (30) days written notice to the Contractor. If the contract is terminated by the Department, as provided herein, the Contractor shall promptly submit a statement showing in detail the actual

services performed to date of termination. The Contractor shall then be paid the proportion of the total contract amount which bears the same ratio as the services completed bears to the total scope of services called for in this contract, less payments of compensation previously made for allowable costs, including non-cancelable commitments.

18. ANTI-DISCRIMINATION

The contractor agrees to abide by the requirements of the following as applicable: Title VI of the Civil Rights Act of 1964 and Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, Federal Executive Order 11246 as amended, the Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, the Fair Housing Act of 1968 as amended, EPA Title IV implementing regulations, and contractor agrees to abide by the requirements of the Americans with Disabilities Act of 1990.

Contractor agrees not to discriminate in its employment practices, and will render services under this contract without regard to race, color, religion, sex, sexual orientation, national origin, veteran status, political affiliation or disabilities.

Any act of discrimination committed by Contractor, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this contract.

19. COMPLIANCE WITH LAWS AND GRANT

The Contractor and its employees, subcontractors, and agents shall comply with all applicable Federal, State and Local laws and ordinances in carrying out the provisions of this contract.

The Contractor is hereby advised that U.S. Environmental Protection Agency Grant Nos. LP-966394-01 and LP-966467-01 are being used by the Department to partially fund this contract. The Contractor shall comply with the requirements of the grant. See Appendix A. Continuation of this contract is contingent upon grant approval.

20. FORCE MAJEURE

The Contractor or the Department shall be exempt from performance under the contract for any period that the Contractor or the Department is prevented from performing any services in whole or in part as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided the Contractor or the Department has prudently and promptly acted to make any and all corrective steps that the Contractor or the Department can promptly perform. Subject to this provision, such non-performance shall not be considered cause or grounds for termination of the contract.

21. TAX RESPONSIBILITY

The Contractor hereby agrees that the responsibility for payment of taxes from the funds received under this contract shall be the Contractor's obligation and shall be identified under the federal tax identification number as noted above.

22. SUCCESSORS AND ASSIGNS

This contract shall be binding upon the successors and assigns of the respective parties hereto.

23. CLAIMS FOR LIENS

The Contractor shall be solely liable for and shall hold the Department harmless from any and all claims or liens for labor, services or material furnished to the Contractor in connection with the performance of its obligations under this contract.

24. EMPLOYMENT OF STATE PERSONNEL

The Contractor certifies that it has not employed and will not employ any person to engage in the performance of this contract who is currently an employee of the State of Louisiana.

25. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, 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 Department shall have the right to annul this contract without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

26. CODE OF ETHICS FOR STATE EMPLOYEES

The Contractor is hereby advised that contractors may, in certain circumstances, be deemed "public employees" as interpreted by the Louisiana Board of Ethics. The Contractor shall be responsible for determining that there will be no conflict or violation of the Ethics Code. By signing this contract, the company official certifies that there is no conflict or violation of the Louisiana Code of Ethics.

27. RELEASE OF INFORMATION

The Contractor shall not provide information generated or otherwise obtained in the performance of the Contractor's responsibilities under this contract to any party other than the Department or their authorized agents for the life of the contract and for a period of three (3) years after completion of this contract. The Contractor shall not publish, permit to be published, or distribute, use, or disclose to anyone for public consumption, any information, oral or written, concerning the results or conclusions made pursuant to the performance of this contract, without the prior written consent of the Department.

28. SUBSTITUTION OF PERSONNEL

If, during the term of the contract, the Contractor or subcontractor cannot provide the personnel as proposed and requests a substitution, that substitute must be at least equal in education, qualifications, and experience to the person being replaced. A detailed résumé of the individual's qualifications and a written justification for the change must be submitted to the Department for approval prior to any personnel substitution. It shall be acknowledged by the Contractor that every reasonable attempt shall be made to assign the personnel listed in the Contractor's Solicitation Response.

29. CONTRACTOR'S INSURANCE

The Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, or employees. The cost of such insurance shall be included in the Contractor's prices and shall not be separately billed.

## a. Minimum Scope of Insurance

Coverage shall be at least as broad as:

- (1) Insurance Services Office form number GL 0002 (Ed. 1/73) covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001). **"Claims Made" form is unacceptable. The "occurrence form" shall not have a "sunset clause."**
- (2) Insurance Services Office form number CA 0001 (Ed. 1/78) covering Automobile Liability and endorsement CA 0025 or CA 00011293. The policy shall provide coverage for owned, hired, and non-owned coverage. If an automobile is to be utilized in the execution of this contract, and the contractor does not own a vehicle, then proof of hired and non-owned coverage is sufficient.

- (3) Workers' Compensation insurance as required by the Labor Code of the State of Louisiana, including Employers Liability insurance.
- (4) Pollution Liability insurance as required by the Department.
- (5) Umbrella Liability Policy as required by the Department.

b. Minimum Limits of Insurance

The Contractor shall maintain limits no less than:

- (1) Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.
- (2) Automobile Liability: \$1,000,000 combined single limit per accident, for bodily injury and property damage.
- (3) Workers Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of Louisiana and Employers Liability coverage.
- (4) Pollution Liability: \$1,000,000.

c. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Department. At the option of the Department, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Department, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

d. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

- (1) General Liability and Automobile Liability Coverages
  - (a) The Department, its officers, officials, employees, Boards and Commissions and volunteers are to be added as "additional insureds" as respects liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor, premises owned, occupied or used by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Department, its officers, officials, employees or volunteers. It is understood that the

business auto policy under "Who is an Insured" automatically provides liability coverage in favor of the State of Louisiana.

- (b) Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Department, its officers, officials, employees, Boards and Commissions or volunteers.
- (c) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(2) Workers' Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against the Department, its officers, officials, employees and volunteers for losses arising from work performed by the Contractor for the Department.

The Contractor shall not be reimbursed for liabilities that were caused by the conduct of the Contractor (including any conduct of its directors, managers, staff, representatives or employees) which was grossly negligent, constituted intentional misconduct, or demonstrated a lack of good faith. Furthermore, the Contractor shall not be indemnified for liability arising under strict tort liability or any other basis of liability other than negligence.

(3) Pollution Liability Insurance

Within fifteen (15) days of award of this contract, the Contractor shall submit to the Department written documentation concerning the procurement of pollution liability insurance coverage of at least one million dollars (\$1,000,000.00), exclusive of legal defense cost. This documentation shall be in the form of a copy of the policy and declaration page. The Department shall be named as an additional insured. Any insurance policy which operates on a "claims-made" basis shall be maintained for the term of this contract.

Every twelve (12) months after the award of the contract, the Contractor must submit written documentation providing proof of continued pollution liability insurance coverage including:

- (a) copies of applications submitted to three known underwriters of pollution liability insurance;
- (b) a status report of any pollution liability insurance obtained (The report shall include the type of coverage, the premium charged, the limits of coverage, the deductible levels, and any other major terms

and conditions of the insurance coverage. A copy of the actual policy and declaration page could be provided in lieu of a written status report.);

- (c) if pollution liability coverage was denied by an underwriter, a summary of the reasons why such coverage was denied; and
- (d) a status report concerning the alternative pollution liability risk transfer mechanisms that the Contractor has pursued other than commercial pollution liability insurance (e.g., risk retention groups, purchasing groups, etc.).

The Contractor shall not be reimbursed for liabilities that were caused by the conduct of the Contractor (including any conduct of its directors, managers, staff, representatives or employees) which was grossly negligent, constituted intentional misconduct, or demonstrated a lack of good faith. Furthermore, the Contractor shall not be indemnified for liability arising under strict tort liability or any other basis of liability other than negligence.

(4) All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Department.

e. Acceptability of Insurers

Insurance is to be placed with insurers with a Best's rating of no less than A-:VI or higher. This rating requirement may be waived for workers' compensation coverage only.

f. Verification of Coverage

The Contractor shall furnish the Department with certificates of insurance affecting coverage required by this clause. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf, and must include the Contractor's name, the Department CFMS number, the effective dates of the policy, and the level of coverage. The certificates must be received and approved by the Department before the Notice to Proceed will be issued and work commences. The Department reserves the right to require complete, certified copies of all required insurance policies, at any time.

An original and one (1) copy of each certificate (and policies when required) shall be sent to the attention of:

Lisa Miller  
Financial Services Division  
Louisiana Department of Environmental Quality  
P.O. Box 4303  
Baton Rouge, LA 70821-4303

g. Renewal of Insurance

In the event that the Contractor provides certificates of insurance valid for a period of time less than the term of the contract, said certificates shall be acceptable, however, the Contractor shall be obligated to renew its insurance policies such that continuous coverage is provided for the entire contract term. The Contractor shall provide the Department with valid certificates of renewal of the insurance upon the expiration of the policies. In the event the Contractor fails or refuses to renew any of its insurance policies to the extent required by this contract, or any policy is canceled, terminated, or modified so that the insurance does not meet the requirements of this contract, and the Contractor does not otherwise satisfy the liability guarantees required by this contract, the Department may refuse to make payment of any further monies due or coming due under this or other agreements between the Contractor and the Department. The Department, in its sole discretion, may use monies retained under this paragraph to renew the Contractor's insurance for the periods and amounts referred to above. During any period when any required insurance is not in effect, and the Contractor does not otherwise satisfy the liability guarantees required by this contract, the Department, at its option, may either suspend work under this contract, or proceed to default the Contractor and thereby terminate this contract.

h. Unsatisfactory Insurance

If at any time any of the foregoing policies shall be or become unsatisfactory to the Department, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Department, the Contractor shall, upon notice to that effect from the Department:

- (1) promptly obtain a new policy;
- (2) submit the new policy to the Department for approval; and
- (3) submit a certificate thereof as herein above provided.

Upon failure of the Contractor to furnish, deliver and maintain such insurance as above provided, the Department, at its option, may either suspend work under this contract, or proceed to default the Contractor and thereby terminate this contract. Failure of the Contractor to take out and/or maintain or the taking out and/or maintenance of any required insurance, shall not relieve the Contractor from any liability under the contract,

nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Contractor concerning indemnification.

i. Cancellation of Insurance

The certificates shall provide for thirty (30) days written notice to the Department prior to any cancellation, expiration, or non-renewal during the term of insurance required by this contract. Notices of cancellation shall be sent to the Department by registered mail, return receipt requested.

j. Disclaimer

The Contractor expressly understands and agrees that any insurance protection or other liability guarantees required or requested by this contract shall in no way limit the Contractor's obligations assumed in the contract, and shall not be construed to relieve the Contractor from liability in excess of such coverage or guarantees, nor shall it preclude the Department from taking such other actions as are available to it under any provision of this contract or otherwise in law.

30. PAYMENT BOND

The Contractor shall provide a payment bond, executed 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 with Attachment G, Payment Bond. The bond shall be in the amount of one hundred percent (100%) of the contract price.

31. LABORATORY ACCREDITATION

In accordance with LAC 33:I.4501, any commercial laboratory (as defined in LAC 33:I.4503) shall be accredited by the Louisiana Environmental Laboratory Accreditation Program (LELAP) prior to commencing analytical work. Each such laboratory must be certified for the method/matrix/analytes necessary to perform the analytical work required in Attachment B, Scope of Services. The Department shall not accept analytical data generated by any commercial laboratory that is not accredited by LELAP in accordance with LAC 33:I.4501 through 5915. All analytical data must be submitted in a format approved by the Department Project Manager and shall meet the requirements of LAC 33:I.5313 and the 2003 National Environmental Laboratory Accreditation Conference (NELAC) Standards.

Any laboratory other than a commercial laboratory (as defined in LAC 33:I.4503) shall meet at a minimum the quality systems requirements found in LAC 33:I.Chapter 53 and in Chapter 5 of the 2003 NELAC Standards. All analytical data must be submitted in a format approved by the Department Project Manager and meet the requirements of LAC 33:I.5313 and the 2003 NELAC Standards.

The Contractor agrees that the Department may at any time during the term of this Contract and without prior notice conduct on-site laboratory audits and/or assessments of any laboratory that performs analytical work or generates data submitted or to be submitted as required in Attachment B, Scope of Services.

Analytical work shall not be performed by any subcontractor unless written Department approval has been obtained by the Contractor prior to subcontracting any part of the services specified in Attachment B, Scope of Services. The Contractor shall submit requests for approval, accompanied by information (including but not limited to resumes) of proposed subcontractors to the Project Manager. The Contractor further agrees to guarantee and to require of any subcontractor that all services performed under any subcontract shall comply with all of the terms and conditions of this Contract and with LAC 33:I.5307.D.

32. RESPONSE ACTION CONTRACTOR REQUIREMENTS

The Contractor must appear on the approved current Response Action Contractor (RAC) listing as defined in LAC 33:XI.1205.A. The Contractor must maintain the minimum qualification requirements of a RAC throughout the duration of this contract. Failure to maintain the required qualifications, or promptly correct any lapse, may be considered as a failure to perform within the terms of this contract.

33. ENTIRE AGREEMENT AND ORDER OF PRECEDENCE

This contract, together with the Solicitation for Services and addenda issued thereto by the Department, the Corrective Action Solicitation Response and any exhibits specifically incorporated therein by reference constitutes the entire agreement between the parties with respect to subject matter.

This contract shall, to the extent possible, be construed to give effect to all provisions contained therein. However, where provisions are in conflict, first priority shall be given to the provisions of the contract excluding the Solicitation for Services and the Corrective Action Solicitation Response; second priority shall be given to the provisions of the Solicitation for Services and amendments thereto; and third priority shall be given to the provisions of the Corrective Action Solicitation Response.

34. AMENDMENTS

All changes to the contract price or term shall require amendment to the contract. No amendment shall be effective unless it is in writing, signed by duly authorized representatives of both parties, and approved by the Department and the Division of Administration. Verbal directives from any employee of the Department shall carry no authority, and shall not entitle the Contractor to any compensation for any corresponding effort.

THE DEPARTMENT AND THE CONTRACTOR REPRESENT THAT THIS CONTRACT SUPERSEDES ALL PROPOSALS, ORAL AND WRITTEN, ALL PREVIOUS CONTRACTS, AGREEMENTS, NEGOTIATIONS AND ALL OTHER COMMUNICATIONS BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

**WITNESS:**

**DEPARTMENT OF ENVIRONMENTAL QUALITY:**

\_\_\_\_\_

\_\_\_\_\_  
Vince Sagnibene  
Undersecretary  
Office of Management and Finance

\_\_\_\_\_

\_\_\_\_\_  
Cheryl Sonnier Nolan  
Assistant Secretary  
Office of Environmental Compliance

**WITNESS:**

**CONTRACTOR:**

\_\_\_\_\_

\_\_\_\_\_

**ATTACHMENT G**  
**Payment Bond**

**“Leaking Underground Storage Tank (LUST) Post Hurricane Corrective Action at  
Discount Zone”**

**Louisiana Department of Environmental Quality**  
**Hereafter referred to as “the Department”**

Therefore, \_\_\_\_\_ to these presents \_\_\_\_\_ personally came and intervened herein acting for \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, and duly authorized to transact business in the State of Louisiana, as Surety, who declared that having taken cognizance of this contract and of the documents mentioned herein, he hereby in his capacity as its Attorney in Fact obligates his said company, as Surety for the said Contractor, unto the Department, for a payment bond, the bond of a sum equal to one hundred percent (100%) of the contract price of Dollars (\$ \_\_\_\_\_).

The condition of this payment bond shall be that should the Contractor herein not pay all persons who have and fulfill obligations to perform labor and/or furnish materials in the prosecution of the work provided for herein, including by way of example workmen, laborers, mechanics, and furnishers of materials, machinery, equipment and fixtures, then said Surety agrees and is bound to make said payment(s).

Provided, that any alterations which may be made in the terms of the contract or in the work to be done under it, or the giving by the Department of any extensions of time for the performance of the contract, or any other forbearance on the part of either the Department or the Contractor to the other shall not in any way release the Contractor or the Surety from their liability hereunder, notice to the Surety of any such alterations, extensions, or other forbearance being hereby waived.

If the surety on any bond is declared bankrupt, becomes insolvent, or its right to do business in any state where any part of the project is located is revoked, the Contractor shall substitute another bond and surety acceptable to the Department. Any substitution shall be made within five (5) days after such declaration.

**ATTACHMENT H**  
**Hold Harmless Agreement – Contractor Site Visit**

**“Leaking Underground Storage Tank (LUST) Post Hurricane Corrective Action at Discount Zone”**

**Louisiana Department of Environmental Quality**  
**Hereafter known as “the Department”**

The undersigned company hereby agrees to indemnify and save harmless the State of Louisiana, and its officials, employees, and agents from any and all liabilities, claims and demands for damages, injuries, death, or losses or costs or expenses of any kind resulting from or arising out of or claimed to result from or arise out of the undersigned companies’ employee(s) site visit and/or walk-through at the Discount Zone site.

The undersigned company hereby agrees to defend any claim or suit which may arise from the foregoing and to pay all attorney fees and costs thereof.

Know all persons that the undersigned hereby consents and agrees to be bound by the terms of this Hold Harmless Agreement.

Company: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone No. \_\_\_\_\_

FAX No. \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

**The signor shall sign the Hold Harmless form in the presence of the Department representative and must provide photo identification.**

SIGNOR: \_\_\_\_\_

DATE: \_\_\_\_\_

DEPARTMENT REPRESENTATIVE: \_\_\_\_\_

DATE: \_\_\_\_\_

**ATTACHMENT I**

**“Leaking Underground Storage Tank (LUST) Post Hurricane Corrective Action at Discount Zone”**

**Driving Directions to Discount Zone  
1620 Veterans Blvd, Metairie, Jefferson Parish**

From Baton Rouge: From the I-10/I-110 merge, take I-10 E approximately 73 miles toward New Orleans. Take Exit 228 Causeway Blvd North toward Mandeville / Bonnabel Blvd. Take the exit towards Bonnabel Blvd. Stay Straight to go onto Service Rd E. Turn LEFT onto Bonnabel Blvd and travel approximately 0.4 miles. Turn RIGHT onto Veterans Blvd.

From Lafayette: From the intersection of I-10 & I-49, take I-10 E approximately 125 miles toward New Orleans. Take Exit 228 Causeway Blvd North toward Mandeville / Bonnabel Blvd. Take the exit towards Bonnabel Blvd. Stay Straight to go onto Service Rd E. Turn LEFT onto Bonnabel Blvd and travel approximately 0.4 miles. Turn RIGHT onto Veterans Blvd.

All distances were obtained using Mapquest.

**APPENDIX A****REQUIREMENTS OF GRANT NO. LP-966394-01****1. MINORITY/WOMEN BUSINESS ENTERPRISE REQUIREMENTS**

The Contractor agrees to ensure that minority/women business enterprises have the maximum opportunity to participate in the performance of this contract and any subcontracts for supplies, equipment, construction, or services that may be let. In this regard, the Contractor shall take all necessary and reasonable steps to ensure that minority/women business enterprises have the maximum opportunity to compete for and perform services relating to this contract.

The following affirmative steps for utilizing MBE/WBEs are required:

- a. Solicitations for products or services shall be sent to firms/individuals listed as MBE's and WBE's.
- b. Where feasible, divide total requirements into smaller tasks to permit maximum MBE/WBE participation.
- c. Where feasible, establish delivery schedules which will encourage MBE/WBE participation.
- d. Encourage use of the services of the U. S. Department of Commerce's Minority Business Development Agency (MBD) and the U. S. Small Business Administration to identify MBE/WBE's.
- e. Require that each party to a subcontract takes the affirmative steps outlined here.
- f. Include in bid documents for subcontractors the negotiated "fair share" percentages:
  - MBE: Construction 11%; Supplies 5.5%; Services 13%; Equipment 3.4%
  - WBE: Construction 8.8%; Supplies 16%; Services 13%; Equipment 10%

**2. REPORTING REQUIREMENTS**

A procurement summary detailing purchases from Minority/Women Business Enterprises (MBE/WBE) shall be submitted quarterly for quarters ending Dec. 31<sup>st</sup>, March 31<sup>st</sup>, June 30<sup>th</sup> and September 30<sup>th</sup> by the Contactor on Appendix B within fourteen (14) calendar days of the end of the preceding quarter.

This report should be submitted to:

Louisiana Department of Environmental Quality  
Financial Services Division  
P.O. Box 4303  
Baton Rouge, LA 70821-4303

Failure to submit this report for the reporting period(s) listed above will result in payment being withheld.

**APPENDIX A****REQUIREMENTS OF GRANT NO. LP-966467-01****1. MINORITY/WOMEN BUSINESS ENTERPRISE REQUIREMENTS**

The Contractor agrees to ensure that minority/women business enterprises have the maximum opportunity to participate in the performance of this contract and any subcontracts for supplies, equipment, construction, or services that may be let. In this regard, the Contractor shall take all necessary and reasonable steps to ensure that minority/women business enterprises have the maximum opportunity to compete for and perform services relating to this contract.

The following affirmative steps for utilizing MBE/WBEs are required:

- a. Solicitations for products or services shall be sent to firms/individuals listed as MBE's and WBE's.
- b. Where feasible, divide total requirements into smaller tasks to permit maximum MBE/WBE participation.
- c. Where feasible, establish delivery schedules which will encourage MBE/WBE participation.
- d. Encourage use of the services of the U. S. Department of Commerce's Minority Business Development Agency (MBD) and the U. S. Small Business Administration to identify MBE/WBE's.
- e. Require that each party to a subcontract takes the affirmative steps outlined here.
- f. Include in bid documents for subcontractors the negotiated "fair share" percentages:
  - MBE: Construction 11%; Supplies 5.5%; Services 13%; Equipment 3.4%
  - WBE: Construction 8.8%; Supplies 16%; Services 13%; Equipment 10%

**2. REPORTING REQUIREMENTS**

A procurement summary detailing purchases from Minority/Women Business Enterprises (MBE/WBE) shall be submitted quarterly for quarters ending Dec. 31<sup>st</sup>, March 31<sup>st</sup>, June 30<sup>th</sup> and September 30<sup>th</sup> by the Contactor on Appendix B within fourteen (14) calendar days of the end of the preceding quarter.

This report should be submitted to:

Louisiana Department of Environmental Quality  
Financial Services Division  
P.O. Box 4303  
Baton Rouge, LA 70821-4303

Failure to submit this report for the reporting period(s) listed above will result in payment being withheld.

APPENDIX B

**MBE/WBE PROCUREMENTS MADE DURING REPORTING PERIOD**  
**EPA Financial Assistance Agreement Numbers: LP-966394-01 and LP-966467-01**

1. Procurement Made By		2. Business Enterprise		3. \$ Value of Procurement	4. Date of Award MM/DD/YY	5. Type of Product or Services (Enter Code)	6. Name/Address/Phone Number of MBE/WBE Contractor or Vendor
Contractor	Sub-Contractor	Minority	Women				

A Type of product or service codes:

1 = Construction

2 = Supplies

3 = Services

- A = Business Services
- B = Professional Services
- C = Repair Services
- D = Personal Services

4 = Equipment

A good faith effort has been made to obtain MBE/WBE vendors \_\_\_\_\_ DATE: \_\_\_\_\_  
 Signature

\_\_\_1<sup>st</sup> Qtr (Oct-Dec)    \_\_\_2<sup>nd</sup> Qtr (Jan-Mar)    \_\_\_3<sup>rd</sup> Qtr (Apr-June)    \_\_\_4<sup>th</sup> Qtr (Jul-Sept)