

**JEFFERSON COUNTY PUBLIC SCHOOLS  
CONTRACT FOR THE PROCUREMENT OF PROFESSIONAL SERVICES**

THIS CONTRACT FOR PROCUREMENT OF PROFESSIONAL SERVICES (hereinafter "Contract") is entered into between the JEFFERSON COUNTY BOARD OF EDUCATION (hereinafter "Board"), a political subdivision of the Commonwealth of Kentucky, with its principal place of business at 3332 Newburg Road, Louisville, Kentucky 40218 and Land Design & Development, Inc. (LD&D) (hereinafter "Contractor"), with its principal place of business at 503 Washburn Avenue, Suite 101, Louisville, Kentucky, 40222.

WITNESSETH:

WHEREAS, the Board desires to procure the particular services of Contractor, which are more fully defined below; and

WHEREAS, Contractor has held itself out to be competent and capable of performing the services contracted for herein;

NOW, THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, the Board and Contractor (hereinafter "Parties") agree as follows:

ARTICLE I

Entire Agreement; Amendments

This Contract is the entire agreement between the Parties and supersedes any and all agreements, representations and negotiations, either oral or written, between the Parties before the effective date of this Contract. This Contract may not be amended or modified except in writing as provided in Article VIII. This Contract is supplemented by the Board's Procurement Regulations currently in effect (hereinafter "Regulations") that are incorporated by reference into and made a part of this Contract. In the event of a conflict between any provision of this Contract and any provisions of the Regulations, the Regulations shall prevail.

ARTICLE II

Services

Contractor agrees to perform the following services (hereinafter "Services") of a quality and in a manner that is within the highest standards of Contractor's profession or business. The Services are as follows:

Prepare design plans for Eastern High School field which include: prepare a boundary/partial survey of area of proposed detention basin, prepare site grading/drainage and erosion control plan, prepare and process detention basin analysis for the addition of turf football field, prepare as built survey of post construction detention basin and volume study to be provided to MSD, perform construction coordination/attend meetings/project administration, and prepare easement plat - process for approval with appropriate governmental agencies.

Fees listed below do not include any unforeseen items or requirements. If changes in drawings, specification, or other additional documents are requested by JCPS, additional fees may be charged at the contractor regular hourly rates. Fee structure listed in Attachment "A" LD&D Agreement of Limited Professional Service.

ARTICLE III  
Compensation

The Board shall pay Contractor the total amount stated below (hereinafter “Contract Amount”). The Contract Amount shall be paid in a lump sum upon completion of the Services, unless a schedule of progress payments is stated below. The Contract Amount shall be for total performance of this Contract and includes all fees, costs and expenses incurred by Contractor including but not limited to labor, materials, taxes, profit, overhead, travel, insurance, subcontractor costs and other costs, unless otherwise stated below. To receive payment, Contractor must submit an itemized invoice or invoices. If progress payments are authorized, each invoice must specify the actual work performed. If payment of costs or expenses is authorized, receipts must be attached to the invoice.

|  |   |
|--|---|
| Contract Amount:                                   | Up to \$25,000                            |
| Progress Payments (if not applicable, insert N/A): | Paid monthly upon % of completed services |
| Costs/Expenses (if not applicable insert N/A):     | N/A                                       |
| Fund Source:                                       | 0072828-0679-741X                         |

ARTICLE IV  
Term of Contract

Contractor shall begin performance of the Services on March 1, 2023 and shall complete the Services no later than February 29, 2024, unless this Contract is modified as provided in Article VIII.

ARTICLE V  
Performance of Services by Contractor

The Services shall be performed by Contractor, and in no event shall Contractor subcontract with any other person to aid in the completion of the Services without the prior written approval of the Contract Administrator defined below.

Contractor shall appoint one person who shall be responsible for reporting to the Board on all Services performed under the terms of this Contract and who shall be available for consultation with the Contract Administrator.

Contractor is an independent contractor, not an employee. Contractor is responsible for the payment of all federal, state and local payroll taxes and providing unemployment insurance and workers compensation coverage to Contractor’s employees. Contractor shall provide all equipment, materials and supplies necessary for the performance of the Services.



Contractor shall at all times during the term of this Contract comply with all applicable laws, regulations, rules and policies. Contractor shall obtain and keep in force all licenses, permits and certificates necessary for the performance of the Services.

Contractor agrees to hold harmless, indemnify, and defend the Board and its members, agents, and employees from any and all claims or losses accruing or resulting from injury, damage, or death of any person, firm, or corporation, including the Contractor himself, in connection with the performance of this Contract. Contractor also agrees to hold harmless, indemnify, and defend the Board and its members, agents, and employees from any and all claims or losses incurred by any supplier, contractor, or subcontractor furnishing work, services, or materials to Contractor in connection with the performance of this Contract. This provision survives termination of this Contract.

Unless waived in writing by the Contract Administrator, Contractor shall maintain during the term of this Contract policies of primary insurance covering the following risks and in at least the following amounts: commercial general liability, including bodily injury, property damage, personal injury, products and completed operations, and contractual, \$1,000,000; and automobile liability, \$1,000,000. Contractor shall furnish to the Contract Administrator certificates of insurance evidencing this coverage and naming the Board as an additional insured. Additionally, Contractor shall maintain workers compensation coverage with limits required by law; and professional errors and omissions coverage with minimum limits of \$1,000,000. Contractor shall furnish certificates of insurance evidencing this coverage to the Contract Administrator.

## ARTICLE VI Equal Opportunity

During the performance of this Contract, Contractor agrees that Contractor shall not discriminate against any employee, applicant or subcontractor because of race, color, national origin, age, religion, marital or parental status, political affiliations or beliefs, sex, sexual orientation, gender identity, gender expression, veteran status, genetic information, disability, or limitations related to pregnancy, childbirth, or related medical conditions. If the Contract Amount is paid from federal funds, this Contract is subject to Executive Order 11246 of September 24, 1965 and in such event the Equal Opportunity Clause set forth in 41 Code of Federal Regulations 60-1.4 is hereby incorporated by reference into this Contract as if set forth in full herein.

## ARTICLE VII Prohibition of Conflicts of Interest

It shall be a breach of this Contract for Contractor to commit any act which is a violation of the provisions of Article XI of the Regulations entitled "Ethics and Standards of Conduct," or to assist or participate in or knowingly benefit from any act by any employee of the Board which is a violation of such provisions.

## ARTICLE VIII Changes

The Board and Contractor may at any time, by mutual agreement set forth in a written addendum, make changes in the definition of the Services; the scope of the Services; and the Contract Amount. The Contract Administrator and Contractor may, at any time, by mutual agreement set forth in a written addendum, make changes in the time within which the Services are to be performed; the schedule of Progress Payments; and mutual Termination of the Contract.

## ARTICLE IX

### Termination for Convenience of the Board

The Board may terminate this Contract in whole or in part at any time by giving written notice to Contractor of such termination and specifying the effective date thereof, at least thirty (30) days before the specified effective date. The Board shall compensate Contractor for Services satisfactorily performed through the effective date of termination.

## ARTICLE X

### Termination for Default

The Board may, by written notice of default to Contractor, terminate the whole or any part of this Contract, if Contractor breaches any provision of this Contract, or so fails to make progress as to endanger performance of this Contract, and in either of these circumstances, does not cure the breach or failure within a period of five (5) days after receipt of notice specifying the breach or failure. In the event of termination for default, the Board may secure the required services from another contractor. If the cost to the Board exceeds the cost of obtaining the Services under this Contract, Contractor shall pay the additional cost. The rights and remedies of the Board provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

## ARTICLE XI

### Disputes

Any differences or disagreements arising between the Parties concerning the rights or liabilities under this Contract, or any modifying instrument entered into under Article VIII of this Contract, shall be resolved through the procedures set out in the Regulations.

## ARTICLE XII

### Contractor's Work Product

Unless waived in writing by the Contract Administrator, the Board shall retain ownership in and the rights to any reports, research data, creative works, designs, recordings, graphical representations or other works of a similar nature (hereinafter "Works") produced or delivered by Contractor under this Contract. Contractor agrees that the Works are "works for hire" and Contractor assigns all right, title and interest in the Works to the Board.

Any reports, information, data, etc. given to or prepared or assembled by Contractor under this Contract shall not be made available to any individual or organization by Contractor without the prior written approval of the Board. Provided, nothing in this Article may be used to violate the provisions of any Kentucky or Federal statute or regulation which requires reporting of information.

## ARTICLE XIII

### Contract Administrator

The Board shall appoint a Contract Administrator for the purposes of daily administrative decision-making pertaining to the Contract. If Contractor and the Contract Administrator disagree on any circumstance or set of facts pertaining to the administration or execution of this Contract, the Board shall resolve the matter after notification by either the Contract Administrator or the Contractor in the manner prescribed by the Regulations. If the Board fails to give notice to Contractor of the appointment of a Contract Administrator, the Contract Administrator shall be the Board's Chief Financial Officer.

## ARTICLE XIV Right to Audit

The Board shall have the right to inspect and audit all accounting reports, books or records which concern the performance of the Services. Inspection shall take place during normal business hours at Contractor's place of business. Contractor shall retain all records relating to the performance of this Contract for five (5) years after the end of the term of this Contract.

## ARTICLE XV Miscellaneous

- A. All Articles shall be construed as read, and no limitation shall be placed on any Article by virtue of its descriptive heading.
- B. Any notices or reports by one Party to the other Party under this Contract shall be made in writing, to the address shown in the first paragraph of this Contract, or to such other address as may be designated in writing by one Party to the other. Notices shall be effective when received if personally delivered, or three days after mailing if mailed.
- C. If any part of this Contract is held to be void, against public policy or illegal, the balance of this Contract shall continue to be valid and binding.
- D. This Contract shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky.
- E. No delay or omission by either Party in exercising any right under this Contract shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of this Contract.
- F. At all times during the term of this Contract, Contractor shall comply with the Family Educational Rights and Privacy Act of 1974. If Contractor has access to student records, Contractor shall limit its employees' access to those records to persons for whom access is essential to perform this Contract.
- G. If this Contract requires Contractor and/or any employees of Contractor access to school grounds on a regularly scheduled and continuing basis for the purpose of providing services directly to a student or students, all individuals performing such services under this Contract are required to submit per KRS 160.380 to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating no administrative findings of child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.
- H. Contractor shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the Contractor or subcontractor for the duration of this Contract and shall reveal any final determination of a violation by the Contractor or subcontractor of the preceding KRS Chapters.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract to be effective as of March 1, 2023.

Contractor's Social Security Number or Federal Tax ID Number:

JEFFERSON COUNTY BOARD OF  
EDUCATION

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

Title: Martin A. Pollio, Ed.D.  
Superintendent

LAND DESIGN & DEVELOPMENT, INC.  
CONTRACTOR

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

Title: Eric Bartley  
Principal

Cabinet Member: Robert Moore

\_\_\_\_\_  
(Initials)

Jefferson County Public Schools  
**NONCOMPETITIVE NEGOTIATION  
DETERMINATION AND FINDING**

1. An emergency exists which will cause public harm as a result of the delay in competitive procedures (Only the Superintendent shall declare an emergency.) —

State the date the emergency was declared by the superintendent: \_\_\_\_\_

2. There is a single source for the items within a reasonable geographic area —

Explain why the vendor is a single source: \_\_\_\_\_

3. The contract is for the services of a licensed professional, education specialist, technician, or an artist —

State the type of service: **Atheletic Landscaping & Engineering Consultant**

4. The contract is for the purchase of perishable items purchased on a weekly or more frequent basis —

State the item(s): \_\_\_\_\_

5. The contract is for proprietary item(s) for resale: This can include the buying or selling of item(s) by students when it is part of the educational experience —

State the type(s) of item(s): \_\_\_\_\_

6. The contract is for replacement parts when the need cannot be reasonably anticipated and stockpiling is not feasible —

State the item(s): \_\_\_\_\_

7. The contract or purchase is for expenditures made on authorized trips outside the boundaries of Jefferson County Public Schools —

State the location: \_\_\_\_\_

8. The contract is for a sale of supplies at reduced prices that will afford Jefferson County Public Schools a savings (Purchase must be approved by Director of Purchasing) —

Explain the logic: \_\_\_\_\_

9. The contract is for the purchase of supplies which are sold at public auction or by receiving sealed bids —

State the items: \_\_\_\_\_

**I have determined that, pursuant to K.R.S. 45A. 380, the above item(s) should be obtained by the Noncompetitive Negotiation Methods since competition is not feasible.**

Joe Scherper

Print name of person making Determination

Eastern High School

School or Department

\_\_\_\_\_  
Signature of person making Determination

\_\_\_\_\_  
Date

Land Design & Development, Inc.

Name of Contractor (**Contractor Signature Not Required**)

\_\_\_\_\_  
Requisition Number

Explanation of Noncompetitive Negotiation Methods can be found under K.R.S. 45A.380 and on page 15 in the Procurement Regulations

F-471-1

Revised 05/2011



## Land Design & Development, Inc.

### AGREEMENT FOR THE PROVISION OF LIMITED PROFESSIONAL SERVICES

Land Design & Development, Inc. (LD&D)  
503 Washburn Avenue, Suite 101  
Louisville, Kentucky 40222  
(502) 426-9374 Fax (502) 426-9375

Client: Eastern High School  
c/o Mr. Joe Scheper  
Athletic Director  
12400 Old Shelbyville Road  
Louisville, Kentucky 40243  
[Joseph.scheper@jefferson.kyschools.us](mailto:Joseph.scheper@jefferson.kyschools.us)

LD&D Project No:  
Project Name: Eastern HS Turf

Date: June 15, 2022  
Location: 12400 Old Shelbyville Rd

#### Scope of Services:

1. Prepare a boundary/partial topographic survey of area of proposed detention basin.
2. Prepare a site grading/drainage and erosion control plan.
3. Prepare and process detention basin analysis for the addition of turf football field.
4. Prepare as built survey of post construction detention basin and volume study to be provided to MSD **(one time only)** (if required).
5. Perform construction coordination/attend meetings/project administration.
6. Prepare easement plat – process for approval with appropriate governmental agencies (if required).

#### Special Conditions: Assumes no post construction water quality design required.

This proposal is for items listed above. These fees do not include any unforeseen items or requirements. If changes in drawings, specifications, or other documents are requested by the client after a definite scheme has been approved, we shall be reimbursed for the cost of such changes at our regular hourly rates.

#### Fee Structure:

|  |             |
|--|-------------|
| 1. Boundary/Partial Topography Survey                    | \$ 3,200    |
| 2. Site Grading/Drainage, Erosion Control Plan           | \$ 8,500    |
| 3. Detention Basin Analysis                              | \$ 3,800    |
| 4. Post Construction As-Built Survey (if required)       | \$ 2,200    |
| 5. Coordination/Project Administration – hourly (budget) | \$ 3,000    |
| 6. Easement Plat (if required)                           | \$ 750/each |

This fee is to be invoiced monthly and shall be paid within thirty (30) days unless otherwise noted. Billing to be based on percent of completion. After thirty (30) days a late fee of two (2) percent per month will be applied to the total.

**Note: It is understood any fees charged by governmental agencies and any other miscellaneous charges (Federal Express, copying charges, etc.) are to be paid by the client.**

**The Terms and Conditions on the attached page are part of this agreement.**

OFFERED BY (LD&D)



(signature)

Eric Bartley, Principal 6/15/2022

(printed name/title)

ACCEPTED BY (CLIENT):

(signature)

(date)

(printed name/title)

(for)





Effective: April 2019

#### TERMS AND CONDITIONS

LD&D shall perform the services outlined in this agreement for the stated fee arrangement.

#### SCOPE OF SERVICES

Services not set forth above as Basic Services or Additional Services and listed in any Exhibits to this Agreement are excluded from the scope of the services and LD&D assumes no responsibility to perform such services.

#### STANDARD OF CARE

LD&D will perform its services in a manner consistent with that level of care and skill ordinarily exercised by members of the Consulting Engineering profession currently practicing in the same locality under similar conditions. No other warranty, expressed or implied, is included or intended by this Agreement.

#### ACCESS TO SITE

Unless otherwise stated, LD&D will have access to the site for activities necessary for the performance of the services.

#### BILLINGS/PAYMENTS

Invoices will be submitted monthly for services and reimbursable expenses and are due when rendered. Invoices shall be considered PAST DUE if not paid within 30 days after the invoice date and LD&D may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, terminate the performance of the service. Retainers shall be credited on the final invoice. After 30 days from date of invoice, a service charge will be charged at the rate of 2% per month on the unpaid balance. In the event any portion or all of an account remains unpaid 90 days after billing, the Client shall pay cost of collection, including reasonable attorney's fees.

#### INDEMNIFICATION

The Client shall indemnify and hold harmless LD&D and all of its personnel from and against damages, losses and expenses (including reasonable attorney's fees) to the proportionate extent caused by the negligent performance of the services, provided that any such claims, damage, loss or expense is caused in whole by the negligent act of omission, and/or strict liability of the Client, anyone directly or indirectly employed by the Client (except LD&D) or anyone for whose acts any of them may be liable.

#### CONTRACTOR PERFORMANCE

During the site visits, LD&D will spot observe the progress and results of the work and monitor its conformance to the drawings and specifications. LD&D does not guarantee the performance of the contractor, nor is it guaranteed that spot observation of the work will discover all discrepancies. LD&D is not responsible for construction means, methods, techniques, sequence or procedures, or time of performance. LD&D is not responsible for job site safety as this is the sole responsibility of the contractor.

#### CHANGED CONDITIONS

The Client shall rely on LD&D's judgement as to the continued adequacy of this Agreement in light of occurrences or discoveries that were not originally contemplated by or known to LD&D. Should LD&D call for contract renegotiations, LD&D shall identify the changed conditions necessitating renegotiations and LD&D and the Client shall promptly, and in good faith, enter into renegotiations of this Agreement. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement.

#### RISK ALLOCATIONS

In recognition of the relative risks, reward and benefits of the project to both the Client and LD&D, the risks have been allocated so that the Client agrees that, to the fullest extent permitted by law, LD&D's total liability to the Client, for any and all injuries, claims, losses,

expenses, damages or claim expenses arising out of this Agreement, from any cause or causes, shall not exceed the total amount of fifty thousand (\$50,000), the amount of LD&D's fee (whichever is greater) or other amount agreed upon when added under special conditions. Such causes include, but are not limited to LD&D's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.

#### TERMINATION OF SERVICES

This Agreement may be terminated upon 10 days written notice by either party should the other fail to perform his obligations hereunder. In the event of termination, the Client shall pay LD&D for all services rendered to the date of termination, all reimbursable expenses, and reimbursable termination expenses. LD&D shall turn over all documents to Client. The Client realizes that the documents prepared by the engineer are instruments of service and that LD&D shall retain ownership of the documents. LD&D does not guarantee the accuracy of any electronic files or documents and the Client agrees to sign a Release of Liability in order to obtain the electronic documents.

#### DISPUTE RESOLUTION

All claims, disputes and other matters in question between Client and LD&D arising out of or related to the Agreement shall be resolved by good faith negotiations between Client and LD&D. If good faith negotiations fail to resolve the matter, Client and LD&D agree to seek a satisfactory resolution using a third party mediator, mutually agreed upon by Client and LD&D.

#### OWNERSHIP OF DOCUMENTS

All documents produced by LD&D under this Agreement shall remain the property of LD&D and may not be used by this Client for any other endeavor without written consent of LD&D.

#### NO ASSIGNMENT WITHOUT CONSENT

The Owner and Engineer, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Engineer shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

#### APPLICABLE LAW

Unless otherwise specified, this Agreement shall be governed by the laws of the principal place of business of LD&D.

#### JOBSITE SAFETY

Neither the professional activities of the Consultant, nor the presence of the Consultant or its employees and sub consultants at a construction/project site, shall relieve the General Contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the Work in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. The Consultant and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. The Client agrees that the General Contractor shall be solely responsible for jobsite security, and warrants that this intent shall be carried out in the Client's contract with the General Contractor. The Client also agrees that the Client, the Consultant and the Consultant's subcontractors shall be indemnified by the General Contractor and shall be made additional insureds under the General Contractor's policies of general liability insurance.

#### EMPLOYMENT PRACTICES

Qualified applicants are considered for all positions without regard to race, color, religion, sex, national origin, age, marital or veteran status, or the presence of a non-job related medical condition or handicap. This company is an at-will, equal opportunity employer.



Effective: April 2019

#### TERMS AND CONDITIONS

LD&D shall perform the services outlined in this agreement for the stated fee arrangement.

#### SCOPE OF SERVICES

Services not set forth above as Basic Services or Additional Services and listed in any Exhibits to this Agreement are excluded from the scope of the services and LD&D assumes no responsibility to perform such services.

#### STANDARD OF CARE

LD&D will perform its services in a manner consistent with that level of care and skill ordinarily exercised by members of the Consulting Engineering profession currently practicing in the same locality under similar conditions. No other warranty, expressed or implied, is included or intended by this Agreement.

#### ACCESS TO SITE

Unless otherwise stated, LD&D will have access to the site for activities necessary for the performance of the services.

#### BILLINGS/PAYMENTS

Invoices will be submitted monthly for services and reimbursable expenses and are due when rendered. Invoices shall be considered PAST DUE if not paid within 30 days after the invoice date and LD&D may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, terminate the performance of the service. Retainers shall be credited on the final invoice. After 30 days from date of invoice, a service charge will be charged at the rate of 2% per month on the unpaid balance. In the event any portion or all of an account remains unpaid 90 days after billing, the Client shall pay cost of collection, including reasonable attorney's fees.

#### INDEMNIFICATION

The Client shall indemnify and hold harmless LD&D and all of its personnel from and against damages, losses and expenses (including reasonable attorney's fees) to the proportionate extent caused by the negligent performance of the services, provided that any such claims, damage, loss or expense is caused in whole by the negligent act of omission, and/or strict liability of the Client, anyone directly or indirectly employed by the Client (except LD&D) or anyone for whose acts any of them may be liable.

#### CONTRACTOR PERFORMANCE

During the site visits, LD&D will spot observe the progress and results of the work and monitor its conformance to the drawings and specifications. LD&D does not guarantee the performance of the contractor, nor is it guaranteed that spot observation of the work will discover all discrepancies. LD&D is not responsible for construction means, methods, techniques, sequence or procedures, or time of performance. LD&D is not responsible for job site safety as this is the sole responsibility of the contractor.

#### CHANGED CONDITIONS

The Client shall rely on LD&D's judgement as to the continued adequacy of this Agreement in light of occurrences or discoveries that were not originally contemplated by or known to LD&D. Should LD&D call for contract renegotiations, LD&D shall identify the changed conditions necessitating renegotiations and LD&D and the Client shall promptly, and in good faith, enter into renegotiations of this Agreement. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement.

#### RISK ALLOCATIONS

In recognition of the relative risks, reward and benefits of the project to both the Client and LD&D, the risks have been allocated so that the Client agrees that, to the fullest extent permitted by law, LD&D's total liability to the Client, for any and all injuries, claims, losses,

expenses, damages or claim expenses arising out of this Agreement, from any cause or causes, shall not exceed the total amount of fifty thousand (\$50,000), the amount of LD&D's fee (whichever is greater) or other amount agreed upon when added under special conditions. Such causes include, but are not limited to LD&D's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.

#### TERMINATION OF SERVICES

This Agreement may be terminated upon 10 days written notice by either party should the other fail to perform his obligations hereunder. In the event of termination, the Client shall pay LD&D for all services rendered to the date of termination, all reimbursable expenses, and reimbursable termination expenses. LD&D shall turn over all documents to Client. The Client realizes that the documents prepared by the engineer are instruments of service and that LD&D shall retain ownership of the documents. LD&D does not guarantee the accuracy of any electronic files or documents and the Client agrees to sign a Release of Liability in order to obtain the electronic documents.

#### DISPUTE RESOLUTION

All claims, disputes and other matters in question between Client and LD&D arising out of or related to the Agreement shall be resolved by good faith negotiations between Client and LD&D. If good faith negotiations fail to resolve the matter, Client and LD&D agree to seek a satisfactory resolution using a third party mediator, mutually agreed upon by Client and LD&D.

#### OWNERSHIP OF DOCUMENTS

All documents produced by LD&D under this Agreement shall remain the property of LD&D and may not be used by this Client for any other endeavor without written consent of LD&D.

#### NO ASSIGNMENT WITHOUT CONSENT

The Owner and Engineer, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Engineer shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

#### APPLICABLE LAW

Unless otherwise specified, this Agreement shall be governed by the laws of the principal place of business of LD&D.

#### JOBSITE SAFETY

Neither the professional activities of the Consultant, nor the presence of the Consultant or its employees and sub consultants at a construction/project site, shall relieve the General Contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the Work in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. The Consultant and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. The Client agrees that the General Contractor shall be solely responsible for jobsite security, and warrants that this intent shall be carried out in the Client's contract with the General Contractor. The Client also agrees that the Client, the Consultant and the Consultant's subcontractors shall be indemnified by the General Contractor and shall be made additional insureds under the General Contractor's policies of general liability insurance.

#### EMPLOYMENT PRACTICES

Qualified applicants are considered for all positions without regard to race, color, religion, sex, national origin, age, marital or veteran status, or the presence of a non-job related medical condition or handicap. This company is an at-will, equal opportunity employer.