##### **STATE OF LOUISIANA**

**COOPERATIVE ENDEAVOR AGREEMENT**

**THIS COOPERATIVE ENDEAVOR**, made and entered into this (*enter date)* day of *(enter month)* 20 *(enter year)* by and between (*agency name*) of the State of Louisiana, hereinafter referred to as “State,” and/or “Agency” and (*enter legal name of entity/company)* officially domiciled at *(enter address including city, state and zip code),* hereinafter referred to as “Contracting Party”.

*(The “Contracting Party” may be a private entity, another state agency, political subdivision, quasi-public or public entity or private non-profit corporation*.)

**ARTICLE I**

**PREAMBLE**

WITNESSETH:

***[Do not insert contract terms and conditions in the below recitals, except where indicated]***

**1.1 WHEREAS,** Article VII, Section 14(A) of the Constitution of the State of Louisiana of 1974 provides that “the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private…”

**1.2 WHEREAS,** Article VII, Section 14 (C) also authorizes, for a public purpose, the state and its political subdivisions... “may engage in cooperative endeavors with each other, or political corporations, and with the United States or its agencies, or with any public or private association, corporation, or individual;” and

**1.3 WHEREAS**, the State and/or Agency desires to cooperate with the Contracting Party in the implementation of the Project as hereinafter provided;

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

**ARTICLE II**

**PUBLIC PURPOSE**

**2.1 WHEREAS,** the Agency has the authority enter into this agreement as evidenced by

***[Describe the governmental purpose for which the agency was created;[[1]](#endnote-2) provide its statutory authority/ citation]***

**2.2 WHEREAS**, the public purpose for this Cooperative Endeavor is described***[[2]](#endnote-3)*** as:

***[Describe what the public is getting out of this*; *provide a detailed description of the public purpose sought to be achieved]***

***Add any other information or “WHEREAS” paragraphs to background that may support public purpose, reciprocal value, non-gratuitous nature, and “3 prong test” generally***

***Three Prong Test: Three-prong test developed following the Louisiana Supreme Court’s Cabela’s decision states that all three of the following elements must be met for a public entity to properly expend or transfer public funds or property.***

1. ***The expenditure or transfer must be for a public purpose that comports with the governmental purpose which the entity has legal authority to pursue;***
2. ***The expenditure or transfer of public funds or property, taken as a whole, does not appear to be gratuitous; and***
3. ***Evidence must demonstrate that the public entity has a demonstrable, objective, and reasonable expectation of receiving a benefit or value at least equivalent to the amount expended or transferred.***

**2.3 WHEREAS**, this Agreement creates reciprocal obligations between agency and contractor; and the Agency has a demonstrable, objective, and reasonable expectation of receiving a benefit or value that is at least equivalent to or greater than the consideration it is transferring;***[[3]](#endnote-4)***

**2.4 WHEREAS**, this transfer or expenditure of public funds or property is not a gratuitous donation; and

**2.5 WHEREAS**, the agency and contractor certify that the transaction is not of a kind that is not prohibited by law.

**NOW THEREFORE**, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**ARTICLE III**

**TERM OF CONTRACT**

**3.1** This contract shall begin on *(beginning date)* and shall terminate on *(ending date)*.Payments will only be allowed under this agreement for expenditures and services occurring between the specified beginning date and the specified ending date.

**ARTICLE IV**

**SCOPE OF SERVICES**

**4.1** The Contracting Party shall:

*Describe the specific nature and background of the agreement, and the duties of the contractor, such as the program goals and objectives, as well as the expected outcomes and results. If applicable, include the population served, and the places/locations/parishes the services will be performed.*

**4.2** Agency’s payment of funds is conditioned upon the Contractor’s performance of the following services:

*Explain the nature and description of the public benefit to be derived from the expenditure or transfer. List actual services to be provided by all parties; include specific reference to any attachments that supplement the details or outline the program; attach any documents that provide terms and conditions of the Program under which the funds are being disbursed. Reference any publications or public documents such as grant documents or published programs that provide necessary programmatic information (with links if available);*

**ARTICLE V**

**DELIVERABLES**

**5.1** Deliverables:*(Include a description of the actual services that are to be provided, the relevant activities and anticipated outcomes, I*n*clude specific, measurable goals and objectives; specific performance measures including timelines and/or dates,).*

**5.2** Reports. Contracting Party will provide to agency a written Progress Report and a Cost Report at least every six months. The Progress Report shall outline the contractor’s resources, initiatives, activities, services, and performance consistent with the performance to be provided under this agreement. The Cost report shall indicate the use of public funds received to date along with goals and objectives for use of funds. Contracting Party is responsible for maintaining program files and support documentation for information contained in the reports.

**5.3**Contracting Party shall fully cooperate with the agency to fulfill the obligations of the Accountability for State Resources Act (La. R.S. 39:366.1 et. seq), maintain the required records, provide any reports or information that may be required, and participate in any hearings of the Joint Legislative Committee on the Budget required for approval or continuation of this Cooperative Endeavor Agreement. *(Include if required by La. R.S. 39:366.1 et seq)*

**ARTICLE VI**

**MAXIMUM AMOUNT; PAYMENT TERMS**

**6.1** In consideration of the services described above, the State and/or Agency hereby agrees to pay the Contracting Party a maximum fee of (*enter maximum amount of contract $\_\_\_\_\_\_\_\_\_\_\_\_*). Payment will be made in the following manner:

**(*Include the payment terms, addressing the basis for payment. Terms should address the following, as applicable: Will payment be hourly, task-based, deliverables-based, or unit-based? How often will invoices be submitted? Will reports be submitted regularly and will they track invoices? Who is responsible for reviewing, verifying and approving invoices? Describe the approval process before the Contracting Party can be paid including all payment schedules agreed to and all performance measures that must be met before compensation will be tendered.***

**6.2** The Contracting Party shall submit an invoice for services performed within ten (10) days following the end of each calendar month, including a detailed list of services performed and an itemized account of time spent during that calendar month for each such service.

The invoice shall be accompanied by adequate supporting documentation including copies of invoices, checks, and other appropriate records reflecting expenses incurred); the originals of these documents shall be maintained by contractor and shall be subject to audit. Only costs recognized as allowable in accordance with recognizable cost principals shall be allowed.

**6.3** Travel expenses, if any, shall be reimbursed in accordance with Division of Administration Memorandum PPM 49. Invoices and/or receipts for any reimbursable expenses or travel expens*e*s must be provided or attached to requests for reimbursement for said expenses. Travel expenses are included in the maximum fee.

The State and/or Agency shall remit payment for such services within thirty (30) days following receipt of such detailed list of services and acceptance of the work product.

**6.4** Additional Costs and Expenses. No additional costs or expenses incurred by the Contracting Party in performance of this Agreement shall be reimbursed or paid by the State and/or Agency unless agreed upon in writing by the parties and included in an amendment.

**6.5** Payments under this Agreement will be allowed only for expenditures occurring between and including the dates of *(authorized beginning date****)*** through(*authorized ending date)*.This project and all of the Contracting Party’s services shall be completed by that date.

**6.6**  Taxes: Contracting Party hereby agrees that the responsibility for payment of taxes from the funds received under this Agreement shall be Contracting Party’s obligation and identified under Federal tax identification number **\_\_\_\_**. **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.** Contractor's seven-digit LDR account number is **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**.

**6.7** In accordance with R.S. 39:1624(A)(10), the Louisiana Department of Revenue must determine that the prospective contractor is current in the filing of all applicable tax returns and reports and in payment of all taxes, interest, penalties, and fees owed to the state and collected by the Department of Revenue prior to the approval of this contract by the Office of State Procurement. The prospective contractor hereby attests to its current and/or prospective compliance, and agrees to provide its seven-digit LDR Account Number to the contracting agency so that the prospective contractor’s tax payment compliance status may be verified. The prospective contractor further acknowledges understanding that issuance of a tax clearance certificate by the Louisiana Department of Revenue is a necessary precondition to the approval and effectiveness of this contract by the Office of State Procurement. The contracting agency reserves the right to withdraw its consent to this contract without penalty and proceed with alternate arrangements should the vendor fail to resolve any identified apparent outstanding tax compliance discrepancies with the Louisiana Department of Revenue within seven (7) days of such notification.

**6.8** If the Contractor defaults on the agreement, breaches the terms of the agreement, ceases to do business, or ceases to do business in Louisiana, it shall reimburse the state as follows***[[4]](#endnote-5)*** *(specific terms must follow)*

**6.9** Upon approval of payment by the Agency, payment of Eligible Expenses shall be made via Electronic Funds Transfer.

**ARTICLE VII**

**CONTRACT MONITOR AND MONITORING PLAN**

**7.1** The Contract Monitor for this contract is (*Name of State Assigned Contract Monitor and Title)*

**7.2** Monitoring Plan**:** During the term of this agreement, Contractor shall discuss with State’s Contract Monitor the progress and results of the project, ongoing plans for the continuation of the project, any deficiencies noted, and other matters relating to the project. Contract Monitor shall review and analyze Contracting Party’s **Plan t**o ensure Contracting Party’s compliance with contract requirements.

The Contract Monitor shall also review and analyze the Contracting Party’s writte**n Progress Reports and Cost Reports** and any work product for compliance with the Scope of Services; and shall

1. Compare the Reports to Goals/Results and Performance Measures outlined in this contract to determine the progress made;
2. Contact Contracting Party to secure any missing deliverables;
3. Maintain telephone and/or e-mail contact with Contracting Party on contract activity and, if necessary, make visits to the Contracting Party’s site in order to review the progress and completion of the Contracting Party’s services, to assure that performance goals are being achieved, and to verify information when needed; and
4. Assure that expenditures or reimbursements requested in **Cost Reports** are in compliance with the approved **Budget.** Contract Monitor shall coordinate with agency’s fiscal office for reimbursements to Contracting Party and shall contact Contracting Party for further details, information or documentation when necessary.

**7.3** Between required performance reporting dates, Contracting Party shall inform Contract Monitor of any problems, delays or adverse conditions which will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project results by established time schedules and goals. Contracting Party’s disclosure shall be accompanied by a statement describing the action taken or contemplated by the Contracting Party and any assistance which may be needed to resolve the situation.

**ARTICLE VIII**

**TERMINATION FOR CAUSE**

**8.1** The State and/or Agency may terminate this Agreement for cause based upon the failure of Contracting Party to comply with the terms and/or conditions of the Agreement; provided that the State and/or Agency shall give Contracting Party written notice specifying Contracting Party’s failure. If within thirty (30) days after receipt of such notice, Contracting Party shall not have either corrected such failure or, in the case 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 State and/or Agency may, at its option, place Contracting Party in default and the Agreement shall terminate on the date specified in such notice. The State and/or Agency may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the Contracting Party to comply with the terms and conditions of this Agreement; provided that the State and/or Agency shall give the Contracting Party written notice specifying the Contracting Party’s failure and a reasonable opportunity for the Contracting Party to cure the defect.

**ARTICLE IX**

**TERMINATION FOR CONVENIENCE**

**9.1** The State and/or Agency may terminate the Agreement at any time by giving thirty (30) days written notice to Contracting Party. Upon receipt of notice, Contracting Party shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities, services and supplies in connection with the performance of this Agreement.

The Contracting Party shall be entitled to payment for deliverables in progress to the extent work has been performed satisfactorily.

**ARTICLE X**

**OWNERSHIP OF WORK PRODUCT, CONFIDENTIALITY**

**10.1** All work product, including records, reports, documents and other material delivered or transmitted to Contracting Party by the State and/or Agency, shall remain the property of the State and/or Agency, and shall be returned by Contracting Party to the State and/or Agency, at Contracting Party’s expense, at termination or expiration of this Agreement. All work product, including records, reports, documents, or other material related to this Agreement and/or obtained or prepared by Contracting Party in connection with performance of the services contracted for herein, shall become the property of the State and/or Agency, and shall, upon request, be returned by Contracting Party to the State and/or Agency at Contracting Party’s expense at termination or expiration of this Agreement. The State and/or Agency shall not be restricted in any way whatsoever in the use of such material.

**10.2** Furthermore, at any time during the term of this Agreement, and finally at the end of this engagement, the State and/or Agency shall have the right to require the Contracting Party to furnish copies of any and all documents, memoranda, notes, or other material, obtained or prepared in connection with this Agreement within five (5) days of receipt of written notice issued by the State and/or Agency.

**10.3** Confidentiality. The above referenced work product shall be held confidential by the Contracting Party and shall not be shared with any other entity without the express consent of the State and/or Agency.

**ARTICLE XI**

**ASSIGNMENT**

**11.1** Contracting Party shall not assign any interest in this Agreement and shall not transfer any interest in same (whether by assignment or novation), without prior written consent of the State, provided however, that claims for money due or to become due to Contracting Party from the State and/or Agency may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the State and/or Agency.

**ARTICLE XII**

**FINANCIAL DISCLOSURE**

**12.1** Each recipient shall be audited in accordance with R.S. 24:513. If the amount of public funds received by the provider is below the amount for which an audit is required under R.S. 24:513, the transferring agency shall monitor and evaluate the use of the funds to ensure effective achievement of the project goals and objectives.

**ARTICLE XIII**

**AUDIT CLAUSE**

**13.1** It is hereby agreed that the Legislative Auditor of the State of Louisiana, and/or the Office of the Governor, Division of Administration auditors shall have the option of inspecting and auditing all data, records and accounts of the Contracting Party which relate to this Agreement, upon request.

**13.2** The Contracting Party and any subcontractors paid under this Agreement shall maintain all books and records pertaining to this Agreement for a period of four years after the date of final payment under the prime contract and any subcontract entered into under this Agreement or four years from the date of termination of the prime contact and any subcontract entered into under this Agreement, whichever is later.

**ARTICLE XIV**

**AMENDMENTS IN WRITING**

**14.1** This Agreement may be modified or amended at any time by mutual consent of the parties, provided that, before any modification or amendment shall be operative and valid, it shall be reduced to writing, signed by both parties and approved by the Commissioner of Administration or the Office of State Procurement, Division of Administration.

**ARTICLE XV**

**FISCAL FUNDING (NON-APPROPRIATION) CLAUSE**

**15.1** In the event funds are not budgeted or appropriated in any fiscal year for payments due under this Agreement for the then current or succeeding fiscal year, this Agreement shall impose no obligation on the State and/or Agency as to such current or succeeding fiscal year, and said Agreement shall become null and void, and no right of action shall accrue to the benefit of the Contracting Party, its successors or assigns for any further payments.

The continuation of this agreement is contingent upon the appropriation of funds to fulfill the requirements of the agreement by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of the agreement, 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 agreement, the agreement shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

**ARTICLE XVI**

**DISCRIMINATION CLAUSE**

**16.1** The Contracting Party agrees to abide by the requirements of the following as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran’s Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, as amended, the Age Act of 1975, as amended, and Contracting Party agrees to abide by the requirements of the Americans with Disabilities Act of 1990, as amended. Contracting Party agrees not to discriminate in its employment practices, and will render services under this contract without regard to race, color, religion, sex, sexual orientation, age, national origin, veteran status, political affiliation, or disabilities. The Contracting Party acknowledges and agrees that any act of unlawful discrimination committed by Contracting Party, or any other failure to comply with these statutory obligations when applicable shall be grounds for termination of this Agreement.

**ARTICLE XVII**

**APPROVAL**

**17.1** This Cooperative Endeavor Agreement shall not be effective until approved by the Office of State Procurement and, when required by law, the Commissioner of Administration.***[[5]](#endnote-6)*** Any amendments to this Agreement shall require the same approvals. No oral understanding shall be binding on any of the parties.

**ARTICLE XVIII**

**INDEMNIFICATION**

**18.1** The Contracting Party shall indemnify the State and/or Agency against any and all claims, losses, liabilities, demands, suits, causes of action, damages, and judgments of sums of money to any party accruing against the State and/or Agency growing out of, resulting from, or by reason of any act or omission of the Contracting Party, its agents, servants, independent contractors, or employees while engaged in, about, or in connection with the discharge or performance of the terms of this Agreement. Such indemnification shall include the State and/or Agency’s fees and costs of litigation, including, but not limited to, reasonable attorney’s fees. The Contracting Party shall provide and bear the expense of all personal and professional insurance related to its duties arising under this Agreement.

**ARTICLE XIX**

**PARTIAL INVALIDITY; SEVERABILITY**

**19.1** If any term, covenant, condition, or provision of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant, condition or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**ARTICLE XX**

**ENTIRE AGREEMENT**

**20.1** This Agreement, including any attachments that are expressly referred to in this Agreement, contains the entire agreement between the parties and supersedes any and all agreements or contracts previously entered into between the parties. No representations were made or relied upon by either party, other than those that are expressly set forth.

**ARTICLE XXI**

**GOVERNING LAW**

**21.1** This Agreement shall be interpreted under Louisiana law, including but not limited to executive orders, terms and conditions; and specifications, if applicable. Venue of any action brought, after exhaustion of administrative remedies, with regard to all activities associated with this Contract shall be in the Nineteenth Judicial District Court, Parish of East Baton Rouge, State of Louisiana.

**ARTICLE XXII**

**LEGAL COMPLIANCE**

**22.1** Both parties shall comply with all federal, state, and local laws and regulations, including, specifically, the Louisiana Code of Governmental Ethics (R.S. 42:1101, *et seq.*) in carrying out the provisions of this Agreement.

**ARTICLE XXIII**

**RELATIONSHIP BETWEEN THE PARTIES**

**23.1** The Contracting Party is engaged by the State and/or Agency for the purposes set forth in this Agreement. The relationship between the Contracting Party and the State and/or Agency shall be, and only be, that of an independent contractor and the Contracting Party shall not be construed to be an employee, agent, partner of, or in joint venture with, the State and/or Agency.

**ARTICLE XXIV**

**FORCE MAJEURE**

**24.1** Neither party to this Agreement shall be responsible to the other party hereto for any delays or failure to perform caused by any circumstances reasonably beyond the immediate control of the party prevented from performing, including, but not limited to, acts of God.

**ARTICLE XXV**

**COVENANT AGAINST CONTINGENT FEES**

**25.1** The Contracting Party warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for the Contracting Party, to solicit or secure this Agreement, and that it has not paid or agreed to pay any entity or person, other than a bona fide employee working solely for the Contracting Party any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the State and/or Agency shall have the right to annul this Agreement without liability or, in State and/or Agency’s 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.

**ARTICLE XXVI**

**REMEDIES FOR DEFAULT**

**26.1** In the event of default by either party, the aggrieved party shall have all rights granted by the general laws of the State of Louisiana including but not limited to the following:

**26.2** (*If the Cooperative Endeavor is with a non-governmental entity for economic development purposes, it must contain the following:*

“If the Contracting Party defaults on the Agreement, breaches the terms of the Agreement, ceases to do business, or ceases to do business in Louisiana, it shall be required to repay the State and/or

Agency.”

*(The Cooperative Endeavor must set out the terms of the repayment.)*

**ARTICLE XXVII**

**NOTICES**

**27.1** All notices and other communications pertaining to this Agreement shall be in writing and shall be transmitted either by personal hand-delivery (and receipted for), email, or deposited in the United States mail, as certified mail, return receipt requested and postage prepaid, to the other party, addressed as follows:

(State/Agency – name of person and title or position)

(Agency name)

(Mailing address or municipal address)

(City, State, Zip Code)

(Email address:

(Contracting Party – name of person and title or position)

(Business Name)

(Mailing address or municipal address)

(City, State, Zip Code

(Email address

**INSURANCE REQUIREMENTS FOR CONTRACTORS**[[6]](#endnote-7)

The Contractor shall purchase 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, its agents, representatives, employees or subcontractors.

**A. MINIMUM SCOPE AND LIMITS OF INSURANCE**

1. Workers Compensation

Workers Compensation insurance shall be in compliance with the Workers Compensation law of the State of the Contractor’s headquarters. Employers Liability is included with a minimum limit of $1,000,000 per accident/per disease/per employee. If work is to be performed over water and involves maritime exposure, applicable LHWCA, Jones Act, or other maritime law coverage shall be included. A.M. Best's insurance company rating requirement may be waived for workers compensation coverage only.

1. Commercial General Liability

Commercial General Liability insurance, including Personal and Advertising Injury Liability and Products and Completed Operations, shall have a minimum limit per occurrence of $1,000,000 and a minimum general annual aggregate of $2,000,000. The Insurance Services Office (ISO) Commercial General Liability occurrence coverage form CG 00 01 (current form approved for use in Louisiana), or equivalent, is to be used in the policy. Claims-made form is unacceptable.

1. Automobile Liability

Automobile Liability Insurance shall have a minimum combined single limit per accident of $1,000,000. ISO form number CA 00 01 (current form approved for use in Louisiana), or equivalent, is to be used in the policy. This insurance shall include third-party bodily injury and property damage liability for owned, hired and non‑owned automobiles.

**B. DEDUCTIBLES AND SELF‑INSURED RETENTIONS**

Any deductibles or self-insured retentions must be declared to and accepted by the Agency. The Contractor shall be responsible for all deductibles and self-insured retentions.

**C. OTHER INSURANCE PROVISIONS**

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

1. Commercial General Liability and Automobile Liability Coverages

1. The Agency, its officers, agents, employees and volunteers shall be named as an additional insured as regards negligence by the contractor. ISO Forms CG 20 10 (for ongoing work) AND CG 20 37 (for completed work) (current forms approved for use in Louisiana), or equivalents, are to be used when applicable. The coverage shall contain no special limitations on the scope of protection afforded to the Agency.
2. The Contractor’s insurance shall be primary as respects the Agency, its officers, agents, employees and volunteers for any and all losses that occur under the contract. Any insurance or self-insurance maintained by the Agency shall be excess and non-contributory of the Contractor’s insurance.

2. Workers Compensation and Employers Liability Coverage

To the fullest extent allowed by law, the insurer shall agree to waive all rights of subrogation against the Agency, its officers, agents, employees and volunteers for losses arising from work performed by the Contractor for the Agency.

3. All Coverages

All policies must be endorsed to require 30 days written notice of cancellation to the Agency. Ten-day written notice of cancellation is acceptable for non-payment of premium. Notifications shall comply with the standard cancellation provisions in the Contractor’s policy. In addition, Contractor is required to notify Agency of policy cancellations or reductions in limits.

The acceptance of the completed work, payment, failure of the Agency to require proof of compliance, or Agency’s acceptance of a non-compliant certificate of insurance shall release the Contractor from the obligations of the insurance requirements or indemnification agreement.

The insurance companies issuing the policies shall have no recourse against the Agency for payment of premiums or for assessments under any form of the policies.

Any failure of the Contractor to comply with reporting provisions of the policy shall not affect coverage provided to the Agency, its officers, agents, employees and volunteers.

**D. ACCEPTABILITY OF INSURERS**

1. All required insurance shall be provided by a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located. Insurance shall be placed with insurers with an A.M. Best's rating of A-:VI or higher. This rating requirement may be waived for workers compensation coverage only.
2. If at any time an insurer issuing any such policy does not meet the minimum A.M. Best rating, the Contractor shall obtain a policy with an insurer that meets the A.M. Best rating and shall submit another Certificate of Insurance within 30 days.

**E. VERIFICATION OF COVERAGE**

1. Contractor shall furnish the Agency with Certificates of Insurance reflecting proof of required coverage. The Certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The Certificates are to be received and approved by the Agency before work commences and upon any contract renewal or insurance policy renewal thereafter.
2. The Certificate Holder Shall be listed as follows:

State of Louisiana

Agency Name, Its Officers, Agents, Employees and Volunteers

Address, City, State, Zip

Project or Contract #:

1. In addition to the Certificates, Contractor shall submit the declarations page and the cancellation provision for each insurance policy. The Agency reserves the right to request complete certified copies of all required insurance policies at any time.
2. Upon failure of the Contractor to furnish, deliver and maintain required insurance, this contract, at the election of the Agency, may be suspended, discontinued or terminated. Failure of the Contractor to purchase and/or maintain any required insurance shall not relieve the Contractor from any liability or indemnification under the contract.

**F. SUBCONTRACTORS**

Contractor shall include all subcontractors as insureds under its policies OR shall be responsible for verifying and maintaining the Certificates provided by each subcontractor. Subcontractors shall be subject to all of the requirements stated herein. The Agency reserves the right to request copies of subcontractor’s Certificates at any time.

**G. WORKERS COMPENSATION INDEMNITY**

In the event Contractor is not required to provide or elects not to provide workers compensation coverage, the parties hereby agree that Contractor, its owners, agents and employees will have no cause of action against, and will not assert a claim against, the State of Louisiana, its departments, agencies, agents and employees as an employer, whether pursuant to the Louisiana Workers Compensation Act or otherwise, under any circumstance.  The parties also hereby agree that the State of Louisiana, its departments, agencies, agents and employees shall in no circumstance be, or considered as, the employer or statutory employer of Contractor, its owners, agents and employees. The parties further agree that Contractor is a wholly independent contractor and is exclusively responsible for its employees, owners, and agents. Contractor hereby agrees to protect, defend, indemnify and hold the State of Louisiana, its departments, agencies, agents and employees harmless from any such assertion or claim that may arise from the performance of this contract.

**H. INDEMNIFICATION/HOLD HARMLESS AGREEMENT**

1. Contractor agrees to protect, defend, indemnify, save, and hold harmless, the State of Louisiana, all State Departments, Agencies, Boards and Commissions, its officers, agents, servants, employees, and volunteers, from and against any and all claims, damages, expenses, and liability arising out of injury or death to any person or the damage, loss or destruction of any property which may occur, or in any way grow out of, any act or omission of Contractor, its agents, servants, and employees, or any and all costs, expenses and/or attorney fees incurred by Contractor as a result of any claims, demands, suits or causes of action, except those claims, demands, suits, or causes of action arising out of the negligence of the State of Louisiana, all State Departments, Agencies, Boards, Commissions, its officers, agents, servants, employees and volunteers.
2. Contractor agrees to investigate, handle, respond to, provide defense for and defend any such claims, demands, suits, or causes of action at its sole expense and agrees to bear all other costs and expenses related thereto, even if the claims, demands, suits, or causes of action are groundless, false or fraudulent. The State of Louisiana may, but is not required to, consult with the Contractor in the defense of claims, but this shall not affect the Contractor’s responsibility for the handling of and expenses for all claims.

THUS DONE AND SIGNED AT \_\_\_\_\_\_\_\_\_\_\_\_\_\_, Louisiana, on the *(enter date)* day, of *(enter month)* 20(*enter year*).

**SIGNATURES:**

**Agency Name**  **Agency Signature (Print)**

**Witness Signature Agency Signature**

**Witness Signature Title**

THUS DONE AND SIGNED AT \_\_\_\_\_\_\_\_\_\_\_\_\_\_, Louisiana, on the*(enter date)* day, of *(enter month)* 20(*enter year*).

**Contractor Name**  **Contractor Signature (Print)**

**Witness Signature Contractor Signature**

**Witness Signature Title**

1. This serves as the first prong of the “Public Purpose” test, which requires that the agency making the transaction has authority to do so, per Cabela. Board of Directors of Indus. Development Bd. of City of Gonzales, Louisiana, Inc. v. All Taxpayers, Property Owners, Citizens of City of Gonzales, et al, 938 So.2d 11 (La. 9/6/06).

   <https://www.lasc.org/opinions/2006/05C2298.opn.pdf> ) [↑](#endnote-ref-2)
2. This serves as the second prong of the three-prong “public purpose” test, showing that the agency is not giving away state property unconditionally and without any expectation of getting something back (gratuitously). [↑](#endnote-ref-3)
3. This serves as the third prong of the three-prong “public purpose” test, showing that value of the thing that the agency expects to receive is equal to what it is giving up and the belief in that value is reasonable. [↑](#endnote-ref-4)
4. EO JML 24-113, requires the terms of repayment to the state in the event that the contractor defaults on the agreement, breaches the terms of the agreement, ceases to do business, or ceases to do business in Louisiana, in all agreements with non-governmental entities *except* those participating in business incubators, quality jobs program, or enterprise zone programs. [↑](#endnote-ref-5)
5. EO JML 24-113 *requires* that *all* agreements contain a provision that condition the agreement and continuation on the approval of OSP and the Commissioner of Administration. [↑](#endnote-ref-6)
6. [↑](#endnote-ref-7)