

REQUEST FOR PROPOSALS

PORT OF NEW ORLEANS

JULIA ST. CRUISE TERMINAL IMPROVEMENTS PROJECT **Phase 3-Interior Renovation and Related Work**

APRIL 2010

REQUEST FOR PROPOSAL REQUIREMENTS

Notice is hereby given that the Board of Commissioners of the Port of New Orleans (Board) is requesting the submittal of **Proposals** from five of the highest ranked firms (Prime Consultants) who responded to the Board's Request for Qualifications (RFQ) issued on February 19, 2010 and received on March 15, 2010 for providing all professional services for the design of the Phase 3-Interior Renovations and Related Work for the Julia St. Cruise Terminal Improvements Project on the east bank of the Mississippi River in New Orleans. The project website posting the RFQ, the RFP, and downloadable information and forms is www.portno.com/JuliaStCruiseTerminalImprovements.htm.

Professional services to be provided under this single agreement for professional services shall include surveying; architectural and engineering design (civil, electrical, and mechanical engineering) and support services; project management; construction support; construction materials testing laboratory services, and resident inspection services during construction.

The agreement will be between the Prime Consultant and the Board. The agreement will be administered by Board staff. Only one Consultant/Team consisting of a Prime Consultant and their Sub-Consultants will be selected for this agreement.

The Consultant/Team shall follow the instructions given in this Request For Proposals (RFP) and its attachments A thru E in order to respond with a valid proposal for evaluation by the Board's Consultant Evaluation Committee. **Deadline for submittal of the final proposal is Monday, April 12, 2010 by noon, local time at the office of Deborah Keller.** Failure to submit required information by the deadline will cause disqualification and removal from further consideration on this project. No information may be changed or submitted after the deadline.

Consultants shall refer to the information previously provided in the Request for Qualifications for additional requirements.

The attachments to this RFP are as follows:

Attachment "A" to this RFP is the scope of professional services required for the project.

Attachment "B" to this RFP is a sample of the standard Board agreement for professional services and the affidavit to be executed with the agreement.

Attachment “C” to this RFP is information regarding the sealed Fee Proposal and consists of two parts: Part 1 is the Summary Fee Schedule and Part 2 is the Fee Rate Schedules for the Prime and each sub-consultant indicating the classifications of labor and the all-inclusive hourly rates. For materials testing laboratory services, standard materials testing laboratory rate schedules shall be submitted in lieu of the form provided for other services. The Fee Proposal will not be a criteria used to rank the proposals.

Attachment “D” to this RFP are design criteria, applicable design codes, drawing standards, and the existing and proposed floor plan.

Attachment “E” to this RFP is “PONO Capital Improvement and Disaster Recovery Project Procedural Manual for Design and Construction.”

PORT CONTACT

Ms. Deborah D. Keller, P.E. will be chair of the Board’s Consultant Evaluation Committee. She will address any questions regarding this RFP by email only, directed to kellerd@portno.com. As necessary, addendum to this RFP will be issued to all Prime Consultants receiving this RFP, but not their sub-consultants. Prime Consultants are responsible for disseminating pertinent information to their sub-consultants.

PRE-PROPOSAL SITE VISIT MEETING

The Prime Consultants and their sub-consultants are invited to visit the Julia Street Cruise Terminal project site on Tuesday, April 6 at 10 a.m. at Julia Street and the river, at ground level. No other visits will be arranged. There is no parking available at the site. Public pay parking lots are available on Poydras Street. Photography is allowed. There is no limit to the number of attendees. Each prime architectural firm shall send an email to Deborah Keller prior to the site visit listing the names of all attendees expected to participate in the site visit.

PROJECT DESCRIPTION AND PROJECT SCHEDULE

The project description and project schedule are provided in the RFQ. The Scope of Work is provided in Attachment “A” to this RFP.

It is anticipated that a professional services agreement will be awarded at the April 22, 2010 meeting of the Board and a Notice of Award will be issued immediately following the Board’s award. All required certificates of insurance (original, manually signed certificates for Prime Consultant and all sub-consultants) are due to the Board with the agreement. **The Prime Consultant shall have 7 calendar days after Notice of Award to execute an agreement for professional services with the Board and submit with the signed agreement, all attachments listed in the agreement, and all insurance certificates.**

INSURANCE AND CONTRACT REQUIREMENTS

See the RFQ for insurance requirements and Attachment “B” to the RFP for the sample standard Board professional services agreement to be executed by the Board with the Prime Consultant. During the term of this agreement and for a period of three years after, the Prime Consultant and each Sub-Consultant providing design, survey, and material testing services, and any other firm as applicable, must carry all insurances shown in the sample agreement to the limits specified. The Board cannot execute the agreement without the Prime Consultant and their Sub-Consultant(s) submittal of original, manually signed certificates of insurance to the Board showing evidence of such insurance.

REQUIRED EXPERTISE

The evaluation of the Consultant/Team was made on the basis of the Statements of Qualifications submitted in response to the RFQ. No sub-consultants shown in the SOQ may be deleted. Once listed in the Proposal, no sub-consultants shall be added, deleted or substituted prior to the award of the contract to the successful Consultant/Team. Failure to comply may be cause for disqualification and removal from further consideration. Percentage of participation in the total project by any firm shall not be significantly different (in the opinion of the Consultant Evaluation Committee) from the estimate stated in the Proposal since it would affect the basis upon which the Consultant/Team was evaluated.

Upon request by the Prime Consultant, after award of the contract, the successful Prime Consultant may offer the Board additional firms to supplement their project team by submitting a written request to Ms. Deborah Keller, citing the basis for the addition and including a completed PONO SF 24-102 form for the firm to be added. All insurance, listing of personnel, and hourly rates must be submitted upon approval of the additional firm. The not-to-exceed contract value will not be increased unless the scope of work under the original contract has increased and such an amendment to the contract is approved by the Board.

During the contract time, the Board reserves the right to request a change in the key personnel that a firm has assigned to the project team, if deemed by Board staff to be in the best interest of the Board and/or the project. Upon request, the Prime Consultant and/or Sub-Consultants shall furnish resumes of qualified personnel in their firms who are available as substitutions.

The ideal Prime Consultant/Team will have demonstrated experience and proven capabilities as specified in the RFQ and RFP.

SELECTION PROCESS AND CRITERIA

The Board will follow its Division Directive No. 9, “Professional Contract Services” for evaluating the proposals submitted by five of the highest ranked Consultants/Teams. The Consultant Evaluation Committee will consists of a chair and several port managers and engineers. This is a two part process. Consultants/Teams that responded to the Request for Qualifications (RFQ) were evaluated using the criteria listed in the RFQ and ranked accordingly. **Only the five top ranked Consultants/Teams are receiving this Request for Proposal (RFP)**

as described herein and will be evaluated using weighted criteria as described herein for final ranking and recommendation.

MBE/DBE/WBE/SBE PARTICIPATION

The Board encourages the participation of MBE/DBE/WBE/SBE firms on the Consultant/Team. **In order to receive points for participation, firms indicating any such status on the Named Subconsultants form, must submit with the the bound Proposals evidence of a current certification from at least one entity that issue such certifications.** The Board does not have a certification program, but accepts certifications issued by other public entities. Refer to the RFQ for additional information.

COMPENSATION

See Attachment “C”, Parts 1 and 2, for the Fee Proposal requirements. Compensation for services will be based on all-inclusive hourly rates for various classifications of personnel working on the project and an estimated man-hour projection for each classification. The Board will negotiate a final not-to-exceed contract value with the successful Prime Consultant based upon the Fee Proposal submitted. Refer to the section herein regarding the Fee Proposal. The contract will have a not-to-exceed fee limit and be invoiced based on submitted timesheets for actual time expended for each classification and rate as applicable.

MINIMUM MANPOWER REQUIREMENTS REFER TO THE RFQ

DO NOT RE-SUBMIT THE PONO SF 24-102 FORMS PREVIOUSLY FURNISHED IN THE RFQ NOR SUBMIT ADDITIONAL FORMS UNLESS A FIRM IS ADDED TO THE TEAM SINCE SUBMITTAL OF THE RFQ.

AUDIT REQUIREMENTS

The selected Consultant/Team shall maintain accounting records, as a condition to the award of this public contract, for the Legislative Auditor of the State of Louisiana and/or the Board’s auditors to inspect, examine and/or conduct an audit of all books, accounts and records of firms pertaining to the performance of contractual obligations and the compensation due to be received under this contract.

SUBMITTAL REQUIREMENTS TO RESPOND TO THIS RFP

There are three components required to respond to the RFP:

- Written Project Proposal
- Fee Proposal in a separate, sealed envelope
- Presentation/Interview

The written Project Proposal and sealed envelope containing the Fee Proposal shall be submitted to the Board as stated on Page 1 of this RFP.

Any Consultant/Team failing to submit any of the required RFP information or make a Presentation/Interview will be considered non-responsive. Facsimiles and email submittals of the Project Proposal or Fee Proposal will not be accepted. Names of the Prime Consultant and its Subconsultants listed on the Project Proposal and Fee Proposal must include the firms listed in submittal made by the Consultant/Team in response to the RFQ. The following information is required to respond to this RFP:

1. Written Project Proposal

Six bound copies of the Project Proposal. Loose pages will not be accepted. At least one of the six must be the original.

The Consultant/Team may not revise nor resubmit the PONO SF 24-102 forms and information submitted in response to the RFQ that was used to evaluate the firms, unless an additional firm's qualifications have been added since submission of the Statements of Qualifications. The written bound Proposals shall consist of the following items in this order:

1. Commitment to Assign Identified Resources Form
 2. Key Personnel Information Form
 3. Named Subconsultants Form
 4. Letter of Subconsultants Intent Form
- (Note: These forms are downloadable from the project website in Word files.)

The following sections shall be included in the bound Proposal and correspond to the evaluation criteria. These sections may consist of written descriptions and photographs of work to demonstrate capability in these areas.

5. A summary of the experience, both of the Prime Consultant and Subconsultants, and key individuals, in this type of work and of similar magnitude.
6. Any client references or listing of awards pertaining to past performance of the Prime Consultant and Subconsultants, and key individuals, on similar projects.
7. An indication of the ability of the project manager and key personnel to be able to respond to the Board's needs by providing a presence in the New Orleans area during critical stages of the contract.
8. An indication of the conceptual plan of action includes how the

Consultant/Team will approach the project by providing an organization chart and Work Breakdown/Task Schedule indicating milestone dates that at least meet the stated project schedule.

9. Any additional PONO SF24-102 Forms for firms and/or key personnel added to the Consultant/Team since the submittal of the Statements of Qualifications on March 15, 2010. If there is no additional information, then this section will not be needed.

10. A listing and description of projects in the region that indicates knowledge of local conditions, as supporting examples of such experience. The description should reflect only the work elements that the firm and/or key personnel were responsible for.

11. A summary description that indicates the Consultant/Team's understanding of the project and ability to meet the project's purpose, budget, and schedule, including project management expertise to ensure the project will be done on time and within budget.

2. Written Fee Proposal

One original the Fee Proposal is also due with the Proposal. The Fee Proposal shall be sealed in a separate envelope marked "Fee Proposal" with the name of the Prime Consultant indicated on the outside of the envelope addressed to Ms. Deborah Keller, Consultant Evaluation Chair. The Fee Proposal shall include listings of employee names with corresponding job classification, and listings of job classifications with corresponding rates. Listings shall be provided for the prime consultant, as well as for each sub-consultant. Rates shall be flat billing rates and shall include all overhead, profit, benefits, etc. (no other multipliers or labor costs will be allowed or accepted). Refer to Attachment "B" for terms and conditions of the Board's professional services agreement. Refer to Attachment "C" Parts 1 and 2 for further information on the Fee Proposal. The first page of the Fee Proposal shall be the summary sheet followed by rate sheets for the Prime Consultant and all sub-consultants. Each rate sheet shall list the proposed personnel working on the project, their personnel classification, and their all-inclusive hourly rate. No mark-up is allowed on direct costs or sub-consultants.

3. Presentation and Interview with the Consultant Evaluation Committee

The Presentation/Interview shall be conducted on Tuesday, April 13, 2010. Times are as follows in alphabetical order:

Linfield, Hunter, & Junius	7 a.m.
Manning Architects	8 a.m.
Mathes Brierre Architects	9 a.m.

Sizeler Thompson Brown Architects 10 a.m.
WDG,LLC 11 a.m.

Presentations shall be the Port Administration Building (1350 Port of New Orleans Place) 4th floor presentation room. Projector, screen, and laptop will be available. Consultants are encouraged to use Powerpoint Presentations on CD or flash drives.

As part of the RFP, each Consultant/Team, at its appointed time, shall make a presentation and be interviewed by the Consultant Evaluation Committee as part of the evaluation process. This interview is intended to be an opportunity for the Consultant/Team to present how they best meet the criteria listed below that is the basis for final evaluations. The presentation shall be based on an understanding of the Board's objectives and how they may best be achieved and the qualification and experience of the Consultant/Team as a whole. The Consultant/Team shall highlight information as it relates to the criteria for evaluation as stated herein. **The presentation shall last a maximum of 30 minutes with an additional 15 minutes allowed for questions by the Consultant Evaluation Committee.**

Each team shall be allowed a 15 minute period prior to their presentation time in order to set up their equipment. It is suggested that the presentation participants be limited to the Prime Consultant's principal, the project manager, and key design individuals due to limited space and time.

Allow ample time to check-in at the lobby security desk upon arrival. To expedite visitor passes, the Prime Consultant is encouraged to email to Deborah Keller as soon as possible, a listing of all presentation participants' names and their employers so that visitor badges can be prepared on Monday, April 12, 2010.

Six printed color copies of the presentation shall be submitted to the Consultant Evaluation Committee at the time of the presentation. The key individuals who should address the committee during the presentation and provide information relative to the criteria for selection are:

- a. The lead Project Manager who will lead the project team, be the liaison with the Board staff and coordinate the project team
- b. The lead civil engineer
- c. The lead electrical engineer
- d. The lead mechanical engineer

Of these, the lead Project Manager will be heavily evaluated on the availability to commit to the project, local availability within the New Orleans area for the duration of the design and construction, ability to manage, lead, and coordinate the project team, and experience in successfully completing similar projects on time and within budget.

EVALUATION CRITERIA OF THE RFP

Listed below, in order of their relative importance, are the criteria that the Consultant Evaluation Committee will use to evaluate the RFPs considering all firms included on the Consultant/Team:

1. Experience, both of the Consultant/Team and key individuals in type of work, weighted factor of 5.
2. Past performance of Consultant/Team and key individuals on similar work, weighted factor of 5.
3. Local representation, including the location of intended project manager and key personnel, weighted factor 3.
4. Conceptual plan of action includes how the Consultant/Team will approach the project, weighted factor of 3.
5. Staffing and support experience and expertise, including experience in projects involving comparable issues, tasks, coordination, etc, weighted factor of 3.
6. Knowledge of local conditions, weighted factor of 3.
7. Ability to meet the Board's project schedule or expedite the schedule, weighted factor of 2.5.
8. MBE/DBE/WBE/SBE total participation, weighted factor of 2.5. Weight will be allocated according to the percent of the total contract value that the combined MBE/DBE/WBE/SBE firms are anticipated to receive as indicated on the Letter of Subconsultant's Intent Form.

The evaluation will be by means of a point-based rating system of the Consultant/Team as a whole. The Consultant Evaluation Committee will be responsible for performing the above described evaluation, and presenting the ranking of the Consultants/Teams to the Board's CEO/President.

RFP RESULTS

The tentative date for Board award of the contract is April 22, 2010 at 10:30 a.m. at the monthly Board meeting held in the auditorium of the Port Administration Building. Written notification of the award will be issued by Ms. Keller after the Board meeting. **No information regarding the award will be given prior to the Board's action.**

**Request For Proposal
ATTACHMENT "A"**

BOARD OF COMMISSIONERS PORT OF NEW ORLEANS

JULIA ST. CRUISE TERMINAL IMPROVEMENTS PROJECT

**PHASE 3-INTERIOR RENOVATION AND RELATED WORK
SCOPE OF PROFESSIONAL SERVICES**

SCOPE OF SERVICES

Services will include the following under the direction of the Board's staff:

Include in Part 1 Fees:

- Minutes - Prepare accurate minutes of all meetings associated with the project during both design and construction with the exception of the monthly construction progress meetings.
- Surveying- Land surveying as required to design the project and prepare plans and specifications for the construction contract document bid package. Surveying includes measurements of both interior and exterior dimensions due to possible inaccuracies in record drawings of the existing facility.

Architectural and Engineering Design-Services to meet the criteria and purpose of the project, including architectural and interior design; and civil, electrical, and mechanical engineering.

- Final Contract Documents - Prepare final technical specifications and plans (contract documents) for project in the Board's format for projects funded by the Louisiana Port Priority Construction Program, in accordance with Louisiana public bid law, and Board policies for receiving public bids. Improvements shall be developed and designed so that the resulting construction cost is no more than the \$4 million budgeted for this phase of the project. Submit 25%, 50 %, 75%, and 95% progress sets of plans and specifications to Board staff for review/comment as per the schedule agreed upon by the Consultant and the Director of Port Development. Deliver signed, sealed originals of bid documents on the dates indicated by the approved project schedule. The Board shall submit the final Contract Documents (final plans and specifications) NO LATER THAN September 1, 2010 to the Louisiana Department of Transportation and Development for its review, such that the project can be advertised for public bid NOT LATER THAN September 29, 2010. The Board shall make reproductions and distribute bid documents to bidders, open bids, and review all bid documents for recommendation of award of a construction contract.

Attachment "A"

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- Bid Period - Answer bidder's technical and phasing/coordination questions pertaining to bid documents prepared by the Consultant. Attend Pre-Bid Conference(s) and participate in presentation of project, phasing/coordination and other special contract requirements to bidders. Prepare addenda documents (letter, plans, and specifications) in a timely manner as directed by Board staff.

Include in Part 2 Fees:

- Construction Services - Review all submittals and shop drawings associated with the procurement and construction contract. Perform periodic site visits during construction as directed by the Board's Construction Services Department. Attend construction progress meetings (typically once a month) and other meetings as needed during construction. Provide technical support to the Board's staff during construction. Provide engineering design modifications as required and answer contractor Request for Information during construction. Participate in final inspection of the project and prepare punch list.

Provide construction material testing services for a construction quality control program as needed during the construction period of this contract.

Provide full-time resident inspection for this construction contract for quality control and on-site project management and coordination based upon a contract period of 180 calendar days.

Include in Part 3 Fees:

- As-Built Drawings - Modify contract construction drawings AUTOCADD files to reflect as-built conditions. The construction contractor will provide redline mark-ups for most as-built changes; however, the Consultant's resident inspector will be required to verify accuracy of the Contractor's mark-ups prior to the Consultant modifying the final electronic files. Deliver signed, sealed originals of as-built drawings to Board, as well as electronic files.

The project contract documents for this Phase 3 work will require careful coordination, scheduling, and possibly phasing, which must be specifically planned by the Consultant and included in the construction contract documents prepared by the Consultant to ensure coordination with the construction of Phase 1 (installation of an articulated, enclosed passenger gangway and vertical circulation core to transport passengers between the ground level of the passenger lounge area of the renovated Julia St. Cruise Terminal and the gangway leading to the cruise ship, and construction of Phase 2 (any structural modification to the wharf substructure to accommodate the new gangway). Phase 1 and 2 are designed by others and not included in this Consultant's scope of work, except to coordinate the design and construction of the Phase 3 work with Phases 1, and possibly Phase 2.

The Board's Construction Services Department will perform general construction administration, with the exception of the specific services listed above.

CONSULTANT STAFFING

All architects and engineers in responsible charge of the project shall hold a professional registration license in the State of Louisiana or be an architect, engineer, or para-professional working under their direct supervision.

The lead project manager shall be located in the New Orleans area for the duration of the design and construction of the project and shall be available to manage the project on a day-to-day basis, represent the Consultant in all communications, maintain the project schedule, and coordinate and ensure the quality of the work of the Prime Consultant and all of its sub-consultants.

DELIVERABLES

All final deliverables shall be provided in an electronic format - Word 2007 or later, and AutoCAD 2005 or later, as well as hard copies stamped and signed by the architect and engineers of record in the appropriate disciplines.

PROGRESS DESIGN MEETINGS

The project manager, lead engineers, and other subconsultants as required, shall attend group progress design meetings with Board staff at the Port Administration Building no less than monthly for the duration of the design work to ensure project management and coordination.

Attachment "B"

**RFP
SAMPLE OF BOARD AGREEMENT FOR
SELECTED CONSULTANT AND PORT OF NEW ORLEANS**

**(CONSULTANT SHALL PREPARE THIS AGREEMENT, AS WRITTEN ON THEIR
LETTERHEAD, TYPED SINGLE SPACED AND ATTACH ALL EXHIBITS AND
INSURANCE CERTIFICATES.)**

Board of Commissioners of the Port of New Orleans
Post Office Box 60046
New Orleans, Louisiana 70160

Attention: Deborah D. Keller, P.E.
Director of Port Development

**RE: AGREEMENT FOR PROFESSIONAL SERVICES
FOR JULIA ST. CRUISE TERMINAL IMPROVEMENTS PROJECT
PHASE 3-INTERIOR RENOVATION AND RELATED WORK
REQ NO. _____ WORK ORDER NO. 1-938**

Ladies and Gentlemen:

Pursuant to your request, _____(Consultant") proposes to render professional services in connection with subject project as required by the Board of Commissioners of the Port of New Orleans ("Board"). We are prepared to provide architectural and engineering design services, surveying services, construction materials testing laboratory services, and construction inspection services, as required for the Julia St. Cruise Terminal Improvements Project, all under the direction of the Board's Director of Port Development. This performance shall include, but not be limited to the scope of work listed in the attached Exhibits "A" and "B".

We will coordinate the project's design with all federal, state, and local agencies, including the U. S. Army Corps of Engineers, the Orleans Levee District, the Louisiana Department of Transportation and Development, the Louisiana State Fire Marshall, the

New Orleans Sewerage and Water Board, the City of New Orleans, the U.S. Coast Guard, as applicable to the project. We shall design the project in accordance with the Board's current applicable design codes and standards.

We will proceed with this assignment upon Notice of Award, as authorized by the Board, and we will maintain contemporaneous records of time and direct expenses incurred in connection with this project.

We agree to maintain proper books and records which adequately reflect all expenses and costs for performing work under this contract in accordance with generally accepted accounting practices. All payments made to individuals performing work under this contract shall be adequately supported by time sheets, cancelled checks, payroll registers, contracts, and/or federal tax and information reports as applicable. The Board may require written documentation to support such maintenance of proper books and records.

An organizational chart of our personnel (and that of our sub-consultants) available for accomplishing this work is attached as Exhibit "C" to this agreement. We agree not to substitute any other personnel for those listed on Exhibit "D" to provide the services required hereunder unless we have received the express written approval of the Board's Director of Port Development in advance.

Consultant shall remain responsible to the Board for the appropriate use and consideration of the Board's geotechnical report prepared for the Board by others under separate contract.

Compensation for our services shall be in accordance with the fee schedule and rate sheets as shown on Exhibit "E" to this agreement and shall include all subconsultants and subcontractor costs. Rates shall be applicable until two years from execution of the agreement. There will be no other costs or multipliers added to the all

inclusive, flat rates stated in the rate sheets. No overtime will be charged unless specifically authorized in writing by the Board's Director of Port Development and the overtime rate shall be no more than 1.5 times the hourly rates stated in Exhibit "E" to this agreement.

Subconsultants costs shall be considered as direct costs and compensation for services by subconsultants will be based on original invoices submitted by the subconsultant with no additional markup by the Sub-consultant firm(s) nor Consultant.

We would expect reimbursement for other costs directly chargeable to the project such as printing, all subject to the prior approval of and at the sole discretion of the Board's Director of Port Development. Charges for computer automated drafting (CAD) will only include reasonable operator's time and will not include separate charges for use of the CAD system. Charges for local courier services, postage, parking fees, photography, and mileage within the New Orleans area are not chargeable to the project as a direct cost.

We shall submit signed invoices monthly which shall be accompanied by certified invoices and certified time sheets for each individual indicating dates and hours worked, invoices for all services performed, as well as a summary of other directly chargeable reimbursable costs with supporting documentation. Invoices shall be submitted within 30 calendar days of rendering services.

Payment (spending) forecasts shall be furnished to Board by Consultant if so requested.

We shall pursue this project with due diligence and make every effort to complete work hereunder within the project schedules set forth in Exhibit "F". All services under this agreement shall be provided within two years after execution of this agreement.

The Board shall have the right to discontinue our services under this agreement and to terminate this agreement for its convenience at any time. The Board shall compensate us for all reasonable services, fees, and expenses to the time of such termination.

Whenever additional specialized services outside the scope of work are required in the performance of the services hereunder, and these specialized services are not listed herein in this agreement, we will seek Board approval in advance to subcontract for such services except as may be otherwise directed by the Board's Director of Port Development. We shall invoice the Board at actual billed costs and provide the Board with all documentation of work completed by such subcontractor, including copies of invoices. Further, it is expressly understood that insurance required of the subcontractor shall be as approved, in advance, by the Board.

We shall provide and maintain at our own risk, cost and expense the insurance summarized herein:

INSURANCE REQUIREMENTS

(A) General Insurance Requirements

(i) **Insurance Companies:** All insurance shall be written with insurance companies authorized and licensed to do business in the State of Louisiana and acceptable to the Board (Best's rating A-, VI, or better) or mutual insurance pools or associations approved in advance by the Board. Self-insurance programs authorized by the Commissioner of Insurance of the State of Louisiana for workers' compensation insurance are acceptable if Consultant provides Board with a notarized copy of the Consultant's authority to self-insure.

(ii) **Primary Insurance:** All insurance required in this Section shall be primary to any similar insurance that may be carried by the Board for its own protection.

(iii) **Insurance Certificates:** Before this Agreement becomes effective, Consultant shall furnish to the Board's risk manager original, manually signed certificates evidencing that it has procured the insurance herein required. Thereafter, Consultant shall furnish such certificates prior to expiration throughout the Term of this Agreement.

(iv) **Named Insured:** Except for workers' compensation insurance and professional liability insurance, Board shall be named as an additional insured on all policies required herein.

(v) **Waiver of Subrogation:** All insurance policies required herein shall provide that the insurers waive any rights of subrogation they may have against the Board.

(vi) **Notice of Cancellation:** All policies required herein shall provide for thirty (30) days' written notice of cancellation or material change to be sent to the Board at P.O. Box 60046, New Orleans, LA 70160, Attention: Risk Manager.

(vii) **No Representation or Warranty:** Board makes no representation or warranty that the insurance set forth in this Section will be sufficient to protect Consultant's interests.

(viii) **Deductibles:** Consultant shall be liable to Board for any deductible amounts it maintains under the policies required in this Section.

(ix) **Combination of Coverages:** A combination of primary and excess insurance may be used to satisfy the requirements of this Section.

- (B) **Comprehensive General Liability Insurance** – During the term of this Contract, Consultant shall procure and maintain at Consultant's sole cost and expense comprehensive general liability insurance (on an occurrence basis) with limit of liability of not less than one million dollars (\$1,000,000) for all injuries or deaths resulting to any one person or from any one occurrence. The limit of liability for property damage shall be not less than one million dollars (\$1,000,000) for each occurrence and aggregate. Coverage under such insurance shall also include damage hazards. This insurance shall include the "broad form contractual endorsement". Board agrees to permit Consultant to place the general liability insurance required in this Subsection on a "claims made" basis, provided that Consultant continues to purchase general liability coverage for at least one year after the completion of the contract, or purchases a "tail" policy that will extend the reporting period for claims for one year after the expiration of the policy.
- (C) **Comprehensive Motor Vehicle Liability Insurance** - Consultant shall procure and maintain at Consultant's sole cost and expense comprehensive motor vehicle liability insurance which shall include hired car and non-ownership coverage with limit of liability of not less than one million dollars (\$1,000,000) for all injuries or deaths resulting to any one person or from any one occurrence. The limit of liability for property damage shall be not less than one million dollars (\$1,000,000) for each occurrence and aggregate.
- (D) **Workers' Compensation Insurance** - Consultant shall procure and maintain (either as an authorized self-insured or through an authorized

insurance carrier) at Consultant's sole cost and expense workers' compensation insurance to protect Consultant from claims under the Louisiana Workers' Compensation Act as well as under the Federal Longshoremen's and Harbor Workers' Compensation Act, and Jones Act, if applicable. The limit of liability under the employer's liability section of the workers' compensation insurance policy shall be not less than one million dollars (\$1,000,000).

- (E) **Professional Liability Insurance** - Consultant shall procure and maintain errors and omissions / professional liability insurance in the amount of two million dollars (\$2,000,000) which shall be in full force and effect for a period of three years after substantial completion of the construction phase of the project.

Consultant agrees to protect, indemnify and keep, save and hold harmless Board, its officers, directors, employees and agents (collectively "Indemnitees") from and against any and all demands, claims, causes of action, liability, losses, damages, costs, and expenses including without limitation reasonable attorney's fees (collectively "Claims") as follows:

1. For Claims other than those arising out of Consultant's professional services, Consultant agrees to defend, protect, indemnify and hold harmless Indemnitees from and against any and all Claims to the proportionate extent arising from or in any way connected or alleged to be connected with Consultant's performance hereunder, and from any negligent act, error, or omission, or negligence (active or passive) by or alleged to be by Consultant, its employees, agents, or subconsultants, either as a sole or contributory cause, sustained by any person or entity. The foregoing will not apply to claims or causes of action caused by the sole negligence or willful misconduct of any Indemnitee. Consultant

hereby acknowledges that the duty to defend is a separate and distinct obligation herein and, upon the filing or assertion of any Claims, shall defend the Board from and against the foregoing Claims. When in the course of fulfilling its obligations under this agreement, Consultant must engage attorneys to defend Board, Consultant shall obtain the prior written consent of Board to the attorneys to be engaged, which consent shall not be unreasonably withheld.

2. For Claims arising out of Consultant's professional services, Consultant agrees to indemnify and hold harmless Indemnitees from and against any and all Claims arising from the negligent performance of services under this Agreement by Consultant, its employees, agents or subconsultants, either as a sole or contributory cause, sustained by any person or entity.

Consultant shall be responsible for all attorney's fees and legal costs incurred by Board should it become necessary for Board to engage or retain the services of an attorney to enforce the terms of this Indemnity. The provisions of this Indemnity shall survive this agreement and are intended to be severable. If any term or provision of this indemnity should be determined to be invalid or unenforceable for any reason, that determination shall not affect the validity or enforceability of the remainder of the terms of this Indemnity.

We agree to execute an affidavit pursuant to the provisions of Louisiana Revised Statute 38:2224.

As a condition to the award of this public contract, we agree to permit the Legislative Auditor of the State of Louisiana or the Board's auditors (internal or external) to inspect, examine and/or conduct an audit of all books, accounts and records of this firm pertaining to the performance of obligations hereunder and the compensation due to be received therefore.

It is expressly understood that in any situation in which this firm is on retainer with any party responsible for damage to the Board's facilities or in which other conditions exist which could involve a conflict of interest, this firm shall give the Board pre-eminence in representing it in connection with the work to be performed hereunder.

We fully understand that approval and acceptance by the Board of original designs, plans and specifications prepared by us during the prosecution of this agreement shall not relieve us of the responsibility for the adequacy and functionality of such designs, plans, and specifications. In the event we are directed by the Board's staff to prepare designs, plans and specifications for public bid purposes in accordance with Board's own designs, plans and specifications with which we disagree, we shall advise the Board's Director of Port Development in writing to this effect, and in such event we shall be absolved of any responsibility for the adequacy and functionality of same.

The standard of care applicable to Consultant's services will be the degree of skill and diligence normally employed by professional consultants or consultants performing the same or similar services at the time said services are performed in this geographical area. Consultant will reperform any services not meeting this standard without additional compensation.

All data collected and all work product prepared under this contract, including all drawings, renderings, documents, calculations, notes, files, specifications and software collected or prepared in connection with this agreement, except our personnel or administrative files, shall become and be the property of Board, as it is collected and prepared and Board shall not be restricted in its use of such material. We shall deliver all such original hard copy documents and electronic media to Board at Board's request at any time during or after completion of this agreement. Consultant shall not be responsible to maintain documents stored in electronic media format after written

acceptance by Board or 60 calendar days, whichever comes first. Any errors detected within the 60 day acceptance period shall be corrected by the Consultant and re-submitted to the Board for acceptance. When transferring documents into electronic media format, Consultant makes no representations as to long term compatibility, usability, or read ability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the Consultant during the project. Should any discrepancy occur between electronic files and hard copies, hard copies shall govern.

Our total fee for this work, including all expenses, shall not exceed \$_____ for all services.

This agreement, including its attachments and schedules, constitutes the entire agreement, supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties. The following exhibits and schedules are hereby made a part of this agreement.

Exhibit "A"- Scope of Work

Exhibit "B" - Procedural Manual for Design and Construction

Exhibit "C" - Organizational Chart

Exhibit "D" - Personnel and Classification Listing

Exhibit "E" - Fee Schedule and Rate Sheet

Exhibit "F" - Project Schedule

Exhibit "G" - Affidavit

We appreciate the opportunity afforded. Enclosed is one original of this agreement. If the provisions of this proposal are satisfactory to you, kindly indicate your acceptance by signing and returning the original to serve as a working agreement and notice to proceed.

Very truly yours,

Consultant Firm Name Here.

(NAME)
(TITLE)

Attachments: Exhibits "A" thru "G"

ACCEPTED FOR BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS

by: _____
President and Chief Executive Officer
Gary P. LaGrange

Date

APPROVED

by:
Director of Port Development
Deborah D. Keller, P.E.

Attorney for the Board
Gerald O. Gussoni

Exhibit "G" Affidavit

STATE OF

PARISH (COUNTY) OF

AFFIDAVIT ATTESTING THAT PUBLIC CONTRACT
WAS NOT AND WILL NOT BE SECURED
THROUGH EMPLOYMENT OR PAYMENT OF SOLICITOR

KNOW ALL MEN BY THESE PRESENTS, that a public contract is contemplated between _____ and _____, represented by _____, who attests that he is empowered and authorized to execute said documents.

FURTHER, _____, who being duly sworn, does depose and attest that:

(1) Affiant employed no person, corporation, firm, association, or other organization, either directly or indirectly, to secure the public contract under which he received payment, other than persons regularly employed by the affiant who services in connection with the construction of the public building or project or in securing the public contract were in the regular course of their duties for affiant; and

(2) No part of the contract price received by affiant was paid or will be paid to any person, corporation, firm, association, or other organization for soliciting the contract, other than the payment of their normal compensation to persons regularly employed by the affiant whose services in connection with the construction of the public building or project were in the regular course of their duties for affiant.

WITNESSES:

AFFIANT

TITLE IN FIRM

BEFORE ME, the undersigned authority, personally appeared _____, who being duly sworn, deposes and states that the above is true and correct in all respects recited.

SWORN TO AND SUBSCRIBED before me, this _____ day of _____, 2010.

NOTARY PUBLIC (signature)

NOTARY PUBLIC (printed name) NOTARY PUBLIC NUMBER EXPIRATION DATE

REQUEST FOR PROPOSALS

ATTACHMENT "C"- Part 1-FEE SUMMARY SHEET

PORT OF NEW ORLEANS

JULIA ST. CRUISE TERMINAL IMPROVEMENTS PROJECT PHASE 3-INTERIOR RENOVATIONS AND RELATED WORK

FEE PROPOSAL REQUIREMENTS

The Fee Proposal (one original) shall be submitted with the Project Proposal in ***separate sealed envelope*** as stated in the RFP. The Fee Proposal shall consist of the Fee Proposal Summary Sheet and the Fee Rate Sheets.

The Prime Consultant will only be reimbursed for direct costs, with no multiplier, including direct cost of any sub-consultants or other direct costs incurred.

The Fee Proposal Summary Sheet shall contain three parts:

- Part 1 - Design and Contract Document Preparation (plans and specs)
- Part 2 - Construction Support, Materials Testing, and Resident Inspection
- Part 3 - As-Built Drawings

Prime consultant and sub-consultants shall estimate total labor hours at applicable all-inclusive hourly rates and state a not-to-exceed contract value for Part 1, Part 2, and Part 3 services.

The purpose of the Fee Proposal is to budget for an estimate fee prior to award of the contract and to expedite the negotiation of the final contract and fees AFTER the contract is awarded. The Fee Proposal envelope will not be opened until after the consultant evaluation committee has completed all scoring and the results are tabulated and reported to the President/CEO by the committee.

The Fee Proposal Summary Sheet shall conform to the following format:

RFP

ATTACHMENT "C"-Part 1 Fee Summary Sheet

PORT OF NEW ORLEANS

JULIA ST. CRUISE TERMINAL IMPROVEMENTS PROJECT
PHASE 3-INTERIOR RENOVATIONS AND RELATED WORK

FEE PROPOSAL REQUIREMENTS

PART 1-SURVEYING, ARCHITECTURAL AND ENGINEERING DESIGN AND PREPARATION OF CONTRACT DOCUMENTS, AND SERVICES NOT LISTED IN PARTS 2 AND 3

Prime Consultant	\$(total)
Sub-consultant #1	\$(total)
Sub-consultant #2	\$(total)
Sub-consultant #3, etc.	<u>\$(total)</u>
TOTAL PART 1	\$(not-to-exceed total)

PART 2-CONSTRUCTION SUPPORT, MATERIAL TESTING & RESIDENT INSPECTION

Prime Consultant	\$(total)
Sub-consultant #1	\$(total)
Sub-consultant #2	\$(total)
Sub-consultant #3, etc.	<u>\$(total)</u>
TOTAL PART 2	\$(not-to-exceed total)

PART 3- PREPARATION OF AS-BUILT DRAWINGS

Prime Consultant	\$(total)
Sub-consultant #1	\$(total)
Sub-consultant #2	\$(total)
Sub-consultant #3, etc.	<u>\$(total)</u>
TOTAL PART 3	\$(not-to-exceed total)

=====

PROPOSED TOTAL CONTRACT NOT-TO-EXCEED FEE	\$(not-to-exceed total*)
--	---------------------------------

* Sum of Part 1, Part 2, and Part 3 fees.

**RFP Attachment C-Part 2 Fee
Rate Schedule**

Prime Consultant:

Julia St. Cruise Terminal Improvements Project Phase 3
Work Order 1-938

All Inclusive Hourly Rate Schedule

(use as many as needed)

Prime Consultant	Sub Consultant	Sub Consultant	Sub Consultant
(name here)	(name here)	(name here)	(name here)
in dollars/hour	in dollars/hour	in dollars/hour	in dollars/hour

Note: All rates are all inclusive				
Surveying Services:				
3 man survey party				
GPS crew				
Senior Land Surveyor, PLS				
Land Surveyor, PLS				
Survey Field Supervisor				
Survey Technician				
Principals:				
Principal Officer				
Principal Architect (AIA)				
Principal Engineer (PE)				
Managers:				
Senior Project Manager (licensed architect or engr)				
Senior Program/Project Manager (not licensed)				
Senior Licensed Design Professionals:				
Senior Engineer				
Senior Architect				
Senior Interior Designer				
Senior Non-Licensed Staff:				
Senior Architect				
Senior Engineer				
Senior Construction Manager				
Senior Technician				
Senior Interior Designer				
Senior Drafter/AutoCadd Tech				
Senior Construction Inspector				
Other Licensed Professionals:				
Engineer				
Architect				
Other Non-Licensed Professionals:				
Project Manager				
Designer				
Junior Architect				
Junior Engineer				
Other Staff:				
Drafting Manager				
Construction Supervisor				
Construction Inspector				
Drafter/AutoCadd Tech				
Jr. Drafter/AutoCadd Tech				
Specification Writer				
Typist/Clerical				
Junior Technician (any discipline)				
Note: Support personnel such as office managers, accountants, clerks, etc. are not directly billable and are considered overhead expenses included in the all inclusive hourly rate of the above billable categories.				
Overtime, when authorized, is 1.5 times the hourly rate				
Do not add other classifications. Delete classifications not used				
Materials Testing Labs provide separate rate sheets for their services and do not use this rate form.				

**JULIA STREET CRUISE TERMINAL PROJECT
Phase 3-Interior Renovation and Related Work**

REQUEST FOR PROPOSALS

ATTACHMENT "D"

DESIGN CRITERIA

**Request for Proposals (RFP) for
Julia Street Cruise Terminal Improvements
Work Order 1-938**

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS

APRIL 2010

Design Criteria

The design criteria for the project includes the following elements:

Sustainable design for a heavy pedestrian traffic and baggage handling environment that will result in low-maintenance and an extended useful life, especially with respect to flooring, walls, counters, doors, etc.

Strategic design that incorporates functional efficiency with attractive design elements that meet the expectations of the largest and most successful cruise lines and their passengers.

Highly energy-efficient systems, especially HVAC and lighting that lower operational costs for a large facility which has intermittent use.

Highly efficient and durable fixtures that lower operational and maintenance costs.

Design layout that meets the requirements of Homeland Security guidelines and the needs of the Board's Cruise Division, as illustrated in the floor plan shown on the project website.

A design theme that distinguishes the Julia St. Cruise Terminal from the adjacent Erato St. Cruise Terminal and will be considered by the cruise industry as equal to the Erato St. Cruise Terminal.

Interior and exterior directional signage that is incorporated into the overall design theme and effectively communicates to cruise passengers for their efficient movement during embarkation and disembarkation operations.

A project that has a construction costs of no more than \$ 4 million.

A project that completes construction no later than that shown on the project schedule.

Applicable Design Codes

The design and construction shall be in compliance with all applicable codes including:

- International Existing Building Code 2006 Edition , not including Chapter 1 - Administration, Chapter 11 - Accessibility, Chapter 27 - Electrical and Chapter 29 - Plumbing Systems. The applicable standards referenced in that code are included for regulation of construction within Louisiana.
- Louisiana State Fire Mashall
- Americans With Disabilities Act
- Life Safety Code, latest edition.

- LA State Plumbing Code (Part XIV (Plumbing) of the State Sanitary Code) as amended by the LA health officer acting through the Office of Public Health of the Department of Health and Hospitals and applicable plumbing codes of the City of N.O. through the New Orleans Sewerage & Water Board.
- International Mechanical Code, 2006 Edition and the standards referenced in that code for regulation of construction within Louisiana.
- The National Electric Code, 2005 Edition.
- Standard Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals.
- ACI, Building Code Requirements for Masonry Structures, ACI 530 / ASCE 5 /TMS 402, if applicable.
- ANSI, Wind Design for Ballasted Single-Ply Roofing System,if applicable.
- ANSI, Wind Design Standard for Edge Systems Used in Low Slope Roofing Systems.
- ASCE 7-05, Structural Engineering Institute, Minimum Design Loads for Building and Other Structures.
- City of New Orleans Amendments to IBC 2006, Chapter 18 “Soils & Foundations”.

PONO Drawing Standards

Refer to the project website for downloadable standards to be followed for drafting construction drawings for this project. A copy is included in this Attachment “D”.

Existing and Proposed Floor Plans

Refer to the project website for downloadable existing and proposed floor plans. A copy is included in this Attachment “D”.

**BOARD OF COMMISSIONERS PORT OF NEW ORLEANS
CAPITAL IMPROVEMENT and
DISASTER RECOVERY PROJECTS
PROCEDURE MANUAL
FOR DESIGN AND CONSTRUCTION**

ATTACHMENT “E”

2010 Edition

- ARTICLE 1. CONDITIONS OF THE CONTRACT**
- ARTICLE 2. DEFINITIONS**
- ARTICLE 3. BOARD-USER AGENCY RESPONSIBILITIES**
- ARTICLE 4. CONSTRUCTION BUDGET (AFC)**
- ARTICLE 5. COMPENSATION**
- ARTICLE 6. PAYMENTS TO THE DESIGNER**
- ARTICLE 7. DESIGNER’S SERVICES**
- ARTICLE 8. DESIGNER’S ACCOUNTING RECORDS**
- ARTICLE 9. TERMINATION OF CONTRACT**
- ARTICLE 10. ABANDONMENT OR SUSPENSION**
- ARTICLE 11. BOARDSHIP OF DOCUMENTS**
- ARTICLE 12. SUCCESSORS AND ASSIGNS**
- ARTICLE 13. EXTENT OF AGREEMENT**
- ARTICLE 14. GOVERNING LAW**
- ARTICLE 15. OTHER CONDITIONS, INCLUDING INSURANCE**

This manual is consistent with the “Louisiana Capital Improvements Projects Procedural Manual for Design and Construction”, latest edition. The requirements as stated herein may be modified or waived at the discretion of the Director of Port Development upon recommendation of the Engineering Department as deemed appropriated for specific projects.

ARTICLE 1
CONDITION OF THE CONTRACT

- 1.1 The Board of Commissioners Port of New Orleans Capital Improvement and Disaster Recovery Projects Procedure Manual for Design and Construction, 2008 Edition, herein referred to as the “Manual” and any amendments thereto, as published by Port Development Division, shall be a part and condition of the agreement for the professional services contract between the Board and the Designer.

ARTICLE 2
DEFINITIONS

- 2.1 *The Owner* is the Board of Commissioners Port of New Orleans, herein referred to as the “Board”, the contractual responsibilities of which shall be exercised by the President/CEO or his designated representative, usually, but not always, the Port Development Division Director.
- 2.2 *The User* is a department or division of the Board, which will be the principal user of and for which the facility is being designed for construction and/or repair.
- 2.3 *The Designer* is a person or organization professionally qualified and licensed to practice Architecture or Engineering or Planning in accordance with the laws of the State of Louisiana, who is to perform Basic Services for the Project, as named in the Contract.
- 2.4 *Consultants* are individuals or organizations engaged by the Board or the Designer to provide professional consultant services complementing or supplementing the Designer’s Services. As applicable, Consultants shall be licensed to practice in accordance with laws of the State of Louisiana. The Board shall engage or have the Designer furnish as part of the Designer’s Services the services of Consultants which are deemed necessary for the project. Usual Consultants are architects, landscape architects, civil, structural, mechanical and electrical engineers, planners, and others required to provide the services required or implied by the scope of the Project; compensation for which is included in Designer’s basic fee. Special Consultants are those, other than the above, which the Board may approve, to perform special services such as survey, testing, diving and for which compensation will be in accordance with Article 5.5.
- 2.5 *The Project* is a Board Project for which funds have been appropriated or other public government project for which funds are available, as specifically defined in the Contract between the Board and Designer.
- 2.6 *The Available For Construction (AFC)* is the actual amount of funds available for awarding the construction contract(s).
- 2.7 *The Contract* is the agreement executed between the Board and the Designer, including all attachments, for the Project.

ARTICLE 3
BOARD RESPONSIBILITIES

- 3.1 The Board's designated representative shall be an employee of the Board designated and authorized to act in its behalf with respect to the Project. Usually this will be the Director of the Port Development Division.
- 3.2 Upon award of the Contract the Board shall issue a written Notice of Award to the Designer. The Designer shall have fourteen (14) calendar days after the Notice of Award to execute an agreement for professional services with the Board. Prior to signing of the Contract, the Board shall furnish the proposed scope of work and a statement of the Available Funds for Construction (AFC) that will become part of the Contract.
- 3.3 After the Contract is signed by the Board, the Board shall issue a written Notice to Proceed to the Designer and shall schedule and hold a Pre-Design Conference at the Board's offices. This conference shall be attended by the Designer, any key consultants, and representatives of the Board and User.
- 3.3.1 The purpose of the Pre-Design Conference shall be to initiate a general review and discussion of the Project, including, but not limited to, adopting or confirming the following:
- 1) The Scope of Work
 - 2) The location of the facility, and relevant site information;
 - 3) The Funds Available for Construction (AFC) and the Designer's Fee;
 - 4) The Project Work Schedule outlining anticipated completion dates of designated phases as described in Article 7 hereinafter and the anticipated period of construction. The Project Work Schedule for planning phases shall commence with the date of the Pre-Design Conference and shall continue until delivery of all construction documents to the Board sufficiently complete, coordinated and ready to bid. The number of calendar days in the schedule shall take into account review periods agreed to between Designer and Board. Construction Documents will be considered to be "sufficiently complete, coordinated and ready for bid" only if the advertisement for bid can be issued with no further revisions to the Construction Documents except minor corrections and/or additions that can be made by addenda. Corrections and/or additions that require reissuing drawings must be approved by the Board. Design time will not necessarily end at the receipt of the initial Construction Documents Phase submittal to the Board. Any unreasonable re-submittals required to complete the Construction Documents will be included in the design time.
 - 5) A detailed review of the Contract, and all attachments, and the Board's Standard format for Constructions Documents shall be a part of the Designer's obligation under the Contract, including any reasonable revisions made by the Board and agreed to by the Designer.
- 3.3.2 If not included in the Contract, the Board shall reimburse the Designer, in addition to the original fee, if a need arises for surveys described in 7.1.1.4 when deemed necessary by the Designer and agreed to by the Board. These may include, but not be limited to, a topographic survey and/or marine survey prepared by a registered land surveyor or a

geotechnical investigation (soil borings and laboratory analysis) prepared by a Louisiana licensed professional engineer.

- 3.4 The Board and the User shall examine all documents submitted by the Designer and shall render decisions pertaining thereto, within the scheduled review period to avoid unreasonable delay in the progress of the Designer's Services.
- 3.5 The Board will select a testing laboratory to perform all required tests during construction, and will contract for and pay for all such testing services, unless the contract specifies inclusion in the Designer's Scope of Work.
- 3.6 The Board shall provide record construction documents of existing buildings or facilities for repair, renovation or addition projects, when those are available, and any previous infrastructure that formerly existed on the Project site.

ARTICLE 4

CONSTRUCTION BUDGET (AFC)

- 4.1 The Construction Budget is the amount of funds Available for Construction (AFC) for the Project as set by the Board and stated in the Contract between the Board and Designer.
- 4.2 The Designer shall be responsible for designing the Project so that the base bid does not exceed the AFC. The use of one or two alternate bids, as allowed by Law, must be approved by the Board. The Board will take into consideration abnormal escalation in construction costs that can be substantiated.
- 4.3 At the completion of the Program Completion Phase, as stated hereinafter in Article 7, the Designer shall determine whether the funds AFC are realistic for the Project when compared with the Completed Program. At this point, or at any other submissions of Probable Construction Cost by the Designer, if such Probable Construction Cost is in excess of funds AFC, the Board shall have the option to:
 - 1) Instruct the User to collaborate with the Designer to revise the program so that it will be within the funds AFC; such program revisions shall be done without additional compensation to the Designer, except as provided in Article 7.3.4, hereinafter.
 - 2) Provide additional funds to increase the Funds AFC or
 - 3) Abandon or suspend the project or
 - 4) Instruct the User to collaborate with the Designer to provide no more than two alternate bids that are estimated by the Designer so that at least one bid will be within the funds AFC.

Any adjustment in the funds AFC during design shall include an appropriate adjustment in Designer's the fee via a Contract amendment.

- 4.4 When the lowest bona fide Base Bid and any alternate bids exceed the amount AFC, the Board shall have the option to (1) have the Designer, without additional compensation, modify the Construction Documents as required in order to rebid the project to be within

the amount Available for Construction, (2) provide additional funds to award the Construction Contract, or (3) abandon or suspend the project.

- 4.4.1 The lowest bona fide bid is defined as the lowest responsible, responsive bid submitted by a Louisiana licensed Contractor, and not withdrawn in accordance with R.S. 38:2214 which complies in every respect with the bidding requirements of the Contract Documents.
- 4.5 When the lowest bona fide bid is less than 90% of the funds AFC and the Designer has reduced the original program scope to reduce costs, the Board shall have the option to have the Designer, without additional compensation, modify the Construction Documents via a Change Order to the successful Contractor to restore requirements of the program that were eliminated to reduce cost.
- 4.6 When appropriate, should the Contractor propose a Value Engineering Cost proposal to the Board, the Designer shall be compensated for evaluating the proposal if issued a Contract Amendment by the Board to provide services to evaluate the Contractor's Value Engineering proposal.

ARTICLE 5 COMPENSATION

Compensation to be paid to the Designer for services and reimbursable expenses shall be as follows.

- 5.1.a LUMP SUM FEE. The fee for Basic Services, as described in Article 7 hereinafter, shall be calculated as the product of the fee percentage, adjusted for inflation, and the amount AFC, adjusted for inflation. The fee percentage shall be computed by the formula:

$$\text{FEE PERCENTAGE} = \frac{46.10}{\text{Log (AFC (1975 BCI/Current BCI))}}$$

The fee shall be computed by the following formula:

$$\text{FEE} = \text{FEE PERCENTAGE (AFC (1975 BCI/Current BCI) (Current CPI/1975 CPI)(Refer to Table herein.)}$$

The "BCI" = Building Cost Index as published by Engineering News Record and "CPI" = Consumer Price Index as published by U.S. Department of Labor, Bureau of Labor Statistics.

Since the annual average computed in December of the BCI and CPI are used, fee calculations are based upon the most current calendar year average of both indices. Should fee modifications occur during the course of the project, the BCI and CPI index factors used to calculate the original fee shall be used. If a project, through no fault of the Designer, is inactive for more than 24 months, the current BCI and CPI index factors shall be applied to the project once re-activated.

- 5.2 Compensation to be paid the Designer may be appropriately modified by the Board prior to the selection of the Designer for certain projects as follows:
 - 5.2.1 Simple (.85 of basic compensation), to be determined by Board - single use projects generally of utilitarian character without complication or detail. Roof replacement on buildings with a high degree of repetition is an example of this classification.
 - 5.2.2 Average (1.00 of basic compensation), to be determined by Board - projects of conventional character requiring normal attention to design and detail, including complete mechanical and electrical systems.
 - 5.2.3 Medium Complex (1.1 of basic compensation), to be determined by Board - projects of special character and/or function requiring an above average level of skill in design and containing more than ordinary requirements of scientific, mechanical and electrical equipment.
 - 5.2.4 Complex (1.15 of basic compensation), to be determined by Board - projects of highly specialized design character and function requiring a high degree of design skill and requiring extensive, or special scientific, electronic, mechanical and electrical equipment and design expertise.
- 5.3 The Board may evaluate the scope, function, complexity, image and context of the project and adjust modifiers listed above.
 - 5.3.1 A Renovation or Repair Factor of up to 1.25, of applied fees, to be established and set by the Board for each individual project, will be multiplied by the fee percentage to arrive at the Fee for renovation or major repair projects, when determined by the Board to be justified. This Fee shall include verifying existing conditions and/or any other additional work incidental to renovation projects. The Renovation or Repair Factor will be set in proportion to the additional work anticipated by the Board. The Renovation or Repair Factor will not be applied to re-roofing projects, except in unusual circumstances.
 - 5.3.2 Full Time Observation Services. An addition may be made to the Basic Fee for full time observation or full time resident inspection services during construction if determined by the Board to be warranted.
 - 5.3.3 Duplicated Work Factor shall be subject to negotiation between the Board and Designer on an individual project basis.
 - 5.3.4 Multiple Contracts. If the Board determines that the best interest of the Project is served by bidding and constructing the Project under two or more separate contracts, the fee shall be established for each portion by application of the formula in 5.1 above.
 - 5.3.5 If a Project consists of more than one element, to be bid and constructed under one contract, then the amount AFC to be used in computing the fee under the formula in 5.1 above shall be the sum of the amount AFC's of each element.
 - 5.3.6 Prefabricated Buildings. A fee to be established and set by the Board for each individual project, not to exceed that stated in 5.1 above.

5.1.b NOT-TO-EXCEED FEE

The fee for Basic Services, as described in Article 7 hereinafter, shall be based on an estimate of hours multiplied by not-to-exceed all inclusive hourly rates as established by the Board for various categories of labor. Fee calculations are based on the Board's current established maximum hourly rates at the time of execution of the Contract.

5.4 Payment to the Designer for Additional Services, defined in Article 7.3, shall be made on the basis of Designer's Direct Personnel Expense for performing such services multiplied by a factor of 3.0 or at an all inclusive hourly rate negotiated by the Board and the Designer, based upon the Board's current all inclusive hourly rates for various categories of labor.

5.4.1 Direct Personnel Expense is defined as the normal, straight-time direct salaries of all the Designer's personnel engaged in the Project (technical but not clerical). This shall also include the direct salaries of Designer's Consultants involved in the additional services without mark-up by the Designer.

5.4.2 Routine change orders to the Contract which involve a small amount of effort will not involve extra compensation to the Designer. Before the Designer prepares a change order to the Construction Documents for which he/she feels entitled to extra compensation due to the extra effort involved, the Designer shall so notify the Board and secure the Board's approval to proceed with the additional design services. When final payment is made to the Designer, all such construction change orders will be reviewed by the Board and the Designer's contract will be amended to reflect extra compensation for the change orders which the Board has determined merit additional fee. The fee will be computed by increasing the contract award by the amount of change orders that qualify for additional fee as described above in paragraph 5.4.1 and recalculating the total fee for design services.

5.4.3 Designer shall prepare change orders caused by errors or omissions of the Designer without additional compensation.

(1) The Designer shall be financially responsible for costs that result from errors and/or omissions that exceed an acceptable level pursuant to the standard of care as described in Article 7.1. The Board shall participate in the cost of errors and omissions to the extent of the value received by the Board.

Errors are changes to the work caused by the Designer for which the Contractor is entitled to payment, but for which the Board receives no value. Typically, these involve work that has been constructed and must be demolished and replaced and/or materials that have been ordered or purchased and cannot be used or cannot be returned for a full refund.

Omissions are changes to the work caused by the Designer for which the Contractor is entitled to payment for which the Board receives value. Typically these involve work that must be added to the construction contract with little or no change to the materials that have been ordered or to work that has been constructed.

- 5.4.4 Preparation of documents required for change orders for any cause shall not be started without Board's prior written approval. Documents shall indicate if the change order is due to the Designer's error or omission.
- 5.5 Reimbursable Expenses are in addition to the compensation for Basic and Additional Services and include actual expenditures made by the Designer, his employees or his professional consultants in the interest of the project as directed and authorized by the Board in writing prior to their incurrence.
- 5.5.1 The Designer shall pay for the cost of printing Construction Documents for the Board's review and use for submitting regulatory agencies in order to obtain permits, approvals, or letters of no objection. This includes all progress submittals and final deliverables. The Board shall bear the costs and responsibilities for the cost of printing and distribution of all other sets of Construction Documents, once the Board receives final construction documents originals and electronic formats signed and stamped by the Designer. The Board will be responsible advertisement for bids, receipt of bids, bid tabulation, and recommendation for award.
- 5.6 Designer will be paid for prolonged contract administration and observation of construction should the construction contract time, as may be extended, be exceeded due to no fault of the Designer and liquidated damages are recommended by the Designer and/or Board. The amount of such payment shall be computed by dividing 20% of the basic total fee by the number of days construction time, as extended, and multiplying by the number of days of liquidated damages recommended by the Designer to be assessed to the Contractor.
- 5.7 Liquidated Damages: When the Designer exceeds the established time schedule, as described in Article 3.3.1-4, including any extensions of time approved by the Board, then the amount of the fee shall, as liquidated damages, be reduced by an amount as stated in the Contract, for each working day past the original or extended date that the Designer has not delivered all Construction Documents to the Board sufficiently complete, coordinated and ready to bid. Completeness will be determined by the Board as described in Article 6.1.2 and Article 7.1.4.

ARTICLE 6

PAYMENTS TO THE DESIGNER

- 6.1 Payments on account of Designer's Services shall be made as follows:
- 6.1.a FOR LUMP SUM FEE CONTRACTS
- 6.1.1 Basic Services
- 1) Upon satisfactory completion of all Basic Services for each phase as described in Article 7, submission of all documents to the Board and User and upon the Board's and User's approval of same, which approval shall not be arbitrarily withheld, payment for the following phases of the Designer's services will be made in one lump sum (with the exception of the Construction Documents Phase

as described below in 6.1.2); such payments shall be up to the following percentages of the Designer's fixed fee, either interim or final, as applicable, which percentages are cumulative:

	Phase %	Cumulative %
Program Completion Phase	5%	5%
Schematic Design Phase	10%	15%
Design Development Phase	15%	30%
Construction Documents, Bidding, and Contract Phase	35%	65%
Construction Phase	30%	95%
Construction Close Out Phase	5%	100%
Total:	100%	100%

- 2) Monthly in proportion to the Contractor's Certificate for Payment for the following phase: Construction Phase 95%
- 3) Upon satisfactory completion and furnishing required documents to the Board for the following phase:
Construction Close-Out Phase 100%

Maximum of 1% (or \$2,000 maximum) of the Designer's fee may be withheld from construction close-out payment until completion of 1 year warranty inspection period.

- 6.1.2 A partial payment for the Construction Documents Phase shall be made when the Designer has completed 100 percent of the Construction Documents and has submitted these to the Board and the other required statutory agencies and the Board determines by inventory check and conformity with Article 7 that all required documents have been submitted, and are sufficiently complete, coordinated and ready to bid, then the Designer shall be entitled to a payment of 70 percent of the fee for the Construction Documents Phase. Should the Board's approval of the Construction Documents not be issued within 45 days of submittal due to no fault of the Designer, then the Designer shall be paid an additional payment of 20 percent of the fee for the Construction Documents Phase. The balance of the fee for this phase will be due upon completion of review by Board and User, when corrections have been made, and when the project is approved for bidding. For projects with funds AFC over \$10 million, interim payments up to 50 percent of the fee for the Construction Documents Phase may be made by agreement between the Board and the Designer.
- 6.1.3 If any phase or phase payment is delayed through no fault of the Designer, the Board and Designer may negotiate a partial payment.
- 6.1.4 The Designer shall promptly pay its consultants. By signing the Professional Design Services Invoice, the Designer agrees that all consultants will be promptly

paid those amounts due them out of the amount paid to the Designer within thirty (30) days. Upon receipt of reasonable evidence of the Designer's failure to pay consultants' amounts due them, the Board may withhold all or part of the Designer's payment until he is satisfied that any amounts owed have been paid or otherwise settled.

6.1.b FOR NOT-TO-EXCEED CONTRACTS

Payments shall be made based on monthly invoices for actual hours billed, not to exceed the maximum fee stipulated in the Contract for various phases of the Scope of Work. The Board reserves the right to withhold payment if the percent invoiced exceeds the percent completion of Design Services until such time that additional progress is commensurate with payments is achieved.

6.2 Payments on account of Designer's Additional Services and for Reimbursable Expenses shall be made on submission of Designer's invoices with supporting data, and their written approval by the Board and issuance of an amendment to the Contract covering such services.

6.3 Payments to the Designer on Termination, Abandonment or Suspension shall be made in accordance with Articles 9 and 10, hereinafter.

ARTICLE 7

DESIGNER'S SERVICES

7.1 Basic Services. The Designer's Basic Services consist of the phases described below and include the normal services of the Designer and normal complementary or supplementary services of his Consultants, and any other services included in the Contract. Review Documents of each phase shall be submitted to the Board and to the User for their approval. In addition, for the Construction Documents Phase, Review Documents shall be submitted by the Board to regulatory agencies designated by the Board or required by law, for their approvals. Designer shall not finalize Construction Documents until the requisite written approvals are received and until authorized by the Board in writing to so proceed. All statements of probable Construction Cost shall be adjusted to the anticipated bid date of the project.

The Designer shall be responsible for compliance with all applicable codes including:

- International Existing Building Code 2006 Edition , not including Chapter 1 - Administration, Chapter 11 - Accessibility, Chapter 27 - Electrical and Chapter 29 - Plumbing Systems. The applicable standards referenced in that code are included for regulation of construction within Louisiana.
- Life Safety Code, latest edition.
- LA State Plumbing Code (Part XIV (Plumbing) of the State Sanitary Code) as amended by the LA health officer acting through the Office of Public Health of the Department of Health and Hospitals and applicable plumbing codes of the City of N.O. through the New Orleans Sewerage & Water Board.

- International Mechanical Code, 2006 Edition and the standards referenced in that code for regulation of construction within Louisiana.
- The National Electric Code, 2005 Edition.
- Standard Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals.
- ACI, Building Code Requirements for Masonry Structures, ACI 530 / ASCE 5 /TMS 402.
- ANSI, Wind Design for Ballasted Single-Ply Roofing System.
- ANSI, Wind Design Standard for Edge Systems Used in Low Slope Roofing Systems.
- ASCE 7-05, Structural Engineering Institute, Minimum Design Loads for Building and Other Structures.
- City of New Orleans Amendments to IBC 2006, Chapter 18 “Soils & Foundations”.
- International Fuel Gas Code, 2006 Edition, and the standards referenced in that code for regulation of construction within Louisiana.

Items not specifically covered by codes shall be designed in accordance with the standards established by accepted professional groups or by industry standard for that specific item of work.

The Designer shall be responsible, to a reasonable standard of care, for the professional quality, technical accuracy and the coordination of all designs, drawings, specifications and other services furnished under this contract. The Designer shall without additional compensation, correct or revise any errors or deficiencies in the designs drawings, specifications, and other services.

7.1.1 Program Completion Phase

- 1) After the initial pre-design conference the Designer shall meet and work with the Board and User to determine more detailed program requirements for the project and shall refine and complete the program in a form acceptable to the Board.
- 2) The Designer shall determine whether the funds AFC are realistic for the project when compared with the completed program, as described in Article 4.3.
- 3) The Completed Program shall be submitted to the Board and the User for their written approval and thereafter only the Board shall have authority to alter the Program. Any authorization by the Board to alter the Completed Program shall be in writing.
- 4) The Designer shall, as part of this Contract, provide all geotechnical investigations, topographic surveys and other professional services for the design of the project if so stipulated in the Contract. If additional services, not specified in the Contract are deemed necessary by the Designer, then Designer shall make

recommendations to the Board for additional services. The Designer shall not proceed with additional services until a contract amendment is executed.

- 5) The Designer shall finalize the Project Work Schedule as described in Article 3.3.1-4, for the Board's approval.

7.1.2 Schematic Design Phase

- 1) Based on the approved Scope of Work, funds AFC, Site Location and Project Work Schedule, the Designer shall prepare Schematic Design Documents in such format and detail as required by the Board, consisting of drawings, outline specifications and other documents illustrating the general scope, scale and relationship of the Project components for the written approval of the Board and User. Detail submittal requirements are described in the
- 2) The Designer shall submit to the Board and User a Statement of Probable Construction Cost based on current area, volume or other unit costs method.
- 3) An analysis of requirements of the Louisiana Code for State Owned Buildings as they relate to this project shall be prepared by the Designer and submitted for review and approval. It shall be the responsibility of the Designer to verify as to the latest edition of the codes and standards in effect for use on the Project.

7.1.3 Design Development Phase

- 1) Based on the approved Schematic Design Documents and any adjustments authorized by the Board in the Scope of Work or the funds AFC, the Designer shall prepare, for approval by the Board, Design Development Documents consisting of drawings, expanded outline specifications based on of the Construction Specifications Institute (CSI) format, and other documents to fix and describe the size and character of the entire project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be required.
- 2) The Designer shall submit to the Board and User a Statement of Probable Construction Cost based on the current Scope of Work. This shall have back-up material and data in such format and detail as required by the Board.
- 3) If applicable, a preliminary Energy Conservation Analysis for the Project shall be prepared by the Designer and submitted to the Board for review and approval.

7.1.4 Construction Documents Phase

- 1) Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the funds AFC, authorized by the Board, the Designer shall prepare for written approval by the Board, the following documents bearing the Designer's seal and those of his consultants, all sufficiently complete and clear to define the quantity and quality of the work to bid and build the Project:

- (a) Working Drawings, Dimensioned plans, elevations, sections, details and schedules of all architectural, civil, structural, mechanical and electrical work in the project.
 - (b) Technical Specifications - of the materials, processes or systems to be incorporated in the Project, using the Construction Specifications Institute format. State law prohibits the Designer from closing specifications on any item in the specification except as provided for in R.S. 38:2290-2296 and in R.S. 38:2290. A. Any reason for closing specifications to proprietary products as provided for by law shall be brought to the attention of the Board in writing for review. Products specified as “or prior-approved equal” shall also be brought to the attention of the Board in writing for review.
 - (c) Bidding and Construction Contract Forms - the Board will furnish to the Designer requirements that the Designer must include in the Construction Documents on the following: Advertisement for Bids, Instructions to Bidders, Bid Form, General Conditions, Supplementary General Conditions, Contract Between Board and Contractor, Performance and Payment Bond, Non-Collusion Affidavit, and other forms used by the Board. The Designer shall consult with the Board to determine if a Prevailing Wage Determination from the Secretary of Labor should be included in the Documents and obtain one if necessary, and if an Exemption from Sales Taxes provision should be included.
 - (d) All documents shall be complete and coordinated. The Designer is responsible for coordination of all documents and all disciplines. The Designer is responsible for coordination between all named products and performance criteria.
- 2) The Designer shall submit to the Board and User an updated Statement of Probable Construction Cost based on the format of the draft Bid Form (3) with back-up material as described in 7.1.3 above.
 - 3) The Designer shall submit one bound copy of all design calculations on the Project for the Board’s files, and electronic format of all Construction Documents as per the Contract.

7.1.5 Bidding and Contract Phase

- 1) Upon receipt of written approval from the Board, receipt of corrected and completed Construction Documents, and approval of the latest Statement of Probable Construction Cost, the Board may advertise the Project for bids and shall be assisted by the Designer in issuing any addenda that are generated by errors, omissions, conflicts, or questions from Bidder’s attending the Pre-Bid Conference. It is the Board’s responsibility to have approvals, letters of no objection, and permits for the Projects which have not expired or will not be expired by the time of anticipated contract award.
- 2) The Board shall be responsible for the furnishing and distribution of copies of Construction Documents to (1) all Contractors licensed in accordance with State

law who desire to bid the Project, subject to deposit requirements as provided for in the Advertisement for Bids, (2) to recognized construction trade organizations maintaining plan rooms (3) to the User, and any Federal, State, or local agencies and regulatory authorities as required. Plan deposits shall be in accordance with the Board's requirements and Public Bid Law. The Board may use additional alternative methods of document distribution such as:

- a) Electronic plan distribution, whereby prospective plan holders are able to download files in a reasonable time and print paper copies, or have them printed.
- 3) The Designer shall be responsible for evaluating prior approval requests for substitution of materials, products and equipment required at the request of the Board. Such evaluations shall be made timely in order for the Board to respond to the Bidder within the time limits specified in the Contract Documents.
- 4) The Designer shall prepare and submit to the Board all addenda, in accordance with the Contract Documents, as required to modify or clarify the Construction Documents. Items not included in the approved program and/or items previously rejected or not approved shall not be included in any addendum without the Board's written approval.
- 5) The Designer shall attend the Board's pre-bid conference in accordance with the Contract Documents.
- 6) The Designer is not required to attend the opening of bids. Board staff will tabulate the bids.
- 7) After receipt of bids, the Board staff shall analyze the bids, consult with the User and make written recommendation to the Board of Commissioners and/or President/CEO to (1) award the Construction Contract to the lowest responsive, responsible bidder or (2) reject all bids.

7.1.6 Construction Phase

- 1) The Designer shall provide administration of the Construction Contract as set forth herein and in the Construction Documents.
- 2) The Designer shall make written recommendations for the Board's approval, for the type and number of construction materials tests required for the Project, as soon as the Construction Contract has been awarded. The Board will select, contract for and pay for such testing services unless the Contract specifically includes construction materials and other testing in the Designer's Scope of Work.
- 3) The Designer, as the representative of the Board during the Construction Phase, shall advise and consult with the Board. All of the Board's instructions to the Contractor shall be issued by the Board. The Designer shall have authority to act on behalf of the Board to the extent provided herein, or as provided for in the Contract Documents unless otherwise modified in writing.

- 4) After the execution of the Construction Contract the Board will issue a Notice to Proceed to the Contractor and will notify the Designer to participate in the Board's pre-construction conference.
- 5) The Designer and his principal consultants shall visit the project as often as necessary to become generally familiar with the progress and quality of the work and to determine if the work is proceeding in accordance with the contract documents. Such visits by the Designer shall be at a frequency directed by the Board or as specified in the Contract when the work is in progress.

The Designer's principal consultants shall visit the project as often as necessary to become generally familiar with the progress and quality of the work related to their disciplines and to determine if that work is proceeding in general accordance with the contract documents. Such visits by the principal consultants shall be at a frequency directed by the Board or as specified in the Contract while the scope of their work is being performed. The Designer shall not assume the role of his principal consultants in making site visits. In addition, project visits by both the Designer and his principal consultants shall be made at key points in the construction process.

On the basis of the Designer's and principal consultant's on-site observations, he shall endeavor to guard the Board against defects and deficiencies in the Work of the contractors. A written report of each visit to the project shall be prepared by the Designer and each of his principal consultants and shall be transmitted to the Board within seven (7) calendar days after each visit.

- 6) The Designer agrees that his designated representatives on the construction project shall be qualified by training and experience to make decisions and interpretations of the Construction Documents and such interpretations shall be binding upon the Designer as if made by him. All such decisions shall be confirmed in writing immediately with copies to the Board, conditioned that such decisions and interpretations shall not modify adversely the requirements of the contract documents. If at any time, the Board determines that the designated representative does not meet these qualifications, the Designer shall promptly replace the representative. This paragraph does not apply to the Designer's full-time project representative.
- 7) If specifically required in the Contractor's Scope of Work, then based on observations at the site and on the Contractor's Applications for Payment, the Designer shall determine the amount owing to the Contractor and shall issue Certificates for Payment in such amounts. No Certificate of Payment shall be issued until a schedule of values has been received from the Contractor. The issuance of a Certificate for Payment shall constitute a representation by the Designer to the Board, that the Work has progressed to the point indicated and that to the best of the Designer's knowledge, information and belief, the quality of the Work is in general accordance with the Contract Documents and that the Contractor is entitled to payment in the amount certified. By issuing a Certificate for Payment, the Designer shall not be deemed to represent that he has made any examination to ascertain how and for what purpose the Contractor has used the monies paid on account of the Contract sum. The Designer shall process

certificates as promptly as possible with copies to the Contractor, and in any case within seven (7) calendar days. If a certificate is held up or adjusted for any reason, written notice stating the reasons for the delay or adjustment must be given to the Contractor and Board within seven (7) days.

- 8) The Board shall instruct the Contractor to establish and conduct a regular schedule of monthly meetings, to be held on the job site each month throughout the construction period, and shall require attendance at the meetings by representatives of his principal Consultants. The User shall be notified of such meetings and may be represented. It shall be the principal purpose of these meetings, or conferences, to effect coordination, cooperation and assistance in every practical way to the end of maintaining progress of the project on schedule and completing the project within the contract time.
- 9) The Designer shall be the interpreter of the requirements of the Contract Documents and the impartial judge of the performance there under by both the Board and Contractor. The Designer shall make recommendations to the Board, on all claims of the Board or Contractor, relating to the execution and progress of the Work and on all other matters or questions related thereto.
- 10) The Designer shall have authority to reject work which does not conform to the Contract Documents. If the Designer considers it necessary or advisable to insure the proper implementation of the intent of the Contract Documents, he shall request the Board to authorize special inspection or testing of any Work in accordance with the provisions of the Contract Documents whether or not such Work be then fabricated, installed or completed.
- 11) The Designer shall promptly review shop drawings, samples and other submissions of the Contractor only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents. The Designer shall promptly respond to all requests for information from the Contractor within a reasonable time period. The Designer shall be held accountable as described in Section 5.4.3.
- 12) Only with the authorization of the Board, shall the Designer prepare Change Orders. The Designer shall obtain from the Contractor his estimate of cost and time changes in accordance with the Contract Documents for the Change Order, review and approve same, and submit it to the Board for approval before any changes are made in the Contract. No additional compensation shall be due the Designer for preparation of Change Orders without the written prior approval for such compensation by the Board, except as described in Article 5. The Board will not compensate the Designer for preparation of Change Orders, revising construction plans and/or technical specifications due to the Designer's errors and/or omissions.
- 13) R.S. 38:2241.1 entitled Acceptance of Governing Authority defines the procedures to be followed in accepting a project and gives the Board the discretion to make acceptance on either full completion or substantial completion. Upon completion of the work, or on substantial completion or for partial occupancy, as requested by the Board, the Designer shall conduct an inspection of the project with the Board, the User, and the Contractor to determine if the

Contractor's work is in general accordance with Contract Documents. The Designer shall prepare a list of items (punch-list) for correction or completion together with an assigned dollar value, and submit to the Board.

When the Board desires to accept on either full or substantial completion, the Designer shall recommend such acceptance in writing and shall issue a Certificate for Payment of funds due the Contractor, excepting retained percentage, liquidated damages and the value of the punch-list items. Upon the Contractor's furnishing of a clear lien certificate, the Designer shall make a final inspection and issue a final certificate for the retainage. A Certificate of Payment for punch-list items shall be issued upon their completion.

Upon recommendation of acceptance, the Designer shall receive, review and forward to the Board guarantees, operation, and maintenance manuals, keys and other closing documents as required by the Contract Documents. Designer shall obtain a written receipt for these and forward same to the Board, together with copies of all guarantees and warranties.

7.1.7 Construction Close-Out Phase

- 1) After acceptance of the Project by the Board, the Designer shall prepare and furnish to the Board (1) a Final Report in the format and containing information as required by the Board, and (2) two sets of Record Drawings (As-Built) prepared by the Designer, in an archival quality format, for the Board files and the Record Drawings shall be prepared on the basis of information furnished by the Contractor and the change orders and shall be reviewed with and approved by the Contractor prior to submission. Designer shall require in the specifications that the Contractor provide, as part of the Operations and Maintenance Manual, all materials identified in the specifications ultimately installed on the project.
- 2) Designer shall review and approve completion of "punch-list" items remaining after acceptance and shall certify final payment to the Contractor. If the Designer does not find the work acceptable under the Contract Documents after the first onsite punch list review, the Designer shall make one additional punch list review. If the work is still not acceptable, the Designer, and each of the Designer's principal consultants, shall be paid for their time at the project site, for each additional punch list review at the rate specified in the Contract Documents; to be withheld by the Board from the unpaid funds remaining in the Construction Contract sum.
- 3) Warranty Work: The Designer shall be required to follow up on items to be corrected during the warranty period and shall arrange for and conduct an on site review of the Project prior to expiration of the one year warranty period and shall be required to inform the Board, User, and Contractor of any items to be corrected and shall inspect the Project as required until the work is completed.

7.2 Project Representation Beyond Basic Services

- 7.2.1 If the Board and Designer agree that more extensive representation at the site is required than is described in Article 7.1.6, then the Designer shall provide one or more Project Representatives to carry out such responsibilities at the site.
- 7.2.2 Such Project Representatives shall be selected, subject to Board's approval, employed and directed by the Designer, and the Board shall compensate the Designer for such services in an amount equal to an approved all inclusive hourly rate for a construction inspection. If, in the opinion of the Board, such representatives are either negligent or unqualified to perform their duties, the Designer's representative shall be replaced promptly, without protest.
- 7.2.3 Through the services of such Project Representatives, the Designer shall endeavor to provide further protection for the Board against defects and deficiencies in the work.
- 7.2.4 The Board shall have the option of providing one or more of its Project Representatives at the site during construction, which representative(s) shall be paid by the Board and shall be under his direction whether Board staff or under separate contract with others.

7.3 Additional Services

Additional Services, as required by the Board, shall be provided by the Designer only when authorized in writing by the Board, prior to performance of the services, and shall be paid for by the Board as hereinbefore provided. Such services will be incorporated into the contract by amendments to the Contract. Additional services may include, but are not limited to, the following:

- 7.3.1 Providing design services relative to future facilities, systems and equipment which are not included to be constructed as part of the Project.
- 7.3.2 Providing interior design and other services required for the selection of furniture and furnishings, and movable equipment.
- 7.3.3 Preparing measured drawings when these are not available, or for archival research.
- 7.3.4 Providing extensive Program revisions during the Program Completion Phase when the necessity of such as additional services is authorized in writing by the Board.
- 7.3.5 Providing any other special services not otherwise included in the Contract or not customarily furnished in accordance with generally accepted Designer's practice.

ARTICLE 8

DESIGNER'S ACCOUNTING RECORDS

- 8.1 Records of Direct Reimbursable Expenses and expenses pertaining to Additional services on the Project shall be kept on the basis of generally accepted accounting principles and

shall be furnished and/or made available to the Board or its authorized representative on request.

ARTICLE 9

TERMINATION OF CONTRACT

- 9.1 The Contract between Board and Designer may be terminated by either party upon seven days written notice to other party, should said other party fail to perform in accordance with its terms, through no fault of the terminating party, or the contract may be terminated by mutual consent.
- 9.2 In the event of termination by the Board due to failure of the Designer to perform satisfactorily, the Designer shall receive no compensation beyond that already paid or due for the last satisfactorily completed phase. Any work done shall become the property of the Board to be used at its discretion without additional compensation to the Designer. No compensation shall be paid to the Designer for any uncompleted phase, except by written agreement between Board and Designer prior to termination. Such termination shall constitute the Designer being held at fault under the terms of R.S. 38:2313-4-B.(5) which provides that problems with time delays, cost overruns or design inadequacies for which the Designer is held to be at fault shall be taken into account in the quality based selection process in considering past performance on public projects.
- 9.3 In the event the Contract is terminated by mutual consent the Designer shall be paid for all work competed prior to termination, and all work done shall become the property of the Board to be used at his discretion without additional compensation to the Designer.

ARTICLE 10

ABANDONMENT OR SUSPENSION

- 10.1 If any work designed or specified by the Designer is abandoned or suspended in whole or in part by the Board, the Designer is to be paid for the Services rendered up to receipt of written notice from the Board, as follows:
 - (1) If the abandonment or suspension occurs at the completion of a Phase, the Designer shall be paid the full amount due on completion of such phase as described in Article 6.1.1.
 - (2) If the abandonment or suspension occurs during a phase, the Designer shall submit to the Board all documents prepared by him up to receipt of written notice from the Board, and the Board shall compensate the Designer up to the percentage completion of that phase.
- 10.2 Should the Project be reactivated, the new fee will be computed on the basis of the revised funds Available for Construction. The Designer's fee for the phases of work required to complete the Project shall be the percentages for such phases stated in Article 6.1.1 applied to the new fee.

ARTICLE 11

OWNERSHIP OF DOCUMENTS

- 11.1 Drawings and Specifications are, and shall remain, the property of the Board whether the Project for which they are made is executed or not. Such documents may be used by the Board to construct one or more like projects without the approval of, or additional compensation to the Designer. The Designer shall not be liable for injury or damage resulting from re-use of drawings and specifications if the Designer is not involved in the re-use project. Prior to re-use of construction documents for a project in which the Designer is not also involved, the Board will remove and obliterate from such documents all identification of the original Designer, including name, address and professional seal or stamp.
- 11.2 Upon completion of the Project, original, signed and stamped Construction Documents and calculations shall be furnished to the Board by the Designer along with Record Drawings (As-Builts) being furnished to the Board, as called for in Article 7.1.7. The Designer shall have the right to re-use the Construction Documents on other projects not constructed for the Board without any liability by the Board.
- 11.3 The right of ownership provided for above shall not be transferable.

ARTICLE 12

SUCCESSORS AND ASSIGNS

- 12.1 The Board and the Designer each binds itself, partners, successors, assigns and legal representatives to the other party to the Contract and to the partners, successors, assigns, and legal representatives of such other party with respect to all covenants of the Contract. Neither the Board nor the Designer shall assign, sublet or transfer his interest in the Contract without the written consent of the others.

ARTICLE 13

EXTENT OF AGREEMENT

- 13.1 The Contract, this Procedural Manual and all attachments to the Contract represent the agreement between the Board and the Designer. The Contract may be amended only by written contract amendment signed by the Board and an authorized representative of the Designer.

ARTICLE 14

GOVERNING LAW

- 14.1 The Contract shall be governed by the laws of the State of Louisiana. The Nineteenth Judicial Court in and for the Parish of Orleans, State of Louisiana shall have sole jurisdiction in any action brought under this contract.

ARTICLE 15
OTHER CONDITIONS

- 15.1 Insurance - Prior to the signing of the Contract between Board and the Designer, the Designer shall furnish to the Board proof of coverage for the following:
- 15.1.1 Insurance. Professional Liability Insurance shall be required as per the Board's requirements on a project by project basis. Refer to Contract for the extent of coverage required. Insurance will be required at the time of contract execution between the Board and the Designer. Proof of coverage will be required at that time. No deductible shall be in excess of 5 percent of the amount of the policy.
 - 15.1.2 Comprehensive General Liability with minimum limits of \$500,000 per accident/occurrence.
 - 15.1.3 Comprehensive Automobile Liability Insurance with minimum limits of \$300,000 per accident/occurrence.
 - 15.1.4 The Designer shall provide a certificate of insurance as proof of Workmen's Compensation coverage.
- 15.2 Affidavit: The designer, on signing the Contract, shall submit to the Board, on such form as the Board shall designate, a Non-Collusion Affidavit.
- 15.3 When a Project Work Schedule has been established by the Board and Designer as described in Article 3.3.1, a Completion Date shall be set up for delivery of 100 percent completed, coordinated and ready to bid Construction Documents to the Board. If the Designer is delayed through no fault of his own, then the Completion Date shall be extended accordingly in writing by the Board, provided the Designer makes such request in writing before starting the subsequent phase and the Board approves such as justified.
- 15.4 Non-Binding Mediation
- In an effort to resolve any conflicts that arise during or following the completion of the Project, the Board and the Designer agree that all disputes between them arising out of or relating to this Agreement shall be submitted to non-binding mediation unless the parties mutually agree otherwise. If non-binding mediation is not successful, then arbitration is the only remedy available to all parties of the Contract. Arbitration, mediation and/or any legal action resulting from this Contract shall take place in Orleans Parish.
- The Board and Designer further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultants to likewise include providing for mediation as the primary method for dispute resolution between the parties to those agreements.
- If this non-binding mediation fails to resolve any conflicts, then the following Arbitration clause shall take effect.

All claims, disputes and other matters arising from the Contract shall, at the option of the Board, be decided by arbitration. To the extent possible, such arbitration proceedings shall be conducted in accordance with the Construction Industry Association Rules of the American Arbitration Association. Any such arbitration proceeding shall, at the option of the Board, be consolidated with or joined to other arbitration proceedings between the Board and other persons or entities under contract with the state for the construction, repair or alterations of the project in question.

15.5 Fault

Time delays, cost overruns, design inadequacies or other problems with the performance of the Designer may result in the Designer being held at fault. The Board shall determine if the Designer is to be held at fault as provided in R.S. 38: 2313(B)(5).