

**Louisiana
Port Construction &
Development Priority Program**

Procedures Manual for Funded Projects



Photo Courtesy of Frederick Weil, Department of Sociology, Louisiana State University

State of Louisiana
Department of Transportation & Development
Office of Multimodal Commerce
Ports & Waterways Division

July 2020

**STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
OFFICE OF MULTIMODAL COMMERCE
PORT PRIORITY PROGRAM UNIT**

**LOUISIANA PORT CONSTRUCTION AND DEVELOPMENT PRIORITY
PROGRAM**

**PROCEDURES MANUAL FOR FUNDED PROJECTS
2020 EDITION**

Port Priority Program Unit
Department of Transportation and Development

July 2020

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PORT CONSTRUCTION AND DEVELOPMENT PRIORITY PROGRAM

The following procedures apply to projects that have been funded by the Port Construction and Development Priority Program.

I. PROGRAM DESCRIPTION

The Port Construction and Development Priority Program was established by Act 452 of the 1989 Regular Session of the Louisiana Legislature. Its primary goal is improving ports and harbors in the state. The Act provides for the development of a methodology for port project evaluation; reporting to the Joint Legislative Committee on Transportation, Highways and Public Works; presenting a recommended construction program to the Legislature; and establishing the Transportation Trust Fund as the source of state funds.

Port Authorities desiring to obtain funds from the Port Construction and Development Priority Program must submit an application to the Department of Transportation and Development in accordance with the program rules and regulations. DOTD evaluates the applications and submits a list of projects to the Joint Legislative Committee on Transportation, Highways and Public Works. The Committee holds public hearings and submits a construction program to the Legislature for funding.

Projects that are funded by the above named program are planned and implemented with their primary goal being the improvement of the ports and harbors of the state. To assure that this goal is met, DOTD will enter into an Agreement with the respective Port Authority for whom funding has been made available. The Agreement will identify the duties and responsibilities of each party and the procedures to follow to develop and construct the project. After the project is completed, the program requires that the Port Authority agree to operate and maintain the project in accordance with an Operation and Maintenance Manual, which has been approved by DOTD. This manual expands on those minimum procedures that are necessary to ensure that the primary goal is met.

For five years after completion of a project funded by the Port Construction and Development Priority Program, the Port Authority shall submit to DOTD a monitoring report comparing the actual benefits derived with the estimated benefits associated with the project. This report will be submitted at the end of each of the Port's five fiscal years or calendar years following project completion.

II. AGREEMENT

DOTD will enter into an Agreement with Port Authorities whose applications have been favorably reviewed and for whom funding has been made available in accordance with the prioritized list of projects, or if the Port Authority desires to construct the project with other funding and be reimbursed when program funds are available. The Agreement will identify the duties and responsibilities of each party and the procedures to follow to develop construction plans and specifications, advertise and award a construction contract, and administer the construction contract (See Attachment 1).

The Agreement shall be accompanied by a Resolution authorizing an official of the Port Authority to execute the Agreement and granting him/her the authority to sign all documents relating to the project (See Attachment 2-A).

A required submittals checklist has been attached for the Port Authority's convenience (See Attachment 6). This checklist outlines the majority of submittals required by the Agreement.

III. PROGRESS SCHEDULE

Within thirty (30) days after the agreement is executed, the Port Authority shall submit to DOTD a Progress Schedule that indicates, using a bar graph, the various activities that must be accomplished to develop construction plans and specifications and let a construction contract within the time allotted. The schedule shall be submitted to the DOTD Port Priority Program Director.

IV. RECORDKEEPING

The Port Authority shall maintain all documents, papers, files, field books, material test reports, accounting records, appropriate financial records and other evidence pertaining to cost incurred for the Project and shall make such materials available for inspection at all reasonable times during the project, and for a three-year period, from the date of the last and final payment of the last complete phase of the Project. The Port Authority shall furnish copies of any said records to DOTD and/or the Legislative Auditor within thirty (30) days of a written request.

V. PLAN DEVELOPMENT

- A.** The Port Authority may elect to employ a consulting engineer or elect to utilize its own engineering staff to develop the plans, specifications, cost estimate, etc. In either case the Port Authority shall assign a Louisiana Registered Professional Engineer to be in responsible charge of the project.
- B.** Plans and specifications shall reflect the scope of work shown in the approved Application. Any and all work beyond the approved scope of work will be paid 100% by the Port Authority.
- C.** The Construction Proposal, as prepared by the Port Authority's Engineer, shall be in accordance with the latest revision of the DOTD Standard Specifications.

D. Formatting Requirements:

Each set of plans shall contain a cover sheet indicating the name of the project, name of the Port Authority, parish in which the project is located, the state project number, vicinity map, layout map, survey information, sheet index, indication of edition of Louisiana DOTD Standard Specifications that govern, type of construction, signature lines for Administrative approval, Board of Commissioners members, Louisiana One Call note and that the project is funded, in part, by the Louisiana Transportation Trust Fund through the Port Construction and Development Priority Program.

Maps, plans, profile sheets and cross-section sheets submitted shall be consistent with accepted engineering practice. Each sheet of the construction plans and the title page of the specifications shall be stamped and signed by a Registered Professional Engineer licensed to practice in the State of Louisiana.

Standard size 24"x36" or 22"x36" sheets shall be used for cross-section sheets, plans and profile sheets. Maps shall conform to appropriate scales.

All maps, plans, profile sheets, cross-section sheets and other exhibits shall include a standard title block that identifies the Port Authority, the project name, state project number, preparer, and name of the exhibit and sheet number, if applicable.

All elevations should reference mean sea level (National Geodetic Vertical Datum of 1929, latest revision). The Engineer is encouraged to make use of available information.

E. Technical specifications and special conditions for the project shall be developed in accordance with professional engineering standards and practices and shall utilize unit price pay items wherever possible. The general format for technical specifications shall be as follows:

- Description of Work
- Construction Methods
- Materials
- Measurements and Payments

F. Plans and specifications shall indicate that all testing shall be done by independent Testing Laboratories selected and paid for by the Port Authority.

G. Prior to the end of the State's Fiscal Year that the project has been funded, one (1) set of plans that have been developed sufficiently to show all existing topography, utilities, and work to be done, but before all details have been completed, and a schedule of bid items shall be submitted to DOTD Port Priority Program Director for review and comments. The schedule of bid items shall be developed using unit pricing wherever possible. DOTD will review the plans to insure the scope of the project is as indicated in the approved application. This review will include a determination of any items that are ineligible for state participation that the Port Authority may have elected to include in the contract as per Article 2 of the Agreement (See attachment 1). The review will also address omissions and

deviations from the scope as presented in the original Application. A plan review conference will be conducted if it is requested by the Port Authority, or if it is determined to be necessary by DOTD. If it is determined to schedule this conference, the Engineer and Port Authority will be required to attend.

- H.** Subsequent to the review and comments, the Port Authority shall incorporate such changes in the final plans as necessary to reflect agreements reached at this stage and, if additional right-of-way is required, shall show existing and taking lines for such right-of-way. After the final plans have been developed sufficiently to show all information required, two (2) hard sets, including specifications, cost estimates, and bid proposals shall be submitted to the DOTD Port Priority Program Director for review and comments. Items **G** and **H** may be combined into one item, if it is submitted to the DOTD Port Priority Program Director before the end of the State's Fiscal Year that the project is funded.
- I.** Upon submittal by the Port Authority, DOTD will conduct a detailed review and will provide detailed comments as necessary for the Port Authority's use regarding the preliminary plans, advanced check prints, final plans, specifications, cost estimate, and bid proposal. This review does not relieve the Port Authority of responsibility to meet the Port program requirements nor does DOTD's review relieve the Port Authority's Engineer of his responsibility for the accuracy, adequacy, and completeness of the plans and specifications.
- J.** Port Authority shall proceed to acquire any lands, easements, rights-of-way, and special disposal areas necessary to construct and maintain the project.
- K.** Once plans and specifications have been developed to the Port Authority's satisfaction/requirements, the Port Authority must adopt and submit, to DOTD: (1) a Resolution indicating that all permits, rights-of-way, servitudes, easements and agreements to relocate and/or adjust utilities have been acquired. The Resolution shall also reaffirm the availability of local funding and shall request permission to advertise the project (See Attachment 2-B); (2) certification by the Port Authority's Engineer (See Attachment 2-C) that plans, specifications and cost estimates are complete and have been developed in accordance with the Application and program requirements.

VI. ADVERTISING AND BIDDING

- A.** Obtain **written authorization** from DOTD to begin advertising procedures.
- B.** Solicit bids for the Project in accordance with the current public bid laws of the State, including, but not limited to R.S. 38:2211 et. seq., and any applicable federal laws and/or regulations. The Notice of Advertisement shall be placed in the Port Authority's Official Journal within the parish in which the work is to be done. Notice should also be placed in other papers of large circulation and/or trade journals as needed, and, if one exists, on the Port Authority's website to provide reasonable exposure of the proposed work.

- C. Upon advertising, the Port Authority shall add DOTD Port Priority Program Director to the bidder's list and forward two sets of plans and construction proposals marked "Not for Bid" and any Addenda issued.
- D. In the event that a pre-bid conference is held for the potential bidders, include the DOTD Port Priority Program Director and the DOTD District Project Coordinator on the invitation list.
- E. All bid proposals and bid bonds shall comply with LRS 38:2214, 38:2215, 38:2218 and the following:

All entries on the bid proposal are to be inked or typed unless submitting electronically.

The bid proposal shall be properly signed by the Bidder (individual owner, partner, or authorized officer of the corporation). If the Bidder is a corporation, a certified Resolution adopted by its Board of Directors authorizing an Officer to bind the corporation and attested to by the corporation's secretary must be provided.

If a bid bond is submitted in lieu of a cashier's or certified check, said bond shall be properly executed by an individual owner, partner, or authorized officer of the corporation submitting the bid and be signed by a representative of an acceptable surety company. Said representative shall attach a valid Power of Attorney authorizing him to represent the surety company.

- F. The Port Authority shall submit bid proposals to the DOTD Port Priority Program Director for review and comment. DOTD's review does not relieve the Port Authority of its responsibility to comply with public bid and contracting laws.

VII. AWARD OF CONTRACT

- A. Obtain **written authorization** from DOTD to award a contract following submittal of items B1-4 below.
- B. After bids have been opened, the Port Authority shall submit certification to DOTD that all advertisement and bidding procedures were in accordance with LRS 38:2211, et seq. That submittal must also include the following:
 1. Resolution Certifying Compliance with Public Bid Law (See Attachment 2-J).
 2. Certified proof of publication in the Port Authority's Official Journal of the Notice of Advertisement in accordance with LRS 38:2211, et seq. Said proof shall consist of the Notice as published (actual clipping) and an affidavit bearing the signature of an official of affidavit shall be notarized. (The furnishing of the newspaper or newspaper clipping only **will not** suffice as proof of publication).

3. One (1) copy of the bid proposals and bid bonds as submitted by each of the three (3) lowest bidders.
 4. A legible copy of the bid tabulation of all bids received. Said tabulation shall include a column containing the engineer's estimate and shall be certified correct by the Engineer and an authorized official of the Port Authority.
 5. Copy of the engineer's recommendation.
- C.** The Port Authority shall adopt a Resolution either to award a contract to the lowest responsive bidder or reject all bids received. The Port Authority must submit a certified copy of the adopted Resolution to the DOTD Port Priority Program Director (See Attachment 2-D).
- D.** The contract documents shall be in accordance with LRS 38:2216, 38:2217, 38:2219 to 38:2225. **Prior to issuance of a Work Order/Notice to Proceed**, three (3) fully executed sets of the contract documents must be submitted to DOTD for review, along with one (1) certified copy of the Notice of Award.
NOTE: Port Authorities must submit at least one original set of the contract documents.

The contract documents shall be bound and shall consist of the following:

1. The contractor's construction proposal including project specifications.
2. Fully executed contract
3. A corporate resolution or written evidence of the authority of the person signing the bid for the public work as prescribed by LRS 38:2212(B)(5).
4. Performance and Payment Bonds, fully executed and bearing the seal of the surety company affixed thereto, along with a Power of Attorney authorizing a representative of the surety company to execute the bond.
5. An Affidavit by the Contractor (individual owner, partner, officer of the corporation authorized to execute the contract) attesting that the public contract was not and will not be secured through employment or payment of solicitor. Said affidavit shall be notarized.
6. All Addenda (Addendum) shall be bound in the contract documents with proof of receipt by the contractor.
7. Attestations Affidavit (Past criminal convictions of bidders, verification of employees and certification regarding unpaid workers' compensation insurance).

- E. The Port Authority shall have the original of the contract and bonds recorded in the Clerk of Court's office of the Parish or Parishes where the work is being performed. A copy of the recordation data shall be furnished to DOTD. The Port Authority shall execute the Resolution of Compliance with Public Bid Laws and provide an original to the DOTD Port Priority Program Director (Attachment 2-J). The Port Authority may proceed to issue the Work Order/Notice to Proceed and furnish one (1) certified copy to the DOTD Port Priority Program Director and one (1) certified copy to the DOTD District Project Coordinator. The Port Authority will then submit a copy of the Contractor's anticipated cash flow requirements (on the contractor's letter-head) to DOTD.
- F. In the event that a pre-construction conference is held for the contractor, include the DOTD Port Priority Program Director and the DOTD District Project Coordinator on the invitation list.

VIII. SPECIAL PROJECTS

A. CMAR

1. PLAN DEVELOPMENT

- a. Port Authorities may elect to utilize the Construction Management at Risk, or CMAR, method for public contracts. In this case the Port Authority shall submit in writing to DOTD the intent and reason for use of the CMAR delivery method.
- b. The Port Authority shall develop a Request for Qualifications, or RFQ, to award a contract to a CMAR contractor for preconstruction and construction services, as specified in LRS 38:2225.2.4.
- c. The Port Authority shall adopt a Resolution to advertise a Request for Qualifications, or RFQ, to award a contract to a CMAR contractor for preconstruction and construction services. The Port Authority must submit a certified copy of the adopted Resolution to the DOTD Port Priority Program Director (See Attachment 2-E).

2. ADVERTISING

- a. Obtain **written authorization** from DOTD to begin advertising procedures.
- b. Upon advertising, forward a copy of the RFQ to the DOTD Port Priority Program Director.
- c. Solicit proposals for the Project in accordance with the current public contract laws of the State, including, but not limited to LRS 38:2225.2.4, and any applicable federal laws and/or regulations. The Notice of Advertisement shall be placed in the Port Authority's Official Journal within the parish in which the work is to be done. Notice should also be placed in other papers of large circulation and/or trade journals as needed, and, if one exists, on the

Port Authority's Internet website to provide reasonable exposure of the proposed work.

- d. In the event that a pre-deadline conference is held for the proposers, include the DOTD Port Priority Program Director and the DOTD District Project Coordinator on the invitation list.

3. AWARD OF PRECONSTRUCTION CONTRACT

- a. After proposals have been received, the Port Authority shall submit certification to DOTD that all advertisement procedures were in accordance with LRS 38:2225.2.4. That submittal must also include the following:
 - i. Certified proof of publication in the Port Authority's Official Journal of the Notice of Advertisement in accordance with LRS 38:2225.2.4. Said proof shall consist of a copy of the Notice as published (actual clippings) and an affidavit bearing the signature of an official of affidavit shall be notarized. (The furnishing of the newspaper clippings only will not suffice as proof of publication.)
 - ii. Copy of the selection review committee's written recommendation to the owner as to which proposer should be awarded the contract.
 - iii. Copy of the response to RFQ as submitted by the proposer of recommendation.
- b. The Port Authority shall adopt a Resolution to award a contract to the selected proposer. The Port Authority must submit a certified copy of the adopted Resolution to the DOTD Port Priority Program Director (See Attachment 2-F).
- c. The Port Authority shall execute the Resolution of Compliance with Public Bid Laws for CMAR and provide an original to the DOTD Port Priority Program Director (Attachment 2-G). The Port Authority may proceed to issue the Work Order/Notice to Proceed and furnish one (1) certified copy to the DOTD Port Priority Program Director and one (1) certified copy to the DOTD District Project Coordinator. The Port Authority will then submit a copy of the Contractor's anticipated cash flow requirements (on the contractor's letter-head) to DOTD.

4. PRECONSTRUCTION

- a. The Port Authority shall submit to DOTD any opinion of probable cost of the project from both the CMAR contractor and the design professional at the appropriate times, as specified by LRS 38:2225.2.4(G).
- b. After the final plans have been developed sufficiently to show all information required, two (2) hard sets, including; specifications and cost estimates shall be submitted to the DOTD Port Priority Program Director for

review and comments. This review does not relieve the Port Authority of responsibility to meet the Port program requirements nor does DOTD's review relieve the Port Authority's Engineer of his/her responsibility for the accuracy, adequacy, and completeness of the plans and specifications.

5. AWARD OF CONSTRUCTION CONTRACT

- a. Obtain **written authorization** to award a contract for construction services following submittal of the CMAR contractor's Guaranteed Maximum Price (GMP).
- b. The Port Authority shall adopt a Resolution either to accept the GPM and award a contract to the CMAR contractor (See Attachment 2-H), or to reject the GPM (See Attachment 2-I).
- c. In the event that the CMAR contractor is rejected, the project shall be advertised according to Section VI. ADVERTISING AND BIDDING of this Procedures Manual.
- d. In the event that the CMAR contractor is chosen, the contract documents shall be in accordance with LRS 38:2216, 38:2217 and 38:2219 to 38:2225. After award and execution of contract with the CMAR contractor, but prior to issuance of a Work Order/Notice to Proceed, three (3) certified copies of the contract documents must be submitted to DOTD for review, along with one (1) certified copy of the Notice of Award.

NOTE: *Port Authorities must submit at least one original set of the contract documents.*

The contract documents shall be bound and shall consist of the following:

- i. The contractor's construction proposal including project specifications.
- ii. Fully executed contract.
- iii. If the Contractor is a corporation, a certified Resolution adopted by its Board of Directors authorizing an Officer to bind the corporation and attested to be the corporation's secretary.
- iv. Performance and Payment Bond, fully executed and bearing the seal of the surety company affixed thereto, along with a Power of Attorney authorizing a representative of the surety company to execute the bond.
- v. An Affidavit by the Contractor (individual owner, partner, officer of the corporation authorized to execute the contract) attesting that the public contract was not and will not be secured through employment or payment of solicitor. Said affidavit shall be notarized

- vi. Attestation Affidavit (Past criminal convictions of proposers, verification of employees and certification regarding unpaid workers' compensation insurance).
- e. The Port Authority shall have the original of the contract and bonds recorded in the Clerk of Court's office of the Parish or Parishes where the work is being performed. A copy of the recordation data shall be furnished to DOTD. The Port Authority shall execute the Resolution of Compliance with Public Bid Laws and provide an original to the DOTD Port Priority Program Director (Attachment 2-J). The Port Authority may proceed to issue the Work Order/Notice to Proceed and furnish one (1) certified copy to the DOTD Port Priority Program Director and one (1) certified copy to the DOTD District Project Coordinator. The Port Authority will then submit a copy of the Contractor's anticipated cash flow requirements (on the contractor's letter-head) to DOTD.
- f. In the event that a pre-construction conference is held for the contractor, include the DOTD Port Priority Program Director and the DOTD District Project Coordinator on the invitation list.

6. CONSTRUCTION ADMINISTRATION AND INSPECTION

The construction phase should follow the procedures described in section IX. CONSTRUCTION ADMINISTRATION AND INSPECTION of this procedures manual.

B. SPECIALIZED CRANES

1. PLAN DEVELOPMENT

- a. Port Authorities may purchase port-related specialized cranes and replacement parts through the Port Priority Program and in accordance with LRS 38:2320.1. The scope of such a project shall be outlined in the Port Authority's approved application.

Project specifications shall be developed in accordance with LRS 38:2320.1(1) and section V. PLAN DEVELOPMENT, as applicable, of this procedures manual. Refer to section V. for required submittals to DOTD.

- b. Once plans and specifications have been developed to the Port Authority's satisfaction/requirements, the Port Authority must adopt and submit, to DOTD:
 - i. A Resolution indicating that all permits, rights-of-way, servitudes, easements and agreements to relocate and/or adjust utilities have been acquired. The Resolution shall also reaffirm the availability of local funding and shall request permission to advertise the project. (See Attachment 2-B)

- ii. Certification by the Port Authority's Engineer (See Attachment 2-C) that plans, specifications and cost estimates are complete and have been developed in accordance with the Application and program requirements.

2. ADVERTISING

- a. Obtain **written authorization** from DOTD to begin advertising procedures.
- b. Solicit proposals for the Project in accordance with the current public contract laws of the state, including, but not limited to LRS 38:2320.1, and any applicable federal laws and/or regulations.
- c. Upon advertising, the Port Authority shall add DOTD Port Priority Program Director to the bidder's list and forward two sets of plans and construction proposals marked "Not for Bid" and any Addenda issued.
- d. In the event that a pre-deadline conference is held for the proposers, include the DOTD Port Priority Program Director and the DOTD District Project Coordinator on the invitation list.
- e. The Port Authority shall submit bid proposals to the DOTD Port Priority Program Director for review and comments. DOTD's review does not relieve the Port Authority of its responsibility to comply with public bid and contracting laws.

3. AWARD OF CONTRACT

- a. Obtain **written authorization** from DOTD to award a contract following submittal of items b.i-v below.
- b. After proposals have been opened, the Port Authority shall submit certification to DOTD that all advertisement and bidding procedures were in accordance with LRS 38:2320.1. That submittal must also include the following:
 - i. Certified proof of publication in accordance with LRS 38: 2320.1. Said proof shall consist of a copy of the Notice of request for qualifications, if applicable, and a copy of the Notice of request for proposals as published.
 - ii. One (1) copy of the response to the request for qualifications, if applicable, and the bid proposal and bid bond as submitted by the bidder being awarded.
 - iii. A legible copy of the bid tabulation of all bids received. Said tabulation shall include a column containing the engineer's estimate and shall be certified correct by the Engineer and an authorized official of the Port Authority.

- iv. Copy of the engineer's recommendation.
 - v. The Port Authority shall adopt a Resolution either to award a contract to the lowest responsive bidder or reject all bids received. The Port Authority must submit a certified copy of the adopted Resolution to the DOTD Port Priority Program Director. (See Attachment 2-D).
- c. The contract documents shall be in accordance with LRS 38:2216, 38:2217, 38:2219 to 38:2225. Prior to issuance of a Work Order/Notice to Proceed, three (3) fully executed sets of the contract documents must be submitted to DOTD for review, along with one (1) certified copy of the Notice of Award. NOTE: Port Authorities must submit at least one original set of the contract documents.

The contract documents shall be bound and shall consist of the following:

- i. The contractor's construction proposal including project specifications.
 - ii. Fully executed contract.
 - iii. A corporate resolution or written evidence of the authority of the person signing the bid for the public work as prescribed by LRS 38:2212(B)(5).
 - iv. Performance and Payment Bonds, fully executed and bearing the seal of the surety company affixed thereto, along with a Power of Attorney authorizing a representative of the surety company to execute the bond.
 - v. An Affidavit by the Contractor (individual owner, partner, officer of the corporation authorized to execute the contract) attesting that the public contract was not and will not be secured through employment or payment of solicitor. Said affidavit shall be notarized.
 - vi. All Addenda (Addendum) shall be bound in the contract documents with proof of receipt by the contractor.
 - vii. Attestations Affidavit (Past criminal convictions of bidders, verification of employees and certification regarding unpaid workers' compensation insurance).
- d. The Port Authority shall have the original of the contract and bonds recorded in the Clerk of Court's office of the Parish or Parishes where the work is being performed. A copy of the recordation data shall be furnished to DOTD. The Port Authority shall execute the Resolution of Compliance with Public Bid Laws and provide an original to the DOTD Port Priority Program Director (Attachment 2-J). The Port Authority may proceed to issue the Work Order/Notice to Proceed and furnish one (1) certified copy to the DOTD Port Priority Program Director and one (1) certified copy to the DOTD District Project Coordinator. The Port Authority will then submit a copy of the

Contractor's anticipated cash flow requirements (on the contractor's letter-head) to DOTD.

- e. In the event that a pre-construction conference is held for the contractor, include the DOTD Port Priority Program Director and the DOTD District Project Coordinator on the invitation list.

4. CONSTRUCTION ADMINISTRATION AND INSPECTION

The construction phase should follow the procedures described in section IX. CONSTRUCTION ADMINISTRATION AND INSPECTION of this procedures manual.

IX. CONSTRUCTION ADMINISTRATION AND INSPECTION

Inspection of the constructed work shall be directed by a Registered Professional Engineer chosen by the Port Authority and licensed to practice in Louisiana. The Port Authority shall ensure appointment of a Resident Project Representative/Inspector to inspect the constructed work and who will be under the direct supervision of the Port Authority's engineer. The engineer shall certify that the contractor is constructing the project with specified materials in accordance with the plans and specifications and accepted construction practices.

A. Partial Payments

1. Incidental project costs incurred by the Port Authority in negotiating preliminary engineering contracts, right-of-way settlements, railroad and utility adjustments, bid advertisements, contract recordation, testing and such other costs shall be the responsibility of the Port Authority.
2. During construction, partial payments will be made monthly. The contractor shall submit a schedule of values in accordance with the General Provisions. A partial payment sheet (See Attachment 3) will be made for each project. The Engineer and the Port Authority shall certify that the quantities and amount of the completed work shown on the partial payment request substantially complies with the plans and specifications. Additionally, if stockpiled material is to be paid, a letter from surety authorizing payment, a letter granting Right of Entry for material stored offsite, and invoices showing costs and quantities will be required. The pay estimate shall then be forwarded to the DOTD Port Priority Program Director via mail or electronically and a copy sent to the DOTD District Project Coordinator. The Port Authority or Sponsor's Engineer shall invite the DOTD District Project Coordinator to inspect the work shown on the partial payment request. The DOTD District Project Coordinator shall review the work to date and submit his/her recommendation for payment by app, email, or hard copy to the DOTD Port Priority Program Director. The State's portion of the amount recommended will become due and will be paid to the Port Authority within a reasonable time after receipt of the payment request and supporting documents.

3. In accordance with state law, retainage shall be ten percent of the amount of work completed and certified to above if the total contract price is up to \$500,000. Retainage shall be five percent of the work completed to date if the contract price is over \$500,000.
4. No partial payments will be processed before receipt of the Contractor's anticipated cash flow requirements and the Work Order/Notice to Proceed.

B. Testing

Material testing shall be done by an independent Testing Laboratory selected and paid for by the Port Authority. All testing shall be done in accordance with the Standard Specifications of the American Concrete Institute (ACI), the American Society of Testing Material (ASTM E329-93b, et seq) and/or DOTD Standard Testing Procedures. Certified test reports must be kept on file in accordance with Section IV, Recordkeeping.

C. Change Orders

Change orders, resulting from changed or unforeseen or unanticipated conditions or circumstances beyond the control of the Port Authority which change the Contract Price or Contract Time, shall be submitted to DOTD via mail or electronically for approval **prior to authorizing the contractor to perform any work**. An original signed change order shall be submitted to the DOTD Port Priority Program Director for review (See Attachment 4). A copy of this request shall also be submitted to the DOTD District Project Coordinator for comment. The maximum state share shall be as stated in the letter from DOTD announcing any change in project funding. All cost overruns shall be the responsibility of the Port Authority.

D. Final Inspection

Upon completion of the project, the Port Authority's Engineer shall schedule a final inspection at such time that DOTD representatives from the District and Port Priority Program Unit can be available. DOTD shall inspect the project with the Port Authority's Engineer. Upon certification of the Port Authority's Engineer that the project is complete and upon acceptance by the Port Authority, said acceptance (Substantial Completion) shall be recorded in the Clerk of Court's office of the Parish or Parishes where the work was performed.

E. Recordation

Forty-five (45) days after the Recordation of the Acceptance the contractor shall submit to the Port Authority a Clear Lien Certificate from the Recorder's office of the parish or parishes in which the work was performed. The Port Authority shall submit to DOTD, the Port Priority Program Director and the District Project Coordinator a certified copy of the Recordation of Acceptance and the Clear Lien Certificate. In the event the certificate is not clear and there are liens filed against

the contractor, then the Port Authority shall pay the retainage into the Court and, in accordance with the law, notify the bond holders and all known unpaid lien holders.

F. Final Payment

Final payments of all amounts due by DOTD shall be made upon receipt of the following:

1. Certification by the Port Authority's Engineer that the work is complete and a recommendation of acceptance (Substantial Completion). (See Attachment 5)
2. A Resolution by the Port Authority accepting the work. (See Attachment 2-K)
3. A certified copy of The Recordation of Acceptance.
4. A certified copy of the Clear Lien Certificate or as accepted.
5. Letter from Port Authority acknowledging engineer has supplied port with an Operation and Maintenance Manual.
6. One electronic set of As-Built Drawings or Plans of Record (PDF format).
7. Final payment request from Port Authority.

X. OPERATION AND MAINTENANCE

A. GENERAL

Projects that are funded by the Port Construction and Development Priority Program are planned and implemented with their primary goal being the improvement of the State's infrastructure. To assure that this goal is met after the project is completed, the program requires that the Port Authority agrees to operate and maintain the project in accordance with an Operation and Maintenance Manual.

Upon completion of the project, the Port Authority shall submit a letter to DOTD acknowledging receipt of the Operation and Maintenance Manual which has been prepared by the Port Authority's Engineer in accordance with DOTD's requirements and the "as-built" plans as required by the Agreement. The Port Authority shall also submit one electronic set (PDF format) of the O&M Manual as well as the "as-built" plans or plans of record to DOTD for the permanent files.

The Port Authority shall operate and maintain the project in accordance with the Operation and Maintenance Manual for a minimum of three (3) years. DOTD may inspect a completed project and the Operation and Maintenance Manual at any time during those three years to assure compliance. Noncompliance will cause the Port Authority to be ineligible for funding of any subsequent project by the Port Construction and Development Priority Program.

The Port Authority shall monitor the operations of the project in accordance with the requirements of the "Project Monitoring Report Guidelines". (See Attachment 7)

B. REQUIREMENTS

1. The Port Authority shall appoint a Superintendent who shall have the authority and responsibility to operate and maintain, in accordance with the Operation and Maintenance Manual, the structures and facilities that have been constructed with the funds provided by the Port Construction and Development Priority Program.
2. Encroachments or trespasses that will adversely affect the operation and maintenance of the facilities shall not be permitted.
3. Should a Port Authority sell or dispose of any lands, facilities, etc. that have been funded in part by the Port Construction and Development Priority Program, the Port Authority shall reimburse DOTD for the percentage of project life remaining at the time of the act of sale.

C. FORMAT FOR OPERATION AND MAINTENANCE MANUAL

The format for the Operation and Maintenance Manual shall be as follows:

- I. Project Summary
 - A. Identify
 1. Parish
 2. Port Authority
 3. Project Name
 4. Person responsible for operation and maintenance
 - a. Name
 - b. Mailing address
 - c. Telephone number
 1. Business
 2. Home
 5. Contractor
 - a. Name
 - b. Mailing address
 - c. Telephone number
 6. Engineer
 - a. Name
 - b. Mailing address
 - c. Telephone number
 7. Brief Project Description
 - a. Project components
 - b. General location
 - B. History
- II. Description of Project
 - A. Project components
 - B. Location
- III. Operation
 - A. Normal procedures
- IV. Maintenance

- A. Inspecting
- B. Testing
- C. Lubricating
- D. Trouble shooting
- E. Repairing
- V. Appendix
 - A. As-built data
 - 1. Final estimate
 - 2. "As-built" plans or Plans of Record
 - a. Wiring diagrams
 - b. Plumbing diagrams
 - c. Pump curves
 - d. Testing data
 - B. Manufacturers' Recommendations
 - 1. Operation
 - 2. Maintenance
 - C. Forms
 - 1. Operator's log
 - 2. Maintenance records
 - 3. Inspection checklist
 - 4. Repair and cost records

XI. MONITORING REPORT

For each of the five years immediately following completion of the project, the Port Authority must develop and submit to DOTD a report comparing actual benefits derived from the project with the projected benefits as stated in the application. This monitoring report must be developed in accordance with the "Project Monitoring Report Guidelines" (See Attachment 7). These reports are due on June 30th of each of the five years immediately following project completion. The first report is due a minimum of twelve months and no more than twenty-three months after project completion. It is intended that the first report reflect a reporting period of at least one year.

XII. AUDIT PHASE

The Port Authority shall provide any requested reports on the status of the Project. The Port Authority shall, during the term of the Agreement, cause to be conducted annually, by a duly qualified certified public accountant, an audit and examination of its books and accounts pertaining to the Project. The Port Authority shall provide the State Auditor and DOTD with copies of the annual audit report, and any other financial reports which relate to the Project, no later than thirty (30) days after receipt by the Port Authority. The Port Authority shall provide to DOTD a complete audit (final cost estimate) of said Project upon its completion, no later than ninety (90) days after completion of the Project. DOTD reserves the right to audit the Project records up to three years after project completion.

The Port Authority agrees that it shall reimburse to DOTD all funds not used in accordance with the terms of the Agreement and in accordance with R.S.34:3463.

The Port Authority must have a fully executed and approved Agreement before entering into any contracts which obligate state funding and must follow all laws pertaining to public bidding.

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**ATTACHMENT 1
SAMPLE AGREEMENT**

INTERGOVERNMENTAL AGREEMENT

BETWEEN

**STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT**

AND

**“PORT AUTHORITY”
“PROJECT NAME”
STATE PROJECT NO. “State Project Number”
“PARISH”**

THIS Agreement, made and executed in multiple original copies on this _____ day of _____, 20___, by and between the Louisiana Department of Transportation and Development, hereinafter referred to as "DOTD", and the “Port Authority”, a political subdivision of the State of Louisiana, hereinafter referred to as "Port Authority".

Whereas, under the provisions of Title 34 of the Louisiana Revised Statutes, of 1950, as amended, funding and/or funding obligation authority has been allocated to port improvement projects in the approved Port Construction and Development Priority Program under the administration of the DOTD; and

Whereas, the Port Authority has requested and has received funding and/or funding obligation authority of State funds to partially finance the port improvement project as described herein and hereinafter referred to as the “Project”; and

THEREFORE, in consideration of the premises and mutually dependent covenants herein contained, the parties hereto agree as follows:

ARTICLE 1
PROJECT DESCRIPTION

1.1 The improvement that is to be undertaken under this Agreement shall be port improvements consisting of “Project Description”. This improvement shall hereinafter be referred to as the “Project”.

1.2 The entire scope of the Project shall be as shown in the approved application which constitutes the basis for funding the Project and is hereby made a part of and incorporated into this Agreement by reference.

1.3 For purposes of identification, “State Project Number” has been assigned to this Project. All activities associated with this Project, including but not limited to the following: record keeping, progress payments, bidding, correspondence, invoices, and any other activities associated with this Project shall be identified with this number.

1.4 Project development and construction shall be in accordance with DOTD's *Port Construction and Development Priority Program Procedures Manual*, latest revision.

ARTICLE 2 FUNDING

2.1 The Port Authority has self-generated funds available for its share of participation in the Project and agrees to provide, from non-state funding, not less than ten percent (10%) of the amount of eligible Project costs approved by the Legislature.

2.2 The DOTD agrees to provide an amount not to exceed ninety percent (90%) of the amount of eligible Project costs approved by the Legislature.

2.3 The maximum state funding share shall be as stated in the letter(s) from DOTD's Secretary, or his designee, announcing Project approval, and/or the amount of program funding for "Project Name" project. In no case shall the maximum state funding share exceed 90% of eligible Project costs as identified in the Louisiana Port Construction and Development Priority Program "Rules and Regulations." This funding share was established in accordance with the "Rules and Regulations." All cost overruns shall be the responsibility of the Port Authority.

2.4 The letter or letters from the DOTD's Secretary, or his designee, announcing Project approval, and/or the amount of program funding for "Project Name" project shall become a part of this agreement.

2.5 The Port Authority is aware that the DOTD's legislatively mandated Cash Management Plan may cause a delay in authorization to advertise the Project for construction. This contract is contingent upon the appropriation by the legislature of sufficient monies to the Port Construction and Development Priority Program to fulfill its requirements. If the legislature fails to appropriate sufficient monies to provide for the continuation of this contract, or if such appropriation is reduced by the veto of the Governor or by any means provided in the capital outlay act, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies to the Port Construction and Development Priority Program for the continuation of this contract, the contract is subject to termination for lack of sufficient appropriations to fulfill its requirements.

2.6 Except for services hereinafter exclusively listed to be furnished at the DOTD's expense or at the Port Authority's expense, as the case may be, the DOTD will pay a portion of the Port Authority's costs for this Project. However, the Port Authority may incorporate items of work into the construction contract not eligible for the DOTD cost share participation at its own cost if it so desires. Funds will be disbursed in accordance with Article 9.

2.7 The Port Authority agrees to provide a schedule indicating cash flow requirements projected over the anticipated construction period of the Project.

ARTICLE 3
RESPONSIBILITY

3.1 The Port Authority agrees to furnish all lands, easements, rights-of-way, wetland mitigation areas, and spoil disposal areas necessary to construct and maintain the Project without cost to the State unless the lands are an integral part of the Project and have been included in the approved application.

3.2 The Port Authority agrees to accomplish all necessary utility and other facility relocations and alterations without cost to the State.

3.3 The Port Authority agrees to assume all maintenance and operation costs for the Project and all future alterations as may be required without cost to the State.

3.4 The Port Authority shall assume full responsibility for Project development. Project development shall consist of engineering, plan preparation, right-of-way acquisition, utility relocations, permits, bidding, construction inspection and administration, and the operation and maintenance of the completed Project. Furthermore, it is the responsibility of the Port Authority to administer the Project according to all applicable laws, rules, and regulations and to ensure that the quality of work obtained is within the standards of established industry practice. Documentation must be submitted to the DOTD to provide evidence of the progress of the Project, and to verify that the expenditure of state funds occurs in accordance with this agreement and applicable state law. The Port Authority shall be responsible for all costs in excess of the maximum state funding share.

3.5 During any part of project development of plans and bid documents for any phase, at DOTD's request the Sponsor shall provide proof of tenant's status including, but not limited to 1) lease agreement, 2) revenue stream.

3.6 The DOTD, its officers, engineers and employees will not supervise or perform services in connection with the development of this Project except as specifically set forth herein. The DOTD will review the Project for compliance with program guidelines, the approved application, and standard engineering practices. The DOTD will determine items in the construction contract that are eligible for participation based upon the approved application. The DOTD is responsible for payment of its share in a timely manner.

ARTICLE 4
RECORD KEEPING, REPORTING AND AUDITS

4.1 The Port Authority shall maintain all documents, papers, field books, accounting records, appropriate financial records and other evidence pertaining to costs incurred for the Project and shall make such materials available for inspection at all reasonable times during the contract period and for a three year period from the date of final payment for inspection by the DOTD and/or the Legislative Auditor; however, prior to disposal of any Project data, the Port Authority shall obtain prior written approval of the DOTD. The Port Authority shall furnish copies of project records to the DOTD and/or the Legislative Auditor within thirty (30) days of a written request.

4.2 The submission of documentation to the DOTD as required by this Agreement and its Supplements is to verify that such documentation is being produced, to provide evidence of the

progress of the Project, and to verify that the expenditure of state funds occurs in accordance with this Agreement and all applicable state laws. Unless a written request is received from the Port Authority, the DOTD will not provide extensive document review for the Project or take the responsibility of determining whether or not this documentation is complete and accurate.

4.3 The Port Authority shall provide to the DOTD any requested reports on the status of the Project. The Port Authority shall, during the term of the Agreement, cause to be conducted annually, by a duly qualified certified public accountant, an audit and examination of its books and accounts pertaining to the Project. The Port Authority shall provide the Legislative Auditor and the DOTD with copies of the annual audit report, and any other financial reports which relate to the Project, no later than thirty (30) days after receipt and acceptance by the Port Authority. The Port Authority shall provide to the DOTD a complete audit of the Project upon its completion, no later than ninety (90) days after completion of the Project. The DOTD reserves the right to audit the Project records at any time.

4.4 The Port Authority agrees to provide to the DOTD a schedule indicating the Project's cash flow requirements projected over the anticipated construction period of the Project. This schedule must be provided to the DOTD prior to issuing the contractor a "Notice to Proceed" with Project construction.

4.5 The Port Authority agrees that it shall reimburse to the DOTD all funds not used in accordance with the terms of this Agreement and in accordance with R.S. 34:3463.

4.6 The Port Authority must have a fully executed and approved Agreement before entering into any contracts which obligate state funding and must follow all laws pertaining to public bidding. Further, written authorization must be obtained from the DOTD prior to advertising the Project or any phase thereof for bids.

ARTICLE 5 **ENGINEERING & PLAN DEVELOPMENT**

5.1 The Port Authority, or Consulting Engineer employed by it, shall make all necessary surveys and prepare plans, specifications, and estimates for the Project in accordance with standard engineering practices. The plans and specifications shall be signed and sealed by a Registered Engineer licensed to practice in Louisiana and shall comply with the latest revision of the *Port Construction and Development Priority Program Procedures Manual*. The appropriate contract forms shall be provided to the Port Authority by the DOTD.

5.2 The general format for the plans and specifications shall be based on the DOTD's guidelines. The DOTD will review the plans and specifications for compliance with the scope of the Project as indicated in the approved application. The DOTD will determine if a plan review conference is necessary to address issues identified in the DOTD's initial review and to resolve omissions in the proposed scope of work. This review does not relieve the Port Authority of responsibility to meet Port Construction and Development Priority program requirements nor does the DOTD's review relieve the Port Authority's Engineer of his responsibility for the accuracy, adequacy, and completeness of the plans and specifications. The DOTD will perform more extensive reviews upon written request from the Port Authority.

5.3 After acquisition of all required rights-of-way and permits and execution of agreements to relocate and/or adjust all utility conflicts, the Port Authority shall adopt a Resolution certifying completion of the above and submit a certified copy of the Resolution to the DOTD. The Resolution shall also reaffirm availability of the Port Authority's local funding share. The format of this Resolution shall be provided by the DOTD.

ARTICLE 6 **PUBLIC BID LAWS**

6.1 Written authorization must be obtained from the DOTD prior to advertising the Project or any phase thereof for bids.

6.2 The Port Authority will solicit bids for the services, labor and materials needed to construct the Project in accordance with the public bid laws of the State, including, but not limited to R.S. 38:2212, et seq., applicable to political subdivisions of the State. The Port Authority will also keep a procurement file relative to the necessary acquisition of services, labor and materials needed to complete the Project that will be subject to review by the DOTD at any time.

6.3 After receipt of bids and before award of the contract, the Port Authority shall submit to the DOTD copies of the three (3) lowest bidders' proposals and proof of advertising. The Port Authority's submittal shall include: proof of publication of advertisement for bids; bid tabulation form certified by the engineer and the contracting agency; bid proposals and bid bonds of the three (3) lowest bidders and proposed notice of Award of Contract (AoC). After receiving comments from the DOTD, the Port Authority may then award and execute the construction contract and will submit to the DOTD the AoC, executed construction contract, and performance and payment bond(s). The contract and bonds shall be recorded in the Clerk of Court's office for the parish or parishes where the Project is to be constructed. Proof of recordation shall be submitted to the DOTD along with the Notice to Proceed. Once the above items have been submitted to the DOTD, the Port Authority shall adopt a Resolution Certifying Compliance With The Public Bid Law as conforming to the requirements of R.S. 38:2211, et seq. The format of this resolution shall be provided by the DOTD.

6.4 The DOTD'S review does not relieve the Port Authority of its responsibility to comply with public bid and contracting laws.

ARTICLE 7 **CONSTRUCTION**

7.1 The Port Authority or its Consultant will provide technical administration and inspection during Project construction; however, in the event a Consultant provides this service for the Port Authority, such services by the Consultant shall be coordinated by a full time employee of the Port Authority who will be designated as the Port Authority's Project Representative. Except where a deviation has been mutually agreed to in writing by both the DOTD and the Port Authority, Project construction shall be administered in accordance with the latest revision of the *Port Construction and Development Priority Program Procedures Manual*. Inspection of the constructed work shall be directed by a Registered Professional Engineer, licensed to practice in Louisiana, chosen by the Port Authority. The Port Authority shall insure appointment of a Resident Project Representative/Inspector to inspect the constructed work who will be under the direct supervision of the Port Authority's engineer. The engineer shall certify that the contractor is constructing the

Project with specified materials in accordance with the plans and specifications and accepted construction practices.

7.2 Material testing shall be done by an independent Testing Laboratory. All testing shall be done in accordance with the Standards of the American Concrete Institute (ACI), the American Society of Testing Materials (ASTM E329-93b et seq.) and/or the DOTD Standard Testing Procedures. These services are not eligible for cost participation by the DOTD and cannot be a part of the construction contract.

7.3 Upon completion of the Project, the Port Authority's engineer shall schedule a final inspection at a time that the DOTD representatives can be available. The DOTD shall inspect the Project with the Port Authority's engineer. Upon written certification of the Port Authority's engineer that the Project is complete and upon written final acceptance of the Project by the Port Authority, the final acceptance shall be recorded in the Clerk of Court's office for the Parish or Parishes where the work was performed.

ARTICLE 8 **CHANGE ORDERS**

8.1 All change orders necessitated by plan errors and/or omissions shall be the responsibility of the Port Authority. Change orders resulting from changed or unforeseen or unanticipated conditions or circumstances beyond the control of the Port Authority, shall be reviewed and evaluated on a case-by-case basis to determine eligibility for DOTD funding participation, subject to availability of funds.

ARTICLE 9 **DISBURSEMENT OF FUNDS**

9.1 A certified payment request shall be submitted by the Port Authority to the DOTD in accordance with the Louisiana Port Construction and Development Priority Program Procedures Manual for Funded Projects. Except where a deviation has been mutually agreed to in writing by both the DOTD and the Port Authority, during construction, partial payments will be made monthly as follows: (1) Both the engineer and Port Authority shall certify that the completed work shown on each payment request is an accurate representation of the work accomplished during the estimate period and that the work substantially complies with the plans and specifications; (2) The DOTD shall promptly process payment of its share for completed work to date; (3) The DOTD shall withhold retainage on its share in accordance with state law; (4) Changes in the work which alter the Contract Price or Contract Time shall be submitted to the DOTD prior to authorizing the contractor to perform such work.

9.2 Forty-five (45) days after the Recordation of the Final Acceptance of the Project, the contractor shall submit to the Port Authority a Clear Lien Certificate from the Recorder's office of the Parish or Parishes in which the work was performed. Final payments of all amounts due from the DOTD shall be made to the Port Authority upon receipt of the above certificate and/or, in the event of unresolved liens, notification of the Port Authority's intent to deposit retainage with the Court of appropriate jurisdiction and the following:

1. Certification by the Port Authority's Engineer that the work is complete and a recommendation of acceptance (Substantial Completion)

2. A Resolution by the Port Authority accepting the work
3. A certified copy of The Recordation of Acceptance
4. A certified copy of the Clear Lien Certificate or as excepted
5. Final cost Estimate and As-Built Drawings or Plans of Record

9.3 If the Port Authority intends to phase the Project under separate construction contracts, the Port Authority shall notify DOTD of the scope of each phase and provide a marked up copy of the cost estimate in the approved application for funding showing each phase so that appropriate state project numbers may be assigned for each part of the work.

ARTICLE 10 **NONDISCRIMINATION**

10.1 The Port Authority agrees to abide by the requirements of the following as applicable: Titles VI of the Civil Rights Act of 1964, and Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, the Fair Housing Act of 1968, as amended, and the Americans with Disabilities Act of 1990, as amended.

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

10.3 Any act of discrimination committed by the Port Authority, or failure to comply with these statutory obligations when applicable, shall be grounds for termination of this Agreement.

ARTICLE 11 **HOLD HARMLESS AND INDEMNITY**

11.1 The Port Authority agrees and obligates itself, its successors and assigns, to defend, indemnify, save, protect and hold forever harmless and provide a defense for the DOTD, its officials, officers and employees against any and all claims that may be asserted by any persons or parties resulting from violation by the Port Authority, its employees, agents and/or representatives of the requirements of all State laws applicable to the Project. Further, the Port Authority agrees that it shall indemnify and save harmless and provide a defense for the DOTD, its officials, officers and employees, against any and all claims, demands, suits, actions (ex contractu, ex delictu, quasi-contractual, statutory or otherwise), judgments of sums of money, attorney's fees and court costs, to any party or third person including, but not limited to, amounts for loss of life or injury or damage to persons, property or damages to contractors, subcontractors, suppliers, laborers or other agents or contractors of Port Authority or any of the above, growing out of, resulting from, or by reason of, any negligent act or omission, operation or work of the Port Authority, its employees, servants, contractors, or any person engaged upon or in connection with the engineering services, construction and construction engineering required or performed by the Port Authority hereunder including, but not limited to, any omissions, defects or deficiencies in the plans, specifications or estimates or by virtue of any extra work, delays, disruptions, inefficiencies or nonpayment of any engineering, construction, or construction engineering costs incurred or any other claim of whatever kind or nature arising from, out of, or in any way connected with the Project, to the extent permitted by law.

11.2 Nothing herein is intended, nor shall be deemed, to create a third party beneficiary to any obligation by the DOTD herein or to authorize any third person to have any action against the DOTD arising out of this Agreement.

ARTICLE 12
PHASE I ENVIRONMENTAL SITE ASSESSMENT FOR REAL ESTATE

12.1 If any funds covered by this Agreement are to be used for the purchase of immovable property, the Port Authority shall have prepared, at the expense of the Port Authority, a Phase I Environmental Site Assessment (Assessment) of the immovable property. This Assessment shall be prepared, according to the latest edition of ASTM E 1527, by an experienced environmental consultant qualified to perform Assessments. Any purchase agreement for the immovable property shall contain an agreement by the seller of the immovable property that it will warrant and guarantee to the Port Authority that the immovable property is free of all hazards identified by the Assessment as existing or suspected and this guarantee shall be part of any act of sale for the purchase of the immovable property. A copy of the Assessment and a certified copy of the purchase agreement, containing the warranty and/or guarantee, shall be provided to the DOTD.

ARTICLE 13
OWNERSHIP OF PROPERTY

13.1 Port improvements funded through the Port Construction and Development Priority Program shall be built, installed and/or implemented only on port owned lands or public lands. Public lands are lands under the control of public organizations which are authorized by law to perform governmental functions.

13.2 Should the Port Authority sell or dispose of any facilities, etc., that have been funded in part by the Port Construction and Development Priority Program, the Port Authority shall reimburse the DOTD for the percentage of Project life remaining at the time of the act of sale. The Project life shall be twenty years for structures and ten years for equipment unless a different period of time is specified in the evaluation of the Project. If the land obtained through the program funds is sold at any time DOTD shall be reimbursed at one hundred percent of the original funds dispersed for purchase of the land including change orders.

ARTICLE 14
PROJECT COMPLETION

14.1 Upon completion and final acceptance of the Project, the Port Authority shall record the final acceptance with the Clerk of Court for the parish or parishes in which the improvement is located and furnish a certified copy of the final acceptance to the DOTD.

14.2 The Port Authority shall develop an Operation and Maintenance Manual and shall provide the DOTD with as-built plans or plans of record. The Port Authority shall maintain the Project, as completed, at its expense and in accordance with the Port Authority's maintenance policies and the Operation and Maintenance Manual. The Port Authority shall develop and submit to the DOTD a Monitoring Report for each of the five years following completion of the Project. These reports shall be developed in accordance with the "Project Monitoring Report Guidelines".

14.3 The Port Authority agrees to assume all maintenance and operation costs for the Project and all future alterations as may be required without cost to the State.

ARTICLE 15
PROGRESS SCHEDULE

15.1 Within thirty (30) days after the agreement is executed, the Port Authority shall submit to the DOTD a Progress Schedule that indicates, using a bar graph, the various activities that must be accomplished to develop construction plans and specifications and let a construction contract within the time limitations specified in Article 18.

ARTICLE 16
TAXES

16.1 The Port Authority agrees that the responsibility for payment of taxes, if any, from the funds received under this Agreement, its Supplements and/or legislative appropriation shall be the Port Authority's obligation and will be identified by the Federal Tax Identification Number shown on the signature sheet.

ARTICLE 17
AMENDMENT

17.1 The parties hereto agree that any change in the scope of the Project shall require a written amendment, signed by both parties.

ARTICLE 18
CANCELLATION

18.1 The terms of this agreement shall be binding upon the parties hereto until the work has been completed and accepted and all payments required to be made to the Port Authority have been made; but this agreement may be terminated under any or all of the following conditions:

1. By mutual agreement and consent of the parties hereto.
2. By the Port Authority should it desire to cancel the project prior to award of a contract.
3. By the DOTD due to the withdrawal of State funding for the project.
4. By the DOTD due to the Port Authority not submitting to the DOTD preliminary construction plans (which are more advanced than that submitted with the applications) within one year of the execution of this agreement.
5. By the DOTD, for projects that were identified as Conditional Projects on the Recommended Construction Program approved by the Legislature, due to the Port Authority not submitting the necessary documents to the DOTD within eighteen months of the initial funding letter indicating that the project has satisfied all non-program funding.

6. By the DOTD due to the Port Authority advertising a project for bids prior to obtaining written notice from the DOTD.
7. By the DOTD due to the Port Authority not starting construction of the project in a timely manner as follows:

For projects that are completely funded in one fiscal year:

Within eighteen months of the date of notification from the Secretary of the Department, or his designated representative that the project has sufficient funding to be completed.

For projects that are completely funded over two fiscal years:

Within twelve months of the date of notification from the Secretary of the Department, or his designated representative that the project has sufficient funding to be completed.

For projects that are completely funded over three or more fiscal years:

Within six months of the date of notification from the Secretary of the Department, or his designated representative that the project has sufficient funding to be completed.

For projects that are funded under provisions of the Port Construction and Development Priority Program/Cash Management Plan:

Within three weeks of the date of notification from the Secretary of the Department, or his designated representative that the project has sufficient funding to advertise for bids.

Within one hundred days of the date of notification from the Secretary of the Department, or his designated representative that the project has sufficient funding and is under contract.

For Projects that have approval from the Department to be divided into more than one construction contract, the above time frames apply to each independent contract that has sufficient funding to be completed. An independent contract shall be a contract that does not require the completion of another contract in order to be constructed. Each additional dependent contract shall begin construction within six months from completion of the contract that it is dependent on.

18.2 The Port Authority understands and agrees that if the Project is not under construction within the above mentioned time limits, the DOTD may terminate this Agreement and any unexpended proceeds may be reallocated to another port project. The award of a construction contract shall satisfy the requirement to be under construction.

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

WITNESSES:

(Witness for First Party)

(Witness for First Party)

**STATE OF LOUISIANA
"PORT AUTHORITY"**

BY: _____
(Signature)

Typed or Printed Name

Title

Port Authority's Federal Identification Number

WITNESSES:

**STATE OF LOUISIANA,
THROUGH THE DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

BY: _____
Secretary

RECOMMENDED FOR APPROVAL

BY: _____
Division Head

ATTACHMENT 2
SAMPLE RESOLUTIONS, FORMS, AND CERTIFICATIONS

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**A. RESOLUTION AUTHORIZING AN AGREEMENT
AND DESIGNATION OF PERSON AUTHORIZED TO SIGN**

STATE PROJECT NO _____
PARISH OF _____

RESOLUTION

(Port Authority)

A Resolution authorizing the (Port Authority) to enter into an agreement with the State of Louisiana, Department of Transportation and Development under the Louisiana Port Construction and Development Priority Program for assistance in the implementation of a port improvement project; providing for the necessary documentation of the need for the port improvement; and providing for other matters in connection therewith.

WHEREAS, the (Port Authority) has a need for port improvements; and

WHEREAS, the (Port Authority) has reviewed the application for (Project Name) and agrees with said agreement; and

WHEREAS, the (Port Authority) has applied for State matching funds pursuant to Chapter 47 of Title 34 of the Louisiana Revised Statutes of 1950, as amended, to implement a project to improve its port operation and (Port Authority) is fully aware of its obligations under said Statute; and

WHEREAS, the (Port Authority) is a political body duly organized and existing under the laws of the State of Louisiana and is eligible to apply for funds under said Statute; and

WHEREAS, the State has made funds available pursuant to the above Statutes.

NOW, THEREFORE, BE IT RESOLVED by the (Port Authority) as follows:

Section 1. That (Port Authority) acknowledges that an application was submitted to the Louisiana Port Construction and Development Priority Program.

Section 2. That at the appropriate time and upon approval of funding assistance and prior to commencement of work on the project (Port Authority) agrees to execute a Project Agreement and a Statement of Sponsorship pursuant to the Statute and hereby authorizes and empowers (Name of Chairman, President, or Other Person Authorized to execute the agreement and their official title) to enter into and execute said agreement with the Louisiana Department of Transportation and Development.

Section 3. That (Name of Chairman, President, or Other Person Authorized to execute the agreement and their official title) is hereby Authorized Representative for (Port Authority) to represent the port with regards to the receipt of funds from the Louisiana Port Construction and Development Priority Program for a port improvement project.

Section 4. That said Authorized Representative shall have the authority to sign and approve all documents that are necessary under the circumstances to accomplish the above project.

(SECRETARY OR CLERK)

(MAYOR), (CHAIRMAN) OR (PRESIDENT)

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of a resolution adopted at a (Regular) or (Special) Meeting of The (Port Authority) Held on the _____ Day of _____, 20____ In which a quorum was present and voting and that the resolution adopted is still in effect and has not been rescinded or revoked.

Signed at _____ On the _____ Day of _____, 20_____.

(SECRETARY) OR (CLERK)

**B. RESOLUTION REQUESTING AUTHORITY TO ADVERTISE
(Port responsible for engineering)**

STATE PROJECT NO _____
PARISH OF _____

RESOLUTION

____ (Port Authority)

WHEREAS, ____ (Port Authority) has submitted an application for funding of the (Project Name) port improvement project under the Port Construction and Development Priority Program; and

WHEREAS, the State's share of the project funds have been made available and the ____ (Port Authority) has available its local matching share of the project funds in an amount of not less than ten (10%) percent; and

WHEREAS, at the request of this ____ (Port Authority), (Consulting Engineer) has prepared plans and specifications for said project, which plans and specifications are designated by State Project No. _____; and

WHEREAS, this ____ (Port Authority) has reviewed the final plans, specifications and cost estimate and accepts them as submitted and the Department of Transportation and Development has reviewed the final plans, specifications, and cost estimate and has approved them inasmuch as they comply with the requirements of the Port Construction and Development Priority Program; and

WHEREAS, all necessary servitudes, rights-of-way, spoil disposal areas, rights of ingress and egress and the means thereof have been acquired by this ____ (Port Authority), and the titles thereto are valid and indefeasible; and

WHEREAS, this ____ (Port Authority) has obtained all necessary permits required for the construction of this project; and

WHEREAS, ____ (Port Authority) has agreed to accomplish all necessary utilities, fence and other facilities relocations and alterations made necessary by this project; and

WHEREAS, the Official Journal for the ____ (Port Authority) is (Official Journal), whose mailing address is (Mailing Address including City, State & Zip code), and whose telephone number is (Area Code & Telephone Number); and

WHEREAS, this ____ (Port Authority) desires to advertise for competitive bids, in accordance with LRS 38:2212, et seq, for the award of a contract in the name of the ____ (Port Authority), and furnish engineering services during the progress of the work.

NOW, THEREFORE, BE IT RESOLVED by the (Port Authority) , in (Regular) or (Special) session assembled on this _____ day of _____, 20____, that the Department of Transportation and Development be and hereby is requested to authorize the (Port Authority) to advertise for competitive bids in accordance with LRS 38:2212, et seq, for the award of a contract in the name of (Port Authority) , covering the aforesaid improvements.

BE IT RESOLVED that the Department of Transportation and Development be and hereby is assured that all necessary servitudes, rights-of-way, rights of ingress and egress and the means thereof have been obtained by (Port Authority) , and the titles thereto are valid and indefeasible and (Port Authority) expressly agrees to defend any action for the failure of any servitude, right-of-way, right of ingress or egress, and (Port Authority) does hereby assume complete responsibility for providing engineering services during construction and the maintenance and upkeep of the project after construction.

BE IT RESOLVED that the Department of Transportation and Development be and hereby is assured that all required permits have been obtained by (Port Authority) .

BE IT RESOLVED that the Department of Transportation and Development be and hereby is assured that (Port Authority) has available its local matching funds in an amount not less than ten (10%) percent of the total project cost to insure construction of this project.

BE IT RESOLVED that (Port Authority) will and hereby does assume complete responsibility for all utilities, fence, and other facilities relocations and alterations made necessary by this project.

BE IT RESOLVED THAT (Port Authority) does hereby save and hold harmless the Department of Transportation and Development against any loss or damage of any kind incident to or occasioned by activities undertaken in pursuance of this agreement and expressly agrees to defend any suit brought against the Department of Transportation & Development, and pay any judgment which may result from said suit as it relates to this project.

(SECRETARY OR CLERK)

(MAYOR), (CHAIRMAN) OR (PRESIDENT)

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of a resolution adopted at a (Regular) or (Special) Meeting of The (Port Authority) Held on the _____ Day of _____, 20____ In which a quorum was present and voting and that the resolution adopted is still in effect and has not been rescinded or revoked.

Signed at _____ On the _____ Day of _____, 20____.

(SECRETARY OR CLERK)

C. EXAMPLE ENGINEER'S CERTIFICATE AND PROJECT READY TO ADVERTISE

DATE: _____

State Project No. _____

(Project Name)

(Parish)

Port Construction and Development Priority Program

(Sponsor)

(Address)

Gentlemen:

I (Name, Title) do hereby certify that the plans and specifications included herein for the above named project have been prepared by me or at my direction and control.

The cost estimates, plans, designs, and the engineering information included therein conform to accepted engineering practice; they have been developed in accordance with the original application for funds that was approved by the Department of Transportation and Development.

I further certify that they are in accord with the rules, regulations and procedures governing the Port Construction and Development Priority Program; and that the project is ready to be advertised in accordance with the public bid laws of the State of Louisiana.

Sincerely,

Engineer, LA License No. _____

SEAL

D. RESOLUTION TO AWARD PROJECT

STATE PROJECT NO. _____
PARISH OF _____

RESOLUTION

WHEREAS, the _____ (Port Authority) _____ has received bids on _____ (Date and Time) on the _____ (Project Name) port improvements project under the Louisiana Port Construction & Development Priority Program; and

WHEREAS, _____ (Consulting Engineer) has recommended that award of contract be made to the lowest qualified bidder; _____ (Low Bidder).

NOW, THEREFORE, BE IT RESOLVED by the _____ (Port Authority) _____, _____ (Regular) or _____ (Special) session, assembled on this _____ day of _____, 20____, acting pursuant to the recommendation of _____ (Consulting Engineer) that the Base Bid in the Amount of _____ (\$) by _____ (Low Bidder) be accepted and a contract be awarded to them.

SECRETARY

PRESIDENT

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of a resolution adopted at a _____ (Regular) or _____ (Special) meeting of the _____ (Port Authority) _____ held on the _____ day of _____, 20____ in which a quorum was present and voting and that the resolution adopted is still in full force and effect and has not been rescinded or revoked.

Signed at _____ on the _____ day of _____, 20____.

SECRETARY

E. RESOLUTION OF AUTHORITY TO ADVERTISE CMAR RFQ

Port responsible for engineering

STATE PROJECT NO _____
PARISH OF _____

RESOLUTION

(Public Entity)

WHEREAS, (Public Entity) has submitted an application for funding of the (Project Name) port improvement project under the Port Construction and Development Priority Program; and

WHEREAS, the State's share of the project funds have been made available and the (Public Entity) has available its local matching share of the project funds in an amount of not less than ten (10%) percent; and

WHEREAS, at the request of this (Public Entity), (Consulting Engineer) has prepared plans and specifications for said project, which plans and specifications are designated by State Project No. _____; and

WHEREAS, all necessary servitudes, rights-of-way, spoil disposal areas, rights of ingress and egress and the means thereof have been or will be acquired by this (Public Entity), and the titles thereto are valid and indefeasible; and

WHEREAS, this (Public Entity) has or will obtain all necessary permits required for the construction of this project; and

WHEREAS, (Public Entity) has agreed to accomplish all necessary utilities, fence and other facilities relocations and alterations made necessary by this project; and

WHEREAS, the Official Journal for the (Public Entity) is (Official Journal), whose mailing address is (Mailing Address including City, State & Zip code), and whose telephone number is (Area Code & Telephone Number); and

WHEREAS, this (Public Entity) desires to advertise for Request for Qualifications, in accordance with LRS 38:2225.2.4, et seq, for the award of a contract in the name of the (Public Entity), and furnish engineering services during the progress of the work.

NOW, THEREFORE, BE IT RESOLVED by the (Public Entity), in (Regular) or (Special) session assembled on this _____ day of _____, 20____, that the Department of Transportation and Development be and hereby is requested to authorize the (Public Entity) to advertise for competitive bids in accordance with LRS 38:2212, et seq., for the award of a contract in the name of (Public Entity), covering the aforesaid improvements.

BE IT RESOLVED that the Department of Transportation and Development be and hereby is assured that all necessary servitudes, rights-of-way, rights of ingress and egress and the means thereof have been or will be obtained by (Public Entity), and the titles thereto are valid and indefeasible and (Public Entity) expressly agrees to defend any action for the failure of any servitude, right-of-way, right of ingress or egress, and (Public Entity) does hereby assume complete responsibility for providing engineering services during design, construction and the maintenance and upkeep of the project after construction.

BE IT RESOLVED that the Department of Transportation and Development be and hereby is assured that all required permits have been or will be obtained by (Public Entity).

BE IT RESOLVED that the Department of Transportation and Development be and hereby is assured that (Public Entity) has available its local matching funds in an amount not less than ten (10%) percent of the total project cost to insure construction of this project.

BE IT RESOLVED that (Public Entity) will and hereby does assume complete responsibility for all utilities, fence, and other facilities relocations and alterations made necessary by this project.

BE IT RESOLVED THAT (Public Entity) does hereby save and hold harmless the Department of Transportation and Development against any loss or damage of any kind incident to or occasioned by Activities undertaken in pursuance of this agreement and expressly agrees to defend any suit brought against the Department of Transportation & Development, and pay any judgment which may result from said suit as it relates to this project.

(SECRETARY OR CLERK)

(MAYOR), (CHAIRMAN) OR (PRESIDENT)

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of a resolution adopted at a (Regular) or (Special) Meeting of The (Public Entity) Held on the ____ Day of _____, 20__ In which a quorum was present and voting and that the resolution adopted is still in effect and has not been rescinded or revoked.

Signed at _____ On the ____ Day of _____, 20 ____.

(SECRETARY) OR (CLERK)

F. RESOLUTION TO AWARD CMAR PRECONSTRUCTION CONTRACT

STATE PROJECT NO. _____
PARISH OF _____

RESOLUTION

WHEREAS, the (Port Commission) has received responses for Request for Qualifications on (Date and Time) on the (Project Name) port improvements project under the Louisiana Port Construction & Development Priority Program; and

WHEREAS, (Selection Review Committee) has recommended that award of preconstruction services contract be made to the most qualified proposer; (Selected Contractor).

NOW, THEREFORE, BE IT RESOLVED by the (Port Commission), in (Regular) or (Special) session, assembled on this ____ day of _____, 20__, acting pursuant to the recommendation of (Selection Review Committee) that the Preconstruction Services Contract in the Amount of (\$) be accepted and a Preconstruction Services Contract be awarded to (Selected Contractor).

SECRETARY

PRESIDENT

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of a resolution adopted at a (Regular) or (Special) meeting of the (Port Commission) held on the ____ day of _____, 20__ in which a quorum was present and voting and that the resolution adopted is still in full force and effect and has not been rescinded or revoked.

Signed at _____ on the ____ day of _____, 20__.

SECRETARY

**G. RESOLUTION CERTIFYING COMPLIANCE WITH THE PUBLIC BID LAWS:
CMAR PRECONSTRUCTION ADVERTISING**

STATE PROJECT NO. _____
PARISHOF _____

RESOLUTION

(Port Authority)

Whereas, the (Port Authority) has solicited proposals for State Project No. _____ in accordance with the current bid laws of the state of Louisiana, including, but not limited to R.S. 38:2211 et. seq and R.S. 38:2225.2.4; and

Whereas, the (Port Authority) has submitted to DOTD Certification of proof of publication, one (1) copy of the proposals, a copy of the selection committee's recommendation, Notice of Award of Contract, and a copy of the recordation data in the Clerk of Court's Office.

NOW, THEREFORE, BE IT RESOLVED by the (Port Authority), in (Regular) or (Special) session, assembled on this _____ day of _____, 20__, does hereby certify that the bidding procedures comply with Louisiana Revised Statutes 38:2211, et seq. and R.S. 38:2225.2.4

(SECRETARY) or (Clerk)

(CHAIRMAN) OR (PRESIDENT)

CERTIFICATE

I hereby certify that the above and foregoing is true and correct copy of the resolution adopted at a (Regular) or (Special) meeting of the (port Authority) held on the Day of _____, 20__, in which a quorum was present and voting and that the resolution is still in full effect and has not been rescinded or revoked.

Signed at _____ on the _____ Day of _____ 20__.

(SECRETARY) OR (CLERK)

H. RESOLUTION TO ACCEPT GPM & AWARD CMAR CONSTRUCTION CONTRACT

STATE PROJECT NO. _____
PARISH OF _____

RESOLUTION

WHEREAS, the (Port Commission) has received the Greatest Maximum Price (GPM) of (\$) from the CMAR Contractor on (Date and Time) on the (Project Name) port improvements project under the Louisiana Port Construction & Development Priority Program; and

WHEREAS, the (Consulting Engineer) has recommended acceptance of GPM; and

WHEREAS, the (Consulting Engineer) has recommended that award of a construction services contract be made to the CMAR Contractor (Selected Contractor).

NOW, THEREFORE, BE IT RESOLVED by the (Port Commission), in (Regular) or (Special) session, assembled on this ____ day of _____, 20__, acting pursuant to the recommendation of (Consulting Engineer) that the CMAR Greatest Maximum Price in the Amount of (\$) be accepted and a Construction Services Contract be awarded to (Selected Contractor).

SECRETARY

PRESIDENT

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of a resolution adopted at a (Regular) or (Special) meeting of the _____ (Port Commission) held on the ____ day of _____, 20__ in which a quorum was present and voting and that the resolution adopted is still in full force and effect and has not been rescinded or revoked.

Signed at _____ on the ____ day of _____, 20__.

SECRETARY

I. RESOLUTION TO REJECT CMAR GPM

STATE PROJECT NO. _____

PARISH OF _____

RESOLUTION

WHEREAS, the (Port Commission) has received the Greatest Maximum Price (GPM) of (\$) from the CMAR Contractor on (Date and Time) on the (Project Name) port improvements project under the Louisiana Port Construction & Development Priority Program; and

WHEREAS, the (Consulting Engineer) has recommended rejection of the GPM; and

NOW, THEREFORE, BE IT RESOLVED by the (Port Commission), in (Regular) or (Special) session, assembled on this ____ day of _____, 20__, acting pursuant to the recommendation of (Consulting Engineer) that the Greatest Maximum Price in the Amount of (\$) be rejected and no Construction Services Contract be awarded.

SECRETARY

PRESIDENT

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of a resolution adopted at a (Regular) or (Special) meeting of the (Port Commission) held on the ____ day of _____, 20__ in which a quorum was present and voting and that the resolution adopted is still in full force and effect and has not been rescinded or revoked.

Signed at _____ on the ____ day of _____, 20__.

SECRETARY

J. RESOLUTION CERTIFYING COMPLIANCE WITH THE PUBLIC BID LAWS

STATE PROJECT NO. _____
PARISHOF _____

RESOLUTION

(Port Authority)

Whereas, the (Port Authority) has solicited bids for State Project No. _____ in accordance with the current bid laws of the state of Louisiana, including, but not limited to R.S. 38:2211 et. seq; and

Whereas, the (Port Authority) has submitted to DOTD Certification of proof of publication, one(1) copy of the bid proposals and bid bonds as submitted by each of the three(3) lowest bidders, a legible copy of the bid tabulation of all bids received, and certified to be correct by the Engineer and an authorized official of the Sponsor, a copy of the engineer’s recommendation, contract documents, Notice of Award of Contract, and a copy of the recordation data in the Clerk of Court’s Office.

NOW, THEREFORE, BE IT RESOLVED by the (Port Authority), in (Regular) or (Special) session, assembled on this _____ day of _____, 20__, does hereby certify that the bidding procedures comply with Louisiana Revised Statutes 38:2211, et seq.

(SECRETARY) or (Clerk)

(CHAIRMAN) OR (PRESIDENT)

CERTIFICATE

I hereby certify that the above and foregoing is true and correct copy of the resolution adopted at a (Regular) or (Special) meeting of the (port Authority) held on the Day of _____, 20__, in which a quorum was present and voting and that the resolution is still in full effect and has not been rescinded or revoked.

Signed at _____ on the _____ Day of _____ 20__.

(SECRETARY) OR (CLERK)

K. RESOLUTION - PROJECT ACCEPTANCE

STATE PROJECT NO. _____
PARISH OF _____

RESOLUTION

WHEREAS, the _____ (Port Authority) contracted with _____ (Contractor) to complete State Project No. _____ in accordance with the current bid laws of the State of Louisiana, including, but not limited to R.S. 38:2211, et seq; and

WHEREAS, the contract between the _____ (Port Authority) and _____ (Contractor) has been successfully completed.

NOW, THEREFORE, BE IT RESOLVED by the _____ (Port Authority), in (Regular) or (Special) session, assembled on this ____ day of _____, 20__, the contract is hereby accepted by the _____ (Port Authority) effective _____ (Date).

SECRETARY

PRESIDENT

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of a resolution adopted at a (Regular) or (Special) meeting of the _____ (Port Authority) held on the ____ day of _____, 20__ in which a quorum was present and voting and that the resolution adopted is still in full force and effect and has not been rescinded or revoked.

Signed at _____ on the ____ day of _____, 20__.

SECRETARY

**ATTACHMENT 3
APPLICATION FOR PARTIAL PAYMENTS,
AND
CERTIFICATION LETTERS**

A. Application for Partial Payments and Certification Letters 61
B. Recommendation for Payment by the Sponsor 63
C. DOTD District’s Recommendation to Pay 65

A. APPLICATION FOR PARTIAL PAYMENTS AND CERTIFICATION LETTERS

APPLICATION FOR PARTIAL NO. _____

To:

_____ (OWNER)

STATE PROJECT NO. _____ Contract No. _____

For work accomplished through the date of: _____ Days left on contract: _____ Percent Complete: _____

CONTRACTOR'S SCHEDULE OF VALUES

ITEM	DESCRIPTION	CONTRACT QUANTITY	UNIT	UNIT PRICE	CONTRACT AMOUNT	PREVIOUS QUANTITY	CURRENT QUANTITY	CURRENT AMOUNT	TOTAL TO DATE QUANTITY	TOTAL TO DATE AMOUNT

* Items not eligible for DOTD share

ORIGINAL CONTRACT TOTAL	\$ _____
PLAN CHANGE NO. 1 THRU NO.	_____
TOTAL	\$ _____
NEW CONTRACT TOTAL	\$ _____
WORK COMPLETED TO DATE	\$ _____
LESS _____% RETAINAGE	\$ _____
LESS PREVIOUS PAYMENTS	\$ _____
AMOUNT DUE THIS APPLICATION	\$ _____

Contractor's Certification:

The undersigned Contractor certifies that all work covered by this application for payment in accordance with the Contract Documents.

Dated: _____ 20_____

CONTRACTOR

Engineer's Certification:

The undersigned Engineer certifies that the above application for payment has been reviewed by me or at my direction and control and that all work covered by this application for payment is in accordance with the Contract Documents. Payment in the amount of \$ _____ dollars due in the application is recommended.

Dated: _____ 20_____

ENGINEER

B. RECOMMENDATION FOR PAYMENT BY THE SPONSOR

(Port Commission Letterhead)

DATE: _____

State Project No. _____

(Project Name)

(Parish)

(Port Priority Program Director)

Department of Transportation and Development

1201 Capitol Access Road

Baton Rouge, LA 70802

Program Director:

This is to certify that the Application for Partial Payment No. _____ included herein for the above named project has been reviewed and is approved for payment in the amount of \$_____ dollars. Reimbursement is hereby requested for the Department of Transportation and Development share.

Sincerely,

Port of _____

By: _____

CC:

(District Project Coordinator)

Department of Transportation and Development

(Address)

(City), LA (Zip Code)

C. DOTD DISTRICT'S RECOMMENDATION TO PAY



IN REPLY REFER TO
FILE NO.

**DEPARTMENT OF TRANSPORTATION AND
DEVELOPMENT**

INTRADEPARTMENTAL CORRESPONDENCE

MEMORANDUM

DATE: _____

State Project No. _____
Port Construction and Development Priority Program
Department of Transportation and Development
(Project Name)
(Sponsor)
(Parish)

TO: Port Priority Program Director
Port Priority Program Unit
Office of Multimodal Planning

FROM: District Project Coordinator

Attached is Application for Partial Payment No. _____ in the amount of
\$ _____ for construction of the above named project. A cursory inspection of the job site
indicates that the payment request appears to be consistent with the work accomplished during
the estimate period. Therefore, based on the Engineer's and Owner's certification, it is
recommended that payment be made in the amount of the department's share.

RECOMMENDED FOR APPROVAL DATE

RECOMMENDED FOR APPROVAL DATE

RECOMMENDED FOR APPROVAL DATE

APPROVED DATE

ATTACHMENT 4: CHANGE ORDER FORM

STATE OF LOUISIANA DEPT. OF TRANSPORTATION & DEVELOPMENT REVISED FEB '03 FOR USE ON DOTD LOUISIANA PORT CONSTRUCTION & DEVELOPMENT PRIORITY PROGRAM PROJECTS PLAN CHANGE AND/OR SPECIAL AGREEMENT	NO. _____ DATE: _____
S. P. NO.	PARISH
PROJECT NAME	JOB NO.

ENGINEERS DESCRIPTION, EXPLANATION AND ESTIMATED COST OF PROPOSED REVISION

ITEM NO.	ITEM	UNIT	UNIT PRICE	REVISED		ORIGINAL	
				QUANTITY	AMOUNT	QUANTITY	AMOUNT
ADDITIONAL CONTRACT DAYS REQUESTED	AMOUNT OF (<i>OVER RUN</i>) /(<i>UNDER RUN</i>) \$			TOTAL	\$	TOTAL	\$
REVISED CONTRACT COMPLETION DATE:				REVISED CONTRACT AMOUNT: \$			

IT IS MUTUALLY AGREED TO PERFORM AND ACCEPT THE ABOVE REVISIONS IN ACCORDANCE WITH ORIGINAL CONTRACT AND APPLICABLE SPECIFICATIONS AT THE ABOVE PRICES.

RECOMMENDED:

CONTRACTOR:

CONTRACTING AGENCY:

(Name of Engineering Company)
Engineer

(Name of Contractor)
Contractor

(Name of Port Commission)
Owner

By: _____

By: _____

By: _____

Date: _____

Date: _____

Date: _____

ATTACHMENT 5: CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT _____

DATE OF ISSUANCE _____

OWNER _____

OWNER's Contract No. _____

CONTRACTOR _____ ENGINEER _____

This Certificate of Substantial Completion applies to all Work under the Contract Documents or to the following specified parts thereof.

TO _____

OWNER

And To _____

CONTRACTOR

The Work to which this Certificate applies has been inspected by authorized representatives of OWNER, CONTRACTOR and ENGINEER, and that Work is hereby declared to be substantially complete in accordance with the Contract Documents on

DATE OF SUBSTANTIAL COMPLETION

A tentative list of items to be completed or corrected is attached hereto. This list may not be all-inclusive, and the failure to include an item in it does not alter the responsibility of CONTRACTOR to complete all the Work in accordance with the Contract Documents. The items in the tentative list shall be completed or corrected by CONTRACTOR within _____ days of the above date of Substantial Completion.

From the date of Substantial Completion the responsibilities between OWNER and CONTRACTOR for security, operation, safety, maintenance, heat, utilities, insurance and warranties and guarantees shall be as follows:

RESPONSIBILITIES:

OWNER _____

CONTRACTOR: _____

The following documents are attached to and made a part of this Certificate:

This certificate does not constitute an acceptance of Work not in accordance with the Contract Documents nor is it a release of CONTRACTOR's obligation to complete the Work in accordance with the Contract Documents.

Executed by ENGINEER ON _____, 20____

ENGINEER

By: _____
(Authorized Signature)

CONTRACTOR accepts this Certificate of Substantial Completion on _____, 20____

CONTRACTOR

By: _____
(Authorized Signature)

OWNER accepts this Certificate of Substantial Completion on _____, 20____

OWNER

By: _____
(Authorized Signature)

ATTACHMENT 6: REQUIRED SUBMITTALS

This list is intended to be a *brief* summation of materials that are to be submitted to DOTD Port Priority Program Director. For complete details, see the corresponding section of this document and the Agreement.

AGREEMENT:

- ____ 1. Agreement executed by the Port Authority. (See Attachment 1)
- ____ 2. Resolution authorizing an official of the Port Authority to sign this and all future documents pertaining to this project. (See Attachment 2-A)

PROGRESS SCHEDULE:

- ____ 1. A bar graph showing the proposed schedule to develop construction plans and specifications and to let a construction contract.

PLAN DEVELOPMENT:

- ____ 1. One (1) set of preliminary plans, showing all existing topography, utilities, and proposed work and schedule of bid items (Not required if Item 2 is submitted within the State's Fiscal Year that the project was funded.)
- ____ 2. Two (2) hard sets including specifications, cost estimates and bid proposals as necessary to reflect the scope of work undertaken by the project.
- ____ 3. A Resolution affirming availability of right-of-way, permits, local funding etc. (See Attachment 2-B) Certification by Engineer that plans, specifications and cost estimates are complete and have been developed in accordance with the Application and program requirements.

ADVERTISING AND BIDDING:

- ____ 1. Resolution requesting authorization to advertise. (See Attachment 2-B)
- ____ 2. Two (2) sets of plans and construction proposals marked "Not for Bid" and two copies of any Addenda that may be issued.

PRE-AWARD OF CONTRACT:

- ____ 1. Proof of Publication in the Port Authority's Official Journal of the Notice of Advertisement.
- ____ 2. One copy of the bid proposals and bid bonds from the three lowest bidders.
- ____ 3. Legible copy of the bid tabulation of all bids received, certified correct by the Engineer and the Port Authority.
- ____ 4. Copy of the Engineer's recommendation.

POST-AWARD OF CONTRACT:

- ____ 1. Resolution to Award. (See Attachment 2-C)
- ____ 2. Notice of the Award of Contract.

- ____ 3. Three (3) Certified Copies of the Contract Documents (at least one original).
- ____ 4. Recordation data indicating recordation of the contract and bond in the Clerk of Court's Office.
- ____ 5. Resolution Certifying Compliance with Public Bid Law. (See Attachment 2-E)
- ____ 6. One (1) copy of the Work Order/Notice to Proceed.
- ____ 7. Contractor's anticipated cash flow requirements for the construction period.
- ____ 8. Attestation Affidavit.

CONSTRUCTION ADMINISTRATION AND INSPECTION:

PARTIAL PAY ESTIMATES

- ____ 1. Original request for payment by the sponsor and application for partial payment certified by the contractor and the engineer shall be forwarded to the DOTD Port Priority Program Director and one (1) copy forwarded to the DOTD District Project Coordinator. (See Attachment 3)

NOTE: DOTD's portion of partial payments will not be paid without having first received the Contractor's anticipated cash flow requirements for the life of the project.

FINAL PAYMENT

- ____ 1. Certification by the Port Authority's Engineer that the work is complete and a recommendation of acceptance (Substantial Completion). (See Attachment 5)
- ____ 2. A Resolution by the Port Authority accepting the work. (See Attachment 2)
- ____ 3. A certified copy of The Recordation of Acceptance.
- ____ 4. A certified copy of the Clean Lien Certificate or as excepted.
- ____ 5. Letter acknowledging receipt of an Operation and Maintenance Manual and Final Cost Estimate with one (1) copy of Operation and Maintenance Manual.
- ____ 6. One (1) electronic set of As-Built Drawings/Plans of Record.

OPERATION AND MAINTENANCE:

- ____ 1. Letter acknowledging receipt of an Operation and Maintenance Manual with "as-built" plans.
- ____ 2. One (1) electronic set (PDF format) of "as-built" drawings/ plans of record for DOTD files.

MONITORING REPORT:

- ____ 1. As per the requirements of the "Project Monitoring Report Guidelines". (See Attachment 7)

AUDIT:

- ____ 1. Any requested reports as per the requirements of the Agreement.

ATTACHMENT 7: PROJECT MONITORING REPORT GUIDELINES

LOUISIANA PORT CONSTRUCTION AND DEVELOPMENT PRIORITY PROGRAM- PROJECT MONITORING REPORT GUIDELINES

INTRODUCTION

The Louisiana Port Construction and Development Priority Program Rules and Regulations stipulate that for five years after completion of a Program-sponsored project, port authorities are to submit to the DOTD Port Priority Program Director a report comparing actual benefits derived with the projected benefits associated with the project as stated in the application. The purpose of this document is to provide general procedures and guidelines to prepare such reports.

The project monitoring framework is designed to achieve several objectives. Primarily, the report will:

- Enable the Department of Transportation and Development to assess the impacts of Program-sponsored projects on Louisiana's economic development. This assessment will provide new direction for statewide port planning and associated policy decisions.
- Provide each participating port with useful management and planning information. This information can help to analyze investment decisions and target new market opportunities for port infrastructure.
- Enable the Legislature to assess the significance of the state's investment in Louisiana's port industry. This includes an evaluation of the effectiveness of the Port Construction and Development Priority Program.

The *Louisiana Port Construction and Development Priority Program Rules and Regulations*, *Louisiana Port Construction and Development Priority Program Procedures Manual* and the Port Authorities approved funding application should be considered as companion documents, as they supplement and clarify the guidelines provided in this document.

DATE TO SUBMIT

A report is to be filed for each funded project. Reports are to be submitted for five consecutive years following project completion. For this purpose the following definitions apply:

Funded Project: That activity for which a participation agreement has been signed. This should reflect the entire project as presented in the application. Construction phases do not constitute separate projects.

Project Completion: Date of Clear Lien Certificate

Reports are due on June 30th. The first report is due a minimum of twelve months and no more than twenty-three months after project completion. It is intended that the first report reflect a reporting period of at least one year. Second and third reports are due June 30th of the following years.

Submit two copies to:

Louisiana Port Construction and Development Priority Program
Louisiana Department of Transportation and Development
1201 Capitol Access Road
Baton Rouge, LA 70802

NOTE: A report is to be filed for every project that has been funded through the Port Construction and Development Priority Program since the beginning of 1990. If the project has been completed for three or more years, submit one report which presents data for year one, year two, and year three in accordance with the instructions for completing Table 1 given on page four. If the project has been completed for 2 or more years, submit one report which presents data for each year since completion. The final report will be due at the end for year five.

PROJECT MONITORING REPORT – FORMAT AND GENERAL INSTRUCTIONS

1. Title Page

The title page of the project monitoring report will contain the following information:

Name of Port Authority: Indicate the legal name of the port authority, address, telephone and fax numbers, and authorized representative.

Project Name: Indicate the name of the project as given in the participation agreement with the Department.

DOTD State Project Number and Initial Funding Year: Indicate the state project number assigned to the project by the Department and the initial funding year.

Report Number: The Program Rules and Regulations require submission of annual reports for three years after completion of the project. The reports will be numbered consecutively as Report Number One, Two, and so on. Indicate the submittal date of earlier reports.

Reporting Period: Indicate the date of project completion and time period covered by the report.

Date: State the month and the year in which the report is submitted.

2. Project – Analysis of Operations

Develop a narrative that address the following:

Utilization of the Project: Describe major project components and port operations relating to the project. Go from a logical terminus to another logical terminus, linking up all facilities and major equipment used in project operations. For example, if a transit shed, a berth, and a crane are leased to a tenant, describe activities for which the transit shed is used, the volumes and types of cargo handled at the berth using the crane etc. Indicate whether project facilities are operated by port employees, or leased.

Cargo Throughput Analysis: Provide a detailed analysis of cargo tonnage handled using project facilities. List tonnage by cargo types (bulk, break-bulk, neo-bulk, containers) and by major commodity types (forest products, steel billets, pipes, etc.). Indicate current cargo flow origins and destinations and compare them with forecasts made in the project funding application. Compare actual utilization with maximum capacity.

3. Project Benefits

Tabulate project benefits as indicated in Table 1, and provide a narrative description explaining the data in each column. In completing Table 1, please note:

For Year 1 show actual operations for one year

For Year 2 show actual operations for year 1 and year 2 (each)

For Year 3 show actual operations for year 1, year 2, and year 3 (each)

And so on

Additional guidelines in completing Table 1 are given below:

Port Revenue: Port revenues are cash inflows to the port with the project. Port revenues from vessel and cargo services such as dockage and wharfage and revenues received from rent/lease of project facilities are some examples.

Projected and Actual Port Revenues: Under projected port revenues include port revenues projected for the first three years as stated in the funding application, and under actual port revenues report actual port revenues derived from the project. For example, the first project monitoring report will indicate actual revenues derived in the first year of project operation and the second report will include the first and second year, and so on. Provide a narrative description explaining the data and plans for corrective action if projected revenue targets are not reached. Include supporting documents such as port annual financial statements, copies of rent/lease agreements, port tariff schedules, etc. as attachments.

Port Expenses: Port expenses are cash outflows from the port with the project. For example, the payroll for additional employees hired by the port with the project and operational expenses when facilities are managed by the port authority, etc. are port expenses.

Other Benefits: Under projected benefits include benefits projected for the first five years as stated in the funding application. Actual benefits include benefits derived so far during the project monitoring period. Some examples of other benefits are jobs created and the payroll, transportation cost savings, and other related value-added activities related to the project. If actual benefits are less than projected benefits, describe plans for corrective action.

Include a comprehensive narrative description of project background and operations, progress review, and future corrective action plans, if necessary. Analyze and explain all benefits included in Table 1, and attach supporting documents to substantiate actual benefits such as financial statements.

4. Executive Director's Certification

Each report shall be certified true and correct by the executive director of the port authority.

Table 1. Project Monitoring Report - Tabulation of Projected and Actual Benefits

Benefit Category	Year	Projected Benefits *	Actual Benefits	Data Sources/Supporting Documents
Port Revenue				
1.....	1			
	2			
	3			
	4			
	5			
2.....	1			
	2			
	3			
	4			
	5			
3.....	1			
	2			
	3			
	4			
	5			
4.....	1			
	2			
	3			
	4			
	5			
Port Expenses				
1.....	1			
	2			
	3			
	4			
	5			
2.....	1			
	2			
	3			
	4			
	5			

* as per application

Table 1. Project Monitoring Report - Tabulation of Projected and Actual Benefits

Benefit Category	Year	Projected Benefits *	Actual Benefits	Data Sources/Supporting Documents
Other Benefits - Payroll				
a. Managerial	1			
b. Supervisory/Skilled	1			
c. Factory Workers	1			
d. Clerical/ Miscellaneous	1			
Other Benefits - Payroll				
a. Managerial	2			
b. Supervisory/Skilled	2			
c. Factory Workers	2			
d. Clerical/ Miscellaneous	2			
Other Benefits - Payroll				
a. Managerial	3			
b. Supervisory/Skilled	3			
c. Factory Workers	3			
d. Clerical/ Miscellaneous	3			
Other Benefits - Payroll				
a. Managerial	4			
b. Supervisory/Skilled	4			
c. Factory Workers	4			
d. Clerical/ Miscellaneous	4			
Other Benefits - Payroll				
a. Managerial	5			
b. Supervisory/Skilled	5			
c. Factory Workers	5			
d. Clerical/ Miscellaneous	5			

* as per application

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