

# David Lane Beaird & Associates, Inc.

105 Commercial Parkway  
P.O. Box 769  
West Monroe, Louisiana 71294-0769  
Phone: 318-388-3227  
Fax: 318-388-3228

*Substitute provisions  
attached as "1"*

EXHIBIT

A

July 14, 2023

Honorable Staci Mitchell  
Mayor City of West Monroe  
2305 North 7<sup>th</sup> Street  
West Monroe, Louisiana 71291

Ref: Fishing Pier  
Riverfront Park  
West Monroe, Louisiana

Dear Mayor Mitchell:

David Lane Beaird & Associates, Inc. is pleased to submit this proposal to provide the "Architectural & Engineering Services" for the construction of a new fishing pier adjacent to the south property line of the Riverfront Park adjacent to the existing railroad bridge.

The floating pier will be approximately 18'x30' in plan with a gangway approximately 185' in length to connect the pier to the top bank of the river. The gangway and the floating pier shall have treated lumber surfacing on a steel frame. Floatation will be encapsulated foam or equivalent floating. No electrical lighting is proposed for this project, but could be added at an additional cost.

The Cost of the proposed project has been projected to be \$465,100 which is being used as the basis of the Design Fee. The Design Fee will be 8.00% of the Construction Cost of the project. Utilizing 8.00% of \$465,100, the total AE Fee would be Thirty-Seven Thousand Two Hundred Dollars (\$37,200.00). The Final Design Fee will be based on the actual cost of the project.

Billing of the project will be as follows:

1. Schematic Design	15%
2. Design Development	30%
3. Construction Documents	60%
4. Award of Construction Contract	75%
5. Construction Monitoring – Monthly based on % Completion of Project	100%

Should the City of West Monroe reject the bids and postpone the project – 90% of the Calculated Fee based on the Low Bid Amount will be due. Should at a later time, the City of West Monroe desire to redesign for value reduction and rebid, changes will be at a negotiated fee for the work desired will be agreed upon.

Design work will begin within 7 days of the execution of this proposal and the Schedule Dates will be adjusted at that time to correspond with the execution date of this proposal.

Thank you for allowing David Lane Beaird & Associates, Inc. to provide this proposal on your project.  
We are prepared to proceed with this project upon notification.

Sincerely:

A handwritten signature in black ink, appearing to read 'D. Lane Beaird', with a stylized, sweeping flourish at the end.

David Lane Beaird, P.E.

Proposal Accepted by:

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Staci Mitchell, Mayor  
City of West Monroe

*substitute !*

**[Letterhead of David Lane Beaird & Associates, Inc]**

**To be addressed to the Mayor/City**

David Lane Beaird & Associates, Inc. is pleased to submit this proposal to provide the Architectural & Engineering Services for the construction of a new fishing pier (the project) adjacent to the south property line of the Riverfront Park adjacent to the existing railroad bridge.

The floating pier will be approximately 18'x30' in plan with a gangway approximately 185' in length, to connect the pier to the top bank of the river. The gangway and the floating pier shall be constructed of treated lumber surfacing on a steel frame. Floatation will be encapsulated foam or equivalent material. No electrical lighting is proposed for this project, but could be added at an additional cost.

The projected construction cost of the proposed project has been projected to be \$465,100, which is being used as the basis of the Design Fee. The Design Fee will be 8.00% of the Construction Cost of the project. "Design Fee" includes all work related to Schematic Design, Design Development, Construction Documents, Award of Construction Contract, and Construction Monitoring. Utilizing 8.00% of \$465,100, the total Design Fee would be Thirty-Seven Thousand, Two Hundred Dollars (\$37,200.00), although the final Design Fee will be based on the actual final Construction Cost of the project.

Billing of the project will be upon completion as follows:

1.	Schematic Design	15%
2.	Design Development	15%
3.	Construction Documents	30%
4.	Award of Construction Contract	15%
5.	Construction Monitoring (billed monthly based on % completion of the project)	25%

Should the City of West Monroe reject all bids and postpone the project, 75% of the lowest bid amount or the projected construction cost, whichever is lesser, will be due as the Design Fee. Should the City of West Monroe desire to redesign the project and rebid the project at a later time, all changes will be at a negotiated fee for the work desired.

All plans and specifications for Design Development and Construction Development will incorporate all applicable requirements of the funding agency, attached as Exhibit A.

Design work will begin within 7 days of the execution of this proposal and the Schedule Dates will be adjusted at that time to correspond with the execution date of this proposal.

Schedule Dates are as follows:

Schematic Design estimated completion within \_\_\_\_ days;

Upon their approval, Design Development estimated completion within \_\_\_\_ days thereafter;

Upon their approval, Construction Documents estimated completion within \_\_\_\_ days thereafter

Upon their approval, all documents will be prepared for initial publication of invitations to bid within 10 days thereafter.

Thank you for allowing David Lane Beaird & Associates, Inc. to provide this proposal on your project. We are prepared to proceed with this project upon notification.



Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

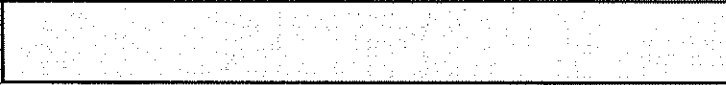



**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**NOTE:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards of merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
20. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
	
APPLICANT ORGANIZATION	DATE SUBMITTED
	

1. DATE ISSUED MM/DD/YYYY 04/28/2023  
1a. SUPERSEDES AWARD NOTICE dated except that any additions or restrictions previously imposed remain in effect unless specifically rescinded

2. CFDA NO.  
15.605 - Sport Fish Restoration

3. ASSISTANCE TYPE Formula Grant

4. GRANT NO. F23AF01084-00

Originating MCA #

4a. FAIN F23AF01084

5. TYPE OF AWARD

Other

5a. ACTION TYPE New

6. PROJECT PERIOD MM/DD/YYYY

From 04/01/2023

Through

MM/DD/YYYY

04/30/2025

7. BUDGET PERIOD MM/DD/YYYY

From 04/01/2023

Through

MM/DD/YYYY

04/30/2025

8. TITLE OF PROJECT (OR PROGRAM)

LA - West Monroe Riverfront Park Fishing Pier 2023

9a. GRANTEE NAME AND ADDRESS

Wildlife and Fisheries, Louisiana Department of  
2000 Quail Drive  
Baton Rouge, LA, 70808-9039

9b. GRANTEE PROJECT DIRECTOR

Mrs. Melissa Longman  
2000 Quail Dr  
Baton Rouge, LA, 70808-9038  
Phone: (225)765-2343

10a. GRANTEE AUTHORIZING OFFICIAL

Mr. Robert Shadin  
2000 Quail Drive  
Baton Rouge, LA, 70808-9038  
Phone: 225-765-2370

10b. FEDERAL PROJECT OFFICER

Mr. James Ballard  
1875 Century Boulevard NE  
Atlanta, GA, 30345  
Phone: 4707336093

ALL AMOUNTS ARE SHOWN IN USD

11. APPROVED BUDGET (Excludes Direct Assistance)

I Financial Assistance from the Federal Awarding Agency Only

II Total project costs including grant funds and all other financial participation

II

a. Salaries and Wages	\$	0.00
b. Fringe Benefits	\$	0.00
c. Total Personnel Costs	\$	0.00
d. Equipment	\$	0.00
e. Supplies	\$	0.00
f. Travel	\$	0.00
g. Construction	\$	0.00
h. Other	\$	0.00
i. Contractual	\$	349,802.00
j. TOTAL DIRECT COSTS	\$	349,802.00
k. INDIRECT COSTS	\$	0.00

l. TOTAL APPROVED BUDGET	\$	349,802.00
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m. Federal Share	\$	262,352.00
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n. Non-Federal Share	\$	87,450.00
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12. AWARD COMPUTATION

a. Amount of Federal Financial Assistance (from item 11m)	\$	262,352.00
b. Less Unobligated Balance From Prior Budget Periods	\$	0.00
c. Less Cumulative Prior Award(s) This Budget Period	\$	0.00
d. AMOUNT OF FINANCIAL ASSISTANCE THIS ACTION	\$	262,352.00

13. Total Federal Funds Awarded to Date for Project Period \$ 262,352.00

14. RECOMMENDED FUTURE SUPPORT

(Subject to the availability of funds and satisfactory progress of the project):

YEAR	TOTAL DIRECT COSTS	YEAR	TOTAL DIRECT COSTS
a. 2	\$	d. 5	\$
b. 3	\$	e. 6	\$
c. 4	\$	f. 7	\$

15. PROGRAM INCOME SHALL BE USED IN ACCORD WITH ONE OF THE FOLLOWING ALTERNATIVES:

a. DEDUCTION  
b. ADDITIONAL COSTS  
c. MATCHING  
d. OTHER RESEARCH (Add / Deduct Option)  
e. OTHER (See REMARKS)

e

16. THIS AWARD IS BASED ON AN APPLICATION SUBMITTED TO, AND AS APPROVED BY, THE FEDERAL AWARDING AGENCY ON THE ABOVE TITLED PROJECT AND IS SUBJECT TO THE TERMS AND CONDITIONS INCORPORATED EITHER DIRECTLY OR BY REFERENCE IN THE FOLLOWING:

a. The grant program legislation  
b. The grant program regulations.  
c. This award notice including terms and conditions, if any, noted below under REMARKS.  
d. Federal administrative requirements, cost principles and audit requirements applicable to this grant.

In the event there are conflicting or otherwise inconsistent policies applicable to the grant, the above order of precedence shall prevail. Acceptance of the grant terms and conditions is acknowledged by the grantee when funds are drawn or otherwise obtained from the grant payment system.

REMARKS (Other Terms and Conditions Attached -

Yes

☐ No

No program income anticipated.

GRANTS MANAGEMENT OFFICIAL:

PAUL WILKES, WSFR Regional Manager  
1875 Century Blvd  
Atlanta, GA, 30345  
Phone: 404-679-4154

17. VENDOR CODE		0070067613	18a. UEI M22LMLG4VZ96		18b. DUNS 809927783	19. CONG. DIST.	06
LINE#	FINANCIAL ACCT	AMT OF FIN ASST	START DATE	END DATE	TAS ACCT	PO LINE DESCRIPTION	
1	0051034130-00010	\$262,352.00	04/01/2023	04/30/2025	8151	9514 (SFR Fresh)	

## NOTICE OF AWARD (Continuation Sheet)

PAGE 2 of 10	DATE ISSUED 04/28/2023
GRANT NO. F23AF01084-00	

### SCOPE OF WORK

#### 1. Project Description

The Service hereby incorporates the recipient's application submitted to and approved by the Service into these award terms and conditions.

Funds under this grant will be used to construct a fishing pier on the Ouachita River in the City of West Monroe, Louisiana.

### Terms and Conditions

#### 1. U.S. Fish and Wildlife Service

##### General Award Terms and Conditions

Recipients of U.S. Fish and Wildlife Service (Service) grant and cooperative agreement awards (hereafter referred to as 'awards') are subject to the terms and conditions incorporated into their Notice of Award either by direct citation or by reference to Federal regulations; program legislation or regulation; and special award terms and conditions. Award terms and conditions are applicable unless and until the USFWS removes or revises them in written notice to the recipient. The Service will make such changes by issuing a written notice that describes the change and provides the effective date.

Recipients indicate their acceptance of an award by starting work, drawing down funds, or accepting the award via electronic means. Recipient acceptance of an award carries with it the responsibility to be aware of and comply with all terms and conditions applicable to the award. Recipients are responsible for ensuring that their subrecipients and contractors are aware of and comply with applicable award statutes, regulations, and terms and conditions. Recipient failure to comply with award terms and conditions can result in the Service taking one or more of the remedies and actions described in Title 2 of the Code of Federal Regulations (CFR) §§200.339—343.

A PDF of these terms and conditions with embedded links to all regulations is available on the Service's website at: <https://www.fws.gov/media/fws-financial-assistance-award-terms-and-conditions-2020-12-31>. See also the Department of the Interior's General Award Terms and Conditions on their website at: <https://www.doi.gov/grants/doi-standard-terms-and-conditions>.

##### Administrative Requirements, Cost Principles, and Audit Requirements

These requirements and cost principles are applicable to all awards except those to individuals receiving the award separate from any business or organization they may own or operate. Foreign public entities and foreign organizations must comply with special considerations and requirements specific to their entity type, unless otherwise stated in this section. Foreign public entities must comply with those for states.

##### 2 CFR Part 200, Subparts A—D, as supplemented by 2 CFR Part 1402

Foreign public entities must follow payment procedures in 2 CFR §200.305(b). For foreign public entities and foreign organizations, the requirements in 2 CFR §§200.321—323 do not apply.

##### Appendix XII to 2 CFR Part 200—Recipient Integrity and Performance Matters

Applicable to awards with a total Federal share of more than \$500,000 except for awards of any amount to foreign public entities.



## NOTICE OF AWARD (Continuation Sheet)

PAGE 3 of 10

DATE ISSUED

04/28/2023

GRANT NO. F23AF01084-00

### **2 CFR Part 200, Subpart E—Cost Principles**

Applicable to all domestic and foreign non-Federal entities except non-profit organizations identified in Appendix VIII to 2 CFR Part 200.

### **48 CFR Subpart 31.2—Contracts with Commercial Organizations**

Applicable to non-profit organizations identified in Appendix VIII to 2 CFR Part 200 and for-profit organizations.

### **Indirect Cost Proposals**

Requirements for development and submission of indirect cost rate proposals are contained in Appendix III (Institutions of Higher Education), Appendix IV (Nonprofit organizations), and Appendix VII (States, local government agencies, and Indian tribes) to 2 CFR Part 200. See also the DOI negotiated indirect cost rate deviation policies at 2 CFR §1402.414. For-profit entities should contact the DOI National Business Center, Office of Indirect Cost Rate Services at: <https://ibc.doi.gov/ICS/icrna>.

### **2 CFR Part 200, Subpart F—Audit Requirements**

Applicable to U.S. states, local governments, Indian tribes, institutions of higher education, and nonprofit organizations. Not applicable to foreign public entities, foreign organizations, or for-profit entities.

### **Statutory and National Policy Requirements**

These requirements are applicable to all awards, including those to individuals, for-profits, foreign public entities, and foreign organizations, unless otherwise stated in this section.

### **Appendix A to 2 CFR Part 25—Universal Identifier and System for Award Management**

Not applicable to individuals or any entity exempted by the awarding bureau or office prior to award per 2 CFR §25.110(c)(2) and bureau or office policy.

### **Appendix A to 2 CFR Part 170—Award term for reporting subaward and executive compensation**

Not applicable to individuals. See 2 CFR 170 for other exceptions.

### **2 CFR §175.15—Award Term for Trafficking in Persons**

Applicable to private entities as defined in 2 CFR §175.25(d), states, local governments, and Indian tribes. Applicable to foreign public entities if funding could be provided to a private entity as a subrecipient under the award.

### **2 CFR Part 1400—Nonprocurement Debarment and Suspension**

All recipients must ensure they do not enter into any covered transaction with an excluded or disqualified participant or principal. See also 2 CFR Part 180—OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement). 2 CFR §180.215 defines nonprocurement transactions that are not covered transactions.

### **2 CFR Part 1401—Requirements for Drug-Free Workplace (Financial Assistance)**

Not applicable to foreign public entities or foreign organizations.

## NOTICE OF AWARD (Continuation Sheet)

PAGE 4 of 10	DATE ISSUED 04/28/2023
GRANT NO. F23AF01084-00	

### 43 CFR Part 18—New Restrictions on Lobbying

Recipients are prohibited from using any federally appropriated funds (annually appropriated or continuing appropriations) or matching funds under a Federal award to pay any person for lobbying in connection with the award. Lobbying is influencing or attempting to influence an officer or employee of any U.S. agency, a Member of the U.S. Congress, or an officer or employee of a Member of the U.S. Congress in connection with the award.

### 41 U.S.C. §4712—Whistleblower Protection for Contractor and Grantee Employees

### 41 U.S.C. §6306—Prohibition on Members of Congress Making contracts with Federal Government

### Mandatory Disclosures

Failure to make required disclosures may result in any of the remedies for noncompliance described in 2 CFR §200.339, including suspension or debarment (see also 2 CFR Part 180).

**Conflicts of interest:** Per 2 CFR §1402.112, non-Federal entities and their employees must take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements. In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the provisions in 2 CFR §200.318 apply. Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR §200.112. Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Service Project Officer identified in their notice of award in writing of any conflicts of interest that may arise during the life of the award, including those that reported by subrecipients. The Service will examine each disclosure to determine whether a significant potential conflict exists and, if it does, work with the applicant or recipient to develop an appropriate resolution. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award.

**Lobbying:** If the Federal share of the award is more than \$100,000, recipients must disclose making or agreeing to make any payment using non-appropriated funds for lobbying in connection with the award. To make such disclosures, recipients must complete and submit the SF-LLL, "Disclosure of Lobbying Activities" form to the USFWS. This form is available at: <https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html>. For more information on when additional submission of this form is required, see 43 CFR, Subpart 18.100. These restrictions are not applicable to such expenditures by Indian tribe, tribal organization, or any other Indian organization that is specifically permitted by other Federal law.

**Other Mandatory Disclosures:** Recipients and subrecipients must disclose, in a timely manner, in writing to the Service Project Officer identified in their notice of award or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities subject to the 2 CFR 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to SAM.

### National Policy Encouragements

### Executive Order 13043—Increasing Seat Belt Use in the United States

Non-Federal entities are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles. Individuals are encouraged to use seat belts while driving in connection with award activities.

## NOTICE OF AWARD (Continuation Sheet)

PAGE 5 of 10

DATE ISSUED

04/28/2023

GRANT NO. F23AF01084-00

### E. O. 13513—Federal Leadership on Reducing Text Messaging While Driving

Non-Federal entities are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in section 3(a) of the order. Individuals are encouraged to not text message while driving in connection with award activities.

## 2. Buy America Provision

### Required Use of American Iron, Steel, Manufactured Products, and Construction Materials for Infrastructure

As required by Section 70914 of the Infrastructure Investment and Jobs Act (Pub. L. 117-58), on or after May 14, 2022, none of the funds under a federal award that are part of a Federal financial assistance program for infrastructure may be obligated for a project unless all the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. Recipients must include the requirements in this section all subawards, including all contracts and purchase orders for work or products under this program.

None of the funds provided under this award may be used for a project for infrastructure unless:

1. All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States,
2. All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation, and
3. all construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

This Buy America preference only applies to articles, materials, and supplies consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

For more information, visit the Department's Buy America site at [www.doi.gov/grants/BuyAmerica](http://www.doi.gov/grants/BuyAmerica) and the Office of Management and Budget's site at [www.whitehouse.gov/omb/management/made-in-america/](http://www.whitehouse.gov/omb/management/made-in-america/).

### Waivers

There may be instances where an award qualifies, in whole or in part, for an existing DOI general applicability waiver as described at [www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers](http://www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers). If the specific financial assistance agreement, infrastructure project, or non-domestic materials meets the criteria of an existing general applicability waiver within the limitations defined within the waiver, the Recipient does not need to request a separate waiver for non-domestic materials.

When necessary, recipients may apply for, and the Department of the Interior (DOI) may grant, a waiver from these requirements, subject to review by the Made in America Office. The DOI may waive the application of the domestic content procurement preference in any case in which it is determined that one of the below circumstances applies:

## NOTICE OF AWARD (Continuation Sheet)

PAGE 6 of 10

DATE ISSUED

04/28/2023

GRANT NO. F23AF01084-00

1. Non-availability Waiver: the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality,
2. Unreasonable Cost Waiver: the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent, or
3. Public Interest Waiver: applying the domestic content procurement preference would be inconsistent with the public interest.

If a general applicability waiver does not already apply, and the Recipient believes that one of the above circumstances applies to an award, the Recipient may submit a request to waive the application of the domestic content procurement preference.

### Waiver Submission Instructions

Recipients must submit all waiver requests to the Service in writing. Email all waiver requests to [fwhqfasupport@fws.gov](mailto:fwhqfasupport@fws.gov). Please use the subject line: "Buy America Waiver Request". Include the following information with each waiver request:

1. Type of waiver requested (non-availability, unreasonable cost, or public interest)
2. Requesting entity name and Unique Entity Identifier (UEI)
3. Awarding bureau: U.S. Fish and Wildlife Service
4. Awarding program Assistance Listing number and title (Notice of Award, Block 2)
5. Project title (Notice of Award, Block 8)
6. Federal Award Identification Number (Notice of Award, Block 4)
7. Federal award amount (Notice of Award, Block 11)
8. Total infrastructure costs, to the extent known (federal and non-federal funds)
9. Infrastructure project description and location, to the extent known
10. List of iron or steel item(s), manufactured goods, and construction material(s) the recipient seeks to waive from Buy America requirements. Include the name, cost, countries of origin, if known, and relevant PSC or NAICS code for each (see <https://psc-tool.us/> and <https://www.census.gov/naics/>).
11. A certification that the Recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor.
12. A statement of waiver justification, including a description of the Recipient's efforts (e.g., market research, industry outreach) to avoid the need for a waiver. Such a justification may cite, if applicable, the absence of any Buy America-compliant bids received in response to a solicitation.
13. Anticipated impact if no waiver is issued.

Do not include any Privacy Act information, sensitive data, or proprietary information with the waiver request.



## NOTICE OF AWARD (Continuation Sheet)

PAGE 7 of 10

DATE ISSUED

04/28/2023

GRANT NO. F23AF01084-00

### Waiver Review Process

The Department will post waiver requests to [www.doi.gov/grants/buyamerica](http://www.doi.gov/grants/buyamerica) for the required 15-day public comment period. The Made in America Office will also review all waiver requests. The Department will post approved waivers at [www.doi.gov/grants/BuyAmerica/ApprovedWaivers](http://www.doi.gov/grants/BuyAmerica/ApprovedWaivers). The Service will notify Recipients of their waiver request determination by email.

### Definitions

*Construction materials* includes an article, material, or supply that is or consists primarily of:

- non-ferrous metals,
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables),
- glass (including optic glass),
- lumber, or
- drywall.

*Construction materials* does **not** include cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

*Domestic content procurement preference* means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

*Infrastructure* includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

*Project* means the construction, alteration, maintenance, or repair of infrastructure in the United States.

## AWARD CONDITIONS

### 1. WSFR Cost Accounting

Cost accounting is at the subaccount level.

### 2. WSFR Wildlife Restoration / Sport Fish Restoration Match

The federal share of the total project costs cannot exceed 75%. The Grant Recipient is eligible to request Federal obligated funds up to but not in excess of an amount equal to 75% of the total project expenditures. See also 2 CFR §200.306.

The recipient has requested to provide an estimated \$155,328.00 in overmatch to cover costs associated with this grant.

## NOTICE OF AWARD (Continuation Sheet)

PAGE 8 of 10

DATE ISSUED

04/28/2023

GRANT NO. F23AF01084-00

### SPECIAL TERMS AND REQUIREMENTS

#### 1. Environmental Compliance Reviews

Recipients and sub-recipients of Federal grants and cooperative agreement awards must comply with the requirements of the National Environmental Policy Act (NEPA), Section 7 of Endangered Species Act (ESA), and Section 106 of the National Historic Preservation Act (NHPA).

### PAYMENTS

#### 1. Domestic Recipients Enrolled in Treasury's ASAP System

The recipient will request payments under this award in the U.S. Treasury's Automated Standard Application for Payment (ASAP) system. When requesting payment in ASAP, your Payment Requestor will be required to enter an Account ID. The number assigned to this award is the partial Account ID in ASAP. When entering the Account ID in ASAP, the Payment Requestor should enter the award number identified in the notice of award, followed by a percent sign (%). Refer to the ASAP.gov Help menu for detailed instructions on requesting payments in ASAP.

### BUDGET AND PROGRAM REVISIONS

#### 1. WSFR Budget and Program Revisions

The recipient is permitted to re-budget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, certain types of post-award changes in budgets and projects shall require the prior written approval of the Service. Refer to 2 CFR 200.308 for additional information on the types of changes that require prior written approval.

### REPORT

#### 1. WSFR TRACS Reporting

The recipient is responsible for entering interim (if required) and final performance report information for this award into the Service's electronic performance reporting system – TRACS (<https://tracs.fws.gov>) and attaching those reports from TRACS into GrantSolutions by the report due date(s) as specified in GrantSolutions. Performance information entered in TRACS must provide quantitative outputs to the approved Standard Objectives and narrative responses to the following questions. If the award includes multiple project statements, the recipient must answer these questions for each project statement. If you need assistance, please contact the WSFR Federal Project Officer identified in this Notice of Award.

1. What progress has been made towards completing the objective(s) of the project?
2. Please describe and justify any changes in the implementation of your objective(s) or approach(es).
3. If applicable, please share if the project resulted in any unexpected benefits, promising practices, new understandings, cost efficiencies, management recommendations, or lessons learned.

## NOTICE OF AWARD (Continuation Sheet)

PAGE 9 of 10	DATE ISSUED 04/28/2023
GRANT NO. F23AF01084-00	

4. For survey projects only: If applicable, does this project continue work from a previous award? If so, how do the current results compare to prior results? (Recipients may elect to add attachments such as tables, figures, or graphs to provide further detail when answering this question).

5. If applicable, identify and attach selected publications, photographs, screenshots of websites, or other documentation (including articles in popular literature, scientific literature, or other public information products) that have resulted from this project that highlight the accomplishments of the project.

6. Is this a project that you wish to highlight for communication purposes?

### 2. Reporting Due Date Extensions

Reporting due dates may be extended for an award upon request to the Service Project Officer identified in the notice of award. The request should be sent by selecting the award in GrantSolutions and selecting send message. The message must include the type of report to be extended, the requested revised due date, and a justification for the extension. The Service may approve an additional extension if justified by a catastrophe that significantly impairs the award Recipient's operations. The recipient must submit reporting due date extension requests through GrantSolutions to the Service Project Officer identified in their notice of award before the original due date. The Service Project Officer will respond to the recipient after approval or denial of the extension request.

### 3. Significant Developments Reports

See 2 CFR §200.329(e). Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, recipients are required to notify the Service in writing as soon as the recipient becomes aware of any problems, delays, or adverse conditions that will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of any corrective action(s) taken or contemplated, and any assistance needed to resolve the situation. The recipient should also notify the Service in writing of any favorable developments that enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

### 4. WSFR Interim Financial Reports

The recipient is required to submit interim financial reports on an annual basis directly in GrantSolutions. The recipient must follow the financial reporting period end dates and due dates provided in GrantSolutions. The interim reporting due dates are available by signing in to GrantSolutions and selecting the menu for Reports>Federal Financial Report. The GrantSolutions financial report data entry fields are the same as those on the SF-425, "Federal Financial Report" form. See also our instructional video on "Completing the Federal Financial Report (SF-425)".

### 5. WSFR Interim Performance Reports

The recipient is required to submit interim performance reports on an annual basis directly in GrantSolutions. The recipient must follow the performance reporting period end dates and due dates provided in GrantSolutions. The interim reporting due dates are available by signing in to GrantSolutions and selecting the menu for Reports>PPR.

### 6. Final Reports

The recipient must liquidate all obligations incurred under the award and submit a *final* financial report in GrantSolutions no later than 120 calendar days after the award period of performance end date. The GrantSolutions financial report data entry fields are the same as those on the SF-425, Federal Financial Report form, <https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html>. See also our instructional video on "Completing the Federal Financial Report (SF425)" [https://fawiki.fws.gov/display/VLSV#VirtualLearningSeriesVideosHome-CompletingtheFederalFinancialReport\(SF-425\)](https://fawiki.fws.gov/display/VLSV#VirtualLearningSeriesVideosHome-CompletingtheFederalFinancialReport(SF-425))

## NOTICE OF AWARD (Continuation Sheet)

PAGE 10 of 10	DATE ISSUED 04/28/2023
GRANT NO. F23AF01084-00	

The recipient must submit a *final* performance report no later than 120 calendar days after the award period of performance end date. Performance reports must contain: 1) a comparison of actual accomplishments with the goals and objectives of the award as detailed in the approved scope of work; 2) a description of reasons why established goals were not met, if appropriate; and 3) any other pertinent information relevant to the project results. Please include the Service award number on all reports.

The recipient must follow the final Federal Financial Report and the final Performance Report reporting period end dates and due dates provided in GrantSolutions. The final reporting due dates are available by signing in to GrantSolutions and selecting the menu for Reports>Federal Financial Report or Reports>FFR.



## SCOPE OF SERVICES

### FISHING PIER

### RIVERFRONT PARK WEST MONROE, LOUISIANA

FEBRUARY 21, 2023

*Substitute provisions  
(with comments) attached  
as 2*

## ENGINEERING SERVICES

1. The design and production of drawings and submittals necessary to construct a fishing pier and gangway to be located at the Riverfront Park in Downtown West Monroe.
2. The site design will be per the layout provided in the Master Plan
3. Site utilities will connect to the City of West Monroe water and sanitary sewer.
4. Submittal preparation necessary for approval from the City of West Monroe.
5. This proposal is based on the recommendations of the geotechnical report that has been prepared for this project.
6. A review meeting at the offices of David Lane Beaird & Associates is included in the proposal to allow the Owner to review the preliminary floor plan of the building and the layout of the site. One day is allowed for this purpose.
7. Periodic construction observations as required are included in this proposal by David Lane Beaird & Associates, Inc.
8. Deliverables shall include all drawings necessary to gain approval from the Local Building Official construct the proposed facility.
9. All International Building Code Third Party review fees shall be billed the Owner at direct cost.
10. Standard rates for each classification are attached hereto on the David Lane Beaird & Associates Rate Sheet and per the General Conditions attached hereto.
11. Expenses not specifically addressed on the rate sheet will be billed at cost include but are not limited to reproduction cost, mileage, meals, and lodging. No reproduction cost, mileage, meals, and lodging are anticipated for this project.
12. Steel or rebar detailing is not included in this quotation. Review of shop drawings is included in this proposal.
13. Payment is due net 30 days from the date of the invoice. Interest at a rate of 1.5% per month will be added to any balance not paid within 30 days.

**SCOPE OF SERVICES  
FISHING PIER  
RIVERFRONT PARK  
WEST MONROE, LOUISIANA**

*Substitute 3  
(with comments)*

**ENGINEERING SERVICES**

1. The design and production of drawings and submittals necessary to publicly bid and thereafter have constructed (with oversight as needed) a fishing pier and gangway to be located at the Riverfront Park in Downtown West Monroe.
2. The site design will be per the layout provided in the Master Plan
3. Site utilities, if any, will connect to the City of West Monroe water and sanitary sewer. **[what constructions are we planning ? Building ? Restroom?]**
4. Submittal preparations as necessary for approval from the City of West Monroe **[as governing body with construction oversight? Or as client?]**.
5. This proposal is based on the recommendations of the geotechnical report that has been prepared for this project. **[already received ?]**
6. A review meeting at the offices of David Lane Beard & Associates is included in the proposal to allow the Owner to review the **[preliminary floor plan of the building ?]** and the layout of the site. One day is allowed for this purpose.
7. Periodic construction observations as required are included
8. Deliverables shall include all drawings necessary to gain approval from the Local Building Official **[City ?]** to construct the proposed facility.
9. All International Building Code Third Party review fees shall be billed the Owner at direct cost. **[City provides this ?][Do we also need fire marshal approval ?]**
10. Standard rates for each classification are attached hereto on the David Lane Beard & Associates Rate Sheet and the General Conditions attached hereto.
11. Expenses not specifically addressed on the rate sheet will be billed at cost, and include but are not limited to reproduction cost, mileage, meals, and lodging (no reproduction cost, mileage, meals, and lodging are anticipated for this project).
12. Steel or rebar detailing is not included in this quotation. **[what is the estimated cost for this ?]** Review of shop drawings is included in this proposal.
13. Payment is due net 30 days from the date of the invoice. Interest at a rate of 1.5% per month will be added to any balance not paid within 30 days.
14. **Deliverables to City include 1 paper copy and an electronic copy [format?] of all Designs, plans and specifications, and Construction Documents produced**

DAVID LANE BEAIRD & ASSOCIATES, INC.  
2023 RATE SCHEDULE FOR PROFESSIONAL SERVICES

EMPLOYEE CLASSIFICATION	POSITION	HOURLY RATE
P-4	Senior Professional Architect/Engineer	\$150.00
P-3	Project Manager	\$145.00
P-2	Professional I	\$125.00
P-1	Professional Intern	\$100.00
T-6	Senior Engineering Technician	\$ 95.00
T-5	Supervisory/Technician	\$ 90.00
T-4	Technician IV	\$ 80.00
T-3	Technician III	\$ 70.00*
T-2	Technician II	\$ 60.00*
T-1	Technician I	\$ 50.00*
A-4	Senior Administrative	\$ 40.00*
A-2, A-3	Clerical	\$ 30.00*
A-1	Assistant Clerical	\$ 25.00*

\* Hourly rates indicated for these non-exempt classifications apply to regular time. If overtime work is required to meet client's schedule, David Lane Beaird & Associates reserves the right to negotiate overtime rates.

"Professional" positions include engineer, architect, scientist, landscape architect, and planner.

"Technician" positions include engineering, planning, GIS, Cad Drafting and information technology.

*\* see attached  
clarifications*

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REIMBURSABLE EXPENSE SCHEDULE

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EXPENSE	COST
Vehicle Mileage	\$.75/mile

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IN-HOUSE REPRODUCTION/PRINTING

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Vellum	\$2.00/sheet
Film Positive	\$5.00/sheet
Bond	\$2.00/sheet
Photocopies	\$0.20/sheet

All other expenses, including contract reproduction/printing, travel and subsistence, parking, communications, equipment rental, postage and overnight mail, and supplies will be reimbursed at actual cost.



DAVID LANE BEARD & ASSOCIATES, INC.  
2023 RATE SCHEDULE FOR PROFESSIONAL SERVICES

at bottom, clarify

"Professional" positions include engineer, architect, scientist, landscape architect, and planner.

"Technician" positions include engineering(**non-licensed**), planning(**non-licensed**), GIS, Cad  
Drafting and information technology.



## GENERAL TERMS AND CONDITIONS

(Architect or Engineer refers to the Design Professional providing service)

**1. Relationship between Architect/Engineer and Client.** Engineer serve as Client's professional engineering consultant in those phases of the Project to which this Agreement applies. The relationship is that of a buyer and seller of professional services and it is understood that the parties have not entered into any joint venture or partnership with the other. The Engineer shall not be considered to be the agent of the Client.

**2. Responsibility of the Architect/Engineer.** Engineer will strive to perform services under this Agreement in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this Agreement or in any report, opinion, document, or otherwise.

Notwithstanding anything to the contrary which may be contained in this Agreement or any other material incorporated herein by reference, or in any agreement between the Client and any other party concerning the Project, the Engineer shall not have control of and shall not be responsible for the means, methods, techniques, sequences or procedures of construction; or the safety, safety precautions or programs of the Client, the construction contractor, other contractors or subcontractors performing any of the work or providing any of the services on the Project. Nor shall the Engineer be responsible for the acts or omissions of the Client, or for the failure of the Client, any contractor or subcontractor, or any other engineer, architect or consultant not under contract to the Engineer to carry out their respective responsibilities in accordance with the Project documents, this Agreement or any other agreement concerning the Project.

Engineer shall determine the amounts owing to the construction contractor and recommend in writing payments to the contractor in such amounts. BY recommending any payment, the Engineer will not thereby be deemed to have represented that exhaustive, continuous or detailed reviews or examinations have been made to check the quality or quantity of the contractor's work.

**3. Responsibility of the Client.** Client shall provide all criteria and full information as to his requirements for the Project, including budgetary limitations. Client shall arrange for Engineer to enter upon public and private property and obtain all necessary approvals and permits required from all governmental authorities having jurisdiction over the Project.

Client shall give prompt written notice to the Engineer whenever Client observes or otherwise becomes aware of any development that affects the scope or timing of Engineer's services, or any defect or nonconformance in the work of any construction contractor.

Client shall examine all documents presented by Engineer, obtain advice of an attorney or other consultant as Client deems appropriate for such examinations and provide decisions

pertaining thereto within a reasonable time so as not to delay the services of the Engineer.

**4. Designation of Authorized Representatives.** Each party shall designate one or more persons to act with authority in its behalf with respect to appropriate aspects of the Project. The persons designated shall review and respond promptly to all communications received from the party.

**5. Ownership of Documents.** Drawings, specifications, reports and any other documents prepared by Engineer in connection with any or all of the services furnished hereunder shall be the property of Engineer. Engineer shall have the right to retain copies of all documents and drawings for its files. *See attached*

**6. Reuse of Documents.** All documents, including drawings and specifications furnished by Engineer pursuant to this Agreement, are intended for use on the Project only. Client agrees they should not be used by Client or others on extensions of the Project or on any other project. Any reuse, without written verification or adaption by Engineer, shall be at Client's sole risk, and Client shall indemnify and hold harmless Engineer from all claims, damages, losses and expenses, including attorney's fees arising out of or resulting therefrom.

**7. Opinions of Cost.** Since the Engineer has no control over the cost of labor, materials, equipment or services furnished by the contractor, or over the contractor's methods of determining prices, or over competitive bidding or market conditions, the Engineer cannot and does not guarantee that proposals, bids or actual construction costs will not vary from his opinions or estimates of construction costs.

**8. Changes.** Client reserves the right by written change order or amendment to make changes in requirements, amount of work, or engineering time schedule adjustments; and Engineer and Client shall negotiate appropriate adjustments in fee and/or schedule acceptable to both parties to accommodate any changes.

**9. Delays.** If the Engineer's services are delayed by the Client, or for other reasons beyond the Engineer's control, for more than one year, the fee provided for in this Agreement shall be adjusted equitably.

**10. Subcontracts.** Engineer may subcontract portions of the services, but each subcontractor must be approved by Client in writing.

**11. Suspension of Services.** Client may, at any time, by written order to Engineer, require Engineer to stop all, or any part, of the services required by this Agreement. Upon receipt of such an order, Engineer shall immediately comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the services covered by the order. Client, however, shall pay all costs associated with suspension including all costs necessary to maintain continuity and the staff required to resume the services upon expiration of the suspension of work order. Engineer will not be obligated to provide the same personnel employed prior to suspension when the services are resumed in the event the period of any suspension exceeds 30 days. Client will reimburse Engineer for the costs of such suspension and remobilization.

12. **Termination.** This Agreement may be terminated by either party upon 30 days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. This Agreement may be terminated by Client, under the same terms, whenever Client shall determine that termination is in its best interests. Cost of termination, including salaries, overhead and fee, incurred by Engineer either before or after the termination date shall be reimbursed by Client.

13. **Notices.** Any notice of designation required to be given by either party hereto shall be in writing and, unless receipt of such notice is expressly required by the terms hereof, it shall be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed and addressed to the party to whom such notice is directed at such party's place of business or such other address as either party shall hereinafter furnish to the other party by written notice as herein provided.

14. **Indemnification.** Engineer shall indemnify and hold harmless Client from Client's loss or expense, including reasonable attorney's fees for claims for personal injury (including death) or property damage to the extent caused by the sole negligent act, error or omission of Engineer.

Client shall indemnify and hold harmless Engineer from Engineer's loss or expense, including reasonable attorney's fees, for claims for personal injuries (including death) or property damage to the extent caused by the sole negligent act, error or omission of Client.

In the event of joint or concurrent negligence of Engineer and Client, each shall bear that portion of the loss or expense that its share of the joint or concurrent negligence bears to the total negligency (including that of third parties) which caused the personal injury or property damage.

Client shall not be liable to the Engineer, and the Engineer shall not be liable to the Client, for any special, incidental or consequential damages, including but not limited to, loss of use and loss of profit, incurred by either party due to the fault of the other, regardless of the nature of this fault, or whether it was committed by the Client or the Engineer or their employees, agents or subcontractors, by reason of services rendered under this Agreement.

15. **Legal Proceedings.** In the event Engineer's employees are at any time required by Client to provide testimony, answer interrogatories or otherwise provide information ("testimony") in preparation for or at a trial, hearing, proceeding on inquiry ("proceeding") arising out of services that are the subject of this Agreement, where Engineer is not a party to such proceeding, Client will compensate Engineer for its services and reimburse Engineer for all related direct costs incurred in connection with providing such testimony. This provisions shall be of no effect if the parties have agreed in a separate agreement or an amendment to this Agreement to terms which specifically supersede this provision, nor shall this provision apply in the event Client engages Engineer to provide expert testimony or litigation support, which services shall be the subject of a separate agreement or an amendment to this Agreement.

16. **Successors and Assigns.** The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns; provided however, that neither party shall assign this Agreement in whole or in part without the prior written approval of the other.

17. **Insurance.** Within the context of prudent business practices, Engineer shall endeavor to maintain workmen's compensation and unemployment compensation of a form and in an amount as required by state law; comprehensive general liability with limits of at least \$500,000/\$1,000,000; and professional liability insurance with an annual limit of at least \$500,000. Client recognizes that insurance market is erratic and Engineer cannot guarantee to maintain the coverage's identified above.

18. **Information Provided by the Client.** The Engineer shall indicate to the Client the information needed for rendering of services hereunder. The Client may elect to provide this information (including services by others) to the Engineer. In this case, the Client recognizes that the Engineer cannot assure the sufficiency of such information. Accordingly, the Engineer shall not be liable for any claims for injury or loss arising from errors, omissions of inaccuracies in document or other information provided by the Client. In addition the Client agrees to compensate the Engineer for any time spent or expenses incurred in defending such claim or in making revisions to his work as a direct or indirect result of information provided by the Client which is insufficient.

19. **Subsurface Conditions and Utilities.** Client recognizes that a comprehensive sampling and testing program implemented by trained and experienced personnel of Engineer or Engineer's sub consultants with appropriate equipment may fail to detect certain hidden conditions. Client also recognizes that actual environmental, geological and geotechnical conditions that Engineer properly inferred to exist between sampling points may differ significantly from those that actually exist.

Engineer will locate utilities which will affect the project from information provided by the Client and utility companies and from Engineer's surveys. In that these utility locations are based, at least in part, on information from others, Engineer cannot and does not warrant their completeness and accuracy.

20. **Hazardous Materials.** When hazardous materials are known, assumed or suspected to exist at a project site, Engineer is required to take appropriate precautions to protect the health and safety of his personnel, to comply with the applicable laws and regulations and to follow procedures deemed prudent to minimize physical risks to employees and the public. Client hereby warrants that, if he knows or has any reason to assume or suspect that hazardous materials may exist at the project site, he will inform Engineer in writing prior to initiation of services under this Agreement.

Hazardous materials may exist at a site where there is no reason to believe they could or should be present. Client agrees that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. Engineer agrees to notify Client as soon as practically possible should unanticipated hazardous materials or suspected hazardous materials be encountered. Client waives any claim against Engineer and agrees to indemnify, defend and hold Engineer harmless from any claim or liability for injury or loss arising from Engineer's encountering unanticipated hazardous materials for suspected hazardous materials. Client also agrees to compensate Engineer for any time spent and expenses incurred by Engineer in defense of any such claim.



21. **Risk Allocation.** The Client recognizes that Engineer's fee includes an allowance for funding a variety of risks which affect the Engineer by virtue of his agreeing to perform services on the Client's behalf. One of these risks stems from the Engineer's potential for human error. In order for the Client to obtain the benefits of a fee which includes a lesser allowance for risk funding, the Client agrees to limit the Engineer's liability to the Client and all construction contractors arising from the Engineer's professional acts, errors or omissions, such that the total aggregate liability of the Engineer to all those named shall not exceed \$50,000 or the Engineer's total fee for the services rendered on this project, whichever is greater.  
*see attached*
22. **Anticipated Change Orders.** Client recognizes and expects that a certain amount of imprecision and incompleteness is to be expected in construction contract documents; that contractors are expected to furnish and perform work, materials and equipment that may reasonably be inferred from the contract document or from the prevailing custom or trade usage as being required to produce the intended result whether or not specifically called for; and that a certain amount of change orders are to be expected. As long as Engineer provides services in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions, Client agrees not to make any claim against Engineer for cost of these change orders unless these costs become a significant part of the construction contract amount. In no case will Client make claim against Engineer for costs incurred if the change order work is a necessary part of the Project for which Client would have incurred cost if work had been included originally in the contract documents unless Client can demonstrate that such costs were higher through issuance of the change order than they would have if originally included in the contract documents in which case any claim of Client against Engineer will be limited to the cost increase and not the entire cost of the change order.
23. **Payment.** Engineer shall submit monthly statements to Client. Payment in full shall be due upon receipt of the invoice. If payments are delinquent after 30 days from invoice date, the Client agrees to pay interest on the unpaid balance at the rate of one percent per month. Payment for Engineer's services is not contingent on any factor except Engineer's ability to provide services in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. If Engineer brings any action at law or in equity to enforce or interpret the terms of this Agreement, of if Engineer must either prosecute or defend any action related to the subject matter of the Agreement, and prevails in such action, then Engineer shall be entitled to reasonable attorney's fees, expenses and costs, including expert witness fees, if applicable.  
*see attached*
24. **Force Majeure.** Neither Client nor Engineer shall be liable for any fault or delay caused by any contingency beyond their control, including, but not limited to, acts of God, wars, strikes, walkouts, fires, natural calamities, or demands or requirements of governmental agencies.
25. **Compliance with Laws.** To the extent they apply to its employees or its services, the Engineer shall comply with all applicable United States, state, territorial and commonwealth laws, including ordinances of any political subdivisions or agencies of the United States, any state, territory or commonwealth thereof.
26. **Separate Provisions.** If any provisions of this Agreement are held to be invalid or unenforceable, the remaining provisions shall be valid and binding.
27. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the principal place of business of the Engineer.
28. **Amendment.** This Agreement shall not be subject to amendment unless another instrument is executed by duly authorized representatives of each of the parties.
29. **Entire Understanding of Agreement.** This Agreement represents and incorporates the entire understanding of the parties hereto, and each party acknowledges that there are no warranties, representations, covenants or understandings of any kind, matter or description whatsoever, made by either party to the other except as expressly set forth herein. Client and Engineer hereby agree that any purchase orders, invoices, confirmations, acknowledgments or other similar documents executed or delivered with respect to the subject matter hereof that conflict with the terms of this Agreement shall be null, void and without effect to the extent they conflict with the terms of this Agreement.

**GENERAL TERMS AND CONDITIONS**  
**(Architect or Engineer refers to the Design Professional providing service)**

[paragraphs to be modified]

**5. Ownership of Documents.** Drawings, specifications, reports and any other documents prepared by Engineer in connection with any or all of the services furnished hereunder shall be the equal property of Engineer **and Client**. Engineer shall have the right to retain copies of all documents and drawings for its files.

**21. Risk Allocation.** The Client recognizes that Engineer's fee includes an allowance for funding a variety of risks which affect the Engineer by virtue of his agreeing to perform services on the Client's behalf. One of these risks stems from the Engineer's potential for human error. In order for the Client to obtain the benefits of a fee which includes a lesser allowance for risk funding, the Client agrees to limit the Engineer's liability to the Client and all construction contractors arising from the Engineer's professional acts, errors or omissions, such that the total aggregate liability of the Engineer to all those named shall not exceed \$50,000 [??? larger ] or the Engineer's total fee for the services rendered on this project, whichever is greater.

**23. Payment; attorney fees in actions..** Engineer shall submit monthly statements to Client. Payment in full shall be due upon receipt of the invoice. If payments are delinquent after 30 days from invoice date, the Client agrees to pay interest on the unpaid balance at the rate of one percent per month. Payment for Engineer's services is not contingent on any factor except Engineer's ability to provide services in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. **[modify remainder as below]**

**If either Engineer or Client brings any action at law or in equity to enforce or interpret the terms of this Agreement, or if either Engineer or Client must either prosecute or defend any action related to the subject matter of the Agreement, and prevails in such action, then the prevailing party shall be entitled to reasonable attorney's fees, expenses and costs, including expert witness fees, if applicable.**