

Plaquemines Parish Government

Parish President
Kirk M. Lepine

Randy A Duke
CPA, CIA, CIGA
Chief Internal Auditor

INTERNAL AUDIT DEPARTMENT

333 F Edward Hebert Blvd., Bldg.203
Belle Chasse, Louisiana 70037
Office (504) 934-6392
Mobile: (504) 669-2274
Fax (504) 934-6394
rduke@ppgov.net

Council Members

District 1 - John L Barthelemy Jr.
District 2 - William "Beau" Black
District 3 - Corey Arbourgh
District 4 - Dr. Stuart J Guey Jr.
District 5 - Benedict "Benny" Rousselle
District 6 - Trudy Newberry
District 7 - Carlton M LaFrance Sr.
District 8 - Richie Blink
District 9 - Mark "Hobbo" Cognevich

MEMORANDUM

To: Council Member Mr. Benny Rousselle
Chair - Audit Committee

Date: August 11, 2022

Council Member Ms. Trudy Newberry
Vice-Chair - Audit Committee Member

Council Member Mr. Mark ("Hobbo") Cognevich
Audit Committee Member

From: Randy A. Duke, C.P.A., CIA, CIGA
Chief Internal Auditor

Re: Plaquemines Port, Harbor and Terminal District ("Port")
Internal Audit of the Port's Contracts and Agreements
Internal Audit Project No. 2022-03

Attached is the internal audit of the Port's Contracts and agreements. This internal audit report details the internal audit objectives, scope, methodology, audit information and provides the internal auditor's findings, observations, recommendations, and conclusions.

I would like to express my appreciation to the Port's Director of Finance for her cooperation and professional assistance provided during this audit.

cc: Mr. Maynard Jackson (Sandy) Sanders, Port Executive Director.
Ms. Chambrel Riley Williams, Port Director of Finance.

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Plaquemines Port, Harbor and Terminal District

Contracts and Agreements

Internal Audit Report Internal Audit Project No. 2022-03

Randy A. Duke, CPA, CIA, CIGA
Chief Internal Auditor
Internal Audit Department

PLAQUEMINES PORT, HARBOR AND
TERMINAL DISTRICT

CONTRACTS AND AGREEMENTS

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Plaquemines Port, Harbor and
Terminal District

Contracts and Agreements

Glossary

PPHTD - Plaquemines, Port, Harbor and Terminal District

PPG - Plaquemines Parish Government Council

Auditor - Plaquemines Parish Internal Auditor

LLA - Louisiana Legislative Auditor

CEA - Cooperative Endeavor Agreement

Public Bid Law – Louisiana Public Bid Law

COSO - Committee of Sponsoring Organizations

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EXECUTIVE SUMMARY

This executive summary represents the results of our internal audit work on the Port's Contracts and Agreements.

Our objectives were as follows:

Objectives
➤ To determine compliance with policies, rules, and regulations.
➤ To determine the integrity and accuracy of financial information.
➤ To determine that assets are safeguarded.
➤ To evaluate the efficiency and effectiveness of the Port's contract and agreement processes.
➤ To evaluate the possibility and risk of fraud, waste, and abuse.
➤ To evaluate any possible deficiencies in Internal Controls.
➤ To recommend internal controls to add value and improve operations.

Conclusions:

Preventive and Detective Internal Controls: In my opinion, the Port has good written ¹ preventive and ² detective internal control policies in place.

In the auditor's opinion, regarding the following Observations #'s 1-11 - The auditor's recommendations can be added to the Port's contract / agreement files.

¹ **Preventive Controls:** are designed to avoid errors or fraud in transactions before they occur. In other words, preventive controls attempt to prevent invalid transactions from being processed and assets from being misappropriated. Although controls should be tailored to an organization's specific environment, a common example of an effective preventive control is the segregation of duties.

² **Detective Control** is an accounting term that refers to a type of internal control intended to find problems within a company's processes once they have occurred. Detective controls may be employed in accordance with many different goals, such as quality control, fraud prevention, and legal compliance.

COSO - Control Environment:

Control Environment is the set of standards, processes, and structures that provide the basis for carrying out internal control across the organization. The board of directors and senior management establish the tone at the top regarding the importance of internal control including expected standards of conduct.

A good effective control environment will help the Port reach their goals and objectives. Top-level management’s buy-in concerning the importance of internal controls will help the Port in the following areas.

- Efficiency and effectiveness of operations.
- Safeguarding assets.
- Integrity and accuracy of financial information.
- Compliance with contracts, rules, and regulations.

Observations
³ Overall Background for the Eleven (11) Contracts / Agreements Reviewed: During the review of these contracts /agreements the auditor noted that some important documents should be included in each Port contract or agreement file.
Observation # 1 - JD Russell Consulting, LLC
Recommendations: The Port Contract / Agreement file should contain the following:
<ul style="list-style-type: none"> ➤ Current Insurance Certificates. ➤ Approved Invoices and Timesheets. ➤ A Legal Review should be dated before the Contract has been executed. ➤ The Legislation authorizing the contract and amendments should be dated/adopted before the contract / agreement is executed. ➤ The vendor competitive bid process and the selection scoring worksheet/document. ➤ Signatures executing the contract or agreement should be dated.

³ To avoid excessive repetition, the auditor has listed under Observations a brief background summary that applies to each Contract / Agreement reviewed. See the Review of the Ports Agreements and Contracts, Section V. beginning on page 23, for information regarding the audit findings and the auditor’s review of each Contract / Agreement in greater detail.

- A deliverable checklist, or a similar record showing the Port has received the deliverables that were paid for in accordance with the terms of the agreement.
- Right to Audit Clause allowing Plaquemines Parish Internal Auditor access to records.

Responsibility for Action:

Mr. Maynard Jackson (Sandy) Sanders, Executive Director, Ms. Chambrel Riley, Director of Finance.

Management Response:

The Port agrees with the internal auditor’s recommendations. Legal review was performed but the process will now improve due to the Port hiring in-house attorney. A RFQ process was completed for this contract to create a competitive atmosphere. Technical issues prevented access to all documents.

Observation # 2 - Jerri’s Janitorial Service

Recommendations: The Port Contract / Agreement file should contain the following:

- Current Insurance Certificates.
- The bid process for Contracts and Agreements between \$10,000 and \$30,000 should be in accordance with LLA Best Practice, three (3) bids.
- Approved Invoices and Timesheets.
- A Legal Review should be dated before the Contract has been executed.
- A deliverable checklist, or a similar record showing the Port has received the deliverables that were paid for in accordance with the terms of the agreement.
- Right to Audit Clause allowing Plaquemines Parish Internal Auditor access to records.

Responsibility for Action:

Mr. Maynard Jackson (Sandy) Sanders, Executive Director, Ms. Chambrel Riley, Director of Finance.

Management Response:

The Port agrees with the internal auditor's recommendations. Legal review was performed but the process will now improve due to the Port hiring in-house attorney. The total contract cost is less than \$10,000. Technical issues prevented access to all documents.

Observation # 3 - KDC Enterprises, LLC

Recommendations: The Port Contract / Agreement file should contain the following:

- Current Insurance Certificates.
- Approved Timesheets.
- The vendor competitive bid process and the selection scoring worksheet/document.
- A Legal Review should be dated before the Contract has been executed.
- A deliverable checklist, or a similar record showing the Port has received the deliverables that were paid for in accordance with the terms of the agreement.
- Right to Audit Clause allowing Plaquemines Parish Internal Auditor access to records.

Responsibility for Action:

Mr. Maynard Jackson (Sandy) Sanders, Executive Director, Ms. Chambrel Riley, Director of Finance.

Management Response:

The Port agrees with the internal auditor's recommendations. Legal review was performed but the process will now improve due to the Port hiring in-house attorney. Technical issues prevented access to all documents.

Observation # 4 - Kyle Associates, LLC

Recommendations: The Port Contract / Agreement file should contain the following:

- Current Insurance Certificates.
- Signatures executing the contract or agreement should be dated.

- A Legal Review should be dated before the Contract has been executed.
- The vendor competitive bid process and the selection scoring worksheet/document.
- A deliverable checklist, or a similar record showing the Port has received the deliverables that were paid for in accordance with the terms of the agreement.
- Right to Audit Clause allowing Plaquemines Parish Internal Auditor access to records.

Responsibility for Action:

Mr. Maynard Jackson (Sandy) Sanders, Executive Director, Ms. Chambrel Riley, Director of Finance.

Management Response:

The Port agrees with the internal auditor’s recommendations. Legal review was performed but the process will now improve due to the Port hiring in-house attorney. A RFQ process was completed for this contract to create a competitive atmosphere. Technical issues prevented access to all documents.

Observation # 5 - Latter & Blum Services

Recommendations: The Port Contract / Agreement file should contain the following:

- Current Insurance Certificates.
- Approved Timesheets.
- Signatures executing the contract or agreement should be dated.
- A Legal Review should be dated before the Contract has been executed.
- The vendor competitive bid process and the selection scoring worksheet/document.
- A deliverable checklist, or a similar record showing the Port has received the deliverables that were paid for in accordance with the terms of the agreement.
- Right to Audit Clause allowing Plaquemines Parish Internal Auditor access to records.
- The contract or agreement should show the **maximum cost** amount allowed.

Responsibility for Action:

Mr. Maynard Jackson (Sandy) Sanders, Executive Director, Ms. Chambrel Riley, Director of Finance.

Management Response:

The Port agrees with the internal auditor’s recommendations. Legal review was performed but the process will now improve due to the Port hiring in-house attorney. Technical issues prevented access to all documents.

Observation # 6 - Intelligent Transportation System, LLC

Recommendations: The Port Contract / Agreement file should contain the following:

- Current Insurance Certificates.
- Approved Timesheets.
- The vendor competitive bid process and the selection scoring worksheet/document.
- Document the reason for only one (1) bidder for these services
- A Legal Review should be dated before the Contract has been executed.
- A deliverable checklist, or a similar record showing the Port has received the deliverables that were paid for in accordance with the terms of the agreement.
- Right to Audit Clause allowing Plaquemines Parish Internal Auditor access to records.

Responsibility for Action:

Mr. Maynard Jackson (Sandy) Sanders, Executive Director, Ms. Chambrel Riley, Director of Finance.

Management Response:

Observation # 7 - Infinity Engineering Consultants, LLC

Recommendations: The Port Contract / Agreement file should contain the following:

- Current Insurance Certificates.
- Written monitoring is more sufficient evidence than visual monitoring.
- The vendor competitive bid process and the selection scoring worksheet/document.
- Document the reason for only one (1) bidder for these services
- Document the reasons why the amendments occurred after the bid process was completed. Substantial cost amendments can affect the competitive process.
- Approved Invoices and Timesheets.
- The Legislation authorizing the contract and amendments should be dated/adopted before the contract / agreement is executed.
- A Legal Review should be dated before the Contract has been executed.
- A deliverable checklist, or a similar record showing the Port has received the deliverables that were paid for in accordance with the terms of the agreement.
- Right to Audit Clause allowing Plaquemines Parish Internal Auditor access to records.
- The contract or agreement should show the **maximum cost** amount allowed.

Responsibility for Action:

Mr. Maynard Jackson (Sandy) Sanders, Executive Director, Ms. Chambrel Riley, Director of Finance.

Management Response:

The Port agrees with the internal auditor’s recommendations. Legal review was performed but the process will now improve due to the Port hiring in-house attorney. This was an ongoing project that ran into many issues. There was a cost benefit to keeping the same engineer on the project. Issues were uncontrollable by Port and Engineering company. The Law doesn’t require design phases to be bid. The Port recognizes its best practice to create a competitive atmosphere.

Observation # 8 - Evalv Intelligence, LLC

Recommendations: The Port Contract / Agreement file should contain the following:

- Current Insurance Certificates.
- The vender bid process and selection scoring worksheet/document.
- Approved Timesheets.
- A Legal Review should be dated before the Contract has been executed.
- Right to Audit Clause allowing Plaquemines Parish Internal Auditor access to records.
- The contract or agreement should show the **maximum cost** amount allowed.
- A deliverable checklist, or a similar record showing the Port has received the deliverables that were paid for in accordance with the terms of the agreement.

Responsibility for Action:

Mr. Maynard Jackson (Sandy) Sanders, Executive Director, Ms. Chambrel Riley, Director of Finance.

Management Response:

The Port agrees with the internal auditor's recommendations. Legal review was performed but the process will now improve due to the Port hiring in-house attorney. A RFQ process was completed for this contract to create a competitive atmosphere. Technical issues prevented access to all documents.

Observation # 9 - Dwyer, Cambre & Suffem

Recommendations: The Port Contract / Agreement file should contain the following:

- Current Insurance Certificates.
- The vendor competitive bid process and the selection scoring worksheet/document.

- Approved Invoices and Timesheets.
- A Legal Review should be dated before the Contract has been executed.
- A deliverable checklist, or a similar record showing the Port has received the deliverables that were paid for in accordance with the terms of the agreement.
- Right to Audit Clause allowing Plaquemines Parish Internal Auditor access to records.
- The contract or agreement should show the **maximum cost** amount allowed.

Responsibility for Action:

Mr. Maynard Jackson (Sandy) Sanders, Executive Director, Ms. Chambrel Riley, Director of Finance.

Management Response:

The Port agrees with the internal auditor’s recommendations. Contract states the maximum cost amount allowed (legal services adopted budget)

Observation # 10 - Sustainability Partners

Recommendations: The Port Contract / Agreement file should contain the following:

- Documentation showing compliance with the Current CEA AG test.
- Reasons for the complicated and confusing CEA agreement that seems to result in a lack of transparency.
- It appears that the Louisiana Attorney General (AG) has been asked to issue an Opinion on certain financial and operational aspects of this CEA agreement. The LLA may be looking into the agreement as well. The result of these investigations should be resolved and documented in the CEA agreement file.
- Current Insurance Certificates.
- The Legislation authorizing the contract and amendments should be dated/adopted before the contract / agreement is executed.
- The vendor competitive bid process and the selection scoring worksheet/document.
- Expenditure documents.

- A Legal Review should be dated before the Contract has been executed.
- A deliverable checklist, or a similar record showing the Port has received the deliverables that were paid for in accordance with the terms of the agreement.
- Right to Audit Clause allowing Plaquemines Parish Internal Auditor access to records.
- The CEA should show the **maximum cost** amount allowed.

Responsibility for Action:

Mr. Maynard Jackson (Sandy) Sanders, Executive Director, Ms. Chambrel Riley, Director of Finance.

Management Response:

The Port agrees with the internal auditor's recommendations. Legal review was performed but the process will now improve due to the Port hiring in-house attorney. Technical issues prevented access to all documents. Agreement may be complicated and confusing to some but for many the terms of the agreement is simply unique. The Port's management has not received any results of the investigation from the stated state agency or the Port Commission.

Observation # 11 - Louisiana 23 Development Company, L.L.C.

Recommendations: The Port Contract / Agreement file should contain the following:

- Current Insurance Certificates.
- Revenue and Expenditure documents.
- State and Federal funding.
- The vendor competitive bid process and the selection scoring worksheet/document.
- A Legal Review should be dated before the Contract has been executed.
- A deliverable checklist, or a similar record showing the Port has received the deliverables that were paid for in accordance with the terms of the agreement.

- Right to Audit Clause allowing Plaquemines Parish Internal Auditor access to records.
- The contract or agreement should show the **maximum cost** amount allowed.

Responsibility for Action:

Mr. Maynard Jackson (Sandy) Sanders, Executive Director, Ms. Chambrel Riley, Director of Finance.

Management Response:

The Port disagrees with the Internal Auditor’s recommendations. This agreement is an Exclusivity agreement. LA 23 is granted exclusivity to facilitate funding and operational partners in support of the ongoing development of the Container Terminal. The agreement states in item #10 At no point during the agreement shall LA23 be compensated by the Port for any services provided or expenses for work performed. The Port has not issued any payments to this company.

INTERNAL AUDIT REPORT

I. Audit Initiation

In accordance with the Plaquemines Parish Government Charter Section 7.08: Audit Committee and the approved Internal Audit Department’s annual audit plan for 2022, I have performed the following Internal Audit of the Port’s Contracts and Agreements.

II. Background

Plaquemines Port, Harbor and Terminal District

Located at the mouth of the Mississippi River, our port provides water access to 33 states - allowing businesses to benefit from barge, rail, and interstate highway access across much of the United States. Plaquemines Port is perfectly positioned to serve the expanding global markets for oil & gas, grain, coal, chemicals and more. In addition, our port offers 14 major anchorages and thousands of acres of properties available for development of container ports, bulk & breakbulk operations, docks and much more.

History

The roots of Plaquemines Port Harbor & Terminal District date back to 1699 with the settlement of La Balize. This small community was located near present-day Pilot town, just upriver from the Head of Passes of the Mississippi River. Centered around a French fort, La Balize was established 19 years before New Orleans and was inhabited mostly by hunters and fishermen. Many of these early settlers also served as pilots for ships – a tradition still carried on in the area today by various pilot associations.

The word "Plaquemine" is French Creole and was derived from the Atakapa Native American word "piakimin" (their name for a persimmon). A persimmon is an orange-colored fruit resembling a plum – although it is too sour to be eaten unless the fruit is at the peak of ripeness.⁴

III. Planning

Audit Planning

- Developed objectives, scope, timing, and resource allocations.
- Considered the Port’s risks relevant to contracts and agreements.
- Reviewed Port Policies.

⁴ From the Plaquemines Port, Harbor and Terminal District website.

➤ Reviewed rules and regulations associated with contracts and agreements.
➤ Reviewed the Louisiana State Constitution Article 7 § 14.
➤ Reviewed the Supreme Court’s Cabela’s Decision on Article VII, §14 and the Attorney General’s Three-Prong Tes.;
➤ Reviewed risks (what can go wrong) associated with contracts and agreements.
➤ Reviewed Louisiana Legislative Auditor’s (LLA) contract best practices.
➤ Considered the adequacy and effectiveness of the activity’s governance, risk management, and control processes compared to the COSO framework.
➤ Considered the opportunities for adding value by making improvements to the contract and agreement process.

IV. Objectives, Scope, and Methodology

Our objectives were as follows:

Objectives
➤ To determine compliance with policies, rules, and regulations.
➤ To determine the integrity and accuracy of financial information.
➤ To determine that assets are safeguarded.
➤ To evaluate the efficiency and effectiveness of the Port’s contract and agreement processes.
➤ To evaluate the possibility and risk of fraud, waste, and abuse.
➤ To evaluate any possible deficiencies in Internal Controls.
➤ To recommend internal controls to add value and improve operations.

Scope
➤ The Port’s management provided the list of contracts and agreements. From this list the auditor selected eleven (11) contracts and agreements to review. The Port provided contract and agreement supporting documents. Evidence to support our conclusions was gathered from inquiries, observations, the review and testing of source documentation and tests of key controls surrounding the contracting process.
➤ The Internal Auditor considered the possibility of fraud, waste, and abuse within the contracting process. In addition, the scope of the internal audit included the consideration of systems, records, personnel, physical properties, and other information necessary to achieve the internal audit objectives.

Methodology
✓ Determine compliance with policies, rules, resolutions and ordinances, other regulations, state statutes and best practices.
✓ Determine if deliverables have been received.
✓ Review for accuracy and reasonableness, invoices, and timesheets.
✓ Determine compliance with the CEA current AG test.
✓ Determine the risk of fraud, waste, and abuse.
✓ Determine any deficiencies in internal controls.
✓ Determine assets are being safeguarded.
✓ Recommend improvements.
Documents Reviewed
➤ Contracts, agreements, and other supporting documents.
➤ Parish Resolutions and Ordinances.
➤ Policies and Procedures.
➤ LLA Best Practices.
➤ The Supreme Court’s Cabela’s Decision on Article VII, §14 and the Attorney General’s Three-Prong Test.
➤ The Louisiana Public Bid Law, and
➤ The Louisiana State Legislature for Consulting Contracts Louisiana RS:39: §1621.

V. **Audit Information and Analysis**

BEST PRACTICE LOUISIANA LEGISLATIVE AUDITOR (LLA)
<p>LLA States: Although the Louisiana Public Bid Law does not require services to be bid, a competitive atmosphere ensures that fees paid for services are cost-effective. Therefore, management is to use the dollar thresholds contained in the Public Bid Law [R.S 38:2211-2226] as a guide in contracting for services. At least three telephone or facsimile quotations are to be obtained for services costing between \$10,000 and \$30,000, and bids should be solicited/obtained for the purchase of services exceeding \$30,000. Any exception to this policy must be approved by the board/council in an open meeting.</p>
<p>LLA States: Local governments and political subdivisions are not required to advertise, receive bids, or engage in competitive negotiations for contracts for professional services. Nevertheless, sound practice dictates seeking the best price available for the service sought to be performed. Sound practices include seeking quotes, using an RFP process, or simply following the Public</p>

Bid Law.

STATE AND LOCAL LEGISLATION / REGULATIONS

Ordinance 15-138

The Ordinance states the following:

It hereby establishes the following policy regarding seeking professional services, including but not limited to legal, engineering, consulting and architectural services exceeding \$50,000:

It hereby establishes the following policy regarding seeking professional services, including but not limited to **legal, engineering, consulting and architectural services exceeding \$50,000:**

1. The Port Administration shall submit the entire proposal package to the Council Secretary for review by the Council.
2. The Port Administration shall solicit proposals from at least three firms, companies or individuals providing the desired services prior to the employment or submission to this Council for authority to enter a contract for said services.
3. The Port Administration shall submit the proposals immediately upon receipt of same to the Council Secretary's Office for review by the Council.
4. Agreements for professional services **over \$50,000** shall not be signed until legislation is adopted by the Council authorizing the Port Executive Director to execute the contract.

Louisiana Revised Statute RS 39:1621

The Statute states the following:

- A. Contracts for consulting services which have a total maximum amount of compensation less than fifty thousand dollars for a twelve-month period may be awarded without the necessity of competitive bidding or competitive negotiation.
- B. Contracts for consulting services which have a total maximum amount of compensation of fifty thousand dollars or more for a twelve-month period shall be awarded through a request for proposal process under rules and regulations issued by the office of state procurement. Service requirements shall not be artificially divided to exempt contracts from the **request for proposal process.**

PORT CONTRACT POLICIES

Preventive and Detective Internal Controls: In my opinion, the Port has strong written ⁵ preventive and ⁶detective internal control policies in place.

Contracts

Contracts are reviewed for appropriateness of contract terms and language, signature authorities, evidence of funding and compliance with applicable laws, regulations, executive orders and policies and that agency procurement processes comply with competitive solicitation requirements of law. This policy is guidelines set for Port service contracts. These service contracts include but not limited to legal, engineering, consulting, and architectural services.

Contract Signature Authority

The Port Director or Appointing Authority has signature authority for all Port contracts that are authorized by this policy.

Required Content

- a. Maximum amount of contract and terms of payments to be made.
- b. Dates upon which the contract is to begin and when the contract will terminate
- c. Description of the work to be performed including goals and objectives, deliverables, performance measures, and a monitoring plan.
- d. Circumstances under which the contract can be terminated either with or without cause. Must contain 30-day termination at convenience of the Port unless justified and approved by the Director.
- e. Remedies for default.
- f. Assignability clause.
- g. Anti-discrimination language.

⁵ **Preventive Controls:** are designed to avoid errors or fraud in transactions before they occur. In other words, preventive controls attempt to prevent invalid transactions from being processed and assets from being misappropriated. Although controls should be tailored to an organization's specific environment, a common example of an effective preventive control is the segregation of duties.

⁶ **Detective control** is an **accounting term that refers to a type of internal control intended to find problems within a company's processes once they have occurred.** Detective controls may be employed in accordance with many different goals, such as quality control, fraud prevention, and legal compliance.

- h. When a contract requires reports or deliverables to be received on a specific schedule: the schedule is to be within the specified dates of the contract.

Custodian of Records

The Comptroller is the custodian of record for all Port contracts and CEAs. The Comptroller is responsible for monitoring contract retention and must notify the Deputy Director and/or Director that contract expiration is within 90 days.

Legal Requirement

All contracts and CEAs must be reviewed and recommended for approval by the PPHTD legal counsel prior to submission to the board or execution when applicable.

Procedures

1. Project/Contract.
2. Over \$50,000?
 - a. All Contracts are sent to legal for review and discussion.
 - b. Yes – Submit proposal to commissioners: Go to Step 3.
 - c. No- Executive Director’s execution- Once reviewed by legal parties fulfill their duties.
3. Commissioners.
 - a. Yes, to the Proposed project- Go to Step 4.
 - b. No to the Proposed Project- Renegotiate Contract/Project (Plan B if necessary implied).
4. RFP/RFQ Process.
5. Contract Selection/Suggestion.
6. Commissioners Approval (VOTE).
7. Executive Director Execution.

LA Public Bid Law does not require services to be bid, a competitive atmosphere ensures that fees paid for services are cost effective. Therefore, **Ordinance 15-138** is to ensure management use the dollar thresholds provided in the legislation as a guide in contracting for services. Any exception to this policy must be approved by the board in an open meeting.

Management is to implement and monitor controls over contracts to ensure the services are necessary and that contracting out the service is the most cost-effective manner for accomplishing its objectives.

Also, management must ensure that:

- An open and competitive atmosphere is to be provided when contracting for services.
- Contracts with related parties (family and business interests) are strictly prohibited.
- Payments are made in accordance with the terms and conditions of the contract
- Any additions or modifications of existing contracts are presented to the board for approval.
- Contracts and related documentation are maintained in an organized manner and in a central location.

Checklist for RFP Activities

- Submit draft RFP for review and approval from Port Commissioners.
- Receive approval from Port Commissioners via Email and or Announcement.
- Advertise in Gazette and On Port Website.
- Vendor questions and agency answers.
- RFP addenda.
- Receive proposals by Deadline.
- Evaluate proposals according to criteria stated within RFP.
- Score the proposals according to the scoring method within RFP.
- Select proposal.
- Send award/ reject letters.

- Port Commission approval of contract.

REVIEW OF PORT AGREEMENTS AND CONTRACTS

Scope: Based upon the audit information provided by the Plaquemines Port, Harbor, and Terminal District, the Internal Auditor noted the following during the review of these eleven (11) agreements and contracts.

1. JD Russell Consulting, LLC⁷

The Plaquemines Port, Harbor, and Terminal District and JD Russell Consulting, LLC entered into a **Consulting Agreement** effective on June 1, 2020 thru May 31, 2021. The agreement was for one (1) year from the effective date unless extended by mutual written agreement through the time of the extension amendment to the Agreement, and subject to the Council’s approval.

Consultant’s total charges for this work, including but not limited to all fees, service charges, costs and/or expenses, **shall not exceed \$123,920.00.**

Legal Review: The auditor noted that there was clear evidence of a Legal Review of this contract. A stamp was on the signature page of the contract stating, **“Approved as to Legal Contents”**.

- ❖ The auditor noted that the Legal approval wasn’t dated to indicate that the Legal review was performed before the contract was executed.

Resolution NO. 20-139 was adopted on Thursday, **June 11, 2020** authorizing this Consulting agreement.

- ❖ It appears that this **Resolution NO. 20-139**, was adopted after the effective date of the agreement on **June 1, 2020.**

EXHIBIT A SCOPE OF WORK AND PROJECT SCHEDULE

Phase 1: Policy Assessment, Analysis and Recommendations.
Phase 2: Policy Training, Workshops & Equity Initiatives.
Phase 3: Policy Development, Implementation and Compliance.

- ❖ **Inspection by the Legislative Auditor:** The auditor would recommend that the stated

⁷ See JD Consulting, LLC, Contract for further detail.

language in the contract under the **Inspection by the Legislative Auditor** Section include the following language: that the Plaquemines Parish Government's Internal Auditor has the right to inspect, examine the Consultant's and/or conduct an audit of all books, accounts and records of the Consultant pertaining to the performance of the Consultant's obligations hereunder and the compensation due to be received.

❖ **Approved Invoices and Timesheets** - The auditor did not find documented evidence of approved invoices and timesheets received from JD Consulting, LLC.

❖ **Insurance Coverage:** The auditor did not find documented evidence of current Insurance coverage / certificates.

❖ **Executed Agreement Signatures:** The Signatures to execute the agreement were not dated.

❖ **Bid Process:** The auditor did not find documented evidence of a competitive bid process.

❖ **Deliverables:** The auditor did not find documented evidence of a deliverable checklist or a similar record showing that the Port has received the deliverables that were paid for in accordance with the agreement.

2. Jerri's Janitorial Services - Contract # 1⁸

Project Description: To furnish weekly commercial **cleaning services** to the Port offices for a period of one year beginning on **March 1, 2021 thru February 28, 2022**. The Plaquemines Port Harbor & Terminal District (Port) has considered the bid submitted by you for the above-described work.

You are hereby notified that your Bid has been accepted for the services set forth in the attachment hereto in the amount of \$ 650.00 per month.

❖ **Bid Process:** The auditor reviewed the Port's Bid documentation for cleaning services. The auditor noted that a quote of \$902.00 per month was received on January 21, 2021, from Jani King cleaning services and a proposal quote of \$650.00 per month was received on February 2, 2022 from Jerri's Janitorial Services. Based upon this information the Port awarded Jerri's Janitorial Services to do the work.

LLA Best Practice States: Although the Louisiana Public Bid Law does not require services to be bid, a competitive atmosphere ensures that fees paid for services are cost-effective. Therefore,

⁸ See Service agreement for further detail.

management is to use the dollar thresholds contained in the Public Bid Law [R.S 38:2211-2226] as a guide in contracting for services. **At least three telephone** or facsimile quotations are to be obtained for services costing between \$10,000 and \$30,000, and bids should be solicited/obtained for the purchase of services exceeding \$30,000.

❖ **Approved Invoices and Timesheets** - The auditor did not find documented evidence of invoices and timesheets from Jerri's Janitorial Services.

❖ **Insurance Coverage:** The agreement does not appear to mention Insurance Coverage. However, in the auditor's opinion there should be a form of Liability Insurance Coverage or Bond in place.

❖ **Legal Review:** The auditor did not find documented evidence of a dated legal review stamp on the agreement / contract or other supporting legal review documents indicating that Legal Department reviewed the agreement before the agreement was executed.

❖ **Right to Audit Clause:** The auditor did not find documented evidence of a right to audit clause in the contract for the Plaquemines Parish Internal Auditor to have access to **Jerri's Janitorial Services** records.

❖ **Deliverables:** The auditor did not find documented evidence of a deliverable checklist or a similar record showing that the Port has received the deliverables that were paid for in accordance with the agreement.

3. Jerri's Janitorial Services – Contract # 2⁹

Project Description: To furnish weekly commercial **cleaning services** to the Port offices for a period of one year beginning on **March 1, 2022 thru February 28, 2023**.

The Plaquemines Port Harbor & Terminal District (Port) has considered the bid submitted by you for the above-described work.

You are hereby notified that your Bid has been accepted for the services set forth in the attachment hereto in the amount of \$ 650.00 per month.

❖ **Bid Process:** The auditor reviewed the Port's Bid documentation for cleaning services. The auditor noted that a quote of \$902.00 per month was received on January 21, 2021, from **Jani King cleaning services** and a proposal quote of \$650.00 per month was received on February 2, 2022 from **Jerri's Janitorial Services**. Based upon this

⁹ See Service agreement for further detail.

information the Port chose Jerri's Janitorial Services to do the work.

LLA Best Practice States: Although the Louisiana Public Bid Law does not require services to be bid, a competitive atmosphere ensures that fees paid for services are cost-effective. Therefore, management is to use the dollar thresholds contained in the Public Bid Law [R.S 38:2211-2226] as a guide in contracting for services. **At least three telephone** or facsimile quotations are to be obtained for services costing between \$10,000 and \$30,000, and bids should be solicited/obtained for the purchase of services exceeding \$30,000.

❖ **Approved Invoices and Timesheets** - The auditor did not find documented evidence of invoices and timesheets from Jerri's Janitorial Services.

❖ **Insurance Coverage:** The agreement does not mention Insurance coverage. However, in the auditors' opinion there should be a form of Liability Insurance Coverage or Bond in place.

❖ **Legal Review:** The auditor did not find documented evidence of a dated legal review stamp on the agreement / contract or other supporting legal review documents indicating that Legal Department reviewed the agreement before the agreement was executed.

❖ **Right to Audit Clause:** The auditor did not find documented evidence of a right to audit clause in the contract for the Plaquemines Parish Internal Auditor to have access to **Jerri's Janitorial Services** records.

❖ **Deliverables:** The auditor did not find documented evidence of a deliverable checklist or a similar record showing that the Port has received the deliverables that were paid for in accordance with the agreement.

4. KDC Enterprises, LLC (Grant Process)¹⁰

KDC Enterprises, LLC

This Agreement is made and entered into on the 5th day of September 2019 by Plaquemines Port Harbor and Terminal District and KDC Enterprises, LLC, represented by Carol W. Fitch, the Grant Administrator, or Independent Contractor, whose principal place of business is located at 207 South River Road, Port Allen. The Plaquemines Port approves the independent Contractor Agreement of KDC Enterprises, LLC represented by Carol W. Fitch, to perform port security grant administration services on behalf of the Plaquemines Port.

Hourly Rate. The Plaquemines Port shall pay the Grant Administrator during the Term an

¹⁰ See Grant agreement for further detail.

hourly rate of \$75.00 per hour not to **exceed \$30,000 annually**. The Grant Administrator shall keep a detailed and accurate written accurate of the hours spent and the work performed on behalf of the Plaquemines Port.

❖ **Timesheets:** The auditor noted that the KDC Enterprises, LLC timesheets were not signed by the employee and approved by a supervisor. **Attachment I.**

❖ **Insurance Coverage:** The auditor did not find documented evidence of current Insurance certificates.

❖ **Legal Review:** The auditor did not find documented evidence of a dated legal review stamp on the agreement / contract or other supporting legal review documents indicating that Legal Department reviewed the agreement before the agreement was executed.

❖ **Right to Audit Clause:** The auditor did not find documented evidence of a right to audit clause in the contract for the Plaquemines Parish Internal Auditor to have access to **KDC Enterprises, LLC** records.

❖ **Bid Process:** The auditor did not find documented evidence of a competitive bid process.

❖ **Deliverables:** The auditor did not find documented evidence of a deliverable checklist or a similar record showing that the Port has received the deliverables that were paid for in accordance with the agreement.

5. Kyle Associates, LLC¹¹

This **Professional Services Agreement** was entered into on the 12th day of April 2021, by and between Plaquemines Port Harbor and Terminal District and Kyle Associates, LLC. The term of this Agreement shall commence on the effective date of this Agreement and shall terminate 12 months from the effective date unless earlier termination by either party. Either party may terminate this Agreement upon Thirty (30) days prior written notice. The term of this Agreement may be extended with the written consent of the Parties.

In consideration of the Services to be rendered PPHTD shall pay the Professional not to exceed a fee of **Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00)** as negotiated and agreed upon by both parties for the work performed.

❖ **Bid Process:** The auditor did not find documented evidence of a competitive bid process.

¹¹ See Service agreement for further detail.

❖ Insurance Coverage: The Insurance Coverage expired during March and April 2022. The term of this agreement expired in April 2022, unless the agreement was extended by consent of both parties.
❖ Executed Agreement Signatures: The Signatures to execute the agreement were not dated.
❖ Deliverables: The auditor did not find documented evidence of a deliverable checklist or a similar record showing that the Port has received the deliverables that were paid for in accordance with the agreement.
❖ Legal Review: The auditor did not find documented evidence of a dated legal review stamp on the agreement / contract or other supporting legal review documents indicating that Legal Department reviewed the agreement before the agreement was executed.
❖ Right to Audit Clause: The auditor did not find documented evidence of a right to audit clause in the contract for the Plaquemines Parish Internal Auditor to have access to Kyle Associates, LLC records.

6. Latter & Blum Contract¹²
<p>This Services Agreement was entered into on March 11, 2021, between Plaquemines Port Harbor & Terminal District and NAI Latter & Blum, Inc. (“Latter and Blum”). Latter and Blum will use its expertise and best efforts to assemble multiple improved the vacant tracts of land on either side of Louisiana Hwy 23, downriver from the existing port property in Myrtle Grove.</p> <p>The term of this Agreement shall begin on the date of this Agreement and remain in full force and effect for one year, beginning on March 11, 2021 and ending on March 10, 2022. The Port at its discretion can extend the contract upon Council approval for an additional term not to exceed December 31, 2022.</p> <p>Latter & Blum shall provide an itemized detailed invoice demonstrating an accurate accounting of all work completed. Invoices will be submitted monthly and shall be payable upon receipt. The Port agrees to pay Latter and Blum at the following hourly rate: Timesheets shall be submitted to the Port monthly, demonstrating an accurate accounting of all work completed. No work will be completed after hours or on a holiday unless prior approval by the appropriate Port personnel.</p>

¹² See Service agreement for further detail.

❖ **Executed Agreement Signatures:** The auditor did not find documented evidence that this agreement was signed and executed by either party.

Compensation: Latter and Blum shall provide an itemized detailed invoice demonstrating an accurate accounting of all work completed. Invoice will be submitted monthly and shall be payable upon receipt. The Port agrees to pay Latter and Blum at the following hourly rate:

Classification	Hourly Rate
Patrick Egan, Executive Vice President	\$225
Lars Pederson	\$150
Administrative Assistant / Project Manager	\$65

Time sheets shall be submitted to the Port monthly, demonstrating an accurate accounting of all work completed. No work will be completed after hours or on a holiday unless there is prior approval by the appropriate Port personnel.

❖ **Timesheets:** The Latter & Blum timesheets were not signed by the Latter & Blum employee and approved by a supervisor.

❖ **Insurance Coverage:** The auditor found evidence of insurance coverage and certificates.

❖ **Legal Review:** The auditor did not find documented evidence of a dated legal review stamp on the agreement / contract or other supporting legal review documents indicating that Legal Department reviewed the agreement before the agreement was executed.

❖ **Bid Process:** The auditor did not find documented evidence of a competitive bid process.

❖ **Right to Audit Clause:** The auditor did not find documented evidence of a right to audit clause in the contract for the Plaquemines Parish Internal Auditor to have access to Latter & Blum Contract records.

❖ **Deliverables:** The auditor did not find documented evidence of a deliverable checklist or a similar record showing that the Port has received the deliverables that were paid for in accordance with the agreement.

❖ **Maximum Amount:** The contract or agreement should show the maximum amount allowed under the contract.

7. Intelligent Transportation System, LLC¹³

This Services Agreement dated April 1, 2021, between Plaquemines Port Harbor & Terminal District, ("Port) and Intelligent Transportation System, LLC ("ITS"). ITS shall perform the following support for operations and maintenance services. ITS will provide various support for all connected devices and integrated systems at Plaquemines Port Harbor & Terminal District and the continued sustainment of its existing security systems.

This includes support services, operational support and maintenance service for its current Video Surveillance Management System, Operation Systems, Access Control System, Communication System. Cyber Security and Network System hardware, and other components. ITS will also provide professional services related to the design, installation and maintenance of the existing security systems and network-hardware, software, and other components.

The Agreement will begin on the date of this agreement and remain in full force and effect for one year, beginning on April 1st 2021 and ending on March 31, 2022.

As stated in the RFP the Port at its discretion can extend the contract for up to 2 one-year terms not to exceed 3 years total.

This contract shall not exceed **\$ 123,000.00.**

❖ **Timesheets:** The ITS timesheets were not signed by the ITS employee and approved by a supervisor.

❖ **Bid Process:** The auditor reviewed documented evidence of a RFP process in accordance with Port Policies, LLA Best Practice, State Statute and Ordinance 15-138. It is noted that during this RFP process that ITS was the only bidder for the Surveillance Cameras and the IT services.

❖ **Insurance Coverage:** The auditor reviewed the insurance certificates provided by the Port and noted that these had expired in 2018 and 2019.

❖ **Legal Review:** The auditor did not find documented evidence of a dated legal review stamp on the agreement / contract or other supporting legal review documents indicating that Legal Department reviewed the agreement before the agreement was executed.

¹³ See Service agreement for further detail.

❖ **Legal Review:** The auditor noted that on June 5th the Port Attorney sent an email stating the following: “If you need me to provide you a “compare” of these documents to the drafts sent by ITS”. This email does not appear to be sufficient evidence of a Legal Review.

❖ **Right to Audit Clause:** The auditor did not find documented evidence of a right to audit clause in the contract for the Plaquemines Parish Internal Auditor to have access to ITS Contract records.

❖ **Deliverables:** The auditor did not find documented evidence of a deliverable checklist or a similar record showing that the Port has received the deliverables that were paid for in accordance with the agreement.

8. Infinity Engineering Consultants, LLC¹⁴

This Services Agreement ("Agreement") is made as of the **15th day of November, 2018** between Plaquemines Port, Harbor and Terminal District ("Client") and Infinity Engineering Consultants, LLC ("Consultant"). **This agreement was executed and accepted on May 22, 2019.**

Compensation: Client will compensate Consultant for the Services described both in this Agreement. and in Exhibit A ("Port Ship Services Engineering Proposal"), in accordance with Exhibit B ("Infinity Engineering Consultants Rate Sheet"). Compensation does not include costs occasioned by circumstances of performance materially different from those the parties anticipate; changes in the scope, schedule, or suspension of the Services; changes to laws, regulations, ordinances, or any statutory authority; the need to obtain any local licenses, permits, easements, rights-of-way, customs clearance, or other legal or administrative authorizations, or any costs associated with the registration of any branch or legal entity necessary to render the Services; any taxes for withholding, sales taxes in any form, or any other taxes or charges, excluding only taxes based solely upon Consultant’s net income in the country of its organization.

Terms of Payment: Consultant shall bill Client at Client’s address every fourteen (14) days unless otherwise agreed to in writing by Consultant and Client. Payment shall be made by Client within thirty (30) days of receipt by Client of **Consultant’s invoice**. Consultant warrants and guarantees that title to all work, materials and equipment covered by Consultant’s invoice, upon receipt of payment by Client, shall pass to Client free and clear of all liens, claims, security interests or encumbrances. Consultant further warrants and guarantees that any work provided by consultant shall be performed.

¹⁴ See Service agreement for further detail.

<p>❖ Monitoring: Construction monitoring by consultant shall consist of visual observation of the construction work for the purpose of ascertaining that the work is in substantial conformance with the contract documents. Such visits and observation are intended to be both a check and inspection of the Contractor’s work and to confirm that, the Work is proceeding in accordance with the Contract Documents. Based on those observations, the Consultant shall; (1) keep the Client informed about the progress of the Work; (2) advise the Client about observed deficiencies in the Work, and (3) stop work on construction if the work is so deficient as to, in the judgment of consultant, justify such stoppage.</p>
<p>❖ Monitoring: Visual observation may not be sufficient evidence to document and verify that the construction work is being performed in accordance with the terms of the contract.</p>
<p>❖ Deliverables: The Consultant shall submit periodic written reports, at least twice a month on the progress of the work, manpower, and quality of the work. These reports shall detail the dates and times of each site visit by the Consultant and/or its Consultants, weather conditions, areas under construction and other observations made. Copies of photographs taken shall be included in each report. These reports shall not relieve the Consultant of the responsibility to immediately notify the Client of any observed material deficiencies in the Work.</p>
<p>❖ Deliverables: The auditor did not find documented evidence or examples of the Consultant’s written reports.</p>
<p>❖ Approved Invoices and Timesheets: The auditor did not find documented evidence of the Consultants invoices and timesheets.</p>
<p>❖ Resolution NO. 21-268: A resolution adopted on November 4, 2021 approving and authorizing Mr. Maynard J. Sanders, Port Executive Director, to accept proposal presented by Infinity Engineering Consultants, LLC, for the bidding and construction phase for the B-3 Relocation 5-year Capital Improvement Project. Resolution No. 18-322 authorized Maynard J. “Sandy” Sanders, Port Executive Director, entered into a professional service agreement with Infinity Engineering Consulting, LLC, for services needed for the moving of Port Ship Service, Inc. business facilities at Tract B-3 to Tract H owned by Plaquemines Port. The design phase is completed, and bidding and construction phase is essential for the continuous and completion of the project.</p>
<p>❖ Resolution NO. 21-268, adopted on November 4, 2021, appears to be after the contract was executed on May 22, 2019.</p>
<p>❖ Bid Process: The auditor found One (1) Proposal from Infinity Engineering Consultants, LLC. This proposal was authorized by Resolution NO. 21-268 on November 4, 2021.</p>

❖ **Insurance Coverage:** The auditor did not find documented evidence of current insurance certificates/coverage.

❖ **Legal Review:** The auditor did not find documented evidence of a dated legal review stamp on the agreement / contract or other supporting legal review documents indicating that Legal Department reviewed the agreement before the agreement was executed.

❖ **Right to Audit Clause:** The auditor did not find documented evidence of a right to audit clause in the contract for the Plaquemines Parish Internal Auditor to have access to the Infinity Engineering Consultants records.

Amendments

❖ **Amendments** to the original contract amount could have been known. This lack of cost data before the original contract was executed could have affected the vendor bid selection process.

February 25, 2019: Infinity Engineering Consultants, LLC submitted the following proposed amendment for additional engineering services - Reference: Port Ship Services Inc. Myrtle Grove Facility. The purpose of this document is to identify the additional items to be added to our previously proposed scope and as a proposal for the additional professional services fees required to provide the design, bidding, and construction administration services associated with the additional facility elements to be associated with the relocation of the Port Ship Services (PSS) Myrtle Grove facility.

❖ **Resolution:** The auditor did not find documented evidence of Parish *legislation* approving the February 25, 2019, amendment to the contract.

March 21, 2019, Infinity Engineering Consultants, LLC submitted a proposed amendment for additional engineering services - Reference: Port Ship Services Inc. Myrtle Grove Dock Facility.

❖ **Resolution:** The auditor did not find documented evidence of Parish *legislation* approving the March 21, 2019, amendment to the contract.

December 15, 2020, Infinity Engineering Consultants, LLC submitted the following proposed amendment for additional engineering services - Reference: Port Ship Services Inc. Myrtle Grove Dock Facility.

❖ **Resolution:** The auditor did not find documented evidence of Parish *legislation* approving the December 15, 2020, amendment to the contract.

❖ **Maximum Amount:** The contract or agreement should show the maximum amount allowed under the contract.

9. Evalv Intelligence, LLC¹⁵

This Master Service Agreement effective date of March 23, 2022, by and between Evalv IQ, LLC (“Evalv”) and the Plaquemines Port Harbor & Terminal District (“client”). This Agreement applies to Client's purchases of CISO Services. “CISO Services” shall refer to the services designed to protect Clients System, as well as all Equipment and Subscriptions used, as defined in the Statement of Work (“SOW”).

Term: This Agreement shall become effective between the Parties on the Effective Date of March 23, 2022, and continue for the length of the Term set forth on the SOW (the "Term"). Following the expiration of the Term, the Parties may agree to renew the Agreement for another Term by written, mutual consent.

❖ **Timesheets:** The auditor did not find documented evidence of approved timesheets.

❖ **Scoring worksheet:** The bid process selection scoring documentation should be included in the contract and agreement files.

❖ **Insurance Coverage:** The auditor did not find documented evidence of current insurance coverage.

❖ **Legal Review:** The auditor did not find documented evidence of a dated legal review stamp on the agreement / contract or other supporting legal review documents indicating that Legal Department reviewed the agreement before the agreement was executed.

❖ **Legal Review:** The auditor reviewed the email dated March 22, 2022, and in my opinion, this is not sufficient evidence of a Legal review. The email states: “Chambrel: Here's the MSA and SOW I have edited and a compare of their most recent version (which you haven't seen) and my edited version”.

❖ **Right to Audit Clause:** The auditor did not find documented evidence of a right to audit clause in the contract for the Plaquemines Parish Internal Auditor to have access to Evalv Contract records.

❖ **Deliverables:** The auditor noted that Evalv does provide updates on the status of the project as required by the agreement.

¹⁵ See Service agreement for further detail.

❖ **Maximum Amount:** The contract or agreement should show the maximum amount allowed under the contract.

10. Dwyer, Cambre & Suffem¹⁶

EXTENSION AGREEMENT

This **Extension Agreement** is made and is effective on January 1, 2022 between Plaquemines Port, Harbor & Terminal District and Dwyer, Cambre, & Suffem. In consideration of the mutual covenants contained in this agreement, the parties agree as follows: The Agreement expires on December 31 2021 and the parties desire to extend and continue said Agreement shall be extended for an additional term of 1 year Commencing upon the expiration of the original term and expiring on December 31 ,2022. This extension shall be on the same terms and conditions as contained in the **Original Agreement**.

❖ **Approved Invoices and Timesheets:** The auditor did not find documented evidence of Dwyer, Cambre & Suffem invoices and timesheets.

❖ **Bid Process:** The auditor did not find documented evidence of a competitive bid process.

❖ **Insurance Coverage:** The auditor did not find documented evidence of current insurance coverage.

❖ **Legal Review:** The auditor did not find documented evidence of a dated legal review stamp on the agreement / contract or other supporting legal review documents indicating that Legal Department reviewed the agreement before the agreement was executed.

❖ **Deliverables:** The auditor did not find documented evidence of a deliverable checklist or a similar record showing that the Port has received the deliverables that were paid for in accordance with the agreement.

❖ **Maximum Amount:** The contract or agreement should show the maximum amount allowed under the contract.

11. Sustainability Partners CEA¹⁷

On March 24, 2021, Plaquemines Port, Harbor & Terminal District entered into a Cooperative

¹⁶ See Legal agreement for further detail.

¹⁷ See CEA agreement for further detail.

Endeavor Agreement (CEA) with Sustainability Partners (SP). This CEA sets forth the General Terms and Conditions attached as **Exhibit 1** that apply to sustainability and related services to be provided by SP or an **affiliate** (Louisiana 23 Development Company, L.L.C.) as described in each subsequently executed USA Service Addendum identified as an **Exhibit 2** to this CEA and subject to acceptance pursuant to one or more Certificates of Acceptance identified as an **Exhibit 4** to this CEA for installed solution components contemplated by the corresponding Service Addendum.

- ❖ **CEA:** The CEA appears to be confusing and overly complicated which can result in a lack of transparency.
- ❖ **Risks:** The more complicated a transaction or agreement the higher the risk of an adverse event happening.
- ❖ **Attorney General and LLA Opinions:** It appears that the Louisiana Attorney General has been asked to issue an Opinion on certain financial and operational aspects of this CEA Agreement. The LLA may be looking into this agreement as well. The results of these investigations should be resolved, and documented in the CEA agreement file.

Cooperative Endeavor Agreements

Current AG Test

The entity spending the funds must have the legal authority to do so and must be able to show:

1. A public purpose for the expenditure or transfer that comports with the governmental purpose that the public entity has legal authority to pursue.
2. That the expenditure or transfer, taken as a whole, does not appear to be gratuitous; and
3. That the public entity has a demonstrable, objective, and reasonable expectation of receiving at least equivalent value in exchange for the expenditure or transfer of public funds.

- ❖ **CEA:** The auditor did not find documented evidence that this CEA has met the current AG test as stated above.

Resolution NO. 21-194, A Resolution adopted on Thursday, **July 22, 2021** authorizing Maynard J. “Sandy” Sanders, Executive Director of Plaquemines Port, Harbor, Terminal District to execute an agreement with Sustainability Partners. Plaquemines Port, Harbor, Terminal District Seeks to implement the Port’s master Plan.

- ❖ **Resolution NO. 21-194** was adopted after the CEA agreement effective date of **March 24, 2021**.

Resolution NO. 22-124, A Resolution **adopted on May 12, 2022**, authorizing Maynard “Sandy” Sanders, as Executive Director of the Plaquemines Port, Harbor & Terminal District, to accept the Work Production Acceptance which closes Phase 1, and the Certificate of Acceptance which opens Phase 2, per the MUSA contract obligations with Sustainability Partners.

Resolution NO. 21-94, authorized Maynard J. Sanders, Executive Director, to execute an agreement with Sustainability Partners to enhance intermodal connectivity within the Port Jurisdiction.¹⁸ Stage 1 - Phase 1 - deliverables included the prefeasibility and survey documents necessary to complete the 10 % design and subsequent permit application.

The necessary components of Stage 1- Phase 1 (10% Design) are completed and verified.

It is the desire of this Council to authorize Maynard J. Sanders, Executive Director, to accept Stage 1- Phase 1 and approve to move to Stage 1- Phase 2 of the **Rail Extension Project**.

- ❖ **Resolution NO. 22-124 and 21-94** appear to have been adopted after the CEA agreement effective date of **March 24, 2021**.

Exhibit 2 - Service Addendum states the following:

The **rights fee**¹⁹ for the **intellectual Property**²⁰ developed through Louisiana 23 Development Company, L.L.C costs \$8M including a monthly **carrying charge of .85%**.

- ❖ **Bid Process:** The auditor did not find documented evidence of a competitive bid process.

- ❖ **Insurance Coverage:** The auditor did not find documented evidence of current insurance coverage.

¹⁸ Resolution NO. 21-94 appears to be a part of Resolution NO. 22-124.

¹⁹ Basis of Accounting for Intangible Assets - An intangible asset with a finite useful life is amortized and intangible asset with and indefinite useful life is not amortized. The accounting for a recognized intangible asset is based on its useful life to the reporting entity. The useful life of an intangible asset to an entity is the period over which the asset is expected to contribute directly or indirectly to the future cash flows of that entity.

²⁰ Intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce. IP is protected in law by, for example, **patents, copyright and trademarks**, which enable people to earn recognition or financial benefit from what they invent or create. By striking the right balance between the interests of innovators and the wider public interest, the IP system aims to foster an environment in which creativity and innovation can flourish.

²¹ A carrying charge is a cost associated with holding a physical commodity or financial instrument. Examples of carrying charges include insurance costs, storage costs, and interest charges on borrowed funds. These costs are also sometimes referred to as an investment’s cost of carry.

❖ **Legal Review:** The auditor did not find documented evidence of a dated legal review stamp on the agreement / contract or other supporting legal review documents indicating that Legal Department reviewed the agreement before the agreement was executed.

❖ **Right to Audit Clause:** The auditor did not find documented evidence of a right to audit clause in the SP CEA with the Port, that allows the Parish Internal Auditor the right to inspect and review all SP records that pertain to this agreement.

❖ **Deliverables:** The auditor did not find documented evidence of a deliverable checklist or a similar record showing that the Port has received the deliverables that were paid for in accordance with the agreement.

❖ **Maximum Amount:** The contract or agreement should show the maximum amount allowed under the agreement.

12. Louisiana 23 Development Company, L.L.C.²²

The purpose of this Agreement is to contractually obligate Plaquemines Port Harbor and Terminal District (the "Port") and Louisiana 23 Development Company, L.L.C. ("LA23") for purposes of **facilitating financing**, as needed by the Port, in support of the ongoing development of the planned Container Terminal. This agreement was signed and dated on December 20 and 26, 2019 by the Port and Louisiana 23 Development Company, LLC, respectively.

❖ **Financing:** The auditor did not find documented evidence of revenue and expense documents related to **any** financing needed for the Port as of May 2022.

The agreement states: Both Parties agree and acknowledge that the Port's Strategic Plan outlines the Port's planned development, based on public-private partnerships, which allows for the most efficient and economically feasible method to develop the Port, **with limited or no State or Federal funding**.

❖ **Funding:** The auditor did not find documented evidence of **any** state or federal funding used to date.

❖ **Port Expenditures:** The agreement states that at no point during the agreement shall LA23 be compensated by the Port for any services provided or expenses for work performed.

²² See agreement for further detail.

<p>❖ Memo: A Memo dated February 14, 2022 from Louisiana 23 Development Company, L.L.C to the Port shows the Budgetary Estimated Costs of \$50,000,000 and the Total Project Fee Breakdown of \$50,000,000. Attachment II.</p>
<p>❖ Bid Process: The auditor did not find documented evidence of a competitive bid Process.</p>
<p>❖ Approved Expenses: The auditor did not find documented evidence of payments, invoices, checks, bank transfers, etc. paid to Louisiana 23 Development Company, L.L.C by the Port as of May 2022. Attachment II.</p>
<p>❖ Right to Audit Clause: There doesn't appear to be a right to audit clause in the Louisiana 23 Development Company, L.L.C agreement that allows the Parish Internal Auditor the right to inspect and review all Louisiana 23 Development Company, L.L.C records that pertain to this agreement.</p>
<p>❖ Insurance Coverage: The auditor did not find documented evidence of current insurance coverage.</p>
<p>❖ Legal Review: The auditor did not find documented evidence of a dated legal review stamp on the agreement / contract or other supporting legal review documents indicating that Legal Department reviewed the agreement before the agreement was executed.</p>
<p>❖ Deliverables: The auditor did not find documented evidence of a deliverable checklist or a similar record showing that the Port has received the deliverables in accordance with the agreement.</p>
<p>❖ Maximum Amount: The contract or agreement should show the maximum amount allowed under the agreement.</p>

VI. Professional Standards

The audit was conducted in accordance with the Institute of Internal Auditor's Standards for the Professional Practice of Internal Auditing, (the Red Book).

Attachments

Attachment II – Memo PPHTD /Louisiana 23



Memorandum

To: PPHTD Board Members
From: Christopher Fetters
CC: Sandy Sanders
Date – February 14, 2022

Per the request of the PPHTD Board Chair and other members, please find below a breakdown of costs and services incurred by Louisiana 23 Development Company for the establishment of the Mainline Rail Extension Project for the 2021 calendar year. Significant efforts went into the startup of the project including but not limited to:

1. Formation of the project needs and objectives
2. Identification of a funding partner – Sustainability Partners
3. Creation of project materials
4. Commercial analysis and justification of project
5. General project scope, costs estimate, and schedule
6. Contractual agreements

Below is a summary of Pay Application #1 and Pay Application #2 uses of funds by Louisiana 23 Development, under the Developer Fee budgetary line item. This summary does not include descriptions of other line items as that was not the request by the PPHTD Board.

Work Scope Definitions

Project Administration – meetings, correspondence, progress reviews and oversight of the project with the funding partner, regulators, and stakeholders

Disciplines Coordination – establishing and coordinating the necessary disciplines to execute the various phases of the project.

Document Checking – review of project materials

Permitting Authority Consulting – research of critical and applicable regulations, preparation of written and graphical materials.

User Agency Data Coordination – meetings with railroad on operations requirements

Design Services Scoping – settings scopes of work for the basic engineering and design disciplines

Specifications – preparation for agency approval of proposed development, outline specifications, and coordination of other disciplines

Materials Research – identification of potential materials, systems, and equipment

Scheduling – establishing, reviewing, updating project schedules for decision making and design

Cost Estimating – development of probable design, construction and contingency costs for funding review. Work phase costing and milestone identification for letting of funds.

Presentations – project specific materials to funding, operators, and stakeholders.

Design Phase Packages - \$8,000,000 (est)

- Work Package 1 – Engineering design and permitting services
- Work Package 2 – Property acquisition services
- Work Package 3 – Surface Transportation Board licensing and legal services
- Work Package 4 – Track construction (top of sub ballast)
- Work Package 5 – Site civil works and railbed construction (sub ballast)
- Work Package 6 – Construction material testing services
- Work Package 7 – Construction survey services

Budgetary Estimates

1. Total Project - \$50,000,000
2. Design Phase - \$8,000,000
3. Construction - \$34,000,000
4. Contingency - \$8,000,000

Project Fee Breakdown

1. Developer Fee - \$2,500,000 – 5%
2. Project Man. Fee - \$2,500,000 – 5%
3. Design - \$6,500,000 – 13%
4. Construction - \$30,500,000 – 61%
5. Contingency - \$8,000,000 – 16%

Developer Fee Breakdown - \$2,500,000

Pay Application #1 - \$1,004,248

- Project Administration - \$112,500
- Discipline Coordination - \$75,120
- Document Checking - \$44,378
- Permitting Authority Cons - \$131,250
- User Agency Data Coord. - \$62,500
- Design Services Scoping - \$187,500
- Specifications - \$112,500
- Scheduling - \$126,250
- Cost Estimating – \$77,250
- Presentations - \$75,000

Pay Application #2 – \$36,236

- Project Administration - \$23,139
- Discipline Coordination - \$1,875
- Document Checking - \$848
- Permitting Authority Cons - \$875
- User Agency Data Coord - \$1,250
- Design Services Scoping - \$1,875
- Specifications - \$1,875
- Scheduling - \$2,500
- Cost Estimating – \$750
- Presentations - \$1,250

