

BOBBY JINDAL
GOVERNOR



ANGELE DAVIS
COMMISSIONER OF ADMINISTRATION

State of Louisiana
Division of Administration
Office of Contractual Review

February 2, 2009

Ms. Fran Gladden
Undersecretary
Department of Economic Development
Post Office Box 94185
Baton Rouge, LA 70804-9185

Dear Ms. Gladden:

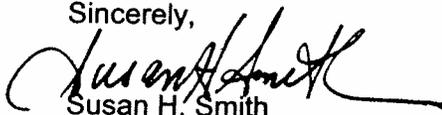
Enclosed are approved copies of the following cooperative endeavor agreement, received in our office on January 28, 2009. This agreement is being approved under the authority of Executive Order BJ 2008-29, issued August 5, 2008.

Department of Economic Development
OCR# 252-900914 CFMS# 674299 South Tangipahoa Parish Port Commission

The OCR and CFMS numbers preceding the cooperative party's name has been assigned by this office and are used as identification for this cooperative endeavor. The CFMS number is the system assigned number for the ISIS Contract Financial Management System. Please use these numbers when referring to the cooperative endeavor in any future correspondence or amendment(s).

We appreciate your continued cooperation.

Sincerely,


Susan H. Smith
Director

SHS/pl

Enclosure

FEB 6 2009

09/24-21
674299

STATE OF LOUISIANA
DEPARTMENT OF ECONOMIC DEVELOPMENT
AND

COOPERATIVE ENDEAVOR AGREEMENT *(line item appropriation)*

THIS COOPERATIVE ENDEAVOR (sometimes herein referred to as “agreement” or as “contract”), has been made and entered into and is effective as of the 1st day of December, 2008, by and between the **LOUISIANA DEPARTMENT OF ECONOMIC DEVELOPMENT** of the State of Louisiana, Capitol Annex Building, 1051 North 3rd Street, P. O. Box 94185, Baton Rouge, La. 70804-9185, hereinafter referred to as “State,” as “LED”, and/or as “Agency”, and **South Tangipahoa Port Commission**, officially domiciled at (163 West Hickory St. Ponchatoula, LA 70454), hereinafter referred to as “Contracting Party”, or as “Recipient Entity”.

ARTICLE I

WITNESSETH:

1.1 WHEREAS, Article VII, Section 14(c) of the Constitution of the State of Louisiana provides that “for a public purpose, the state and its political subdivisions...may engage in cooperative endeavors with each other, with the United States or its agencies, or with any public or private association, corporation, or individual;” and

1.2 WHEREAS, Act 19 of the 2008 Regular Session of the Louisiana Legislature, which was adopted in accordance with Article VII, Section 10, of the Constitution of the State of Louisiana, is the appropriation for the expenditure of State funds, and said Act 19 contains a line item appropriation within the Agency’s budget for the benefit of South Tangipahoa Port Commission of which the sum of Seven hundred fifty THOUSAND & NO/100 (\$750,000) DOLLARS has been allocated for this project, as set forth in Attachment A Plan, which is attached to this agreement and made a part hereof;

1.3 WHEREAS, the agency desires to cooperate with the Contracting Party in the implementation of the Project as hereinafter provided;

1.4 WHEREAS, the public purpose is described as: Infrastructure for the purpose of Business Development.

1.5 WHEREAS, the Contracting Party has provided all required information in accordance with the governor’s Executive Order BJ 2008-30 on accountability for line item appropriations; and is attached to this agreement and made a part hereof by reference as “Attachment E”.

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

ARTICLE II
SCOPE OF SERVICES

2.1 The Contracting Party shall: Attract new company to the port. 17 new jobs will be created in addition to 10,000 tons/first year and 20,000 ton/per year at full capacity. Infrastructure needs are improved roadway, fire sprinkling system in warehouse, modular office space, fencing, and loading racks.

2.2 Deliverables: *Construction of Roadway/driveway/parking area/truck dock pavement improvements, Installation/Construction of fire protection for warehouse including Sprinkler System (tanks), installation of Rail loading rack, construction of Security Fence surrounding storage tanks in rear of building, purchase of Modular Office Space.*

Contracting Party will provide to State written quarterly **Progress Reports (Attachment C)** outlining the Contracting Party's resources, initiatives, activities, services and performance consistent with the provisions, goals and objectives of this agreement and (*monthly or at least quarterly*) **Cost Reports (Attachment D)** which provide detailed cost information outlining the use of appropriated funds. **Attachment C Progress Report** and **Attachment D Cost Report** are attached to this agreement and made a part thereof by reference.

2.3 Budget: The **Budget** for this project is incorporated herein as "**Attachment B**" which is attached hereto and made a part hereof by reference and shows all anticipated revenues and expenditures provided by this cooperative endeavor. The **Budget** for this project shall not exceed the total sum of seven hundred fifty thousand dollars (\$750,000) which sum shall be inclusive of all costs or expenses to be paid by State in connection with the services to be provided under this agreement. This is the total sum that has been appropriated for this project by State. No state funds shall be paid for any one phase of this agreement that exceeds the categories shown on the **Budget** attached as "Attachment B", without the prior approval of State.

ARTICLE III **CONTRACT MONITOR**

3.1 The Contract Monitor for this contract is *Skip Smart* however, the Secretary of LED, or his designee, will designate and may change from time to time, one or more persons on his staff to act as the LED's project representative or as the "Contract Monitor" for this contract, to provide liaison between the Contracting Party and the LED, and to perform various duties which are specifically provided for in this agreement; and any changes in the Contract Monitor shall not require any amendment to this agreement.

3.2 Monitoring Plan: (A) During the term of this agreement, Contracting Party shall discuss with State's Contract Monitor the progress and results of the project, ongoing plans for the continuation of the project, any deficiencies noted, and other matters relating to the project. Contract Monitor shall review and analyze Contracting Party's **Plan** to ensure Contracting Party's compliance with contract requirements.

(B) The Contract Monitor shall also review and analyze the Contracting Party's written **Progress Reports** and **Cost Reports** and any work product for compliance with the Scope of Services; and shall

1. Compare the Reports to Goals/Results and Performance Measures outlined in this contract to determine the progress made;
2. Contact Contracting Party to secure any missing deliverables;
3. Maintain telephone and/or e-mail contact with Contracting Party on contract activity and, if necessary, make visits to the Contracting Party's site in order to review the progress and completion of the Contracting Party's services, to assure that performance goals are being achieved, and to verify information when needed.

4. Assure that expenditures or reimbursements requested in **Cost Reports** are in compliance with the approved **Budget**. Contract Monitor shall coordinate with agency's fiscal office for reimbursements to Contracting Party and shall contact Contracting Party for further details, information or documentation when necessary.

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

ARTICLE IV **PAYMENT TERMS**

4.1 (A). Provided Contracting Party's progress and/or completion of the Contracting Party's services are to the reasonable satisfaction of State, payments to the Contracting Party shall be made by State on a reimbursement basis, after receipt from the Contracting Party and approval by State of (*monthly or quarterly*) **Cost Reports** requesting reimbursement, and certifying that such expenses have been incurred. Adequate supporting documentation (including copies of invoices, checks and other appropriate records reflecting expenses incurred) shall be attached to the reports. All original documentation supporting the reports shall be maintained by Contracting Party, and shall be subject to audit, as hereinafter stated.

(B). After the receipt from the Contractor of a written request for an advance payment explaining the Contractor's need for such an advance payment and its approval by the Secretary of LED or his designee, after the execution of this Agreement, and after its approval by the Division of Administration, Office of Contractual Review, an advance payment shall be made to the Contractor in an amount equal to twenty five (25%) percent of the total amount allocated to this project, being the sum of One Hundred Eighty Seven Thousand Five Hundred and No/100 Dollars (\$187,500.00). This advance payment will assist the Contractor with initial reimbursable expenditures, and allow the Contractor sufficient working capital to begin paying expenses as incurred, and to begin to carry out and accomplish its goals and objectives. Should this contract be terminated prior to the Contractor's delivery of any services or completion of services, or prior to the Contractor incurring costs which cover the full amount of the advance, the Contractor shall be required to repay the advance payment, or the excess of the advance payment over costs incurred, within thirty (30) days of such termination. Additionally, in the event the total of the expenses included on the final Cost Report do not fully cover the advance payment, the Contractor shall be required to repay any difference within thirty (30) days after the termination of this Agreement. Costs shown on future incoming Cost Reports shall be reimbursed as usual, prior to being applied against the advance payment. The advance payment will be absorbed in the final year-end Cost Reports.

4.2 Travel expenses, if any, shall be reimbursed only in the event that this agreement provides for such reimbursement, such travel expenses are included in the Contracting Party's approved compensation, budget or allocated amount, and then only in accordance with Division of Administration Policy and Procedure Memorandum No. 49. Invoices and/or receipts for any pre-approved reimbursable expenses or travel expenses must be provided or attached to periodic invoices for reimbursement.

4.3 Reimbursements under this agreement will be allowed only for expenditures occurring between

and including the dates of *December 1, 2008* and *December 31, 2009*, and this project and all of the Contracting Party's services shall be completed by that date. Payment is contingent upon the availability of funds and upon the approval of this agreement by the Office of Contractual Review.

4.4 The Contract Monitor shall monitor disbursements on a **quarterly** basis. Under circumstances such that the recipient entity has not demonstrated substantial progress towards goals and objectives, based on established measures of performance, further disbursements shall be discontinued until substantial progress is demonstrated or the entity has justified to the satisfaction of the agency reasons for the lack of progress. If the agency determines that the recipient failed to use the Line Item Appropriation within the estimated duration of the project or failed to reasonably achieve its specific goals and objectives, without sufficient justification, the agency shall demand that any unexpended funds be returned to the state treasury unless approval to retain the funds is obtained from the Division of Administration and the Joint Legislative Committee on the Budget.

4.5 Taxes: Contracting Party hereby agrees that the responsibility for payment of taxes from the funds thus received under this agreement and/or legislative appropriation shall be Contracting Party's obligation and identified under Federal tax identification number 72-0824581.

ARTICLE V **TERMINATION FOR CAUSE**

5.1 The State may terminate this agreement for cause based upon the failure of Contracting Party to comply with the terms and/or conditions of the agreement; provided that the State shall give Contracting Party written notice specifying Contracting Party's failure. If within thirty (30) days after receipt of such notice, Contracting Party shall not have either corrected such failure or, in the case which cannot be corrected in thirty (30) days, begun in good faith to correct said failure and thereafter proceeded diligently to complete such correction, then the State may, at its option, place Contracting Party in default and the agreement shall terminate on the date specified in such notice. Contracting Party may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the State to comply with the terms and conditions of this agreement; provided that the Contracting Party shall give the State written notice specifying the State's failure and a reasonable opportunity for the State to cure the defect.

ARTICLE VI **TERMINATION FOR CONVENIENCE**

6.1 The State may terminate the agreement at any time by giving thirty (30) days written notice to Contracting Party. Upon receipt of notice, Contracting Party shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders, for materials, facilities, services and supplies in connection with the performance of this Agreement. Contracting Party shall be entitled to payment for deliverables in progress, to the extent work has been performed satisfactorily.

ARTICLE VII **OWNERSHIP**

7.1 All records, reports, documents and other material delivered or transmitted to Contracting Party by the State shall remain the property of the State, and shall be returned by Contracting Party to the State, at Contracting Party's expense, at termination or expiration of this agreement. All records, reports,

documents, or other material related to this agreement and/or obtained or prepared by Contracting Party in connection with performance of the services contracted for herein shall become the property of the State, and shall, upon request, be returned by Contracting Party to the State at Contracting Party's expense at termination or expiration of this agreement.

ARTICLE VIII
ASSIGNMENT

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

ARTICLE IX
FINANCIAL DISCLOSURE

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

ARTICLE X
AUDITOR'S CLAUSE

10.1 It is hereby agreed that the Legislative Auditor of the State of Louisiana, and/or the Office of the Governor, Division of Administration auditors shall have the option of auditing all records and accounts of Contracting Party which relate to this agreement.

10.2 Contractor and any subcontractors paid under this agreement shall maintain all books and records pertaining to this agreement for a period of three years after the date of final payment under the prime contract and any subcontract entered into under this agreement.

ARTICLE XI
AMENDMENTS IN WRITING

11.1 Any alteration, variation, modification, or waiver of provisions of this agreement shall be valid only when it has been reduced to writing, executed by all parties and approved by the Director of the Office of Contractual Review, Division of Administration.

ARTICLE XII
FISCAL FUNDING CLAUSE

12.1 The continuation of this agreement is contingent upon the appropriation of funds to fulfill the requirements of the agreement by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of the agreement, or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such

reduction is to provide insufficient monies for the continuation of the agreement, the agreement shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

ARTICLE XIII
TERM OF CONTRACT

13.1 This agreement shall begin as of **December 1, 2008**; the Contractor's services hereunder and this project shall be completed by **December 31, 2009**; and this contract shall terminate on **January 31, 2010**, unless amended in writing and approved by all parties, including the Division of Administration, Office of Contractual Review. Any amendment to extend the date to complete the project must be fully executed by June 30, 2009.

ARTICLE XIV
DISCRIMINATION CLAUSE

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

ARTICLE XV.
AGREEMENT APPROVAL

This agreement shall not be effective until it has been approved and signed by all parties, and until it has been approved by the Division of Administration, Office of Contractual Review.

ARTICLE XVI.
CHOICE OF LAW

This is a Louisiana contract and all of its terms shall be construed in accordance with and all disputes shall be governed by the laws of the State of Louisiana, of the United States of America; and all parties submit themselves to the jurisdiction of the Courts located in the Parish of East Baton Rouge, in the State of Louisiana, in the event of any legal proceedings in connection with this contract.

ARTICLE XVII.
ENTIRE AGREEMENT

This agreement, together with any exhibits and/or attachments specifically incorporated herein by reference, constitute the entire agreement between the parties with respect to the subject matter of this agreement.

THUS DONE AND SIGNED AT _____, Louisiana on the ___ day, of Month, Year

WITNESSES:

**LOUISIANA DEPARTMENT OF
ECONOMIC DEVELOPMENT**

Kathy Blankenship
Kathy Blankenship

Fran Gladden
Fran Gladden, Undersecretary

1/24/09

Skip Smart
LED Contract Monitor
Skip Smart

THUS DONE AND SIGNED AT South Tangipahoa Parish Port Commission on the 1st day, of December, 2008

WITNESSES:

Contracting Party

Patrick S. Dubree
Selena A. Muller

Michael A. Williams
(Signature of Authorized Person)

Michael A. Williams, President STPPC

APPROVED
Office of the Director
Office of General Services
Susan Smith
FEB 12 2009
DIRECTOR

"ATTACHMENT A" PLAN

NAME OF CONTRACTING PARTY:
South Tangipahoa Port Commission

NAME AND BRIEF NARRATIVE OF PROGRAM:
Infrastructure improvements to attract Bio-Diesel company to Port. Includes roadway/dock improvements, fire protection, rail loading rack, fencing, and modular office space.

Program Goals, Objectives, Expected Outcomes/Results Activities and Related Performance Measures (Duplicate pages as needed for each goal identified). What are the goals, objective(s), expected outcomes/results for this program: Indicate the goals/objectives for this program. Indicate the expected outcomes/results for each goal. Explain how each goal, objective, outcome/result is measured. Identify activities that will be implemented to achieve expected outcomes, the person(s) responsible for implementing the activity, and the expected completion date.

1. Program Goal (*goals are the intended broad, long-term results. Goals are clear statements of the general end purposes toward which efforts are directed.*)

To attract industry to the Port which will increase jobs at the port as well as cargo transported through the port.

2. Program Objective(s) (*Objectives are intermediate outcomes—specific, measurable steps towards accomplishing the goal They identify the expected outcomes and results.*)

- 1) Roadway/driveway/parking area/truck dock pavement improvements
- 2) Installation/Construction of fire protection for warehouse including Sprinkler System (tanks)
- 3) Rail loading rack
- 4) Security Fence surrounding storage tanks in rear of building
- 5) Modular Office Space

3. Relevant Activity (Activities) (*An activity is a distinct subset of functions or services within a program.*)

1. Engineering/Planning to be completed by Professional Engineering Consultants.
2. Advertise/Procure contractors for projects.
3. Construction and oversight period

4. Performance Measure(s) (*Measure the amount of products or services provided or number of customers served. Specific quantifiable measures of progress, results actually achieved and assess program impact and effectiveness.*)

1. Roadway improvements will benefit existing and new company (estimated to have 17 new permanent jobs)
2. Cargo generated is expected to be approximately 10,000 tons the first year. At full capacity, the material produced is estimated at 20,000 tons/yr.

“ATTACHMENT B”

Page 1

Project Budget (2008-09)

Name of Contractor

Anticipated Income or Revenue

Sources (list all sources of revenue)

Amounts
\$

Anticipated Expenses

<u>Expense Categories</u>	<u>Total Amount</u>	<u>Amount of Line Item Appropriation</u>
Salaries	\$	\$
Related Benefits	\$	\$
Travel	\$	\$
Operating Services	\$	\$
Advertising	\$	\$
Printing	\$	\$
Maintenance of Equipment	\$	\$
Maintenance of Office	\$	\$
Rentals	\$	\$
Dues and Subscriptions	\$	\$
Telephones	\$	\$
Postage	\$	\$
Utilities	\$	\$
Other	\$	\$
Office Supplies	\$	\$
Professional & Contract Services	\$750,000.00	\$
Other Charges	\$	\$
Acquisitions & Major Repairs	\$	\$
Total Use of the Appropriation	\$750,000.00	\$

(Budget categories listed above reflect a typical budget and may be adjusted by the agency and recipient to reflect actual categories necessary for each individual program. Salaries and Professional & Other Contract Services shall be detailed using pages 2 and 3 of Attachment B).

ATTACHMENT B
Page 2
STAFFING
CHART

Name of Organization: _____

Name of Program: _____

Name	Title	Total Salary Amount	Total Salary Paid by Appropriation Amount	Appropriation Percentage	Related Benefits	Full time or Part Time # of months

ATTACHMENT B
Page 3
SCHEDULE OF PROFESSIONAL AND OTHER CONTRACT SERVICES

Name of Organization: South Tangipahoa Port Commission

Name of Program: Port Improvement - Biodeisel

Name and Address of Individual and/or Firm	Nature of Work Performed and Justification for Services	Total Contract Amount	Total Paid by Appropriation
Professional Engineering Consultants Other contracts to be awarded based on bid procedures.	Engineering design, construction administration/oversight and inspection 1) Roadway/driveway/parking area/truck dock pavement improvements 2) Installation/Construction of fire protection for warehouse including Sprinkler System (tanks) 3) Rail loading rack 4) Security Fence surrounding storage tanks in rear of building 5) Modular Office Space	\$750,000.00	\$750,000.00

“ATTACHMENT C”

Progress Report

(To be submitted at least quarterly showing progress achieved. Duplicate pages as needed.)

Organization: _____

Contact Name: _____

Telephone: () _____ Fax: () _____

Goal:	% Complete
Objective(s):	
Activity(Activities) Performed:	
Performance Measure(s):	

“ATTACHMENT D”

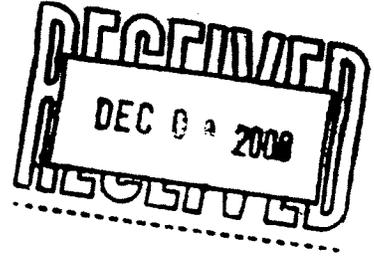
Cost Report for the Period of _____

Expense Category	Approved Total Amount	(Quarterly) Expenditures (Monthly)*	Total Cumulative Year to Date Expenditures	Balance Remaining
Salaries				
Related Benefits				
Travel				
Operating Services				
Advertising				
Printing				
Maintenance of Equipment				
Maintenance of Office				
Rentals				
Dues/Subscriptions				
Telephones				
Postage				
Utilities				
Other				
Office Supplies				
Professional Services	\$750,000.00			
Other Charges				
Acquisitions & Major Repairs				

(Expense categories must reflect budget categories listed in "Attachment B" budget.)

** Should reflect contract payment terms, either quarterly or monthly.*

"ATTACHMENT E"



Disclosure and Certification Statement

Contractor's Name: Professional Engineering Consultants Corporation

Contractor's Mailing Address: 7600 GSRI Avenue
Baton Rouge, LA 70820

Organization Type: (For example, local government, non-profit, corporation, LLP, etc.) S-Corporation
Private entities required to register with the Secretary of State's office must be in good standing with that office.

Names and Addresses of all officers and directors, including Executive Director, Chief Executive Officer or any person responsible for the daily operations of the entity:

Please see attached.

Names and Addresses of all key personnel responsible for the program or functions funded through this agreement:

Please see attached.

List any person receiving anything of economic value from this agreement if that person is a state elected or appointed official or member of the immediate family of a person who is a state elected or appointed official. Include the amount of anything of economic value received, the position held within the organization. Identify the official and the public position held.

I hereby certify that this organization has no outstanding audit issues or findings.

I hereby certify that this organization has outstanding audit issues or findings and is currently working with the state to resolve such issues or findings.

I hereby certify that the above information is true and correct, to the best of my knowledge, and I am the duty authorized representative of the organization.

Tony Ariswal - President
(Name and Title of Contractor)

[Signature]
(Authorized Signature of Contractor)

**PROFESSIONAL ENGINEERING CONSULTANTS CORPORATION**

7600 GSRI Avenue • Baton Rouge, LA 70820

Phone: 225.769.2810 • Fax: 225.769.2882

PEC Board Members

Tony Arikol, President
12709 Brookshire
Baton Rouge, LA 70815

Kevin Gravois, Sr. Vice President
427 West Woodgate Court
Baton Rouge, LA 70808

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