

**CONTRACT FOR PROFESSIONAL
PROGRAM MANAGEMENT SERVICES
FOR
ST. JOHN THE BAPTIST PARISH
FOR
2009 BOND ISSUE IMPROVEMENTS**

The St. John the Baptist Parish Council, herein referred to as the "Parish" and represented by Pat McTopy, Parish President, and Crescent Engineering Group, LLC, herein referred to as the "Program Manager" and represented by Michael J. Parker, do hereby enter into this agreement whereby the Engineer will perform Program Management Services for the Parish's 2009 Bond Issue Improvements hereinafter set forth in the "Scope of Services".

I. PURPOSE:

This contract is an agreement between St. John the Baptist Parish and Crescent Engineering Group, LLC for the purpose of providing services as Program Manager for the Parish approved 2009 Bond Issue's proposed improvement projects as designated in the following project list:

A. Water Quality & Quantity Initiative

**Estimated Cost \$8,000,000.00 from 2009 Bond Issue
1,000,000.00 from EDA Grant
135,000.00 from Grant**

1. Lyons Water Treatment
2. Water Tower Repairs
3. Edgard Water Plant
4. Ruddock Well System
5. Any additional projects that may be added by the Parish providing the cost does not exceed the above estimated budget cost figure.

B. Courthouse Expansion Initiative

**Estimated Cost \$7,000,000.00 from 2009 Bond Issue
1,250,000.00 from Parish Budget
750,000.00 from LRA
325,000.00 from Energy Efficiency Grant**

1. Edgard Courthouse Security Renovations
2. Eastbank Courthouse Annex Building
3. Any additional projects that may be added by the Parish providing the cost does not exceed the above estimated budget cost figure.

II. OWNER AND PROGRAM MANAGER:

The Program Manager and its designees shall provide the services required to be performed under this Agreement by the Program Manager. The Program Manager and the Owner shall perform as stated in this Agreement in respect to the Program and the Program Manager and the Owner each accepts the relationship of trust and confidence between them, which is established herein. The Owner agrees that, during the performance of the services required to be performed under this

Agreement by the Program Manager, the Owner shall be represented exclusively by the Program Manager and/or its designees in dealings with the Professional Design Consultants and the Contractors to be retained by the Owner in connection with the Program.

III. STANDARD OF CARE:

A. General:

The Program Manager covenants with the Owner to furnish its professional skill and judgment with due care in accordance with the generally accepted standards of good program management practice, in accordance with applicable federal, state and local laws and regulations in effect on the date of this Agreement and in cooperation with, and in reliance upon, the work and services to be performed by the Professional Design Consultants and the Contractors to be retained by the Owner in connection with the Program. The Program Manager agrees to furnish efficient business administration and management services pursuant to the terms of this Agreement and to use its professional efforts at all times in an expeditious and economical manner consistent with the interests of the Owner.

B. Owner and Professional Design Consultant:

The Owner shall enter into a separate Agreement or Agreements with a Professional Design Consultant or Consultants (hereinafter individually or collectively referred to as the "Professional Design Consultants") to provide complete architectural and engineering design services for the Program.

C. Owner and Contractor:

The Owner shall enter into a separate contract or contracts with a General Contractor or Contractors (hereinafter individually or collectively referred to as the "Contractors") to provide construction services for the Program.

D. Relationship of Program Manager to Other Project Participants:

In providing the services required to be provided under this Agreement by the Program Manager, the Program Manager shall endeavor to maintain a working relationship with the Professional Design Consultants and the Contractors on behalf of the Owner. However, nothing in this Agreement shall be construed to mean or imply that the Program Manager assumes any of the responsibilities or duties of the Professional Design Consultants or the Contractors. The Professional Design Consultants shall be solely and exclusively responsible for the design of the Program and shall design and provide construction administration of the Program in accordance with the agreement between the Professional Design Consultant and the Owner. The Contractors shall be solely and exclusively responsible for the construction of the individual projects, including all means, methods, techniques, sequences and procedures used in construction of the Program, and for the safety of personnel and property at the site(s) of the individual projects during such construction and shall construct the individual projects in accordance with the contract between the Contractors and the Owner.

IV. SCOPE OF SERVICES:

A. Program Manager for 2009 Bond Issue Improvement Projects:

1. Prepare scope of work for all engineering projects for the Parish engineering firms selected to complete the various projects.
2. Assist in the selection of engineering firms for each project as required.
3. Evaluate fees charged by the selected engineering firms prior to execution of engineering contracts.
4. Coordinate with the Parish Administration to insure that all State Regulatory compliance requirements are being followed.
5. Review all completed project plans and specifications and oversee and manage the professional design services to be performed by the Professional Design Consultants of the individual projects identified in Items I A, B, C, P.M.C. *myl*
6. Insure that the respective firms for each project secure all required permits.
7. Assist the Design Engineers in completing cost estimates for all proposed improvement projects.
8. Assist in coordinating the bid dates, pre-bid conferences and pre construction meetings for the selected contractor on each project.
9. Provide overview of the projects to insure completion in the required set time periods.
10. Prepare monthly reports and updates for all Bond Issue Improvement Projects.
11. The Program Manager shall act as a coordinator for the Owner and staff with all Owner retained Professional Design Consultants from the commencement of each individual project to its final acceptance by the Owner.
12. The Program Manager shall periodically review the work of the Professional Design Consultants to determine whether such work is generally consistent with the desire, intent and standards promulgated by the Owner.
13. The Program Manager shall make recommendations concerning the work of the Professional Design Consultants to the Owner regarding fees, cost overruns, acceptability of completed work, and interpretation of contract documents or delay.
14. For cost control purposes, the Program Manager agrees to furnish its best skill and judgment and to cooperate with the Professional Design Consultants in furthering the interest of the Owner. The Program Manager will provide value-engineering reviews of each individual project and review plans submitted by the Professional Design Consultants with the Owner.
15. The Program Manager will notify the Owner and the Professional Design Consultant when the design product submitted by the Professional Design Consultant adversely affects constructability, cost or schedule. However, the Program Manager shall not be responsible for the errors, omissions or general failure of the Professional Design Consultants to provide design products to meet the program, cost and schedule requirements of the Program.
16. The Program Manager shall review the Professional Design Consultants probable cost estimates and report to the Owner and the Professional Design Consultant the cost of various designs and construction alternatives. As a part of the probable cost analysis, the Program Manager shall review the Professional Design Consultant's cost estimates and review costs related to efficiency, usable life, maintenance, energy and operation. The Program Manager shall analyze and report to the Owner cost increases related to time delays.
17. The Program Manager shall advise the Owner whether change order requests are consistent with the terms of the Contract Documents and reasonable in cost.
18. The Program Manager shall assist the Owner in reviewing and negotiating any and all contract claims for additional compensation from design professionals.

V. LIMITATION ON SCOPE OF SERVICES:

Program Manager as defined herein shall not prepare plans and specifications for major construction projects as part of this contract unless a variance for such design work is authorized by a motion of the Parish Council for such design work in which such design work shall be completed under separate contract for additional compensation.

VI. AUTHORIZATION TO ASSIGN PROJECTS AS PROVIDED FOR IN THE SCOPE OF

SERVICES:

The Parish President, Chief Administrative Assistant, Director of the various Parish Departments, and the Parish Council shall have exclusive authority to assign work under this contract.

VII. COMPENSATION:

The Management services provided for in this contract will be performed by the Program Manager for a lump sum fee of Three Hundred Thousand dollars (\$300,000.00) for completion of this contract. The Program Manager shall submit monthly invoices based on a reasonable percentage of work completed.

VIII. PAYMENT TERMS:

Each monthly invoice shall be for the prior month's services and shall be submitted to the Parish not later than the fifteenth (15) day of succeeding month. The Parish shall pay invoices within fifteen (15) days of receipt. No deductions shall be made from any amounts payable hereunder to the Program Manager on account of any penalty, liquidated damages, retainage or other sums claimed or withheld by Owner from payments to the Professional Design Consultants, the Contractor or others provided however that the Owner shall be entitled to withhold amounts payable hereunder to the Program Manager to the extent that such amounts are to subject to a bona fide dispute between the Owner and the Program Manager.

IX. HOURLY FEES & PRORATION FOR STAFF MEMBERS:

The hourly fees for completion of the various phases of work shall be based on the following and are for additional work which is not included in this Contract that may be requested by the Parish:

<u>PROGRAM MANAGEMENT STAFF</u>	<u>COST/HOUR</u>
Principal Engineer	\$190.00/hour
Senior Engineer, PE	\$160.00/hour
Engineer, PE	\$120.00/hour
Engineer Assistant	\$ 70.00/hour
CADD Operator # 1	\$ 55.00/hour
CADD Operator # 2	\$ 45.00/hour
Clerical	\$ 40.00/hour
Field Inspector	\$ 55.00/hour

Although this schedule represents the hourly fees for the individual compensation, the monthly invoices shall be based on percentage of work completed each month for the scope of service being provided.

X. REIMBURSABLE EXPENSES:

A. General:

The term "Reimbursable Expenses" as used in this Agreement shall mean costs reasonably and necessarily incurred in the proper performance by the Program Manager of Basic Services and Additional Services and identified herein below in the following clauses. Reimbursable Expenses shall be in addition to compensation for Basic Services and Additional Services and shall be at rates not higher than the standard paid in the locality of the Program, except with the prior

consent of the Owner.

B. Fees:

Fees paid for securing the approval of governmental authorities having jurisdiction over the Program.

C. Expenses:

Expenses for the production of renderings, models and mock-ups requested by the Owner.

D. Miscellaneous:

Other miscellaneous expenses that may be necessary for the work. Expense Receipts and Documentation will be submitted to the Owner in accordance with the Owner's guidelines.

XI. TERMS:

The term of this agreement shall commence on February 16, 2010 and continue in full force and extend until completion of all projects as proposed in the 2009 Bond Issue unless earlier terminated in accordance with the Termination Article below.

XII. RESPONSIBILITIES OF THE PARISH:

- A. The Parish shall provide to the Program Manager complete information regarding the requirements of the Owner for the Program.
- B. The Parish or the authorized representatives of the Owner shall examine information submitted from time to time by the Program Manager and shall render decisions pertaining thereto promptly.
- C. The Parish shall furnish structural, mechanical, chemical and other laboratory tests, inspections and reports as required by law or the Contract Documents.
- D. The Parish shall furnish legal, accounting and insurance counseling services as may be necessary for the Program, including such auditing services as the Owner may require to verify applications for payment submitted by the Professional Design Consultants or the Contractors or to ascertain how or for what purposes the Professional Design Consultants or the Contractors have used monies paid by or on behalf of the Owner.
- E. If the Parish observes or otherwise becomes aware of any fault or defect in the Program or any nonconformity with the Contract Documents, the Parish shall give prompt written notice thereof to the Program Manager.
- F. The Parish shall furnish required information and approvals and carry out any obligations required to be performed by the Parish in respect to the Program in a timely manner to facilitate the orderly progress of the design and construction of individual projects in cooperation with the Program Manager and in accordance with applicable scheduling and budgeting requirements pertinent to the Program.
- G. The services, duties and responsibilities of the Professional Design Consultants shall be described in a written agreement between the Parish and each Professional Design Consultant. The services, duties and responsibilities set out in the Agreements between the Parish and the Professional Design Consultants shall be compatible and consistent not only with this

Agreement but also with other information included in the Contract Documents. The Parish shall, in the Agreements between the Parish and the Professional Design Consultants, require the Professional Design Consultants to perform their work and services in cooperation with the Program Manager, consistent with this Agreement and in accordance with applicable scheduling and budgeting requirements pertinent to the Program. The terms and conditions of the Agreements between the Parish and the Professional Design Consultants, once established, shall not be changed without the mutual written consent of the Parish and the Program Manager, which such consent shall not be unreasonable withheld by either party.

- H. The Parish shall cause the Agreements between the Parish and the Contractors to be compatible and consistent with this Agreement. The Agreement between the Parish and the Contractors shall include a waiver by the Contractors of any rights of subrogation and shall expressly recognize the Program Manager as the agent of the Parish in providing Basic Services and Additional Services under this Agreement.
- I. At the request of the Program Manager, sufficient copies of the Contract Documents shall be furnished to the Program Manager by the Parish at the Parish's expense.
- J. The Parish and the representative of the Parish shall communicate with the Professional Design Consultants and the Contractors through the Program Manager.
- K. The Parish shall send to the Program Manager and shall require the Professional Design Consultants and the Contractors to send to the Program Manager copies of all notices and communications sent by the Professional Design Consultants or the Contractors to the Parish relating to the Program. During the Construction Phase of the individual projects, the Parish shall require the Contractors to submit all notices and communications by the Contractors to the Parish relating to the individual projects both to the Parish and the Project Manager.

XIII. INSURANCE & MUTUAL INDEMNITY:

The Engineer shall furnish and keep in force at Engineer's sole expense, the following lines and types of insurance coverage. All coverages and types of insurance must be underwritten by carriers acceptable to the Parish.

A. Professional Liability (insurance coverage with limits no less than)

- 1. \$1,000,000 each occurrence
- 2. \$1,000,000 general aggregate
- 3. Parish shall be named as additional insured
- 4. Waiver of subrogation in favor of the Parish
- 5. 30 day Notice of Cancellation
- 6. Program Management Engineers shall review plans and specifications prepared or designed by other Engineers or Architects in accordance with Section IV. However, the Program Management Engineers shall not be held liable or responsible for said Engineers or Architects design.

B. Commercial General Liability (with limits no less than)

- 1. \$1,000,000 each occurrence
 - 2. \$2,000,000 general aggregate
 - 3. \$1,000,000 products / completed operations
 - 4. \$1,000,000 personal and advertising injury
 - 5. \$5,000 medical payments
 - 6. 30 days Notice of Cancellation
- In lieu of 1 through 5 the following will be acceptable:
- 7. \$1,000,000 CSL, B1 and PD (old form, no annual aggregate limit)

The Parish will be named additional insured and liability insurance must include coverage for the indemnity and hold harmless agreement between Engineer and the Parish.

C. Business Auto

1. \$1,000,000 CSL
2. Waiver of subrogation
3. 30 Days Notice of Cancellation

The Parish will be named additional insured.

D. Workers' Compensation

1. \$500,000 E L Limit
2. Waiver of subrogation
3. 30 days of Notice of Cancellation
4. U S L & H coverage (on a if any basis will be acceptable)
5. All active owners / partners / officers must be included in coverage.

E. Indemnity

The Program Manager shall save, hold harmless and indemnify the Parish for any and all claims arising out of the negligence of the Program Manager or his agents or employees.

XIV. CONTRACT TERMINATION:

St. John the Baptist Parish reserves the right to terminate this agreement for any reason by providing the Program Manager with thirty (30) days written notice of its intention to do so. All fees owed to the Program Manager for work completed prior to this notice shall be paid to the Program Manager within the thirty (30) day notice period.

XV. SEVERABILITY:

In case any one or more of the provisions contained in this contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be continued as if such invalid, illegal, or unenforceable provision had never been contained herein.

XVI. NON-ASSIGNMENT OF RIGHTS:

Neither Parish nor Program Manager shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the affect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

XVII. APPLICABLE LAW:

This Agreement shall be interpreted and constructed in accordance with, and shall be governed by the laws of Louisiana.

XVIII. REUSE OF DOCUMENTS:

All documents including Drawings and Specifications prepared or furnished by Program Manager (and Program Manager's independent professional associates and consultants) pursuant to this Agreement are instruments of service in respect of the Project and Program Manager shall retain an ownership and property interest therein whether or not the Project is completed. Parish may make and retain

copies for information and reference in connection with the use and occupancy of the Project by the Parish and other; however, such documents are not intended or represented to be suitable for reuse by Parish or other on extensions of the Project or on any other project. Any reuse without written verification or adaptation by the Program Manager for the specific purpose intended will be at Owner's sole risk and without liability or legal exposure to the Program Manager or to the Program Manager's independent professional associates or consultants, and the Parish shall indemnify and hold harmless Program Manager and his independent professional associates and consultants from all claims, images, losses and expenses including attorney's fees arising out of or resulting therefrom. Any such verification or adaptation will entitle Program Manager to further compensation at rates to be agreed upon by the Parish and the Program Manager.

XIX. ARBITRATION:

All claims, counterclaims, disputes and other matters in question between the parties hereto arising out of or relating to this Agreement or the breach thereof will be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American – Arbitration Association then obtaining, subject to the limitations and restrictions stated in the paragraphs below. This Agreement so to arbitrate and any other Agreement or consent to arbitrate entered into in accordance herewith as provided in this paragraph will be specifically enforceable under the prevailing law of any court having jurisdiction.

Notice of demand for arbitration must be filed in writing with the other parties to this Agreement and with the American Arbitration Association. The demand must be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event may the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

All demands for arbitration and all answering statements thereto which include any monetary claim must contain a statement that the total sum or value in controversy as alleged by the party making such demand or answering statement is not more than \$1,000,000(exclusive of interest and costs) and the arbitrators will not have jurisdiction, power or authority to render a monetary award in response thereto against any part which totals more than \$1,000,000 (exclusive of interest and costs). The arbitrators will not have jurisdiction, power or authority to consider, or make findings (except in denial or their own jurisdiction) concerning any claim, counterclaim, dispute or other matter in question where the amount in controversy of any such claim, counterclaim, dispute or matter is more than \$1,000,000 (exclusive of interest and costs).

No arbitration arising out of, or relating to, this Agreement may include, by consolidation, joinder or in any other manner, any person or entity who is not a party to this Agreement.

By written consent signed by all the parties to this Agreement and containing a specific reference hereto, the limitations and restrictions contained in the above paragraphs may be waived in whole or in part as to any claim, counterclaim, dispute or other matter specifically described in such consent.

The award rendered by the arbitrators will be final, judgment may be entered upon it in any court having jurisdiction thereof, and will not be subject to modification or appeal except to the extent permitted by Section 10 and 11 of the Federal Arbitration Act (9 U.S.C. 10. 11).

XX. VENUE:

The exclusive venue for all civil actions arising under this Agreement shall be St. John the Baptist Parish. THUS done and signed this 11 day of February, 2010 at LaPlace, Louisiana. *March*

PARISH:

Witnesses

Joy Simon
Dana Hilsoto

Pat McTopy

Pat McTopy
Parish President
St. John The Baptist Parish

Address for giving notices:
1801 W. Airline Hwy.
LaPlace, LA 70068

PROGRAM MANAGER:

Witnesses

Stefanie Condeal

Michael J. Parker

Michael J. Parker, President
Crescent Engineering Group, LLC

Address for giving notices:
1500 Lafayette Street, Suite 146
Gretna, La. 70053

SWORN BEFORE ME THIS
23rd DAY OF *March*, 2010
Michelle E Scott Bennett
MICHELLE SCOTT BENNETT #25342
NOTARY PUBLIC