

STATE OF LOUISIANA

US 90 (I-49 SOUTH)
ALBERTSON'S PARKWAY TO
AMBASSADOR CAFFERY
DESIGN-BUILD PROJECT

LAFAYETTE PARISH

STATE PROJECT NO. H.010620
FEDERAL AID PROJECT NO. H010620

REQUEST FOR PROPOSALS
CONTRACT DOCUMENTS

DB SECTION 104
SCOPE OF WORK



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DB 104-1 WORK REQUIRED

Under the Contract, the Design-Builder shall do all Work enumerated in Appendix A to Part 1 – Design-Build (DB) Agreement and all other Contract Documents, and shall protect all properties, utilities, and existing Highway facilities within or adjacent to the Right-of-Way (ROW) and shall repair or replace any such properties, utilities, and facilities damaged or destroyed by it or any employee through the construction operations, both within and adjacent to the ROW.

Where the Work of the Design-Builder or its Subcontractors overlaps or dovetails with that of other Louisiana Department of Transportation and Development (LA DOTD) contractors, Materials must be delivered and operations conducted in coordination with work of other LA DOTD contractors so as to carry on the Work continuously in an efficient and workmanlike manner, in the sole determination of the LA DOTD.

Delays or oversights on the part of the Design-Builder or its Subcontractors in getting any or all of their Work done in the proper way, in the sole determination of the LA DOTD, thereby requiring the modifying, removing, and replacing of Work already in place, must not be the basis for a claim of extra compensation. Such Work will be performed at the cost and expense of the Design-Builder.

The Design-Builder shall provide preventive and corrective maintenance of the Work until Final Acceptance. However, the Design-Builder's obligations pursuant to any guaranty or warranty under the terms of the Contract will continue after Final Acceptance.

DB 104-2 INTENT OF CONTRACT

The intent of the Contract is to provide for performance and completion of the Work described. The Design-Builder shall furnish all professional services, labor, Materials, Equipment, tools, transportation, and supplies required to complete the Work in accordance with the terms of the Contract.

When an item in the Contract requires the Design-Builder to make a choice between more than one Material, standard, procedure, or the like, the Design-Builder shall indicate the choice to the Department's Project Manager in writing.

When the Contract, including the Design-Builder's Proposal (located at Part 6 – Design-Builder's Proposal) and/or the Design-Builder's plans or specifications, reference or require the use of "manufacturer's recommendations or specifications," the Design-Builder shall provide the Department's Project Manager with a current copy of these recommendations or specifications.

DB 104-3 ALTERATION OF THE CONTRACT

The LA DOTD reserves the right to order Work not provided for in the Contract whenever such Work is found essential or desirable to satisfactory completion of the Contract within its intended scope. Such

Work must be performed as directed. Payment for such Work will be made as provided in DB Section 109.

The LA DOTD reserves the right to order changes in details, including, changes in Materials, processes, and sequences, whenever such changes are in the best interests of the public or are necessary or desirable to satisfactory completion of the Work. Such changes in details must be performed as directed and payment will be made as provided in DB Section 109-8.

Alterations to the Contract as provided for by this DB Section 104-3 will neither invalidate the Contract nor release the Surety, and the Design-Builder agrees to accept the Work as altered as if it had been part of the original Contract. The Design-Builder shall notify the Surety of any alterations to the Contract.

DB 104-4 MAINTENANCE OF TRAFFIC

Reasonable provisions for maintaining local public traffic through the length of the Project and the life of the Contract must be made by the Design-Builder during the term of this Contract and in accordance with Part 3 – Design Criteria and Performance Specifications, Appendix A – Performance Specifications, Maintenance of Traffic Plan Performance Specification.

When specified, the Design-Builder may also be required to provide for through traffic over the entire Project or designated portion thereof at no direct pay.

The Design-Builder shall keep the portion of the Project being used by public traffic, whether through or local traffic, in such condition that traffic (including mail delivery) will be adequately and safely accommodated. The Design-Builder shall furnish, erect, and maintain barricades, warning signs, and delineators and shall provide flaggers and pilot cars in accordance with the Contract and the Manual of Uniform Traffic Control Devices (MUTCD). The Design-Builder shall also provide and maintain in a safe condition all temporary approaches or crossings or intersections with Roads, Streets, businesses, parking lots, residences, garages, and farms.

When the Department's Project Manager directs additional measures for the benefit of the traveling public, payment to the Design-Builder will be made as provided in DB Section 109-8. The Department's Project Manager will be the judge of Work to be classed as additional measures.

DB 104-5 FINAL CLEANING UP

Before Final Acceptance, the ROW, borrow, and local Material sources and areas occupied by the Design-Builder in connection with the Work must be cleaned of rubbish, excess Materials, temporary Structures and facilities, haul Roads, and Equipment. All parts of the Work, including property adjacent to the ROW, which have been damaged or rendered unsightly during the Work must be left in satisfactory condition and when required the ROW must be mowed in accordance with LA DOTD maintenance standards.

DB 104-6 GUARANTEES

Pursuant to Louisiana Revised Statutes Title 48 Section 251(C), the Design-Builder guarantees, by signing the Contract, mechanical and electrical equipment, apparatus, materials, and workmanship provided under the Contract for a period of three years after Final Acceptance.

Instruction sheets that are required to be furnished by the manufacturer for Materials, equipment, apparatus, supplies, and operation must be delivered by the Design-Builder to the Department's Project Manager prior to Final Acceptance of the Project, with the following written warranties and guarantees:

- A) The manufacturer's standard warranty for each piece of mechanical and electrical Equipment or apparatus furnished under the Contract;
- B) The Design-Builder's guarantee that, during the guarantee period, necessary repair or replacement of the warranted Equipment or apparatus will be made by the Design-Builder; and
- C) The Design-Builder's guarantee for satisfactory operation of the mechanical and electrical systems furnished and constructed under the Contract for the guarantee period.

This DB Section 104-6 does not apply if a more stringent and/or detailed warranty or guaranty is required elsewhere in the Contract Documents.

DB 104-7 DIFFERING SITE CONDITIONS AND SUSPENSIONS OF WORK

DB 104-7.1 Differing Site Conditions

During the progress of the Work, if subsurface or latent physical conditions are encountered at the Site differing materially from those indicated by the LA DOTD for specific locations where the LA DOTD's investigations were performed and to the degree of accuracy indicated in the Contract - or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized, as determined solely by the LA DOTD, as inherent in the Work provided for in the Contract - are encountered at the Site, the party discovering such conditions must promptly notify the other party to the Contract in writing of the specific differing conditions. Such notice must occur within ten Calendar Days of the discovery and before the differing conditions are disturbed, or as soon as practicable thereafter, and before the affected Work continues.

One instance of a Differing Site Condition exists when the information indicated in the geotechnical borings and/or tests provided by the LA DOTD are inaccurate at the specific location(s) of those borings or tests to the extent that correct information would have resulted in accurate assumptions. The LA DOTD represents that, to the best of its knowledge, the information represented by the borings and tests taken by the LA DOTD are accurate at the location of the borings and tests. Any extrapolation of such information to other locations by the Design-Builder is at the Design-Builder's risk. Furthermore, the Design-Builder shall determine what additional geotechnical information is required to support its design and is responsible for obtaining such information and for the accuracy of such information.

Upon written notification, the Department's Project Manager will, within a reasonable time, as determined solely by the LA DOTD, investigate the Site's conditions. If the Department's Project Manager determines that the conditions materially differ from that which is identified in the Contract and cause an increase or decrease in the cost or time required for the performance of any Work under the Contract, an adjustment that excludes anticipated profit but includes cost of delays will be made, and the Contract will be modified in writing, in accordance with DB Sections 109-8 or 109-9. The Department's Project Manager will notify the Design-Builder of the determination and whether or not an adjustment of the Contract is warranted.

If the Design-Builder fails to provide the written notification in a timely fashion (as defined above), as determined solely by the LA DOTD, and the LA DOTD's costs are increased as a result, the damage that

could have been mitigated by timely notice will be calculated and the Contract adjustment will be reduced accordingly.

Additional compensation via Change Order will be made for time related costs, if any, pursuant to DB Section 109-8. For any increased costs of the Work resulting from the Differing Site Condition, payment will be made pursuant to DB Section 109-8.

DB 104-7.2 Suspensions of Work Ordered by the Department's Project Manager

The Department's Project Manager may stop by written order any Work or any part of the Work under the Contract if the methods or conditions are such that unsatisfactory Work might result (including progressing construction in the absence of Design Plans, Project specifications, and/or Working Plans that have not been reviewed and released for construction as per DB Section 111-12.5); if improper Material or procedures are being used; if the Design-Builder fails to comply with any Contract requirement or with any provision of the Design-Builder's Project specifications, the Design-Builder's Proposal, the Design-Builder's Plans, or any state or federal law or regulation; if the conditions of the Project are considered to be sufficiently deficient as to seriously affect the safety of the public or the persons employed for the construction of the Project; or if major non-conformance with the Maintenance of Traffic Plan is causing serious disruptions to traffic operations. The Design-Builder shall not be entitled to any additional monetary compensation for such a Work stoppage.

If the performance of all or any portion of the Work is suspended or delayed by the Department's Project Manager in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the DB industry) and the Design-Builder believes that additional compensation and/or Contract Time is due as a result of such suspension or delay, the Design-Builder shall submit to the Department's Project Manager in writing a request for adjustment within seven Calendar Days of receipt of the notice to resume Work.

Upon receipt, the Department's Project Manager will evaluate the Design-Builder's request. If the Department's Project Manager agrees that the cost and/or time required for the performance of the Contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of, and not the fault of, the Design-Builder or its suppliers or Subcontractors at any approved tier, and not caused by weather, the Department's Project Manager will make a cost and/or time adjustment (excluding profit) and modify the Contract in writing accordingly. The Design-Builder will be notified of the Department's Project Manager's determination whether or not an adjustment of the Contract is warranted.

No Contract adjustment will be allowed unless the Design-Builder has submitted the request for adjustment within the time prescribed.

No Contract adjustment will be allowed under this DB Section 104-7.2 to the extent that performance would have been suspended or delayed by any other cause or for which an adjustment is provided for or excluded under any other term or condition of this Contract.

Additional compensation via Change Orders must be made for time related costs, if any, pursuant to DB Section 109-8.1. For any increased costs of the Work resulting from a suspension of Work, payment must be made pursuant to DB Section 109-8.1, but the Equipment compensation shall be governed and controlled by the provisions of DB Section 109-8.1.2(D).

**DB 104-8 CHANGES IN BASIC PROJECT CONFIGURATION; UTILITY
RELOCATIONS; ENVIRONMENTAL MITIGATION**

DB 104-8.1 General

Changes under this DB Section 104-8 will be governed by the notice, record keeping, and other requirements of DB Sections 104 and 109. Adjustment in Contract Time will be included in the Change Order to reflect changes in the Critical Path for the Project.

The Design-Builder or the LA DOTD must make written notification to the other party of the existence of the circumstances identified under this DB Section 104-8 if that party wishes to adjust the Lump Sum Contract Price or the Contract Time. Such notice must be given within ten Calendar Days of the time at which the party had, or should have had, knowledge of an event, matter, or occurrence of the circumstances identified under this DB Section 104-8. Work which is substantially completed prior to the issuance of notice may not be considered for Contract adjustment.

Timely issuance of notice will be a necessary requirement for consideration of Contract adjustment as provided in this Section 104-8.

DB 104-8.2 Changes in Basic Project Configuration

The LA DOTD acknowledges and agrees that the Design-Builder's Proposal was based on certain basic information presented by the LA DOTD regarding the nature of the Project to be constructed. This basic information is considered the Basic Project Configuration. Except as authorized by a Change Order, the Design-Builder shall not make any material change in Basic Project Configuration. Non-material LA DOTD-directed changes will be covered by a Change Order whether they are within the parameters of the Basic Project Configuration or not. Louisiana Department of Transportation and Development-directed changes within the Basic Project Configuration specified in this DB Section 104-8.2 may be ordered without any change in the Lump Sum Contract Price or extension of the Contract Time, provided the change is ordered prior to completion of the Definitive Design Review for the affected Design Unit(s).

DB 104-8.2.1 Standard for Determining Materiality of Change in Basic Project Configuration

See Part 1 – Design-Build Agreement, Appendix A – Project Scope, Section 5.1.

DB 104-8.2.2 Necessary Basic Project Configuration Change

Notwithstanding the fact that this Contract generally obligates the Design-Builder to undertake all Work necessary to complete the Project without changes in the Lump Sum Contract Price, this DB Section 104-8.2.2 provides for a change in the Lump Sum Contract Price to be made in conjunction with Necessary Basic Project Configuration Changes. A Necessary Basic Project Configuration Change is a material change in the Basic Project Configuration which is necessary to correct an error, omission, or defect in the Basic Project Configuration Plans as shown or described in the Contract (with the understanding that a change will be deemed “necessary” only if the error, omission, or defect creates a problem which cannot reasonably be corrected without a material change in the Basic Project Configuration).

If any Necessary Basic Project Configuration Change increases or decreases the cost of performing the Work, then the LA DOTD will issue a Change Order to adjust the Lump Sum Contract Price accordingly. If a Necessary Basic Project Configuration Change changes the time required for performance of the Work, the time adjustment will be covered by a Change Order. Furthermore, if the Design-Builder commences any construction Work affected by the change prior to delivery of appropriate notice of the

change to the LA DOTD, the Change Order must allow the LA DOTD a credit for the cost of any unnecessary Work performed and/or must exclude any additional costs associated with redoing the Work already performed. The Change Order must also account for any offsets from Change Orders previously issued.

In the event that the LA DOTD approves a Necessary Basic Project Configuration Change that reduces the Design-Builder's costs, the Change Order must note the amount of cost decrease available for future offsets.

DB 104-8.2.3 Inaccuracies in Preliminary Design

The Design-Builder shall be responsible for any cost increases and/or delays which affect the duration of a Critical Path operation resulting from changes in requirements and obligations of the Design-Builder relating to the Project due to inaccuracies in the preliminary design which do not necessitate a material change in the Basic Project Configuration. In such event, no change in the Work will be deemed to have occurred and no Change Order will be issued for any such cost increases and/or delays. Accordingly, any non-material changes in the Basic Project Configuration (other than non-material LA DOTD-directed changes following the Definitive Design Review) will be the responsibility of the Design-Builder.

DB 104-8.2.4 Applicability of Change Orders

In general, the Design-Builder may implement non-material changes in the Basic Project Configuration without a Change Order, unless the change involves a circumstance for which a Change Order is specifically required hereunder. The Design-Builder acknowledges and agrees that constraints set forth in the environmental approvals and other Contract Documents, as well as the site conditions and the existing ROW limits, will impact the Design-Builder's ability to make non-material changes in the Basic Project Configuration.

DB 104-8.3 Changes Applicable to Utility Relocations

The following provisions govern entitlement to Change Orders with respect to relocation of utilities.

DB 104-8.3.1 Change in Design

Inasmuch as the Design-Builder is both furnishing the design of and constructing the Project, the Design-Builder may have significant opportunities to reduce the costs of certain portions of the Work, which may increase the costs of certain other portions of the Work. In considering such opportunities, the Design-Builder shall at all times consider the impact of design and design changes on relocations of utilities and related facilities with the overall goal of minimizing the necessity for relocations of such utilities and related facilities to the extent practicable. Accordingly, if, as a result of a change made by the Design-Builder to the LA DOTD's preliminary design, either the costs of any relocation of a utility are reduced (including by avoiding relocation of a utility shown as requiring relocation in the Contract Documents) or new relocations are required or relocation costs are otherwise increased, then the following will apply to any resulting cost increases or decreases affecting the Design-Builder and/or the LA DOTD:

- A) The Design-Builder shall not be entitled to a Change Order for any such additional costs which it incurs, including both additional relocation costs and the costs of any additional Work on other aspects of the Project undertaken in order to facilitate the avoidance or reduction of relocation costs;
- B) The Design-Builder shall reimburse the LA DOTD for any such additional expenses which the LA DOTD incurs; and

- C) The Design-Builder shall not be obligated to provide a credit to the LA DOTD on account of reductions in the cost of the Work due to any such avoided or reduced relocation.

DB 104-8.3.2 Additional Restrictions on Utility-Related Change Orders

- A) Avoidance of Relocations

Whenever the Design-Builder claims entitlement to a Change Order under this DB Section 104-8.3, the Design-Builder shall bear the burden of proving that the utility relocation could not reasonably have been avoided and of proving the amount of any costs and/or delays claimed by the Design-Builder.

- B) Incremental Costs Only

In cases where the Design-Builder is entitled to a Change Order under this DB Section 104-8.3, the Change Order will allow a price increase only for the incremental costs arising from the circumstances giving rise to such Change Order.

- C) Coordination Costs

In no event will the Design-Builder be awarded any increase in the Lump Sum Contract Price for any increased costs of coordinating with the affected utility owner on account of any utility relocation for which a Change Order is merited under this DB Section 104-8.3.

- D) Timing of Change Orders

In general, the parties anticipate that Change Orders for utility relocations will be executed as the changes occur. However, the LA DOTD and Design-Builder may agree to consolidate certain changes into a single Change Order. The Design-Builder's mark-ups under DB Section 109-8.1.2(A) will be deemed to include compensation for all costs associated with any time differential between performance of the relocation Work and the date of issuance of the Change Order.

- E) No Change Orders for Utility Service Lines or Temporary Relocations of Utilities

The Design-Builder shall not be entitled to a Change Order for increased costs of the Work resulting from, or for any extension of time for, delays associated with the following:

- 1) Any relocation of any utility service lines; and/or
- 2) Any temporary relocations of utilities implemented for the convenience of the Design-Builder's own construction operations.

DB 104-8.4 Changes in Environmental Mitigation Requirements

Changes in environmental mitigation requirements may occur as the result of changes in governmental rules, as the result of changes in the Work directed by the LA DOTD, or as the result of design decisions made by the Design-Builder or its construction methodologies. The LA DOTD will issue a Change Order for changes in the scope of environmental mitigation requirements to be performed by the Design-Builder to the extent that they are directly attributable to changes in governmental rules or changes in the Work directed by the LA DOTD (including any assignment of mitigation requirements to the Design-Builder that were originally contemplated to be performed by the LA DOTD or others). The Design-Builder shall

bear full responsibility for performance of any mitigation measures required as the result of its design decisions or construction methodologies. Furthermore, the Design-Builder shall be entitled to compensation only for the incremental costs associated with compliance with the new requirements and shall not be entitled to additional compensation for Work relating to such compliance that was included in its original scope, including any commitments made in Design-Builder's Proposal (*see* Part 6 – Design-Builder's Proposal).

DB 104-9 RETENTION OF RECORDS

The Design-Builder shall retain all records for five years from Final Acceptance under the Contract. Required records include all accounts, papers, maps, plans, drawings, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by the Design-Builder in connection with the Contract. Legible copies, including microfilm copies, are acceptable, provided they are so arranged, identified, and indexed that any individual document, or component of the records, can be located with reasonable facility.

The Design-Builder shall maintain records of all required payrolls and of the details that comprise the total Lump Sum Contract Price. These records must be available at any time within five years from Final Acceptance of the Project at the request of the LA DOTD for review and audit, if it is so deemed necessary by the Secretary.