

**JAZZ CASINO COMPANY, L.L.C. ("JCC")
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM ("DBE")**

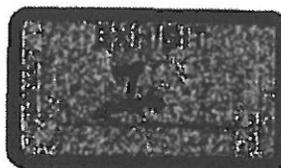
SECTION I. PURPOSE, PROGRAM OBJECTIVE AND POLICY.

- A. PURPOSE AND PROGRAM OBJECTIVE.** The purpose of the Program is to establish the policies and procedures necessary for the implementation and administration of the JCC Disadvantaged Business Enterprise (DBE) Program, as established by Ordinance No. _____ dated _____. The objective of the DBE program is to develop and administer a plan for (i) certification of eligible social and economically disadvantaged businesses and (ii) creating opportunity for meaningful participation in certain contracts for such businesses that have been certified to be owned and controlled by social and economically disadvantaged persons (DBEs). This Program replaces all prior open access plans and programs applied to JCC and/or Harrah's New Orleans Casino.
- B. POLICY.** It is the policy of JCC to ensure that DBEs, as defined in this Program have an equal opportunity to receive and participate in contracts related to the operation of Harrah's New Orleans Casino. It shall also be the policy of JCC:
1. To ensure nondiscrimination in the award and administration of JCC contracts;
 2. To create a level-playing field upon which DBEs can compete fairly for JCC contracts;
 3. To help remove barriers to the participation of DBEs in JCC contracts; and
 4. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

SECTION II. GOVERNANCE AND PROGRAM ADMINISTRATION.

A. DEFINITIONS.

1. "Disadvantaged Business Enterprise" or "DBE" means a business entity that is owned and controlled by social and economically disadvantaged persons who hold at least a 51% equity interest in the entity, such that the business entity's ability to compete in the business world has been restricted due to industry practices and/or limited capital and/or restricted credit opportunities that are beyond its control.
2. "DBE Prime" shall mean that, with respect to seeking a particular contract, one or more DBEs will perform in excess of 50% of the contract through its own forces and will share an amount of the monetary contract award equal to the work performed by the DBE(s). For example, if (a) a DBE will perform 65% of the work for a particular contract with its own forces and will receive 65% of the contract remuneration and



(b) the other 35% of the work will be performed by a non-DBE and the non-DBE will receive the remaining 35% of the contract remuneration, the contract would be considered as having been performed by a DBE Prime.

3. "50/50 Joint Venture" means a 50/50 partnership between a DBE and a non-DBE business entity for the specific purpose of seeking and performing a particular contract, where the DBE will perform 50% of the contract through its own forces and will share 50% of the monetary contract award.

B. ENFORCEMENT AND OVERSIGHT. The Rivergate Development Corporation ("RDC") and the City Council shall have primary responsibility for the setting of the annual overall goals and the specific contract goals for the DBE Program and for ensuring compliance with this DBE Program.

C. CERTIFICATION STANDARDS AND PROCEDURES.

1. **Joint Certification.** JCC shall participate in the City's joint certification process including the City/NOAB Cooperative Endeavor Agreement. The City has agreed to enter into a Cooperative Endeavor Agreement with the New Orleans Aviation Board ("NOAB") and the Sewerage and Water Board ("S&WB") to provide for a joint DBE certification process that permits cross-certification among the City, NOAB, S&WB and JCC. The effect of joint certification shall be such that a firm certified as a DBE by the City, NOAB, S&WB or JCC shall be considered as a certified DBE by the others.
2. **Adoption of S&WB Certification Standards and Procedures.** In order to give full effect to the joint certification process, JCC shall adopt the S&WB's certification standards and procedures, as set forth in Exhibit "A." attached hereto and made a part hereof.
3. **Applications.** Application for DBE Certification may be obtained from JCC or the DBE Certification Officer through the Mayor's Office of Economic Development, 1340 Poydras St., 9th Floor, New Orleans, Louisiana 70112, or on line at www.cityofno.com.

D. CONTRACTS, GOAL SETTING.

1. **Scope of Contracts.** Except as otherwise set forth herein, the policies and procedures set forth in this Program shall apply to all new professional service, construction and procurement contracts to the extent possible entered into by JCC.
2. **Overall DBE Participation Goal.** On an annual basis, the RDC and the Council shall be responsible for establishing the overall DBE Participation goal for JCC contracts. In determining the appropriate overall goal, RDC and the Council shall consider the availability of ready, willing and able DBEs to perform the types of contracts (as both prime and subcontractor) that JCC may reasonably expect to enter

during the goal period. In determining the availability of ready, willing and able DBEs and the appropriate overall DBE participation goal, the RDC and this Council shall consider one or more of the following:

- a. CNO Bidders List;
 - b. CNO DBE directory;
 - c. Disparity studies of New Orleans Metropolitan Area;
 - d. Census data and SIC or NAICS codes;
 - e. Lists of other DBEs, MBEs or WBEs in New Orleans Metropolitan Area from JCC's prior certifications, or other federal, state or local agencies;
 - f. Pre-bid attendance lists;
 - g. Past DBE participation;
 - h. Market data on employment, self-employment, education and training, union apprenticeship programs;
 - i. Input from organizations serving or representing DBEs minority-owned or women-owned businesses;
 - j. Data from federal, state and local procurement offices;
 - k. Input from prime contractors; and
 - l. Any other data that would help to better measure the percentage of work DBEs would be likely to obtain in the absence of discrimination.
3. **Contract Goals.** The default goal of DBE Participation in all JCC contracts shall be the overall goal set by the RDC and the Council for the current year. However, the RDC with the approval by Motion of the Council shall have the discretion to raise or lower the DBE Participation goal on a contract-by-contract basis for good cause shown.
4. **50/50 Joint Venture and DBE Prime Bid Incentive.** All RFPs and bid solicitations for JCC contracts shall contain a requirement that the contractor use its Best Efforts to comply with the DBE Program. RFPs and bid solicitations for contracts may provide an incentive in the form of receiving extra points in the scoring of the RFP or bid response if such response is made by a 50/50 Joint Venture or a DBE Prime. For example, if the RFP or bid solicitation specifies a maximum of 20 points for DBE Participation responsiveness, the RFP or bid solicitation may contain an incentive granting an additional 10 points (for a maximum of 30 points) if the response is made by a 50/50 Joint Venture or DBE Prime.
5. **Waiver of Contract Goals.** Upon receipt of a written request by JCC, the RDC may reduce the DBE participation goal or waive DBE participation in a particular contract if it is deemed by the RDC in its discretion, to be justified by the circumstances. Any such reduction or waiver shall be made in writing.

E. JCC-DBE COMPLIANCE OFFICER.

1. **Appointment and Primary Duties.** JCC shall appoint a DBE Compliance Officer who shall be responsible for the following duties:
 - a. Implementing and monitoring the DBE program;
 - b. Planning and participating in DBE certification process;
 - c. Assisting entities in the DBE certification process;
 - d. Providing outreach to DBEs and community organizations to advise them of contracting opportunities;
 - e. Recruiting eligible businesses to apply for DBE certification;
 - f. Initiating decertification procedures, when warranted, for certified DBEs who are found to be non-eligible under the DBE Program's certification standards, such as when certification has been made upon false information or information that is no longer accurate;
 - g. Exploring opportunities to develop mentor programs and mechanisms to encourage and facilitate the formation of 50/50 Joint Ventures;
 - h. Assisting DBEs in obtaining bonding;
 - i. Providing DBEs with information and assistance in preparing bids, obtaining bonding and insurance; and
 - j. Working cooperatively with the New Orleans City Council, the City of New Orleans DBE Compliance Officer, the Chief Administrative Officer and any other City personnel to ensure the maximum effectiveness of the Program objectives.
2. **Record Keeping.** The JCC-DBE Compliance Officer shall maintain, on premises, updated copies of the City's DBE Directory, DBE Bidder's List, and DBE Financial Institutions List for use in complying with this Program.
3. **Enforcement Remedies of Non-Compliant DBEs.** The DBE Compliance Officer shall report to the City any certified DBE that is found to be non-compliant with the Joint Certification standards.
4. **Semi-annual Participation Report.** The JCC-DBE Compliance Officer shall be responsible for creating and disseminating to the RDC and the City Council, on a semi-annual basis, a DBE Participation Report. The DBE Participation Report shall contain, at a minimum, the following information:
 - a. The total number and value of new contracts awarded to all contractors during the reporting period;
 - b. Of the totals reflected in (a), the total number and value of new contracts awarded to DBEs as primes during the reporting period (expressed as a percentage of (a));
 - c. Of the totals reflected in (a), the total number of contracts awarded to 50/50 Joint Ventures during the reporting period (expressed as a percentage of (a));
 - d. Of the totals reflected in (a), the total number of contracts awarded by non-DBE primes to DBEs as subcontractors during the reporting period (expressed as a percentage of (a));

- e. The total percentage of DBE participation in new contracts awarded to all contractors during the reporting period (the sum of (b), (c) and (d)); and
- f. For (a), (b), (c) and (d), a breakdown of the total number and value of new contracts awarded by type of contract (construction, professional services, personal services, procurement, etc).

5. **Monitoring and Enforcement Mechanisms.**

- a. Monitoring and Enforcement. The RDC shall take, at the minimum, the following monitoring and enforcement mechanisms to ensure compliance with the Program;

- i. Bringing to the attention of the City Council any false, fraudulent or dishonest conduct in connection with the Program, so that the City Council can take all appropriate steps;
- ii. Establishing a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs; and
- iii. Keeping a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

- b. Enforcement Remedies for Non-Compliance. JCC shall be deemed to be in compliance with this Program provided that it uses its best efforts, as defined herein, to meet the overall goals for any reporting period. Should JCC be found not to have achieved the stated contracting goal for any reporting period, RDC shall evaluate whether JCC used its best efforts, as defined herein, to meet the goal. JCC will be given a full opportunity to present evidence of its best efforts. Thereafter, should RDC determine that JCC has not meet the overall goal for the reporting period and did not use its best efforts to do so, RDC may recommend to the City Council appropriate remedial action to assure future compliance. Among the remedies that may be recommended are:

- i. More frequent reporting requirements;
- ii. More detailed record keeping requirements;
- iii. Require more detailed, specific efforts to be undertaken to assure greater DBE outreach and recruitment; and
- iv. Other actions that would increase the availability and participation in JCC contracts.

- 6. **Waiver.** The RDC shall have the discretion to waive specific contract goals, either in the RFP/bid stage or after the actual award of the contract if the contractor can establish that despite its Best Efforts, as evaluated by the RDC in accordance with the standards set forth below, the contractor was unable to meet the DBE participation goals established for such contract. Such waiver must be made in writing.

- 7. **Best Effort Standards.** The RDC shall be responsible for determining whether JCC has used its best efforts to achieve the Program contracting objectives. In making this determination, the RDC shall consider the following factors:

- a. Pre-bid Meetings. Whether JCC attended any pre-bid meetings scheduled to inform DBEs of contracting and subcontracting opportunities.
- b. Sub Contractors Lists. Whether JCC requested from the Mayor's Office of Economic Development a list of certified DBEs.
- c. Small Contracts. Whether JCC broke down contracts into dollar or work units to facilitate DBE participation as consistent with the nature of the work to be performed and its relationship to other aspects of the project.
- d. Follow-Up. Whether JCC followed-up initial indications of interest by DBEs by contacting those DBEs to determine with certainty if they remained interested in bidding.
- e. Advertisement. Whether JCC advertised in general circulation and trade association publications concerning subcontracting opportunities, and allowed subcontractors reasonable time to respond.
- f. Good Faith Negotiations. Whether JCC negotiated in good faith with interested DBEs and did not reject DBEs as unqualified without sound business reasons based on a thorough investigation of their capabilities.
- g. Information. Whether JCC provided interested DBEs with adequate information about the plans, specifications and requirements of the subcontract.
- h. Written Notice. Whether JCC took the necessary steps to provide written notice in a manner reasonably calculated to inform DBEs of subcontracting opportunities and allowed sufficient time for them to participate effectively.
- i. Community Resources. Whether JCC used the services available to DBE community organizations, DBE contractors' groups, local state and federal disadvantaged business assistance offices, disability rights organizations, and other organizations that provide assistance in the recruitment and placement of DBE firms.
- j. Contract Records. Whether JCC has maintained the following records for each DBE that Bids on any subcontract:
 1. Name, address and telephone number;
 2. A description of information provided by the general contractor or subcontractor; and
 3. A statement of whether an agreement was reached, and if not, why not, including any reasons for concluding that the bidder was deemed unqualified to perform the job.

F. REQUIRED RFP BID AND CONTRACT PROVISIONS.

1. **Required RFP and Bid Solicitation Language.** Absent a written waiver from RDC, when JCC uses an RFP or other bid solicitation process for professional services, procurement or construction contracts, the bid package shall include the following provisions:
 - a. **DBE Program Compliance.** The requirements of the JCC DBE Program apply to this contract. It is the policy of JCC to practice nondiscrimination based on social and economic disadvantage, race, color, sex, gender, disability or national origin. All firms qualifying under this solicitation are encouraged to submit proposals/ bids. Award of this contract shall be conditioned upon satisfying the requirements of the DBE Program. A DBE contract goal of _____ percent has been established for this contract. The offeror/bidder shall agree to use its best efforts, in accordance with factors set forth in the JCC DBE Program, to meet the contract goal for DBE participation in the performance of this contract.
 - b. **DBE Participation.** In order to be deemed responsive, the offeror/bidder shall be required to submit the following information.
 - i. The names and addresses of all certified DBE firms that will participate in the contract and their certification status;
 - ii. The dollar amount commitment of the participation of each certified DBE firm participating in the contract;
 - iii. Written confirmation from the named DBE(s), verifying their participation in the contract as provided in the commitments made under (i) and (ii) above; and
 - iv. If the contract goal is not met, evidence of best efforts.
2. **Required Contract Provisions.** Absent written waiver from the RDC, JCC professional service, procurement and construction contracts shall include the following provisions:
 - a. **DBE Program Compliance.** Contractor agrees to use its best efforts to fully and completely carry out the applicable requirements of the JCC DBE Program in the award and administration of this Agreement, including, without limitation, all reporting requirements and specific DBE participation goals. Contractor's failure to carry out these requirements, may result in the termination of this Agreement or such other remedy as deemed appropriate by JCC.
 - b. **DBE Compliance Reporting.** Contractor agrees to provide quarterly written reports to the JCC DBE Compliance Officer on all expenditures made to achieve compliance with the DBE participation goals for this Agreement. The report shall, at a minimum, include the following:

- i. The name and business address of each DBE involved in the contract and its certification status;
 - ii. A description of the work performed and/or the product or service supplied by each DBE;
 - iii. The date and amount of each expenditure made to a DBE; and
 - iv. Such other information as may assist the JCC DBE Compliance Officer in determining Contractor's compliance with the JCC DBE Program and the status of any DBE performing any portion of the contract.
- c. Access to Books and Records. Contractor agrees to grant the JCC-DBE Compliance Officer reasonable access to its books and records for purposes of verifying compliance with the JCC DBE Program.

EXHIBIT A

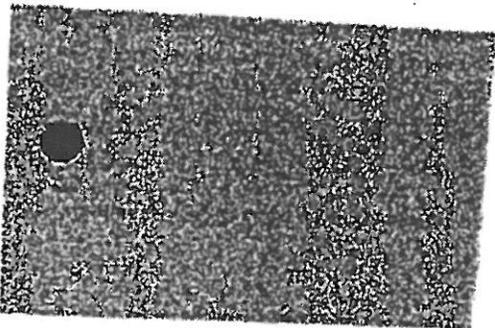
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*SEWERAGE AND WATER
BOARD OF
NEW ORLEANS*

*DISADVANTAGED
BUSINESS ENTERPRISE
PLAN*



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PART II - ESTABLISHMENT OF PROGRAM

A. OBJECTIVE

~~The objective of the~~ Disadvantaged Business Enterprise (hereinafter "Program") is to increase participation by disadvantaged business enterprises (hereinafter "DBE" or "DBE firms") in Board-awarded contracts, by taking all necessary steps to ensure that DBEs have the maximum opportunity to compete for the award of and participation in Board construction contracts, goods and services contracts and non-professional service contracts. This "Plan" is the implementation of that Program.

B. DEFINITION OF DBE

1. Disadvantaged Business Enterprises are businesses whose ability to compete in the business world has been restricted due to industry practices and/or limited capital and/or restricted credit opportunities which are beyond their control. The businesses are owned, operated and controlled by one or more socially and economically disadvantaged person(s) who owns at least 51% of the business.

2. Additionally, no applicant can be certified as a DBE under this Plan if, during any of the last five (5) years, it had annual gross receipts above the threshold level set by the U.S. Small Business Administration for "small businesses" in the industry in which applicant operates. The applicable threshold figure shall be the one in effect with the SBA at the time the application is completed. (Though the Board thus incorporates by the reference the SBA's income thresholds for certain industries, it does not adopt any other portion of the SBA guidelines or requirements.)

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3. Furthermore, an additional requirement is that a DBE cannot be dominant in its field of operation. Dominance is defined as:

- a. A manufacturing concern employing more than one hundred (100) persons and which has had over the three preceding years gross receipts exceeding a total of fifteen million dollars; or
- b. A non-manufacturing concern whose gross receipts have exceeded 3.5 million dollars annually; or
- c. A construction business whose gross receipts have exceeded 15.4 million dollars annually.

This definition is taken from the Standard Industrial Classifications of Establishments utilized by the Small Business Administration.

C. DEFINITION OF JOINT VENTURE

A Joint Venture is an entity composed of business enterprises of which one at a minimum is a DBE. The Joint Venture as an entity will be certified by the Certification Committee. The actual percentage of DBE ownership in the Joint Venture would be determined by the members of the Joint Venture. However, by its very nature the owners in the Joint Venture would share responsibility for the risk and profit. The Certification Committee shall look carefully at the information provided regarding the DBE's role and percentage of ownership in the venture as part of its certification process. The percentage of participation by a Joint Venture will be determined in the same manner as a participation by DBE.

D. APPLICATION

- 1. All businesses applying for certification as a DBE must complete and submit the

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Application Forms hereto attached as Schedule "A" or for Joint Ventures, Schedule "B".

2. Applications will be processed by the Board's DBE staff and submitted to the Joint Certification Committee for action as hereinafter provided.

E. CERTIFICATION PROCEDURES

1. Uniform Certification Standards

a. Only those businesses which are at least fifty-one percent (51%) owned and controlled by persons who are socially and economically disadvantaged shall be certified as a DBE.

b. In order to be eligible for certification, the applicant firm must be an independent business in which the ownership and control by socially and economically disadvantaged persons ("DBE owners") is real, substantial and continuing. The DBE owners must share in the risks and profits commensurate with their ownership interests. The DBE owners must also possess the power to direct or cause the direction of day-to-day management and major decisions of the firm. There can be no restrictions in the by-laws or other documents which prevent the DBE owners from making a business decision without the cooperation or vote of the non-DBE owners. If non-DBE members of the firm are disproportionately responsible for the operation of the firm, then the firm cannot be considered a DBE. Once certified, the DBE shall update its submission annually by submitting a new Schedule A or certifying that the Schedule A or B on file is still accurate. At any time that a change occurs in the ownership or control of the firm, the DBE must

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submit a new Schedule A or B as applicable.

c. The DBE Office will take at least the following steps with respect to an application for certification as a DBE or Joint Venture DBE:

- (1) Perform an on-site visit to the offices of the firm and to any job sites on which the firm is working at the time of the eligibility investigation;
- (2) Obtain the resumes or work histories of the principal owners of the firm and personally interview these individuals;
- (3) Analyze the ownership of stock in the firm if it is a corporation;
- (4) Analyze the partnership agreement, the articles of organization and/or the joint venture agreement;
- (5) Analyze the bonding and financial capacity of the firm;
- (6) Determine the work history of the firm, including contracts it has received and work it has completed;
- (7) Obtain or compile a list of equipment owned or available to the firm and the licenses held by the firm and its key personnel to perform the work it seeks to perform in the area for which it seeks certification; and
- (8) Obtain a statement from the firm of the type of work it prefers to perform as part of the DBE Program.

d. Board's DBE staff shall report the results of the above to the Certification Committee as hereinafter provided.

2. Waiver of On-Site Certification Visits

Office and job site visits may be omitted from the investigation in any of these situations:

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- a. When an applicant who has been certified by another agency with which the Board has entered into a Joint Certification Agreement, seeks to be certified by the Board; or
- b. When the Board recertifies a firm that previously has been reviewed on-site and no eligibility issues (e.g., change in ownership) have arisen since the original certification that make a second visit necessary.

3. The Certification Committee

- a. After receipt of the application (Schedule A or B) and after the DBE Office has had the opportunity to perform the tasks heretofore set out, it shall submit to the Certification Committee, the applications and supporting documents and request the Committee's action on same.
- b. The Certification Committee (or Joint Certification Committee as applicable) is an independent Committee appointed by the Board sitting as a panel of at least three (3) who are qualified with doctorate degrees in either economics, sociology, history, or related fields. The decision as to whether a firm can be certified as a DBE will be made solely by aforesaid Certification Committee. The Certification Committee shall set its own rules for the conduct of its meetings, the dates and times thereof, and agenda.
- c. Where the Board has entered into a Cooperative Agreement with other governmental agencies, said agreement shall fix how the members of said Committee are appointed and which committee shall serve as a Joint Certification Committee.
- d. The Committee shall notify the DBE Office of its decisions.

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4. Notification to Applicant of Certification Decision.

Upon receipt of the findings and decisions of the Certification Committee, the DBE Office shall give written notification to the applicant, and set out any further steps the applicant has to take, if necessary. If certification is denied, the written notification shall notify applicant of the appeal procedure.

5. Appeals of Certification Denials

- a. Any firm which believes that it has been wrongly denied certification as a DBE firm or as a Joint Venture (which includes a DBE firm under this program), may file an appeal with the Certification Committee for a review of the denial and present information and written arguments to the Certification Committee.
- b. The appeal shall be written, dated and signed and filed no later than 10 days after the date of the letter of notification from the DBE Office of the Certification Committee's Denial of Certification. Said appeal shall be addressed to:

Executive Director
Sewerage and Water Board of New Orleans
625 St. Joseph Street
New Orleans, LA 70165
- c. Third parties who have reason to believe that another firm has been wrongly granted certification as a DBE or joint venture may so advise the Certification Committee in writing. The Certification Committee may, if it deems justifiable, deny the DBE or Joint Venture in question, eligibility to participate as a DBE

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in any Board contracts let during the pendency of the investigation.

- d. The appellant who was denied certification will be given the opportunity to respond in writing and to present information, documents and written and/or oral arguments to the Certification Committee. At the request of the applicant the Certification Committee shall hold an informal meeting or hearing as part of the process, but a formal adversarial proceeding will not be followed.
- e. After reviewing the materials and documents presented and written and/or oral arguments the Committee shall render its decision.

6. Decertification Procedures

- a. Whenever the DBE Office has reason to believe that a currently certified firm is no longer eligible, the firm will be afforded due process prior to any decision revoking its eligibility.
- b. The steps to be used are:
 - 1. A letter will be sent to the firm by the DBE Office, stating that the DBE Office is contemplating recommending decertification. A brief description of the reasons for the proposed action will be included and the firm will also be advised as to when the recommendation for decertification will be presented to the Certification Committee.
 - 2. The firm shall have the right to submit to the DBE Office any information it deems significant in opposition to the DBE Office's recommendation to the Committee.
 - 3. The firm will be given an opportunity to respond in writing and to present information, documents, and written and/or oral arguments to the Certification Committee. At the request of the applicant, the Certification Committee shall hold an informal meeting or hearing as part of the process, but a formal adversarial proceeding will not be followed.

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4. After reviewing the materials, documents and written and/or oral arguments, the Committee shall render its decision on the decertification recommendation.

c. These procedures are included in the program to ensure fairness, provide due process to purported DBE firms and to prevent unnecessary litigation.

d. When the Certification Committee decertifies a firm and so advises the Board, the DBE Office shall advise the firm, in writing, of said decision and that an appeal may be filed with the Certification Committee within 10 days of the date of the notice from the DBE Office. Such appeal shall follow the procedures set out in Part II, D, 5 above for certification denials.

F. JOINT CERTIFICATION

1. Purpose

a. Because the New Orleans Aviation Board (hereinafter NOAB) has comparable certification requirements as herein set out, the Board has entered into a Cooperative Agreement with the NOAB, hereto attached as Schedule C.

b. The purpose of said Agreement is to provide a joint certification process that permits cross-certification between the Board and NOAB. Thus, firms that become certified with the Board will thereby also be certified with NOAB and vice versa. At this time, however, cross certification between the NOAB and Board applies only in the area of construction contracts.

2. Cooperative Certification Agreement

A firm seeking certification as a DBE in the area of construction contracting will not

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be required to submit Schedule A or B if the applicant indicates in writing with supporting documentation that it has been certified by the NOAB.

3. Sharing Costs

The Board shall adopt a resolution each year indicating the allocation of funds to support its share of the cost incurred in providing joint certification with the NOAB and/or other governmental agencies involved in the cross certification process and who have executed a Cooperative Agreement with the Board.

4. Future Agreements

It is the aim of the Board to enter into similar cooperative agreements with other governmental bodies who have comparable race and gender neutral certification criteria.

