

**STATE OF LOUISIANA
COASTAL PROTECTION AND RESTORATION AUTHORITY**

**CONTRACT FOR CONSTRUCTION MANAGEMENT AT RISK (CMAR)
PRECONSTRUCTION SERVICES
LAGOV DOC NO. XXXX
CONTRACT NO. XXXX**

THIS CONTRACT is made and entered into this _____ day of _____, 20____, by and between the Coastal Protection and Restoration Authority, hereinafter referred to as “CPRA”, and _____, hereinafter referred to as “CMAR Contractor”.

Pursuant to L.R.S. 38:2225.2.4 the Louisiana Legislature has authorized CPRA to engage in a Construction Management At Risk (CMAR) project delivery method as specified for public works projects. Under that authority, CPRA has elected to engage the CMAR Contractor to perform, and the CMAR Contractor agrees to perform the preconstruction services described in the Scope of Contract Services under the terms and conditions, and for the compensation as stated in this Contract.

ENTIRE AGREEMENT

This Contract, together with the Notice of Intent, Request for Qualifications (RFQ), Addenda Nos. ____ dated ____, Statement of Qualifications (SOQ) submitted by the CMAR Contractor, supporting documents, and any attachments and exhibits are specifically incorporated herein by reference, and constitute the entire agreement between the parties with respect to the subject matter. However, in the event of conflict between the terms of this Contract and the referenced documents, this Contract governs.

CONTRACT IDENTIFICATION

Contract No. _____, and Project No. BA-0153 have been assigned to this Contract to identify CMAR preconstruction services costs. All invoices, progress reports, correspondence, etc., required in connection with this Contract shall be identified with the CPRA Project title, Project Number, and Contract Number. The CMAR Contractor’s authorized representative, who is responsible for the Project shall sign and date all Project documentation.

1. PROJECT DESCRIPTION

Mid-Barataria Sediment Diversion (“MBSD”) (BA-0153): Management and Design, creating a diversion in the vicinity of Myrtle Grove, for the purpose of maximizing sediment capture from

the Mississippi River in order to build and maintain land in the middle portion of Barataria Basin, hereinafter referred to as the “Project”.

CPRA will utilize a Construction Manager at Risk (CMAR) model to deliver this Project, as described herein. CPRA has selected a Design Team to provide engineering management and design services through a separate RSIQ.

The CMAR Contractor, CPRA, and Design Team are expected to commit, at all times, to cooperate, coordinate, collaborate and communicate fully with each other and with others involved in the Project, to proceed on the basis of trust, confidence, and good faith, and use their best skill and effort in their activities on the Project.

The CMAR Contractor, CPRA, and Design Team have a common goal to design and, if CPRA approves, construct a quality Project meeting CPRA’s needs, within CPRA’s budget, and within CPRA’s schedule, at a reasonable and appropriate cost to CPRA and with a reasonable and appropriate fee for the CMAR Contractor and Design Team. CPRA, CMAR Contractor, and Design Team are collectively a team and individually team members. The purpose of the team is to achieve the above goal. In working toward the goal, each team member looks out for its own interests, the interests of the team, and the interests of each of the other team members.

2. SCOPE OF CONTRACT SERVICES

The CMAR Contractor’s preconstruction services consist of working with the Program Management Team, the Design Team, and Independent Cost Estimator (ICE) in the design phase to assist in the completion of a comprehensive set of construction plans and specifications by performing constructability reviews, phasing and sequencing suggestions, developing and updating an open-book cost model, assessing appropriate means and methods, designing temporary works, developing a construction schedule for maximum contract days, and providing input into the development of innovative time savings and cost savings ideas for Project design. The CMAR Contractor also provides opinions of probable construction costs (OPCCs) at designated milestones and a mutually acceptable Guaranteed Maximum Price (GMP) as part of the preconstruction phase of this Project.

If CPRA and the CMAR Contractor are able to reach an agreement on a GMP including constructability, construction phasing and sequencing, and the maximum number of contract days to complete the Project, as per L.R.S. 38:2225.2.4, CPRA may then enter into a Construction Services Contract with the CMAR Contractor.

If a GMP is not successfully negotiated, the Project will be put out to bid as a traditional design-bid-build (D-B-B) contract.

The full CMAR Scope of Services for this Project is presented in Exhibit B. The CMAR

Contractor provides at a minimum the following to assist in the development of the Project plans:

- An estimate of the quantities of materials, labor, and equipment needed for construction of the Project (a cost model);
- A logical CPM schedule in accordance with the CPM specifications;
- Advice as to the availability, cost, and capacities of materials, labor, and equipment;
- Risk identification services, methods to mitigate, and innovative approaches;
- Constructability reviews, phasing and sequencing reviews, and other input; and
- A final GMP schedule with maximum days.
- Attends partnering workshops, risk and innovation meetings, cost model development meetings, as well as cost and schedule reviews.

The deliverables to be provided by the CMAR Contractor during the preconstruction services are included in the detailed scope of services in Exhibit B.

3. TERM OF CONTRACT

This Contract shall terminate three years from the date of execution, unless extended by CPRA through additional task orders, issued solely at the discretion of CPRA. Funding of the Contract is on a year-to-year basis depending on authorization of the annual CPRA budget as defined in Section 7 – Fiscal Funding. Accordingly, this Contract may be terminated at any time by CPRA if funding for the Project is not authorized, and as provided for in Section 12 herein.

The CMAR Contractor shall proceed with the services specified herein after the execution of this Contract and upon written Notice-to-Proceed (NTP) from CPRA and shall be completed within ___ **calendar days**, which includes completion of GMP negotiations. The delivery schedule for all Project deliverables shall be established by the Project Manager.

4. GENERAL REQUIREMENTS

It is the intent of this Contract that with the exception of the items specifically listed to be furnished by CPRA, the CMAR Contractor shall, for the agreed compensation, obtain all data and furnish all services and materials required to fully develop and complete the required services of the Project. All items required to accomplish these results, whether or not specifically mentioned in this Contract are to be furnished at a cost not to exceed the maximum amount established by this Contract.

5. CONTRACT MONITOR

Brad Barth of CPRA, or his designee, will act as the Contract Monitor (hereinafter sometimes referred to as “Contract Monitor”) for this Project, to provide liaison between CMAR Contractor and CPRA, and to perform various duties which are specifically called for in this Contract and Exhibit B.

6. METHOD OF COMPENSATION

CPRA shall pay and the CMAR Contractor agrees to accept, as full compensation for the preconstruction services to be performed under this Contract, a non-negotiated not-to-exceed compensation of **\$13,800,000** paid for as discussed below.

The fee will be paid at major submittal milestones, Basis of Design, 30%, 60%, 90%, 100% and final submittals (acceptance of GMP or final rejection included). Invoices shall be submitted for actual cost incurred according to the rate sheet contained in Exhibit C. Rates are inclusive of all travel-related costs, which includes airfare, meals, lodging and mileage. Rates are inclusive of all supply costs normally associated with delivery of services, including but not limited to computers, field sampling supplies, office supplies, copies and routine safety equipment and materials. If a task requires specialized equipment or materials, the Contract Monitor may approve reimbursement at cost for such equipment or materials. Such approval must be granted by the Contract Monitor.

All invoices shall show the total amount earned to the date of submission, and the amount due and payable. All invoices shall also show the total of previous payments-on-account to this Contract and the amount due and payable as of the date of the current invoice. All invoices submitted for payment shall include the assigned Contract Number. A principal member of the CMAR Contractor to whom the Contract is issued must sign, date, and certify the invoice for correctness. The original and three copies of each invoice shall be submitted to the Contract Monitor by _____.

Upon receipt of each invoice, CPRA shall check the invoice for correctness and return if required. CPRA agrees to complete its review of each invoice within thirty (30) days of receipt and will issue payment for approved invoices within thirty (30) days of approval.

The following payments should be made at each milestone after careful review of the related invoices to ensure all tasks associated with that milestone are complete and satisfactorily completed to CPRA’s expectations and as described elsewhere in the Contract or RFQ. Amounts payable at each major submittal milestone shall not exceed the following:

- Basis of Design: \$1,505,000
- 30%: \$2,895,000
- 60%: \$4,762,000
- 90%: \$1,860,000

- Final Submittals: \$2,778,000

7. FISCAL FUNDING

The continuation of this Contract is contingent upon the appropriation of funds to fulfill the requirements of the Contract by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of the Contract, 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 Contract, the Contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

The Project funding for the planning, permitting, engineering and design as well construction for the Program is primarily from the National Fish and Wildlife Foundation (NFWF) Gulf Environmental Benefit Fund (GEBF). The GEBF resulted from plea agreements on the Deepwater Horizon Oil Spill to fund projects benefiting the natural resources of the Gulf Coast that were impacted by the spill. Some elements of the Program may be funded from other settlement agreements from the Deepwater Horizon Oil Spill.

8. INSURANCE AND BONDS

Insurance shall be placed with insurers with an A.M. Best's rating of no less than A-: VI. This rating requirement may be waived for Worker's Compensation coverage only.

The CMAR Contractor shall not commence work under this Contract until he has obtained all insurance required herein. Certificates of Insurance, fully executed by officers of the Insurance Company written or countersigned by an authorized Louisiana State agency, shall be filed with the State of Louisiana for approval. The CMAR Contractor shall not allow any subcontractor to commence work on his subcontract until all similar insurance required for the subcontractor has been obtained and approved. If so requested, the CMAR Contractor shall also submit copies of insurance policies for inspection and approval of the State of Louisiana before work is commenced. Said policies shall not hereafter be canceled, permitted to expire, or be changed without thirty (30) days' notice in advance to the State of Louisiana and consented to by the State of Louisiana in writing and the policies shall so provide.

Compensation Insurance: Before any work is commenced, the CMAR Contractor shall obtain and maintain during the life of the Contract, Workers' Compensation Insurance for all of the CMAR Contractor's employees employed at the site of the Project. In case any work is sublet, the CMAR Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance for all the latter's employees, unless such employees are covered by the protection afforded by the CMAR Contractor. In case any class of employees engaged in work under the Contract at the site of the Project is not protected under the Workers' Compensation Statute, the

CMAR Contractor shall provide for any such employees, and shall further provide or cause any and all subcontractors to provide Employer's Liability Insurance for the protection of such employees not protected by the Workers' Compensation Statute.

Commercial General Liability Insurance: The CMAR Contractor shall maintain during the life of the Contract such Commercial General Liability Insurance which shall protect him, CPRA, and any subcontractor during the performance of work covered by the contract from claims or damages for personal injury, including accidental death, as well as for claims for property damages, which may arise from operations under the Contract, whether such operations be by himself or by a subcontractor, or by anyone directly or indirectly employed by either of them, or in such a manner as to impose liability to the State. Such insurance shall name CPRA and the State as additional insured for claims arising from or as the result of the operations of the CMAR Contractor or his subcontractors. In the absence of specific regulations/provisions, the amount of coverage shall be as follows: Commercial General Liability Insurance, including bodily injury, property damage and contractual liability, with per occurrence and aggregate limits of no less than \$5,000,000 and \$10,000,000 respectively.

Errors and Omissions: CMAR Contractor shall be responsible to maintain Errors and Omissions coverage with limits of no less than \$10,000,000 per occurrence and \$20,000,000 aggregate. This Errors and Omissions coverage must be maintained throughout the entirety of the term of this Contract.

Insurance Covering Special Hazards: Special hazards as determined by CPRA shall be covered by rider or riders in the Commercial General Liability Insurance Policy or policies herein elsewhere required to be furnished by the CMAR Contractor, or by separate policies of insurance in the amounts as defined in any Special Conditions of the Contract included therewith.

Licensed and Non-Licensed Motor Vehicles and Watercraft: The CMAR Contractor shall maintain during the life of the Contract, Automobile Liability Insurance in an amount not less than combined single limits of \$1,000,000 per occurrence for bodily injury/property damage. Such insurance shall cover the use of any licensed and non-licensed motor vehicles engaged in operations within the terms of the Contract on the site of the work to be performed, unless such coverage is included in insurance elsewhere specified. Such insurance shall name the State as additional insured for claims arising from or as the result of the operations of the CMAR Contractor or his subcontractors.

If watercraft is engaged and/or utilized in any operations performed under this Contract, the CMAR Contractor shall maintain Watercraft Liability Insurance in an amount not less than combined single limits of \$1,000,000 per occurrence for bodily injury/property damage. Such insurance shall be maintained during the life of this Contract, and cover the use of any licensed and non-licensed watercraft engaged in operations within the terms of the Contract on the site of the work to be performed, unless such coverage is included in insurance elsewhere specified. If the watercraft engaged and/or utilized in any operations performed under this Contract is not owned and/or operated by the Contractor, then the CMAR Contractor shall require that any and all

such subcontractors take and maintain the Watercraft Liability Insurance as prescribed and required by this Paragraph.

Subcontractor's Insurance: The CMAR Contractor shall require subcontractors, which are not protected under the CMAR Contractor's own insurance policies, to take and maintain insurance of the same nature required herein and with coverage limits in amounts deemed necessary and appropriate by CMAR Contractor. To the extent that such policies of insurance are required by CMAR Contractor, then CPRA and the State of Louisiana be named as additional insureds on all policies. **Performance and Payment Bonds**

The CMAR Contractor shall furnish a Performance Bond and a Labor and Material Bond in form and substance satisfactory to CPRA, and without limitation, complying with the following specific requirements:

1. The Bonds shall be executed by a good and solvent surety licensed in the State of Louisiana meeting the requirements of Louisiana Revised Statutes Section 48:255(D), and approved by CPRA;
2. The Performance Bond and the Labor and Material Bond shall each be in an amount of \$13,800,000 (U.S. Dollars); and
3. The surety on both the Performance Bond and the Labor and Material Payment Bond shall agree that it shall be obligated under the Bonds to any successor, grantee or assignee of CPRA.

8. CONTRACT CHANGES

Minor revisions in the described work shall be made by the CMAR Contractor without additional compensation as the work progresses. Considerations for minor revisions have been included in the compensation computations. If CPRA requires more substantial revisions or additional work which the CMAR Contractor believes to warrant additional compensation, the CMAR Contractor shall notify CPRA in writing within thirty (30) days of being instructed to perform such work.

If CPRA agrees that the required work is necessary and warrants additional compensation, the Contract shall be changed by a Supplemental Agreement or by an Extra Work Letter. The CMAR Contractor shall not commence any additional work until written authority to proceed has been given by CPRA.

An Extra Work Letter shall be utilized in cases when the additional compensation is small and the work does not constitute a change in scope. The cumulative value of all Extra Work Letters shall not exceed 10% of the cumulative value of all contract compensation exclusive of Extra Work Letters (original contract compensation plus all supplemental agreements). In all other cases wherein the CPRA agrees that the required work is necessary and warrants additional compensation, a Supplemental Agreement shall be utilized.

If CPRA disagrees that additional compensation is due for the required work, it shall be the CMAR Contractor's responsibility to perform the work and adhere to the procedures as set forth in the Claims and Disputes provisions of this Contract.

9. OWNERSHIP OF DOCUMENTS

All data collected by the CMAR Contractor and all documents, notes, drawings, tracings, and files collected or prepared in connection with this work, except the CMAR Contractor's personnel and administrative files, shall become and be the property of CPRA. CPRA shall not be restricted in any way whatsoever in its use of such material, except as specifically provided in Louisiana R. S. 38:2317.

No public news releases, technical papers, or presentations concerning this Project may be made by the CMAR Contractor without the prior written approval of CPRA.

10. DELAYS AND EXTENSIONS

Upon written request to CPRA, the CMAR Contractor may be given an extension of time for delays occasioned by events or circumstances beyond the CMAR Contractor's control. Delays caused by tardy approvals of work in progress by various official agencies involved in the Project, or delays caused by any acts or omissions by CPRA.

It may be cause for review of contract compensation if the accumulated approved extensions of contract time caused by tardy approvals of work in progress by various official agencies involved in the Project, and/or caused by any acts or omissions by CPRA or its agents, equals or exceeds twelve (12) months. If, in the opinion of CPRA, circumstances indicate a need for additional compensation, the compensation stipulated herein for work accomplished, for the delayed individual Stage/Part, shall be addressed by Supplemental Agreement. If the CMAR Contractor believes Contract delays warrant an adjustment in contract compensation, then the CMAR Contractor shall notify CPRA in writing of its request within thirty (30) days of being instructed to perform the work. **No compensation adjustment shall be made for work performed prior to such written request.**

If, in the opinion of CPRA, circumstances do not indicate a need for additional compensation, it shall be the CMAR Contractor's responsibility to perform the work and adhere to the procedures as set forth in the Claims and Disputes provisions of this Contract.

11. PROSECUTION OF WORK

The CMAR Contractor shall provide sufficient resources to ensure completion of the preconstruction services in accordance with the Project scope and within the contract time limit(s).

If the completed work is behind the approved progress schedule, the CMAR Contractor shall take immediate steps to restore satisfactory progress.

12. TERMINATION OR SUSPENSION

This Contract shall become effective from the date of execution (the date all parties have signed), and shall be binding upon the parties until all work is completed by the CMAR Contractor in accordance with the terms of this Contract and accepted by CPRA, and all payments and conditions have been met. Further, this Contract shall remain in effect until CPRA has issued final acceptance of the services provided for herein. However, this Contract may be terminated earlier under any or all of the following conditions:

1. By mutual agreement and consent of the parties hereto.
2. By CPRA as a consequence of the failure of the CMAR Contractor to comply with the terms, progress or quality of work in a satisfactory manner; proper allowance being made for circumstances beyond the control of the CMAR Contractor.
3. By either party upon failure of the other party to fulfill its obligations as set forth in this Contract.
4. By CPRA due to the departure for whatever reason of any principal member or members of the CMAR Contractor's firm.
5. By satisfactory completion of all services and obligations described herein.
6. By CPRA giving 30 calendar days' notice to the CMAR Contractor in writing and paying compensation due for completed work.
7. By CPRA if the legislature fails to appropriate sufficient monies to provide for the continuation of the Contract as set forth in Section 7 – Fiscal Funding.

Upon termination of this Contract, the CMAR Contractor shall deliver to CPRA all records of the work compiled to the date of termination. CPRA shall pay in full for all work accomplished up to the date of termination.

If for any reason, CPRA wishes to suspend this Contract, it may do so by giving the CMAR Contractor thirty (30) days written notice of intent to suspend. The CMAR Contractor shall, at expiration of the thirty (30) days from the date of the notice of intent to suspend, stop all work on the Project. Work shall resume no later than thirty (30) days after CPRA provides the CMAR Contractor with a written notice of intent to resume work. During any suspension of the Work, the CMAR Contractor shall only be entitled to reasonable Project related expenses.

The CMAR Contractor shall not have the authority to suspend work on this Contract.

13. CLAIMS AND DISPUTES

The CMAR Contractor's failure to provide the required written notification pursuant to the provisions of the Contract Changes and/or the Delays and Extensions sections of this Contract shall be deemed a waiver of any and all claims for additional compensation.

Before CMAR Contractor may bring suit in any court concerning any issue relating to this Contract, such party must first elevate the dispute in accordance with the Issue Resolution Matrix attached hereto as Exhibit D. The Executive Director of CPRA shall have final dispute resolution authority. Thereafter any claim or controversy arising out of this Contract shall be resolved under the provisions of LSA - R.S. 39:1672.2-1672.4.

This Contract shall be governed by and interpreted in accordance with the laws of the State of Louisiana. The exclusive venue for any suit arising out of this Contract shall be in the Nineteenth Judicial District Court for the Parish of East Baton Rouge, Louisiana.

14. INDEMNITY

The CMAR Contractor agrees to indemnify and save harmless CPRA against any and all claims, demands, suits, and judgments of sums of money (including attorney's compensation and cost for defense) asserted by any party for loss of life or injury or damage to persons or properties arising out of, resulting from, or by reason of, any negligent act, or omissions by the CMAR Contractor, its agents, servants, or employees while engaged upon or in connection with the services required or performed by the CMAR Contractor hereunder.

15. QUALITY OF WORK

It is understood that the provision of the preconstruction services and associated deliverables included in Exhibit B, and all other work required of the CMAR Contractor under this Contract shall meet the standard requirements as to general format and content, and shall be performed to the satisfaction and approval of CPRA. CPRA's review, approval, acceptance of, or payment for the services required under this Contract shall not be construed to operate as a waiver of any of CPRA's rights or of any causes of action arising out of or in connection with the performance of this Contract.

The CMAR Contractor shall be responsible for the professional quality and technical accuracy of all work products and other services furnished to CPRA. If errors or substandard work is revealed during normal work reviews, the work should be returned for correction and payments withheld until delivery of an acceptable product. The CMAR Contractor shall, without additional compensation, correct or revise any deficiencies discovered subsequent to final acceptance by CPRA. If the Project schedule requires that CPRA staff make corrections due to the poor quality of the work produced by the CMAR Contractor, the CMAR Contractor shall be responsible for

costs incurred by CPRA to make the corrections. The costs to be recovered shall include, but not be limited to, the costs associated with delays to the Project.

16. CLAIM FOR LIENS

The CMAR Contractor shall hold CPRA harmless from any and all claims for liens for labor, services or material furnished to the CMAR Contractor in connection with the performance of its obligations under this Contract.

17. COMPLIANCE WITH LAWS

The CMAR Contractor shall comply with all applicable Federal, State and Local laws and ordinances, as shall all others employed by it in carrying out the provisions of this Contract.

The CMAR Contractor and any subcontractors must comply with applicable Federal labor laws covering non-Federal construction, including but not limited to, the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 et seq.) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c) and to the extent if applicable 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act) (formerly 40 U.S.C. 276a et seq). CMAR Contractor further agrees, in the case of any equipment and/or product authorized to be purchased under this Contract, to comply with the Buy American Act 41 U.S.C. 8301-8305 (formerly 41 U.S.C. 10a-10c).

Further, the CMAR Contractor and its employees, subcontractors and agents shall agree to comply with all applicable Federal, State, and Local laws, policies, licenses and ordinances, in carrying out all provisions of this Contract.

18. COMPLIANCE WITH CIVIL RIGHTS ACT

The CMAR Contractor agrees to abide by the requirements of the following as applicable: Titles VI and VII of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972, as amended; Federal Executive Order 11246, as amended; Section 504 of 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 Discrimination Act of 1975; and the Americans with Disabilities Act of 1990, as amended.

The CMAR Contractor agrees not to discriminate in its employment practices, and shall render services under this Contract without regard to race, color, age, religion, sex, national origin, veteran status, political affiliation, or disabilities.

Any act of discrimination committed by the CMAR Contractor, or failure to comply with these statutory obligations, when applicable, shall be grounds for termination of this Contract.

19. COVENANT AGAINST CONTINGENT FEES

The CMAR Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CMAR Contractor, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CMAR Contractor, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, CPRA shall have the right to nullify this Contract without liability, or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

No legislator or person who has been certified by the Secretary of the State as elected to the legislature or member of any board or commission, members of their families or legal entities in which the legislator, person or board or commission member has an interest, may derive any benefit from this Contract or share in any part of the Contract in violation of the Louisiana Code of Governmental Ethics (LSA-R.S. 42:1101, et seq.).

20. CODE OF GOVERNMENTAL ETHICS

The CMAR Contractor acknowledges that Chapter 15 of Title 42 of the Louisiana Revised Statutes (R.S. 42:1101 et. seq., Code of Governmental Ethics) applies to the CMAR Contractor in the performance of services called for in this Contract. The CMAR Contractor agrees to immediately notify the State if potential violations of the Code of Governmental Ethics arise at any time during the term of this Contract.

21. SUBLETTING, ASSIGNMENT, OR TRANSFER

This Contract, or any portion thereof, shall not be transferred, assigned, or sublet without the prior written consent of CPRA.

22. CERTIFICATE OF DEBARMENT / SUSPENSION STATUS

CMAR Contractor certifies with its execution of this agreement that it is not suspended, debarred or ineligible from entering into contracts with any department or agency of the Federal Government or of the State of Louisiana, or in receipt of notice of proposed debarment or suspension.

CMAR Contractor agrees to secure from any contractor(s) and subcontractor(s) for the captioned Project certification that such contractor(s) and subcontractor(s) are not suspended, debarred or declared ineligible from entering into contracts with any department or agency of the Federal

Government or of the State of Louisiana, or in receipt of a notice of proposed debarment or suspension.

CMAR Contractor shall provide immediate notice to the CPRA in the event of it or its contractor(s) or any subcontractor(s) being suspended, debarred or declared ineligible by any department or agency of the Federal Government or of the State of Louisiana, or upon receipt of a notice of a proposed debarment or suspension, either prior to or after execution of this Contract.

Upon receipt of notice of suspension, debarment, or declaration that CMAR Contractor or its contractor(s) or any subcontractor(s) is/are ineligible to enter into contracts with any department or agency of the Federal Government or of the State of Louisiana, either prior to or after execution of this agreement, CPRA reserves the right to review cause for said debarment, suspension, or declaration of ineligibility, and to terminate this Contract pursuant to the terms of the article in this agreement entitled TERMINATION OR SUSPENSION, or take such other action it deems appropriate under this Contract.

23. SUCCESSORS AND ASSIGNS

This Contract shall be binding upon the successors and assigns of the respective parties hereto.

24. TAX RESPONSIBILITY

The CMAR Contractor hereby agrees that the responsibility for payment of taxes on the payments received under this Contract shall be CMAR Contractor's obligation.

25. JOINT EFFORT

This Contract shall be deemed for all purposes prepared by the joint efforts of the parties hereto and shall not be construed against one party or the other as a result of the preparation, drafting, submittal or other event of negotiation, drafting or execution of the Contract.

26. SEVERABILITY

If any term, covenant, condition, or provision of this Contract or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Contract or the application of such term, covenant, condition or provision to persons or circumstances other than those as to which is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this Contract shall be valid and enforced to the fullest extent permitted by law.

27. PROHIBITION ON BIDDING IF AGREEMENT ON GMP PROPOSAL CAN NOT BE REACHED

CMAR Contractor shall, upon completion of the Pre-Construction Phase of the Project, provide a Guaranteed Maximum Price (GMP) Proposal to CPRA. If CPRA and the CMAR Contractor reach an agreement on a GMP Proposal, CPRA will award the contract for the Construction Phase of the Project to the CMAR Contractor in accordance with Louisiana Revised Statute 38:2225.2.4(G)(4).

If, after negotiations, CPRA and the CMAR Contractor are unable to reach an agreement on a GMP Proposal, CPRA will advertise the Project for public bid in accordance with Louisiana Revised Statute 38:2225.2.4(G)(6). In this event, the CMAR Contractor will not be permitted to submit a bid for the Construction Phase of the Project.

THUS DONE AND SIGNED AT Baton Rouge, Louisiana on the day, month and year first written above.

IN WITNESS WHEREOF, the parties have executed this Agreement as of this _____ day of _____, 2017.

WITNESSES SIGNATURES:

**COASTAL PROTECTION AND RESTORATION
AUTHORITY**

Signature

By: _____

Michael R. Ellis
Executive Director

(Print Name)

Signature

(Print Name)

WITNESSES SIGNATURES:

CMAR CONTRACTOR NAME:

Signature

By: _____

(Print Name)

(Print Name)

Signature

(Print Title)

(Print Name)

Exhibit A -- Acronyms and Definitions

A.1 Acronyms

CFR	Code of Federal Regulations
CMAR CONTRACTOR	Contractor selected to provide Construction Management At Risk services
DBE	Disadvantaged Business Enterprise
GMP	Guaranteed Maximum Price
NFWF	National Fish and Wildlife Foundation
OSHA	Occupational Safety & Health Administration
WBS	Work Breakdown Structure

A.2 Definitions

All other capitalized terms used, but not defined herein, shall have the meaning ascribed to such term in this Contract.

Business Day	Day on which CPRA is officially open for business.
Calendar Day	Every day shown on the calendar, beginning and ending at midnight.
Claim	A separate demand by CMAR Contractor for (a) a time extension which is disputed by CPRA, or (b) payment of money or damages arising from work done by or on behalf of CMAR Contractor in connection with the Contract which is disputed by CPRA. A Claim will cease to be a Claim upon resolution thereof, including resolution by delivery of a Change Order or Contract amendment signed by all parties.
Construction Contract	The written agreement between CPRA and the CMAR Contractor setting forth the obligations of the parties with respect to the construction of the Project, including, but not limited to, the performance of the work, the furnishing of labor, materials, and equipment, and the basis of payment.
Construction Management At Risk	A project delivery system that entails a commitment by the construction manager to deliver the Project within a guaranteed maximum price (GMP), in most cases. The construction manager acts as CMAR Contractor to CPRA in the development and design phases and as the equivalent of a general contractor during the construction phase.
Contract	Depending on the context, (a) the Preconstruction Services Contract, or (b) the Construction Contract.
Contract Documents	The term "Contract Documents" shall mean this Preconstruction Services Contract including all exhibits hereto.

Cost Proposal	Construction Manager’s proposed reimbursement rates for performing the work under this Preconstruction Services Contract.
Day	References to “days” or “Days” shall mean Calendar Days unless otherwise specified, provided that if the date to perform any act or give any notice specified in the Contract Documents (including the last date for performance or provision of notice “within” a specified time period) falls on a non-Business Day, such act or notice may be timely performed on the next succeeding day which is a Business Day.
Disadvantaged Business Enterprise	A for profit small business concern as defined in 49 CFR Part 26.
Guaranteed Maximum Price	Negotiated price between CPRA and Construction Manager for construction of the Project or portion thereof.
Holidays	Those days designated as State holidays in the Government Code.
Indirect Costs	Jobsite Overhead and General Conditions are included when Indirect Costs are referenced in the document.
Key Personnel	The persons listed in the CMAR Contractor’s SOQ to perform the preconstruction services work, subject to revision in accordance with the Contract.
Opinion of Probable Cost (OPCC)	An estimate prepared by the CMAR Contractor that reflects the estimator’s opinion as to the probable costs that a “prudent” contractor would include in his/her tender to construct the defined facilities. Unless specifically stated, the OPCC does not capture framework costs borne by CPRA for preconstruction activities or for expenses related to the management and support of field construction activities. The OPCC is intended to be an indication of fair market value and is not necessarily a predictor of lowest bid. Fair market value is assumed to be a mid-range tender considering four or more competitive bids. Finally, OPCC pricing is predicated on the contractor’s compliance with all contract specifications and design parameters during field execution activities. OPCC may also be referred to as the cost estimate.
Person	Any individual, corporation, company, voluntary association, partnership, trust, unincorporated organization or Governmental Person, including CPRA.
Preconstruction Services Contract	This written agreement between CPRA and the CMAR Contractor setting forth the obligations of the parties with respect to the performance of certain services during the design phase including, but not limited to, scheduling, pricing, and phasing to assist CPRA to design a more constructible Project.
Project	Mid Barataria Diversion Project and all other work product to be provided by Construction Manager in accordance with the Contract Documents.

Scope of Work, Work	All duties and services to be furnished and provided by CMAR Contractor as required by the Contract Documents, including the administrative, quality control, quality assurance, procurement, legal, professional, manufacturing, supply, installation, supervision, management, testing, verification, labor, materials, equipment, documentation and all other efforts necessary or appropriate to complete the Scope of Work contained in Exhibit B except for those efforts which the Contract specify will be performed by CPRA or other Persons. In certain cases the term is also used to mean the products of the work.
State	The State of Louisiana acting through its elected officials and their authorized representative, or the State of Louisiana in the geographic sense, depending on the context.
Subcontract	Any subcontract to perform any part of the work or provide any Materials, equipment or supplies for any part of the work between Construction Manager and a Subcontractor, or between any Subcontractor and its lower tier Subcontractor, at any tier.
Subcontractor or SubCMAR Contractor	Any Person with whom Construction Manager has entered into any Subcontract and any other Person with whom any Subcontractor has further subcontracted any part of the work, at any tier.
Work Breakdown Structure	A deliverable-oriented grouping of Project components that organizes and defines the total scope of the Project.

Exhibit B -- CMAR Scope of Services