

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

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

This CMAR Agreement is made and executed in five originals between the Coastal Protection and Restoration Authority, hereafter designated as "CPRA," and _____, hereafter designated as the "CMAR Contractor."

CPRA did advertise for, receive, and accept a Proposal from the CMAR Contractor for work on a CPRA CMAR project identified as the Mid-Barataria Sediment Diversion Project, CPRA Project No. BA-0153.

The CMAR Contractor's submission is evidenced by a copy of the Statement of Qualifications (SOQ) incorporated herein as part of the Contract Documents defined hereafter.

In consideration of the agreements herein contained, to be performed by the parties hereto and of the payments hereafter agreed to be made, it is mutually agreed by both parties that:

1.0 CONTRACT DOCUMENTS

The Contract consists of the "Contract Documents" including, but not limited to, the following:

- A) Part 1 – Contract for Construction Management at Risk (CMAR) Construction Services (this instrument);
- B) Contractor's GMP, Schedule with maximum days, phasing and sequencing plans;
- C) Payment, Performance and Retainage Bond Form;
- D) Project Scope of Services (Appendix A to this CMAR Agreement);
- E) Part 2 - CMAR Sections 500s, including appendices;
- F) Special Provisions and Technical Specifications
- G) Plans;
- H) Plan revisions (if applicable);
- I) Preconstruction Services Contract, executed;
- J) Request for Qualifications, including appendices;

K) ____ Addenda made or issued prior to receipt of SOQs;

L) CMAR Contractor's SOQ.

For these purposes, all of the provisions contained in the listed Contract Documents are attached and incorporated herein by reference with the same force and effect as though said Contract Documents were herein set out in full.

2.0 INTENT OF CONTRACT

The CMAR Contractor agrees to the terms and requirements for the intent of the Contract to provide all Materials, Equipment, and labor and perform the Work required by the terms of this Contract.

3.0 COMPENSATION

3.1 **Guaranteed Maximum Price (GMP):** The GMP for this Contract is (\$_____) including indirect costs, margin/fee, and allowances.

The CMAR Contractor agrees to accept and CPRA agrees to pay for the Work at the prices stipulated in this Contract in lawful money of the United States in Part 2 – CMAR Sections 500s, CMAR Section 507-8.

3.2 Construction Phase Margin/Fee

3.2.1 For Construction Phase Services, Owner shall pay CMAR Contractor a stipulated fee or margin equal to ____ Percent (%) of the Cost of Work, as defined herein and in the CMAR Contractor's GMP.

3.2.2 Based on the anticipated GMP and allowances in Paragraph 3.1, the margin (in its entirety) would be the total stipulated amount of: (\$____)

3.2.3 If CPRA agrees to a change in the GMP during the Construction Phase that results from a change in the scope of the Project, the Construction Margin shall be equitably adjusted by applying the percentage established in Paragraph 3.2.1 to the amount of the change in the GMP. The Construction Margin will not be adjusted for changes to the Project that do not change the GMP.

3.2.4 The percentage rate established in Paragraph 3.2.1 of this Contract for calculation of the Construction Margin adjustments cannot be changed except with the express written approval of CPRA. Such approval will normally only be given if there is a substantial change in the scope of the Project.

3.3 Cost of Equipment

- 3.3.1 Allowable costs for construction and marine plant and equipment in sound workable condition owned or controlled and furnished by the CMAR, or a subcontractor at any tier performing cost plus fee work, shall be based on actual cost data for each piece of equipment or groups of similar serial and series for which CPRA can determine both ownership and operating costs from the contractor's accounting records. When both ownership and operating costs cannot be determined for any piece of equipment or groups of similar serial or series equipment from the contractor's accounting records, costs for that equipment shall be based upon the applicable provisions of USACE Engineer Pamphlet (EP) 1110-1-8, Construction Equipment Ownership and Operating Expense Schedule, Region III. Working conditions shall be considered to be average for determining equipment rates using the schedule unless specified otherwise by CPRA. For equipment not included in the schedule, rates for comparable pieces of equipment may be used or a rate may be developed using the formula provided in the schedule. For forward pricing, the schedule in effect at the time of negotiations shall apply. For retroactive pricing, the schedule in effect at the time the work was performed shall apply.
- 3.3.2 Rates for equipment rented from an organization under common control, lease-purchase arrangements, and sale-leaseback arrangements, will be determined using the schedule, except that actual rates will be used for equipment leased from an organization under common control that has an established practice of leasing the same or similar equipment to unaffiliated lessees.
- 3.3.3 When actual equipment costs are proposed and the total amount of the pricing action exceeds the simplified acquisition threshold (SAT), CPRA shall request the CMAR Contractor to submit either certified cost or pricing data, or partial/limited data, as appropriate. The data shall be submitted using the USACE Standard Form 1411, Contract Pricing Proposal Cover Sheet.

3.4 Limitation on Indirect Costs

- 3.4.1 For indirect costs (jobsite overhead and General Conditions Cost defined in the Preconstruction Services Contract), CPRA will pay CMAR Contractor indirect costs up to a maximum of (\$_____).
- 3.4.2 If the CPRA agrees to a change in the GMP during the Construction Phase that results from a change in the scope of the Project, the maximum allowable amount of indirect costs shall be equitably adjusted. The limit on allowable reimbursements of indirect costs will not be adjusted for changes to the Project that do not change the Guaranteed Maximum Price and/or the critical path CPM. Invoices, quotes, paid checks, payroll information or documentation as directed by CPRA must be produced for payment.

- 3.4.3 The maximum allowable amount of indirect costs established for the Project and incorporated by a GMP Change Order cannot be subsequently increased except with the express written approval of the Chief Engineer for CPRA. Such approval will normally only be given if there is a substantial change in the scope of the Project.

4.0 CONTRACT TIME

The entire Contract must be completed in all details and ready for final acceptance by [The final acceptance date will be inserted here.] (within [The number of calendar days will be inserted here.] calendar days).

The work must be substantially completed, and available for its' intended use by [The substantial completion date will be inserted here.] (within [The number of calendar days will be inserted here.] calendar days).

Performance of Work on this Contract must begin on the date stipulated in the Notice to Proceed (NTP) and must be completed within the time specified in the Contract Documents, subject to such extensions as may be authorized.

5.0 ALTERATION OF CONTRACT

The CMAR contractor agrees to the terms and requirements for alteration of the Contract, as such are contained in Part 2 – CMAR Sections 500s.

6.0 STIPULATED DAMAGES

The CMAR Contractor agrees to the assessment of stipulated damages as provided in the Contract Documents at Part 2 – CMAR Sections 500s, CMAR Section 507-8.

7.0 ACKNOWLEDGEMENT

The CMAR Contractor acknowledges that it has reviewed and understands the Contract and specifically agrees to be bound by the terms and conditions thereof.

8.0 JOINT EFFORT

This Contract will be deemed for all purposes prepared by the joint efforts of the parties hereto and will 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 CMAR Agreement.

9.0 ASSIGNMENT

This Contract may not be assigned by the CMAR Contractor, or its rights, title, or interest therein assigned, transferred, conveyed, sublet, or disposed of without the previous consent, in writing, of CPRA. Any attempts to assign the Contract without CPRA's written consent are null and void.

10.0 SUCCESSORS AND ASSIGNS

This Contract will bind the successors, assigns, and representatives of the parties hereto. This Contract will become effective on the date all parties hereto have signed the same.

11.0 GOVERNING LAW

This Contract will be governed by the laws of the State of Louisiana, except where the federal supremacy clause requires otherwise.

DRAFT

In witness whereof, the Executive Director has hereunto subscribed his name, and the same has been approved by the appropriate officials of CPRA and the CMAR Contractor has also hereunto subscribed its name.

CMAR CONTRACTOR

(Federal Identification Number)

Witness By: _____

Witness (Date) _____

**COASTAL PROTECTION AND
RESTORATION AUTHORITY**

Witness By: **EXECUTIVE DIRECTOR**

Witness (Date) _____

Approved By: _____

(Date)

APPENDIX A SCOPE OF SERVICES

[Insert]

DRAFT

**STATE OF LOUISIANA
MID BARATARIA SEDIMENT DIVERSION
PROJECT**

PROJECT NO. BA-0153

**CMAR CONTRACT DOCUMENTS
PART 2 - CMAR SECTIONS 500S**

TABLE OF CONTENTS

CMAR SECTION 501	ACRONYMS AND ABBREVIATIONS AND DEFINITIONS
CMAR SECTION 502	REQUIREMENTS AND CONDITIONS
CMAR SECTION 503	PARTNERING, BONDS, AND NOTICE TO PROCEED APPENDIX 503A – PAYMENT, PERFORMANCE, AND RETAINAGE BONDS FORM
CMAR SECTION 504	SCOPE OF WORK
CMAR SECTION 505	CONTROL OF THE WORK
CMAR SECTION 506	LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC
CMAR SECTION 507	PROSECUTION AND PROGRESS APPENDIX 507A – FORMS APPENDIX 507B – BASELINE PROGRESS SCHEDULE
CMAR SECTION 508	LUMP SUM PRICE, PROGRESS, AND PAYMENT APPENDIX 508A – FORMS APPENDIX 508B – APPLICATION OF PROGRESS PAYMENT
CMAR SECTION 509	FEDERAL REQUIREMENTS APPENDIX 509A – FEDERAL REQUIREMENTS
CMAR SECTION 510	PROJECT CLOSEOUT

DRAFT

CMAR SECTION 501

ACRONYMS AND ABBREVIATIONS AND DEFINITIONS

CMAR 501-1 REFERENCES

Section, subsection, and subpart titles and headings provide reference only, not interpretation. Unless specified by year or date, cited publications refer to the most recent issue, including interim publications, in effect on the Proposal due date.

Wherever in these Contract Documents the following terms, abbreviations, or symbols are used, the intent and meaning must be interpreted as follows in this CMAR Section 501.

CMAR 501-2 ACRONYMS AND ABBREVIATIONS

Wherever the following abbreviations or acronyms are used in these Contract Documents, they are to be interpreted as follows.

CMAR	Construction Management at Risk, or CMAR Contractor
CPM	Critical Path Method
DBE	Disadvantaged Business Enterprise
GMP	Guaranteed Maximum Price
JV	Joint Venture
LLC	Limited Liability Corporation
CPRA	Coastal Protection and Restoration Authority
LLC	Limited Liability Company
LOI	Letter of Interest
MUTCD	Manual of Uniform Traffic Control Devices
N/A	Not Applicable
NOI	Notice of Intent
NTP	Notice to Proceed
OSHA	Occupational Safety and Health Administration, United States Department of Labor
QC	Quality Control
RFQ	Request for Qualifications
ROW	Right-of-Way
SOQ	Statement of Qualifications
TBD	To Be Determined
VE	Value Engineering
WBS	Work Breakdown Structure
ICE	Independent Cost Estimator
PM	Project Manager

CMAR 501-3 DEFINITIONS

The definitions and terms listed below are intended to aid the reader. All other capitalized terms used, but not defined herein, shall have the meaning ascribed to such term in this Contract.

Advertisement: The public announcement in the form of the Notice of Intent (NOI) inviting prospective proposers to obtain an RFQ and submit a Letter of Interest (LOI). The Advertisement includes a brief description of the work proposed to be the subject of the procurement with an announcement where the RFQ may be obtained, the terms and conditions under which LOIs will be received, and such other matters as CPRA deems advisable to include therein.

Baseline Progress Schedule: A conventional CPM schedule in the form of an activity on node diagram based on the principles defined by the 2004 issue of the Construction Planning & Scheduling Manual published by the Associated General Contractors of America (AGC).

Change Order: A legal adjustment to the Construction Services Contract. Change Orders, once approved, become part of the contract.

CMAR Contractor: A person, sole proprietorship, partnership, corporation, or other legal entity, properly licensed, bonded, and insured, who does one or both of the following:

- Provides construction experience to CPRA or its Designer during the Preconstruction Phase regarding the constructability of the Project.
- May contract with CPRA to assume the risk to construct the Project for a GMP, without re-procurement.

CMAR Process: A delivery method by which CPRA uses a Designer, who is engaged by CPRA for professional predesign or design services, or both. CPRA contracts separately with a CMAR Contractor to engage in the Preconstruction Phase. As specified in this section, the same CMAR Contractor may also provide construction services to build the project.

CMAR Project Team: Representatives from the CMAR Contractor, Designer, Independent Cost Estimator, Project Manager, Project Engineer, and CPRA construction and technical areas responsible for the successful completion of a Project's final design and construction.

Compliance Programs Director: CPRA's manager that facilitates access and equal opportunity for disadvantaged businesses to participate in federal aid transportation projects; promotes a diverse contracting workforce while fulfilling federal obligations and requirements.

Contract Documents: Those documents enumerated in section 1.0 of this Contract.

Construction Documents: The documents developed during the Preconstruction Phase which define the Construction Phase Work, including the Plans, Technical Specifications, Special Provisions, and other Contract Documents defined herein.

Constructability Review: A process that integrates the contractor's perspective into the Preconstruction Phase. By active involvement, the contractor lends its expertise and experience to the design in order to identify potential problems and constructability issues.

Construction Management Plan (CMP): A compilation of various resources that the CMAR Contractor is required to submit to the PM. The plan needs to address project milestone dates and project schedule; investigations; alternate strategies for fast-tracking/phasing construction; listing of all work segments to be constructed under multiple GMPs; agreements with subcontractors and suppliers; permitting strategy; safety and training programs; quality control; security; and a matrix that summarizes each Project Team member's responsibilities and roles.

Construction Phase: The time period when the CMAR Contractor performs the construction. The time begins after the Construction Services Contract Notice of Award is issued.

Construction Services Contract (Contract): The written agreement between CPRA and the CMAR Contractor setting forth the obligation of the parties, including the performance of the Work, the furnishing of labor and materials, and the basis of payment.

The Construction Services Contract includes the GMP, GMP Record Documentation, any addenda, contract agreement and contract bonds, certificates of insurance, standard specifications, special provisions, project plans, standard drawings, documents incorporated by reference, and any Change Orders that are required to complete the construction in an acceptable manner, including authorized time extensions, all of which constitute one instrument.

Contract Execution (Preconstruction Services): Signing of the contract by both CPRA and the CMAR Contractor to perform services outlined in the contract.

Contract Time: The number of working days or the dates related to the construction of the Project or a Construction Phase that is stated in Construction Documents applies to achievement of Substantial Completion and/or completions of the construction Work so that it is ready for final payment.

Cost Model: Electronic cost tabulation for the construction of the project developed by the CMAR Contractor and reviewed and approved by CPRA. The cost model is based on CPRA's list of standard pay items and is used to complete OPCCs and the GMP including a list of pay item numbers, descriptions, quantities, units of measurement, unit prices and extended amounts, allowances, indirect costs, margin (home office overhead and profit), and bonds and insurance that

make up the GMP (and are included in the cost model). Similar in appearance to D-B-B bid schedule, the cost model also includes a recap of construction costs (CMAR Contractor and subcontractors), allowances, fee margins, indirect costs, bonds and insurance.

Critical Path: Longest sequence of activities in a project plan which must be completed on time for the Project to complete on due date. An activity on the critical path cannot be started until its predecessor activity is complete.

Delivery Method Committee (DMC): A committee called by a PM to assess the most appropriate method of delivering a project. Membership can include, but is not limited to, the PM (chair) with representatives from planning, environmental, construction, district, and senior management.

CPRA: Coastal Protection and Restoration Authority, the state agency of Louisiana responsible for conducting scientific research and establishing a Coastal Master Plan for guiding policy and regulations in Louisiana.

Design-Bid-Build (D-B-B): Low-bid traditional procurement method for constructing transportation system improvements where CPRA (or a consulting engineer working for CPRA) designs the project. CPRA solicits bids and awards a contract to the lowest responsive and responsible bidder.

Designer: A team of design professionals (including engineers, architects, and/or landscape architects who have secured professional licenses from a Louisiana registration board as required by state law) selected by CPRA to perform design services for a project in accordance with state law.

Program Advisory Board: An advisory team composed of CPRA's Executive Director, Project Manager, Chief Engineer, and representatives from the CMAR Contractor, and the Design Team. The team meets periodically to discuss issues, resolve potential disputes prior to formal dispute resolution processes, and provide guidance to the CMAR Project Team.

Final Acceptance: The date when, in the opinion of CPRA, all substantial completion inspection punch-list items have been addressed and the work is complete in accordance with the Contract Documents.

GMP Allowance: Funds included in the GMP to be used by the CMAR Contractor (and included in the cost model) only with the written consent of CPRA. Each allowance is item-specific. The allowances establish the type and amount of risk that CPRA and the CMAR Contractor have assumed in agreeing to the GMP. Allowances are either fixed, open, or provisional (see CMAR Section 508).

GMP Record Documentation: The GMP Record Documentation consists of the GMP, assumptions and clarifications, the approved cost model, subcontractor material quotes, and all documents used to generate them, including other contractually required documents.

Guaranteed Maximum Price (GMP): The total itemized dollar amount negotiated between the CMAR Contractor and CPRA for constructing the Project or portions thereof. The CMAR Contractor agrees to construct the Project for this amount or less. It includes direct construction costs, agreed to allowances, indirect costs and margin.

Home Office Overhead: The CMAR Contractor's home office overhead that will be attributed to the Project. Home Office overhead will be negotiated and agreed upon between CPRA and the CMAR Contractor prior to execution of the Construction Services Contract. This overhead rate is included in the CMAR Contractor's margin.

Independent Cost Estimator (ICE): Third-party consultant that assists the Designer and CPRA with development and/or review of CMAR Contractor provided cost models, opinions of probable construction costs (OPCCs), parametric cost estimates, and other cost aspects of the CMAR project. The ICE develops an independent cost estimate to be used to assist CPRA in reviewing the OPCCs and in reviewing, negotiating, and accepting/rejecting the GMP.

Indirect Costs: The CMAR Contractor's on-site supervision and management staff, including required temporary facilities, site office expenses, insurance and bonds, and other agreed upon on-site costs. The on-site costs will be negotiated and agreed upon between CPRA and the CMAR Contractor prior to execution of the Construction Services Contract. This cost is included in the CMAR Contractor's cost model. This cost is sometimes referred to in the industry as jobsite overhead. The final agreed to amount becomes part of the overall GMP.

Margin: Combination of CMAR Contractor home office overhead (including all General and Administrative expenses) and profit. The final agreed to amount becomes part of the overall GMP.

Notice of Award (Construction Services Contract): A written notice given by the Contract Engineer to the CMAR Contractor stating that its GMP has been accepted by CPRA.

Notice to Proceed (NTP): A written authorization from CPRA to the consultant/contractor to start work on a contract (or any unit or element of the contract). Specific tasks delineated in the contract may be performed after the Construction Services Contract has been signed.

Opinion of Probable Construction 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 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.

Payment Bond: The agreement by which the Surety assures CPRA that suppliers of labor, material and rental equipment to the Project will be paid by the CMAR Contractor. The Payment Bond shall be in a sum equal to 100% of the GMP.

Performance Bond: The agreement by which the Surety assures CPRA that this construction Contract between CPRA and CMAR Contractor will be performed. The Performance Bond shall be in a sum equal to 100% of the GMP.

Preconstruction Services Contract: A written agreement between CPRA and the CMAR Contractor setting forth the obligation of the parties for the Preconstruction Phase.

Preconstruction Phase: The first phase of the project when the CMAR Contractor performs the activities under the Preconstruction Services Contract.

Preconstruction Services Fee Breakdown: The CMAR Contractor's specific fee breakdown for performing the advisory role and constructability review defined in the RFQ and specified in the CMAR Contractor Solicitation. This fee breakdown facilitates CPRA's administration of the preconstruction services. The fee breakdown is independent of the GMP, and will not be utilized as a factor in the CMAR selection process. The maximum compensation for preconstruction services is advertised in the RFQ and outlined in the Preconstruction Services Contract.

Project: The total design and construction of the Mid-Barataria Sediment Diversion, including pre-construction services and construction services to be provided may be the whole or a part.

Project Engineer: Individual designated to administer the Construction Services Contract on behalf of CPRA. The Project Engineer assists with the development of the RFQ and the scope of work.

Project Manager (PM): The individual responsible for leading and coordinating the procurement, oversight of design and CMAR preconstruction services, and oversight of construction in coordination with the Project Engineer; CPRA's main point of contact for the Designer, CMAR Contractor and ICE.

Project Schedule: Critical Path Method (CPM), graphical and tabular listing of all tasks and submittals that are required by each member of the Project Team to complete the project. The project schedule includes all preconstruction and construction submittals with milestones.

Project Scope: The description of the Work to be performed during preconstruction services and, as later described through the project plans and specifications, to construct the project as contained in the Construction Services Contract.

Qualifications-Based Selection (QBS): A competitive contract procurement process whereby consulting firms submit qualifications to the procuring entity (CPRA) that evaluates and selects the most qualified firm. Under the QBS process, the cost of the work (price) is not considered when making the initial selection of the most qualified provider of the services required.

Request for Qualifications (RFQ) Package: Document published by CPRA that contains the advertisement, the CMAR Contractor RFQ, the CMAR Contractor's scope of work, submittal criteria for the Project, procurement grading criteria, scoring methodology, total fees and compensation for preconstruction services, the project scope of work, general requirements, technical specifications, the designer's scope of work, and any forms, drawings and other supporting documents necessary to prepare a proposal for construction of the project.

Retainage Bond: An agreement by which the Surety agrees to pay the full sum of \$_____ (five percent of the GMP) in lieu of the sums required to be withheld from progress payments under the provisions of Louisiana Revised Statutes 48:256.1, inclusive of overpayments to the CMAR Contractor and stipulated damages as assessed .

Selection Review Committee: The committee appointed by CPRA, consistent with state law, to review the SOQs, score the proposers, and recommend award to a CMAR Contractor.

Short List: The top ranked, three to five CMAR Contractors, determined by the Selection Review Committee's evaluation of SOQ submittals.

Site or Jobsite: The location(s) where construction activities are performed, including the limits of construction identified in the Construction Documents and associated temporary facilities.

Statement of Qualifications (SOQ): The response to the RFQs from a potential CMAR Contractor. The SOQ contains information about firm capabilities, key personnel, previous experience, project understanding/approach, planned involvement of subs, and safety.

Subject Matter Expert (SME): A person who provides the knowledge and expertise in a specific subject area for a project. The SME ensures that the content is accurate.

Substantial Completion: The construction services for the Work (or a specified part thereof) has progressed to the point where, in the opinion of CPRA, as evidenced by a Certificate of Substantial Completion, such construction services are sufficiently complete in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended; without any outstanding concurrent Work at the Site, except as may be required to

complete or correct Punch List items. If no such certificate is issued Substantial Completion takes place when the construction services Work or a construction phase is complete and ready for final payment as evidence by the PM's written recommendation of final payment.

Surety: A company who undertakes the obligations under the Payment Bond, Performance Bond and/or the Retainage Bond.

Work: All work conducted by CMAR Contractor or subcontractor pursuant to, and to the extent required by, the terms of this Contract and all Project Agreements, including without limitation, engineering and design, procurement, manufacture, construction and erection, installation, training, and testing operation with respect to the Project to be performed by CMAR Contractor, and all other services, equipment and materials necessary for the CMAR Contractor to the requirements in this contract, if any, and Final Acceptance in accordance with the Agreement. Work also includes, but is not limited to, all or portions of the project, including without limitation, labor, materials, equipment, services, and any other items to be used by CMAR Contractor or its subcontractors or vendors in the prosecution of this Agreement, wherever the same are being engineered, designed, procured, manufactured, delivered, constructed, installed, trained, erected, tested, started-up or operated during start-up and testing and whether the same are on or off the Jobsite.

DRAFT

CMAR SECTION 502

REQUIREMENTS AND CONDITIONS

CMAR 502-1 NO MISUNDERSTANDING

The CMAR Contractor agrees that it has examined the Contract Documents and the Site of the Work and has fully informed itself from its personal examination of the same regarding the quantities, character, location, and other conditions affecting the Work to be performed including the existence of poles, wires, pipes, ducts, conduits, and other facilities and structures of municipal and other public service corporations on, over, or under the Site.

The CMAR Contractor agrees that its proposed Guaranteed Maximum Price (GMP) includes all costs arising from existing conditions shown or specified in the Contract Documents and/or readily observable from a Site inspection prior to the Proposal due date and/or generally recognized as inherent in the nature of the Work. The CMAR Contractor further agrees the phase and sequencing is agreeable as the best alternative for the Work to be performed with no additional cost or cost savings to be considered as a result of any changes after execution of this Contract. The Critical Path Method (CPM) schedule and maximum number of days are included in this Contract are based upon and agreed upon to be the contract time and baseline schedule for the Project.

CPRA in no way warrants or guarantees that the information made available by CPRA or found in the Contract Documents covers all conditions at the Site or that said information and Contract Documents should act as a substitute for personal investigation, interpretation, and judgment by the CMAR Contractor.

The intent of the Contract Documents is to include all items/aspects of the Work that are necessary for the proper initiation, execution, and completion of the Work. A requirement occurring in any component of the Contract Documents is as binding as though occurring in all.

The components of the Contract Documents are intended to be complementary and to describe and provide for a complete Project. The following components of the Contract Documents complement one another in the following order of precedence: The Contract Management at Risk (CMAR) Contract, this CMAR Sections 500s, the Request for Qualifications (RFQ) , and the CMAR Contractor's SOQ.

Dimensions given on the Plans or which can be calculated will govern over scale dimensions.

If CMAR Contractor encounters, during the performance of its Work, concealed or latent physical conditions or subsurface conditions at the Project which (a) materially differ from the conditions indicated in the Contract Documents; or (b) are of an unusual nature which differ materially from the conditions ordinarily encountered and generally recognized as inherent in the sort of work

provided for in the Contract Documents, CMAR Contractor shall immediately provide written notice to CPRA notifying of the unforeseen conditions encountered. CMAR Contractor shall not disturb or modify such conditions without CPRA's prior written consent. CPRA will promptly investigate the CMAR Contractor's notice of an unforeseen site condition and advise of its findings and determination.

If the conditions encountered by CMAR Contractor are determined by CPRA to be an unforeseen Project Site condition, the CMAR contractor will be entitled, in accordance with the provisions of this contract, to an adjustment in its GMP and/or Contract Time(s) of performance, or both to the extent that CMAR cost or time of performance have been adversely impacted by the unforeseen conditions. Adjustments to GMP will be for the actual direct cost impact incurred by CMAR Contractor to address and resolve the unforeseen conditions. This work is performed on a force account basis or compensated in the negotiated allowances in the GMP. (See CMAR Section 508-2.1)

Failure of the CMAR Contractor to notify CPRA's Project Manager of an apparent discrepancy may be deemed a waiver of the CMAR Contractor's right to claim any adjustment in GMP for Extra Work. In addition, the CMAR Contractor may be fully liable for damages suffered by CPRA resulting from this failure to timely notify CPRA's Project Manager of a discrepancy. Extensions of Contract Time(s) will be considered and allowed only when based upon submission of an updated CPM Schedule and supporting narrative showing an actual unavoidable delay to the Project Critical Path due to the unforeseen Project Site conditions.

In no event shall the Contract Time or GMP be adjusted for conditions that could or should have been identified by the CMAR Contractor through its investigations, plan reviews or survey of existing conditions prior to submission and establishment of the GMP and the CPM Schedule.

DRAFT

CMAR SECTION 503

PARTNERING, BONDS, AND NOTICE TO PROCEED

CMAR 503-1 PARTNERING

It is the Coastal Protection and Restoration Authority's (CPRA) policy to use the principles of partnering to guide the management of this Contract within the parameters covered by the laws, regulations, and other policies that govern work in the public sector.

These partnering principles are intended to promote quality through continuous improvement at all stages of design and construction. The goal of CPRA is to complete this Project in the most efficient, timely, safe, and cost effective manner to the mutual benefit of the CMAR Contractor and CPRA, meaning a quality Project delivered on time, within budget, and without significant disputes.

None of the actions identified as part of, or taken in the course of, partnering will be construed to alter, modify, delete, or waive any of the provisions or requirements of the Contract Documents or any applicable laws or regulations.

CPRA and the CMAR Contractor will manage the Contract in a cooperative manner utilizing the following principles of Project partnering:

- A) Establish communications with all involved parties early in the partnering process;
- B) Establish a relationship of shared trust, equity, and commitment;
- C) Develop strategies for identifying mutual goals;
- D) Develop strategies for timely communications and decision-making;
- E) Establish a process for timely response to changes or variations in field conditions;
- F) Solve potential problems at the lowest level before they negatively impact the Project;
- G) Encourage the use of products, technology, and processes that provide a demonstrated level of improved quality; and
- H) Develop a plan for periodic joint evaluation based on mutually agreed goals.

The CMAR Contractor shall be responsible for creating and participating in a partnering program for use during this Project. The costs of such partnering program will be included in the indirect cost in the GMP. CPRA and CMAR Contractor will consider the incorporation of partnering into

the coordination and cooperation required with designer, ICE, third parties such as subcontractors, suppliers, utility owners, railroads, and other stakeholders.

CMAR 503-2 PAYMENT, PERFORMANCE, AND RETAINAGE 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 shall be in an amount of equal to 100% of the GMP (\$);
3. The Labor and Material Bond (Payment Bond) shall be in an amount equal to 100% of the GMP (\$).
4. 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.

The CMAR shall furnish a Retainage Bond in a sum equal to five percent of the GMP, unless an election is made to have CPRA withhold five percent of the GMP (\$)

All signatures on the Payment, Performance, and Retainage Bonds Form must be original signatures, in ink, and are not to be mechanical reproductions or facsimiles.

CMAR 503-3 NOTICE TO PROCEED

CPRA will issue the CMAR Contractor a Notice to Proceed (NTP) on or about , 2017.

DRAFT

CMAR CONTRACTOR OPTION: RETAINAGE

I, Principal, elect to exercise my option to have five percent Retainage withheld from all payments in lieu of the above Retainage Bond

By: _____

In witness whereof we have signed this instrument as dated.

CMAR CONTRACTOR

Witness

Principal

Date

SURETY

Witness

Attorney-In-Fact (Seal)

Date

SURETY

Witness

Attorney-In-Fact (Seal)

Date

A copy of the Contract and subsequent correspondence/communication from CPRA or the contracting agency with respect to the Contract Bonds should be directed to:

SURETY

SURETY

Local Agent or Representative

Local Agent or Representative

Address

Address

Telephone Number

Telephone Number

Facsimile Number

Facsimile Number

DRAFT

CMAR SECTION 504

SCOPE OF WORK

CMAR 504-1 WORK REQUIRED

Under the Contract, the CMAR Contractor shall do all Work enumerated in Appendix A to Part 1 (CMAR) Contract 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 CMAR Contractor or its subcontractors overlaps or dovetails with that of other Coastal Protection and Restoration Authority (CPRA) contractors, Materials must be delivered and operations conducted in coordination with work of other CPRA contractors so as to carry on the Work continuously in an efficient and workmanlike manner, in the sole determination of CPRA.

Delays or oversights on the part of the CMAR Contractor or its subcontractors in getting any or all of their Work done in the proper way, in the sole determination of CPRA, 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 CMAR Contractor.

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

CMAR 504-2 INTENT OF CONTRACT

The intent of the Contract is to provide for performance and completion of the Work described. The CMAR Contractor 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 CMAR Contractor to make a choice between more than one material, standard, procedure, or the like, the CMAR Contractor shall indicate the choice to CPRA's Project Manager in writing.

When the Contract, including the CMAR Contractor's SOQ and/or plans or specifications, reference or require the use of manufacturer's recommendations or specifications," the

CMAR Contractor shall provide CPRA's Project Manager with a current copy of these recommendations or specifications.

CMAR 504-3 ALTERATION OF THE CONTRACT

CPRA reserves the right to order Work not provided for in the Contract whenever such Work is found essential or desirable to the 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 CMAR Section 508.

CPRA 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 CMAR Section 508-4.

Alterations to the Contract as provided for by this CMAR Section 504-3 will neither invalidate the Contract nor release the Surety, and the CMAR Contractor agrees to accept the Work as altered as if it had been part of the original Contract. The CMAR Contractor shall notify the Surety of any alterations to the Contract.

CMAR 504-4 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 CMAR Contractor during the term of this Contract.

The CMAR Contractor 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 CMAR Contractor 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 CMAR Contractor 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 CPRA's Project Manager directs additional measures for the benefit of the traveling public, payment to the CMAR Contractor will be made as provided in CMAR Section 508-4. CPRA's Project Manager will be the judge of Work to be classed as additional measures.

CMAR 504-5 FINAL CLEANING UP

Before Final Acceptance, the ROW, borrow, and local material sources and areas occupied by the CMAR Contractor 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 CPRA maintenance standards.

CMAR 504-6 GUARANTEES

Pursuant to Louisiana Revised Statutes Title 48 Section 251(C), the CMAR Contractor guarantees, by signing the Contract, the 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 CMAR Contractor to CPRA's Project Manager prior to Final Acceptance of the Project, with the following written warranties and guarantees:

- 1) The manufacturer's standard warranty for each piece of mechanical and electrical equipment or apparatus furnished under the Contract;
- 2) The CMAR Contractor's guarantee that, during the guarantee period, necessary repair or replacement of the warranted equipment or apparatus will be made by the CMAR Contractor; and
- 3) The CMAR Contractor's guarantee for satisfactory operation of the mechanical and electrical systems furnished and constructed under the Contract for the guarantee period.

This CMAR Section 504-6 does not apply if a more stringent and/or detailed warranty or guaranty is required elsewhere in the Contract Documents.

CMAR 504-7 DIFFERING SITE CONDITIONS AND SUSPENSIONS OF WORK

CMAR 504-7.1 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 CPRA for specific locations where CPRA'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 CPRA, 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 five (5) Calendar Days of the discovery and before the differing

conditions are disturbed, or as soon as practicable thereafter, and before the affected Work continues.

Upon written notification, and within a reasonable timeframe as determined by CPRA, the CPRA Project Manager will investigate the Site's conditions. If CPRA'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 will be made, and the Contract will be modified in writing, in accordance with CMAR Sections 508-4. CPRA's Project Manager will notify the CMAR Contractor of the determination and whether or not an adjustment of the Contract is warranted.

If the CMAR Contractor fails to provide the written notification in a timely fashion (as defined above), as determined solely by CPRA, and CPRA'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 CMAR Section 508-4.

In no event shall the Contract Time or GMP be adjusted for conditions that could or should have been identified by the CMAR Contractor through its investigations or survey of existing conditions prior to submission and establishment of the GMP and the CPM Schedule.

CMAR 504-7.2 Suspensions of Work Ordered by CPRA's Project Manager

CPRA'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; if improper material or procedures are being used; if the CMAR Contractor fails to comply with any Contract requirement or with any provision of the CMAR project specifications, 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 CMAR Contractor 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 CPRA's Project Manager in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the industry) and the CMAR Contractor believes that additional compensation and/or Contract Time is due as a result of such suspension or delay, the CMAR Contractor shall submit to CPRA's Project Manager in writing a request for adjustment within seven Calendar Days of receipt of the notice to resume Work.

Upon receipt, CPRA's Project Manager will evaluate the CMAR Contractor request. If CPRA'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 CMAR Contractor or its suppliers or subcontractors at any approved tier, and not caused by weather, the CPRA's Project Manager will make a cost and/or time adjustment (excluding profit) and modify the Contract in writing accordingly. The CMAR Contractor will be notified of CPRA's Project Manager's determination whether or not an adjustment of the Contract is warranted.

No Contract adjustment will be allowed unless the CMAR Contractor has submitted the request for adjustment within the time prescribed.

No Contract adjustment will be allowed under this CMAR Section 504-7.2 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 CMAR Section 508-8. For any increased costs of the Work resulting from a suspension of Work, payment must be made pursuant to CMAR Section 508-4.

CMAR 504-8 RETENTION OF RECORDS

The CMAR Contractor shall retain all records for five years from Final Acceptance under the Contract. Required records include all accounts, papers, maps, plans, drawings, photographs, accounting documents including the job ledger and cost detail, or other documentary materials, regardless of physical form or characteristics, made or received by the CMAR Contractor 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 effort.

The CMAR Contractor shall maintain records of all required payrolls and of the details that comprise the total GMP. These records must be available at any time within five years from Final Acceptance of the Project at the request of CPRA for review and audit.

DRAFT

CMAR SECTION 505

CONTROL OF THE WORK

CMAR 505-1 CPRA'S PROJECT ORGANIZATION AND AUTHORITY OF CPRA'S PROJECT MANAGER

As designee of the Executive Director, CPRA's Project Manager has immediate charge of the Project. CPRA's Project Manager is responsible for the administration and satisfactory completion of the Project. CPRA's Project Manager will delegate authority commensurate with that responsibility, including the authority to reject defective material and construction that do not comply with Contract requirements.

The CMAR Contractor is required to submit all issues related to the Project through CPRA's Project Manager. CPRA's Project Manager will decide all questions that may arise, including, but not limited to, the following topics:

- A) The quality and acceptability of material furnished;
- B) Work performed;
- C) The rate of progress of the Work;
- D) Interpretation of the Contract Documents;
- E) Acceptable performance of the Contract requirements; and
- F) Administration of monthly progress payments.

The decision of CPRA's Project Manager of the aforementioned will be in writing and will be delivered to the CMAR Contractor's Project Manager as quickly as possible.

In addition to the authority to administer the Contract, approve use of allowances established in the GMP, and oversee and terminate the Contract as expressly provided in other Sections of the Contract, CPRA's Project Manager will have the authority to suspend the Work, wholly or in part, or withhold progress payments due to the following:

- 1) Conditions such that unsatisfactory Work might result, regardless of responsibility;
- 2) Improper material or procedures being used;
- 3) Unsafe conditions for the workers or the general public as a result of the failure of the CMAR Contractor to correct those conditions;

- 4) The CMAR Contractor's failure to carry out provisions of the Contract;
- 5) The CMAR Contractor's failure to carry out directions of CPRA's Project Manager;
- 6) The CMAR Contractor's failure to comply with state or federal law or regulation;
- 7) The CMAR Contractor's non-conformance with the Maintenance of Traffic provisions of the Contract, causing serious disruptions to traffic operations; or
- 8) CPRA's Project Manager's determination that suspension is necessary because of unsuitable weather.
- 9) The CMAR contractor violates portions of this Contract may require progress payments to be held in accordance with the identifying section.

The CMAR Contractor or CPRA's Project Manager may suspend Work if conditions exist that are potentially injurious to the Project. See CMAR Section 504-7.2 for more information on CPRA's Project Manager's authority to suspend Work.

CPRA's Project Manager may also suspend the Work wholly or in part for other conditions or reasons beyond the control of the CMAR Contractor or not connected with the construction of the Project when deemed necessary in the public interest. Additional Work caused by such suspensions will be paid for by CPRA pursuant to CMAR Section 508-4.

Any adjustment of Contract Time for suspension of Work will be made as provided in CMAR Section 507-6.

CMAR 505-2 CONFORMITY WITH THE CONTRACT DOCUMENTS

All Work performed and all material furnished must conform to the requirements of the Contract Documents.

When CPRA's Project Manager finds the materials furnished, Work performed, or the finished product not within reasonably close conformity with the Contract Documents, but that reasonably acceptable Work has been produced, CPRA's Project Manager will determine to what extent the Work will be accepted and remain in place. If accepted, CPRA's Project Manager will document the basis of determination by a supplemental agreement or Change Order which will provide for an appropriate adjustment in the GMP Contract Price for such Work or material as he deems necessary to conform to his determination based on engineering judgment.

In the event CPRA's Project Manager finds the Materials, the Work performed, or finished product have resulted in an inferior or unsatisfactory product, the Work or materials must be removed and replaced or otherwise corrected by and at the expense of the CMAR Contractor.

Existing Improvements and Conditions. The CMAR Contractor acknowledges that it has been provided unrestricted access to the existing improvements and conditions on the Project Site and that thorough investigation of these conditions is a CMAR Contractor obligation under this Contract. CMAR Contractor's investigation and understanding of these conditions is instrumental in preparing its GMP for the Work. CMAR Contractor shall not make or be entitled to any claim for any adjustment to the Contract Time or to Pre-Construction Phase Services Fees or for Construction Phase Services costs arising from Project conditions that CMAR Contractor discovered or, in the exercise of reasonable care, should have discovered in CMAR Contractor's obligatory investigations.

Design Errors or Omissions. The CMAR Contractor acknowledges that as part of its Pre-Construction Phase Services it shall participate in the development and review of the Construction Documents. The CMAR Contractor's participation in the design development process will be instrumental in preparing its Guaranteed Maximum Price for the Work. Before submitting its Guaranteed Maximum Price, the CMAR Contractor must have reviewed the drawings, specifications, and other Construction Documents and must have notified CPRA and Designer of any errors, omissions or discrepancies in the documents of which it is aware. The CMAR Contractor shall not make or be entitled to any claim for any adjustment to the Contract Time or the Contract sum for errors or omissions in the Construction Documents that CMAR Contractor discovered or, in the exercise of reasonable care, should have discovered in CMAR Contractor's Pre-Construction Phase design review process that CMAR Contractor did not bring to the attention of CPRA in a timely manner.

CMAR 505-4 COOPERATION WITH UTILITIES

When the CMAR Contractor's Work involves excavating or underground demolition activity, the CMAR Contractor is required to reach Louisiana One Call prior to starting any Work, by calling (225) 275-3700 or toll-free (800) 272-3020 or by facsimile (225) 272-1967 in order to comply with the Louisiana Underground Utilities and Facilities Damage Prevention Law.

CMAR 505-5 COOPERATION BETWEEN THE CMAR CONTRACTOR AND OTHER COASTAL PROTECTION AND RESTORATION AUTHORITY CONTRACTORS

CPRA reserves the right to contract for and perform additional work on or near the site covered by this Contract.

When separate contracts are let within, adjoining, or adjacent to the limits of this Project, the CMAR Contractor and each other contractor must conduct its work not to hinder the progress of work by other contractors and must cooperate with each other as directed.

The CMAR Contractor shall arrange the Work and shall place and dispose of materials not to interfere with the operation of other CPRA contractors within, adjoining, or adjacent to the limits of the Project. The CMAR Contractor shall acceptably join the Work with that of other CPRA contractors and shall perform the Work in proper sequence to that of the others and without causing disruption or delay to the schedule of Project completion.

The CMAR Contractor shall assume all liability, financial or otherwise, in connection with the Contract and shall hold CPRA harmless and indemnify CPRA from all damages or claims that may arise because of inconvenience, delay, or loss experienced by the CMAR Contractor or caused to other CPRA contractors due to the presence and operations of other contractors working within, adjoining, or adjacent to the limits of the Project.

CMAR 505-6 LOAD RESTRICTIONS

The CMAR Contractor, subcontractors, or suppliers must observe legal load restrictions when hauling equipment or materials on public roads beyond Project limits. A special permit does not decrease the CMAR Contractor liability for damage.

Except for specified equipment, the CMAR Contractor shall obtain CPRA's Project Manager's written permission to exceed legal load limits within the Project limits. Operating Equipment or hauling loads that may damage structures, roadway, utilities, and or any construction is prohibited unless protective measures are taken by the CMAR Contractor

CMAR 505-7 MAINTENANCE DURING CONSTRUCTION

The CMAR Contractor shall satisfactorily maintain the entire area within the ROW limits of the Project, from the effective date of the Notice to Proceed (NTP) until the date of Final Acceptance. Adjacent and parallel roadways within the Project limits not affected by construction activities or diversion of traffic will not be the maintenance responsibility of the CMAR Contractor. This maintenance responsibility includes, but is not necessarily limited to, maintaining drainage (sediment from construction must be removed so as not to block drainage outside of the ROW), periodic mowing of roadside vegetation, and removing of debris to the satisfaction of CPRA's Project Manager, as well as such striping, patching, and shoulder maintenance which will provide safe and convenient conditions at all times for the public. The CMAR Contractor shall continuously and effectively satisfy its maintenance responsibilities with such equipment and forces as may be necessary to maintain a safe and satisfactory condition for the duration of the Project.

CMAR 505-8 FAILURE TO MAINTAIN ROADWAY OR STRUCTURE

If the CMAR Contractor fails to comply with CMAR Section 505-7, CPRA's Project Manager will immediately notify the CMAR Contractor in writing of such noncompliance. If the CMAR Contractor fails to remedy the condition within 24 hours after receipt of the written notice, CPRA's Project Manager may immediately remedy the condition, and the cost thereof will be deducted from payments for the Work.

When the condition requires more immediate remedy due to hazard to life, health, and property, CPRA's Project Manager may immediately remedy the condition and the costs thereof will be deducted from payments for the Work.

CMAR 505-9 CMAR CONTRACTOR'S RESPONSIBILITY FOR WORK

The CMAR Contractor is responsible for carrying out the provisions of the Contract at all times, regardless of whether an authorized CPRA designated representative is present or not. Any Work or item that is, at any time, found to be not in compliance with the Contract will remain the responsibility of the CMAR Contractor and will be subject to such corrective measures that are approved and accepted in writing by CPRA's Project Manager.

CMAR 505-10 MEETINGS

The CMAR Contractor shall participate in meetings as indicated in this Section 505-10. The party leading the meeting must record minutes of all meetings and distribute them within five (5) working days of the meeting. Meeting minutes must clearly identify the following:

- A) Action items and issues;
- B) The party responsible for the action item;
- C) The status of issues; and
- D) Due dates for identified action items.
- E) Maintenance of the Risk Register

Action items and issues must be retained on the minutes until the required action is completed and/or the issue is resolved.

CMAR 505-10.1 Progress Meetings

Progress meetings must be held at least weekly throughout the progress of the Project. The CMAR Contractor shall prepare the agenda in consultation with CPRA's Project Manager and distribute

copies together with draft minutes of the previous meeting to all planned participants at least five Calendar Days prior to the meeting. CPRA's Project Manager shall lead the meetings.

The CMAR Contractor key personnel identified in the SOQ or as requested by CPRA's PM must attend the progress meetings.

A typical agenda must include the following items:

- A) A confirmation of minutes of the previous meeting and matters arising at the previous meeting;
- B) A review of Work progress;
- C) Review the risk register and update as needed
- D) Field observations, problems, and decisions;
- E) Identification of issues affecting planned progress;
- F) Planned activities (design and construction) for the coming two week period;
- G) Maintenance of quality and Work standards;
- H) Safety;
- I) Environmental issues;
- J) Schedule updates (monthly) and a three week look ahead schedule;
- K) Maintenance of Traffic items;
- L) The status of Change Orders, if any; and
- M) The use and status of all allowances in the GMP

CMAR 505-10.2 Special Meetings

CPRA's Project Manager may require special meetings at any time and that all or specified CMAR Contractor key personnel must attend. These meetings may include risk management meetings, partnering sessions or other as needed meetings.

DRAFT

CMAR SECTION 506

LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

CMAR 506-1 LAWS TO BE OBSERVED

The CMAR Contractor shall keep informed of and comply with all federal, state, and local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority which affect those employed on the Work or which affect the conduct of the Work. The CMAR Contractor shall indemnify CPRA and the State and its representatives against any claim or liability arising from violation of any such law, bylaw, ordinance, code, regulation, order, or decree, whether by the CMAR Contractor or the CMAR Contractor's employees, subcontractors of any tier, or employees of subcontractors of any tier.

Soil and soil moving equipment operating in regulated areas will be subject to plant quarantine regulations. These regulations provide for cleaning soil from equipment before it is moved from regulated areas to prevent spread of harmful agricultural pests from areas quarantined by the state or United States Department of Agriculture (USDA). Complete information may be obtained from the appropriate district office of the USDA Plant Protection Division.

When CPRA is the contracting agency, any litigation arising under or related to the Contract or the award thereof must be instituted in the 19th Judicial District Court in and for the Parish of East Baton Rouge, State of Louisiana.

CMAR 506-2 PERMITS AND LICENSES, TAXES, AND INSURANCE

CMAR 506-2.1 Permits and Licenses

The CMAR Contractor shall procure temporary permits and licenses for the Work; pay charges, fees, and taxes; and give notices necessary to due and lawful prosecution of the work.

CMAR 506-2.2 Insurance

The CMAR Contractor shall maintain, at a minimum, the following insurance coverages:

- A) Workers' Compensation insurance shall be in compliance with the Workers' Compensation law of the State of Louisiana. Employers Liability is included with a minimum limit of \$500,000 per accident/per person/per disease. If work is to be performed over water and involves maritime exposure, applicable LHWCA, Jones Act, or other maritime law coverage shall be included and the Employers Liability limit increased to a minimum of \$1,000,000. For the coverage provided in this CMAR Section 506-2.2(A), the CMAR Contractor's insurer will have no right of

recovery or subrogation against the State of Louisiana or CPRA;

- B) Commercial General Liability (CGL) insurance with a combined single limit per occurrence for bodily injury and property damage. The aggregate loss limit must be on a per project basis. This insurance must include coverage for bodily injury fire legal liability, premises-operation; broad form contractual liability; products and completed operation; use of contractors and subcontractors; personal injury; broad form property damage; and explosion, collapse, and underground (XCU) coverage. The required limits must be not less than \$1 million per occurrence, with annual aggregates of \$2 million. A “claims made” police will not be accepted. The policy must include products and completed operations extended coverage for a minimum of five years following Final Acceptance. If the CMAR Contractor’s CGL insurance or other form is a general aggregate limit and products and completed operations aggregate limit is used, then the annual aggregate limits must apply separately to the Project, or the CMAR Contractor may obtain separate insurance to provide the required limit which must not be subject to depletion because of claims arising out of any other project or activity of the CMAR Contractor. Any such excess insurance must be at least as broad as the CMAR Contractor’s primary insurance;
- C) Business automobile liability insurance with a combined single limit per occurrence for bodily injury and property damage, with respect to liability arising out of the acts or omissions of the CMAR Contractor, its subcontractors, and any Persons for whom the CMAR Contractor is legally or contractually responsible, whether occurring on or off of the Site. This insurance must include bodily injury and property damage coverage arising from CPRA ship, maintenance, or use of all owned/leased automobiles, hired automobiles, and non-owned automobiles used in the performance of the of the Work, including loading and unloading. The required combined single limit amount of insurance must be \$1 million; and
- D) If this Project includes work within a railway ROW, Railroad Protective Liability Insurance must be purchased on behalf of the railway by the CMAR Contractor. The standards for Railroad Protective Liability Insurance must be in accordance with provisions of the Federal Aid Policy Guide (FAPG) Part 646 as amended. The limits of liability must be as follows: Combined Single Limit for Bodily Injury Liability, Property Damage Liability, and Physical Damage to Property: \$2 million per occurrence with an aggregate of \$6 million for the term of the policy. The CMAR Contractor shall furnish to the railway the Railroad Protective Liability Insurance Policy and certificates evidencing the CGL coverage required above. The Railroad Protective Liability Insurance Policy and insurance certificates must be approved by

the railway before any Work may be started on the railway's property by the CMAR Contractor or its subcontractors. In addition, the Design- Builder shall furnish evidence of commitment by the insurance company to notify the railway and CPRA's Project Manager in writing of any material change, expiration, or cancellation of the policy not less than 30 Calendar Days before such change, expiration, or cancellation is effective. The insurance specified must be kept in force until Final Acceptance of the Contract.

The following must be included as provisions in each policy:

- 1) The insurance company(ies) issuing the policy(ies) must have no recourse against the State of Louisiana and CPRA for payment of any premiums or for assessments under any form of the policy; and
- 2) Any and all deductibles and self-insured retentions in the above described insurance policy(ies) must be assumed by and be at the sole risk of the CMAR Contractor.

Insurance is to be placed with insurance companies authorized in the State of Louisiana with an A. M. Best's rating of A-: VI or higher. This rating requirement may be waived for Workers' Compensation coverage only.

Should any policies be canceled, the CMAR Contractor shall immediately notify CPRA.

Upon failure of the CMAR Contractor to furnish, deliver, and maintain such insurance as required or provide proof of insurance on a yearly basis or as requested by CPRA, this Contract, at the election of CPRA, may be immediately declared suspended, discontinued, or terminated or payment on the Project may be suspended until the CMAR Contractor provides evidence of compliance. Failure of the CMAR Contractor to maintain any required insurance will not relieve the CMAR Contractor from any liability under the Contract, nor will the insurance requirements be construed to conflict with the obligations of the CMAR Contractor concerning indemnification under this CMAR Section 506-2.2.

The CMAR Contractor is responsible for requiring and verifying that all subcontractors working on the Project maintain appropriate types and levels of insurance coverage.

CMAR 506-2.2.1 Verification of Coverage

A) Policies

Concurrently with the CMAR Contractor's execution hereof, the CMAR Contractor shall deliver to CPRA the following items:

- 1) A certificate of insurance with respect to each policy required to be provided by the CMAR Contractor under this CMAR Section 506-2.2; and
- 2) Copies of all endorsements to the policies that set forth the required additional insureds and other amendments to the policy forms.
- 3) If the CMAR is a Joint Venture entity, all insurance policies shall be Project specific insurance.

CPRA will have no duty to pay or perform under this Contract until such certificate(s) and endorsements, in compliance with all requirements of this CMAR Section 506-2.2, have been provided. Upon CPRA's request, certified, true, and exact copies of each of the insurance policies (including renewal policies) required under this CMAR Section 506-2.2 must be provided to CPRA.

B) Renewal Policies

The CMAR Contractor shall promptly deliver to CPRA a certificate of insurance and copies of all endorsements with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverages for the terms specified herein. Such certificate must be delivered not less than 45 Calendar Days prior to the expiration date of any policy and must bear a notation evidencing payment of the premium therefor. If requested by CPRA from time to time, certified duplicate copies of the renewal policy must also be provided.

CMAR 506-2.2.2 Endorsements and Waivers

All insurance policies required to be provided by the CMAR Contractor hereunder must contain or be endorsed to comply with the following provisions, provided that, for the Workers' Compensation policy, only the following clauses (D) and (F) are applicable:

- A) For claims covered by the insurance specified herein, said insurance coverage must be primary insurance with respect to the insureds, additional insureds, and their respective members, directors, officers, employees, agents, and consultants and must specify that coverage continues notwithstanding the fact that the CMAR Contractor has left the Site. The CMAR Contractor's insurance policies shall protect both parties and shall be the primary coverage for any and all losses that occur under the Contract. Any insurance or self-insurance maintained by the State of Louisiana or CPRA shall be excess and non-contributory of the CMAR Contractor's insurance;
- B) Any failure on the part of a named insured to comply with reporting provisions or other conditions of the policies, any breach of warranty, any action or inaction of a

named insured or others, any foreclosure relating to the Project, or any change in ownership of all or any portion of the Project must not affect coverage provided to the other insureds or additional insureds (and their respective members, directors, officers, employees, agents, and consultants);

- C) The insurance must apply separately to each insured and additional insured against whom a claim is made or suit is brought, except with respect to the aggregate limits of the insurer's liability;
- D) Each policy must be endorsed to state that coverage will not be suspended, voided, canceled, modified, or reduced in coverage or in limits except after 30 Calendar Days' prior written notice by certified mail, return receipt requested, has been given to CPRA. Such endorsement must not include any limitation of liability of the insurer for failure to provide such notice;
- E) All endorsements adding additional insureds to required policies must be on a form providing additional insureds with coverage for "completed operations";
- F) Each policy must provide coverage on an "occurrence" basis and not a "claims made" basis (with the exception of professional liability policies); and
- G) The CGL insurance policy must be endorsed to state that coverage for subcontractor employees will not be excluded.

CMAR 506-2.2.3 Commercial Unavailability of Required Coverages

If, through no fault of the CMAR Contractor, any of the coverages required in this CMAR Section 506-2.2 (or any of the required terms of such coverages, including policy limits) become unavailable or are available only with commercially unreasonable premiums, CPRA will work with the CMAR Contractor to find commercially reasonable alternatives to the required coverages that are acceptable to CPRA. The CMAR Contractor shall not be entitled to any increase in the GMP for increased costs resulting from the unavailability of coverage and the requirement to provide acceptable alternatives. CPRA will be entitled to a reduction in the Lump Sum Contract Price if it agrees to accept alternative policies providing less than equivalent coverage, based on other evidence of insurance premiums as of the proposal due date. CPRA's right to a reduction in the Lump Sum Contract Price as set forth in the preceding sentence will be without regard to the insurance costs expended by the CMAR Contractor for the less than equivalent coverage or on other insurance required under this CMAR Section 506-2.2.

CMAR 506-2.2.4 Prosecution of Claims

Unless otherwise directed by CPRA in writing, the CMAR Contractor shall be responsible for reporting and processing all potential claims by CPRA or CMAR Contractor against the insurance required to be provided under this CMAR Section 506-2.2. The CMAR Contractor agrees to report timely to the insurer(s) any and all matters which may give rise to an insurance claim and to promptly and diligently pursue any and all insurance claims on behalf of CPRA, whether for defense or indemnity or both. CPRA agrees to promptly notify the CMAR Contractor of CPRA's incidents, potential claims, and matters which may give rise to an insurance claim by CPRA, to tender its defense or the claim to the CMAR Contractor, and to cooperate with the CMAR Contractor as necessary for the CMAR Contractor to fulfill its duties hereunder.

CMAR 506-2.2.5 Coastal Protection and Restoration Authority's Right to Remedy Breach by the CMAR Contractor

If the CMAR Contractor or any subcontractor fails to provide insurance as required herein, CPRA will have the right, but not the obligation, to purchase such insurance or to suspend the CMAR Contractor's right to proceed until proper evidence of insurance is provided. Any amounts paid by CPRA will, at CPRA's sole option, be deducted from amounts payable to the CMAR Contractor or reimbursed by the CMAR Contractor upon demand, with interest thereon from the date of payment by CPRA to the reimbursement date, at the maximum rate allowable under applicable law. Nothing herein will preclude CPRA from exercising its rights and remedies under CMAR Section 507-8 as a result of the failure of the CMAR Contractor or any subcontractor to satisfy the obligations of this CMAR Section 506-2.2.

CMAR 506-2.2.6 Disclaimer

The CMAR Contractor and each subcontractor has the responsibility to make sure that their insurance programs fit their particular needs, and it is their responsibility to arrange for and secure any insurance coverage which they deem advisable, whether or not specified herein.

CMAR 506-3 PATENTED DEVICES, MATERIALS, AND PROCESSES

If the CMAR Contractor uses any design, device, material, or process covered by patent or copyright, the CMAR Contractor shall be responsible for such use. The CMAR Contractor and Surety must indemnify CPRA and any affected third party or political subdivision from claims for infringement due to the use of any such patented design, device, Material, or process or any trademark or copyright and must indemnify the state for any costs, expenses, and damages due to any infringement during prosecution or after completion of the Work.

If the CMAR Contractor submits proposed plans, specifications, manufacturer's data, or any other information or documents to CPRA for any purpose which may be protected by copyright or trade secret protection, the CMAR Contractor shall first obtain permission or license from the licensor or any other party having a proprietary interest in such documents or information and shall hold harmless, indemnify, and defend CPRA at the CMAR Contractor's sole cost from any damages, expenses, or actions arising out of or related to use by CPRA of information or documents supplied by the CMAR Contractor to CPRA.

CMAR 506-5 SANITARY CODE AND SAFETY PLAN

The CMAR Contractor shall not require any worker to Work under conditions which are unsanitary, hazardous, or dangerous to health or safety. The CMAR Contractor shall maintain the Work in a sanitary, safe, and non-hazardous condition.

The CMAR Contractor shall provide and maintain in a neat, sanitary condition, restrooms and other such accommodations for use of employees and CPRA personnel. Such facilities must comply with requirements of the state and local Boards of Health or other bodies or tribunals having jurisdiction.

CMAR 506-5.1 CMAR CONTRACTOR'S SAFETY OBLIGATIONS

The CMAR Contractor shall perform all actions necessary for safety and be solely and completely responsible for conditions on the Site, including safety of all persons and property on the site during the Contract. This requirement applies continuously for the duration of the Contract and will not be limited to normal business hours or other time constraints or be reduced or diminished in any way because the CMAR Contractor is not given sole possession of the site. The CMAR Contractor is fully responsible for the safety of workers engaged upon the Project and all other persons working at or visiting the site and the protection of the public in the vicinity.

CMAR 506-6 PUBLIC CONVENIENCE AND SAFETY

The CMAR Contractor shall conduct the Work to assure the least possible obstruction to traffic. The Project site and haul routes must be kept reasonably free from dust and in such condition that the public can travel in safety.

When the Highway under construction is to be kept open for traffic, the subgrade and surfacing will be kept reasonably free from dust and in such condition that the public can travel in safety. Safety and convenience of the general public and the residents along the Work, and protection of persons and property, must be a primary responsibility of the CMAR Contractor.

When the CMAR Contractor works at night, adequate artificial lighting, signs, flaggers, or other traffic controls must be provided to protect workers, the Work, and the traveling public. If CPRA's Project Manager finds that the night work is so hazardous as to preclude the beginning or require the discontinuing of such Work, the CMAR Contractor shall immediately cease all such operations.

CMAR 506-7 NAVIGABLE WATERS AND WETLANDS

All Work in, over, or adjacent to navigable waters or wetlands must be conducted in accordance with rules and regulations of the United States (US) Army Corps of Engineers and US Coast Guard.

Navigable clearances on waterways must not be infringed upon, and existing navigable depths must not be impaired except as allowed by permits issued by the responsible agency.

CPRA will obtain a permit from the US Coast Guard and US Army Corps of Engineers relative to approval of construction plans for bridges, causeways, embankments, dredging, and spoil disposal for Work in navigable waters or wetlands. The CMAR Contractor will be furnished a copy of the permit and must comply with all provisions and conditions of the permit. When required by permit, upon completion and before Final Acceptance of the Project, the Design- Builder shall furnish CPRA's Project Manager 8 by 10 inch color photographs of any Bridges from abutment to abutment, two photographs looking upstream and two looking downstream. The prints must be glossy finish, mounted on linen. These photographs will be furnished at no cost to CPRA.

The CMAR Contractor shall prepare reproducible drawings complying with the standards of the US Coast Guard and the US Army Corps of Engineers showing falsework construction, test piles or other temporary pile driving operations, erection sequence, temporary navigational lighting, location of Equipment and barges in the navigable limits, and other drawings required by the permit agencies. Drawing sizes must be 8 by 10 1/2 inches with a one inch border on the top or short side. The drawings must be submitted to CPRA's Project Manager for transmittal to the appropriate agency. Construction of falsework, test pile operations and erection, or operation of construction Equipment within the navigable limits must not commence until drawings are approved.

The CMAR Contractor shall display lights on equipment operating, berthed, or moored in navigable streams, and provide temporary navigational lighting on temporary and permanent construction in the navigable limits as required by the US Coast Guard.

Should the CMAR Contractor sink, lose, or throw overboard any material, machinery, or equipment which may be dangerous to navigation, the material, machinery, or equipment must be immediately removed or recovered. The CMAR Contractor shall give immediate notice of such

obstruction to proper authorities and, if required, shall mark or buoy such obstruction until it is removed.

The CMAR Contractor shall not deposit excavated material into the water way or wetland without a permit from the appropriate agency.

All operations in connection with the Work must be in accordance with permits, rules, and regulations of the US Army Corps of Engineers and the US Coast Guard. Deviations therefrom will be only by special permission or special permit which will be the responsibility of the CMAR Contractor. Failure of the CMAR Contractor to become familiar with the terms, conditions, and provisions of the permits, rules, and regulations applicable to the Work will not relieve the CMAR Contractor of responsibility under this Contract.

The CMAR Contractor shall conduct operations to cause minimum interference with marine operations. If such interference is necessary, the CMAR Contractor shall notify CPRA's Project Manager, in writing, sufficiently in advance so that CPRA may obtain approval from the US Coast Guard at least three weeks prior to say interference.

Copies of Coastal Protection and Restoration Authority-obtained permits are available from CPRA's Project Manager.

Copies of any special permits obtained by the CMAR Contractor must be submitted immediately to CPRA's Project Manager.

CMAR 506-8 BARRICADES AND WARNING SIGNS

The CMAR Contractor shall provide, erect, and maintain necessary barricades, suitable lights, danger signals, signs, and other traffic control devices, including flaggers, and shall take all necessary precautions for protection of the Work and safety of the public. Highways closed to traffic must be protected by effective barricades. Suitable warning signs must be provided to direct traffic.

The CMAR Contractor shall erect and maintain warning signs in advance of any place on the Project where operations may interfere with traffic and at intermediate points where new Work crosses or coincides with an existing Road.

Barricades, warning signs, lights, temporary signals, and other protective devices must conform to the details shown on the plans and the Manual of Uniform Traffic Control Devices (MUTCD).

CMAR 506-9 USE OF EXPLOSIVES

Explosives must not be used without written approval. When explosives are used, the CMAR Contractor shall not endanger life or property. The use of explosives must be in compliance with all laws and ordinances. The CMAR Contractor shall be responsible for all damage resulting from the use of explosives.

Explosives must be securely stored, in compliance with all laws and ordinances. Such storage places must be clearly marked. When no local laws or ordinances apply, satisfactory storage must be provided no closer than 1,000 feet (304.8 meters) from any Road, building, or place of human occupancy.

The CMAR Contractor shall notify, in writing, each utility company, railroad, and affected property owner having facilities in proximity to the site of Work of the intention to use explosives. Such notices must be given sufficiently in advance to enable them to protect their property from damage.

CMAR 506-10 PRESERVATION OF PUBLIC AND PRIVATE PROPERTY

The CMAR Contractor shall be responsible for preservation of public and private property and shall protect from disturbance and damage all land monuments, property line markers, or horizontal and vertical control monuments, such as, those established by the US Coast and Geodetic Survey, National Geodetic Survey, Louisiana Geodetic Survey, CPRA, US Army Corps of Engineers, or US Geological Survey.

Before removing and/or resetting any survey monuments, the CMAR Contractor shall give sufficient written advance notice to CPRA's Project Manager for coordination with the appropriate agency. The CMAR Contractor shall not disturb or move any such monument without written approval. The CMAR Contractor shall give immediate written notice to CPRA's Project Manager of damage to survey monuments. CPRA's Project Manager will designate the location and manner in which monuments are to be reset in accordance with current CPRA procedures.

The CMAR Contractor shall be responsible for damage to property during the Work due to any negligent act, omission, or misconduct in executing the Work, or due to defective Work or Materials. This responsibility will not end until Final Acceptance. However, Final Acceptance does not relieve the CMAR Contractor's obligations regarding damage to property pursuant to any guaranty or warranty under the terms of the Contract.

When damage is done to public or private property by the CMAR Contractor due to any negligent act, omission, or misconduct in execution of the Work, or in consequence of non-execution thereof by the CMAR Contractor, such property must be restored at the CMAR Contractor's expense to a

condition similar or equal to that existing before such damage was done by repairing, rebuilding, or otherwise acceptably restoring as directed or making good such damage in an acceptable manner.

CMAR 506-11 ENVIRONMENTAL PROTECTION

The CMAR Contractor shall comply with federal, state, and local laws and regulations controlling pollution of the environment, including, air, water, and noise. The CMAR Contractor shall take precautions to prevent pollution of waters and wetlands with fuels, oils, asphalts, chemicals, or other harmful materials and to prevent pollution of the atmosphere from particulate and gaseous matter.

Construction operations in rivers, streams, lakes, tidal waters, reservoirs, canals, and other impoundments will be restricted to areas where it is necessary to perform filling or excavation to accomplish the Work and areas which must be entered to construct temporary or permanent Structures. As soon as conditions permit, streams and impoundments must be cleared of obstructions placed therein or caused by construction operations.

Frequent fording of streams with construction equipment will not be permitted. No residue from dust collectors or washers will be dumped into a stream.

Attention is further directed to the federal, state, and local air pollution control programs and their rules and regulations regarding air pollution, especially open burning, fugitive dust, and asphaltic concrete plant restrictions.

The CMAR Contractor shall maintain and operate equipment to minimize noise and vibration. Engines must be equipped with properly functioning mufflers. The CMAR Contractor shall assure the activities near noise and vibration sensitive areas, such as, churches, hospitals, and schools, are not unduly disruptive.

CMAR 506-12 ENDANGERED SPECIES

No activity is authorized that is likely to jeopardize the continued existence of a threatened or endangered species as listed or proposed for listing under the Federal Endangered Species Act (ESA), and/or the State of Louisiana Department of Wildlife and Fisheries (LDWF), or to destroy or adversely modify the habitat of federally listed species. If a threatened or endangered species is encountered during construction, the CMAR Contractor shall immediately cease work in the area of the encounter and notify the CPRA, who will immediately implement actions in accordance with the ESA and applicable State statutes. These actions shall include reporting the encounter to the LDWF, as applicable, obtaining any necessary approvals or permits to enable the work to continue, or implement other mitigation actions. The CMAR Contractor shall not resume

construction in the area of the encounter until authorized to do so by the CPRA, who shall not be responsible for any delay costs associated therewith.

CMAR 506-13 SOIL EROSION

The CMAR Contractor shall schedule and conduct its Work to minimize soil erosion and to minimize silting and muddying of streams, rivers, irrigation systems, impoundments (lakes and reservoirs), and lands adjacent to or affected by the Work. Construction of drainage facilities and performance of other Work which will contribute to the control of erosion and sedimentation must be carried out in conjunction with earthwork operations or as soon thereafter as practicable. The area of bare soil exposed at any one time by construction operations must be kept to a minimum. Prior to the start of the applicable construction, the CMAR Contractor shall submit to CPRA's Project Manager for acceptance schedules for accomplishment of temporary and permanent erosion control Work as are applicable for clearing and grubbing, grading, Bridges, and other Structures at watercourses, construction, and paving. In addition, the CMAR Contractor shall also submit for acceptance at the same time its proposed method of erosion control on haul roads and borrow pits and its plan for disposal of surplus excavated material. No Work will be started until the erosion control schedules and methods of operation have been accepted by CPRA's Project Manager. If conditions change during construction, the CMAR Contractor may be required to submit a revised schedule for acceptance as directed by CPRA's Project Manager. Whenever the CMAR Contractor's operations, carried out in accordance with the accepted erosion control schedule, result in a situation where appropriate temporary erosion control measures are not shown on the Design Plans the CMAR Contractor shall conduct the Work in accordance with Section 204 of CPRA Standard Specifications. In carrying out the control measures under this Section 506-12, the CMAR Contractor shall be guided by, but not limited to, the following controls:

- A) When borrow material is obtained from other than commercially operated sources, erosion of the borrow site must be so controlled both during and after completion of the Work that erosion will be minimized and minimal sediment will enter waterways, impoundments, or adjacent properties. Waste or spoil areas and construction roads must be located, constructed, and maintained in a manner that will minimize sediment entering waterways and impoundments. The CMAR Contractor shall submit grading plans for all borrow pits or areas or spoil or waste areas to CPRA's Project Manager for acceptance prior to the start of Work on, or the use of, such areas. The grading plans must indicate the sequence of operations, temporary slopes, and other factors which may have an influence on erosion control;
- B) When Work areas or gravel pits are located in or adjacent to live waterways and

impoundments, such areas must be separated from the rest of the waterway or impoundment by a dike or other barrier to minimize sediment entering a flowing waterway or impoundment. Care must be taken during the construction and removal of such barriers to minimize the muddying of a waterway or impoundment; and

- C) Water from aggregate washing or other operations containing sediment must be treated by filtration, settling basin, or other means sufficient to reduce the turbidity so as not to cause a substantial visible contrast to natural conditions.

No payment will be made for any labor, material, or equipment needed for soil erosion abatement as described above.

When it becomes necessary, CPRA's Project Manager will inform the CMAR Contractor of unsatisfactory construction procedures and operations insofar as erosion control is concerned.

If the unsatisfactory construction procedures and operations are not corrected promptly, CPRA's Project Manager may suspend the performance of any or all of other construction until the unsatisfactory condition has been corrected, with all costs of such action(s) to be borne by the CMAR Contractor.

CMAR 506-14 AIR NAVIGATION

The CMAR Contractor shall obtain a permit (or a determination of no hazard to air navigation) from the Federal Aviation Administration (FAA) for all permanent structures and temporary structures (such as, equipment, falsework, or construction cranes).

The CMAR Contractor shall complete a separate FAA Notice of Proposed Construction or Alteration for both the permanent Structure and any temporary Structures. The CMAR Contractor shall receive any appropriate approvals or clearances from the FAA pursuant to the Notice of Proposed Construction or Alteration prior to commencing with any construction on the Project in accordance with the notice. The FAA Notice of Proposed Construction or Alteration may be applied for electronically at the FAA's Web site, <http://oeaaa.faa.gov>, and using the E-filing area.

The Notice of Proposed Construction or Alteration must be submitted for review and approval to the FAA, with a copy to CPRA's Project Manager. Construction and operations in connection with the Work for protection of aerial navigation must be in accordance with the approved permit or Notice of Proposed Construction or Alteration and applicable federal regulations. Failure of the CMAR Contractor to be familiar with applicable rules and regulations of the FAA will not relieve the CMAR Contractor of responsibility under this Contract.

CMAR 506-15 DAMAGE CLAIMS

The CMAR Contractor shall indemnify CPRA and its officers and employees from all suits, actions, or claims brought because of injuries or damage sustained by any person or property due to operations of the CMAR Contractor or its subcontractors, vendors, or suppliers; due to negligence in safeguarding the Work; due to use of unacceptable materials in constructing the Work; due to any negligent act, omission, or misconduct of the CMAR Contractor or its subcontractors, vendors, or suppliers; or because of claims or amounts recovered from infringements of patent, trademark, or copyright by the CMAR Contractor or its subcontractors, vendors, or suppliers or from claims or amounts arising or recovered under the Workers' Compensation Act or other law, ordinance, order, or decree. Any money due the CMAR Contractor as considered necessary by CPRA for such purpose may be retained for use by CPRA or, in case no money is due, the Payment and Performance and/or Retainage Bonds may be held until such suits, actions, or claims for injuries or damages have been settled and suitable evidence to that effect furnished to CPRA, except that money due the CMAR Contractor will not be withheld when the CMAR Contractor produces satisfactory evidence that adequate Workers' Compensation, Public Liability, and Property Damage Insurance are in effect.

CMAR 506-16 OPENING SECTIONS TO TRAFFIC

Opening of sections of the Work to traffic prior to completion of the entire Contract may be desirable from a traffic service standpoint, or may be necessary due to conditions inherent in the Work or by changes in the CMAR Contractor's Work schedule, or may be required due to conditions or events unforeseen at the time of the Contract. Such openings must be made when directed and will not constitute acceptance of the Work nor a part thereof or a waiver of any provisions of the Contract.

The Contract will specify, where possible, which sections will be opened prior to completion of the Contract. On any section opened by order of CPRA's Project Manager, when not specified, the CMAR Contractor shall not assume any expense entailed in maintaining the road for traffic. Such expense will be borne by CPRA or compensated in accordance with CMAR Section 508-4. On portions of the Project which are ordered to be opened for traffic, in the case of unforeseen necessity not the fault of the CMAR Contractor, compensation for additional expense to the CMAR Contractor and allowance of additional time for completion of other Work on the opened portions of the Project will be as set forth in a Change Order mutually agreed on by CPRA's Project Manager and the CMAR Contractor.

When the CMAR Contractor's progress is undesirably slow in completing shoulders, drainage Structures, or other features of the Work, CPRA's Project Manager may notify the CMAR Contractor in writing and establish therein a reasonable period of time in which the Work is to be

completed. If the CMAR Contractor fails to make a reasonable effort toward completion in this time period, CPRA's Project Manager may order all or a Section of the Project opened to traffic. On such sections ordered to be opened, the CMAR Contractor shall conduct the remainder of construction operations to cause the least obstruction to traffic and shall not receive any added compensation due to the added cost of the Work by reason of opening such Section to traffic.

On any Section opened to traffic under the foregoing conditions, whether specified in the Contract or opened by necessity of the CMAR Contractor's operations or unforeseen necessity, any damage to the Highway not attributable to traffic which occurs on such Section (except slides) will be repaired by the CMAR Contractor at no direct pay. Removal of slides must be done by the CMAR Contractor on a basis agreed to prior to removal of such slide.

CMAR 506-16 HAZARDOUS MATERIAL REPORTING AND CLEAN-UP OF SPILLS

The CMAR Contractor shall be responsible for reporting and cleaning up spills associated with construction of the Project, and shall report and respond to spills of Hazardous Materials such as gasoline, diesel fuel, motor oils, solvents, chemicals, toxic and corrosive substances, and other material that are a threat to public health or the environment. The CMAR Contractor shall be responsible for reporting past spills encountered during construction and current spills not associated with construction. Reports must be made immediately to CPRA's Project Manager if on State ROW or to the property CPRA if outside of State ROW. Unreported spills identified after construction and associated with construction of the Project will be cleaned up by the CMAR Contractor. Failure to report or respond to a spill will result in the CMAR Contractor bearing the full cost of remediation of clean-up of such unreported spills.

CPRA will be responsible for any delay costs and expenses due to it or the CMAR Contractor making a new discovery of Hazardous Materials that are not identified in the Contract Documents. The CMAR Contractor is responsible for all costs and expenses, including delay costs and expenses, for all Hazardous Material spills that are identified in the Contract Documents or that are caused by the CMAR Contractor or any of its subcontractors or the CMAR Contractor's or subcontractor's employees or agents.

CMAR 506-17 CMAR CONTRACTOR'S RESPONSIBILITY FOR THE WORK

Until Final Acceptance, the CMAR Contractor shall have the charge and care of the Work and shall take every precaution against damage to any part thereof by action of the elements, vandalism, or theft or from other cause, whether arising from execution or non-execution of the Work. The CMAR Contractor shall rebuild, repair, restore, or pay for damages, including theft and vandalism, to the Work before Final Acceptance and shall bear the expense thereof, except for

guard rail and permanent impact attenuators must be repaired as soon as possible after damage. If CPRA's Project Manager determines that the CMAR Contractor's operation did not contribute to the damages, CPRA will reimburse the CMAR Contractor for such repairs by force account in accordance with CMAR Section 508-4.

In case of suspension of Work, the CMAR Contractor shall be responsible for the Project. The CMAR Contractor shall take such precautions as necessary to prevent damage to the Project, maintain traffic, provide for normal drainage, and erect any necessary temporary Structures, signs, or other facilities at no direct pay. During such period of suspension, the CMAR Contractor shall acceptably maintain all living material in newly established plantings, seedlings, and sodding furnished under the Contract and shall take adequate precautions to protect new tree growth and other important vegetative growth against damage. Should suspension of the Work not be attributed to any actions of the CMAR Contractor, the CMAR Contractor shall be reimbursed for additional Work in accordance with CMAR Section 508-4.

CMAR 506-18 UTILITY PROPERTY AND SERVICES

The CMAR Contractor's operations adjacent to properties of railway and utility companies or adjacent to other property, damage to which might result in considerable expense, loss, or inconvenience, must not commence until after all arrangements necessary for the protection thereof have been made.

In the event of interruption of utility services due to accidental breakage or being exposed or unsupported, the CMAR Contractor shall promptly notify the proper authority and shall cooperate with such authority in restoration of service. If utility service is interrupted, continuous cooperation will be required until service is restored. No Work will be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.

CMAR 506-19 PERSONAL LIABILITY OF PUBLIC OFFICIALS

In carrying out the provisions of this Contract or in exercising any authority granted to them by the Contract, there will be no liability upon the Executive Director, CPRA's Project Manager, or their authorized representatives, either personally or as officials of the State, it being understood that in such matters they act solely as representatives of the State.

CMAR 506-20 NO WAIVER OF LEGAL RIGHTS

Upon completion of the Work, CPRA will make final inspection and then notify the CMAR Contractor of Final Acceptance within 30 Calendar Days. Such Final Acceptance will not prevent CPRA from correcting any measurement, estimate, or certificate made before or after completion of the Work, nor will CPRA be prevented from recovering from the CMAR Contractor, its Surety,

or both such overpayment as it may sustain by failure of the CMAR Contractor to fulfill obligations under the Contract. A waiver by CPRA of any breach of any part of the Contract will not be a waiver of any other breach.

The CMAR Contractor, without prejudice to the terms of the Contract, shall be liable to CPRA for latent defects, fraud, or such mistakes as may amount to fraud, or as regards CPRA's rights under any warranty or guaranty.

CMAR 506-21 THIRD PARTY LIABILITY

It is agreed between the parties executing the Contract that it is not intended by any provisions of the Contract to create the public nor any member thereof as a third-party beneficiary hereunder, nor to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the Contract.

CMAR 506-22 ANTI-TRUST VIOLATIONS

By execution of the Contract, the CMAR Contractor conveys to CPRA all rights, title, and interest in and to all causes of action it may acquire under federal and State anti-trust laws relating to the goods or services purchased by CPRA pursuant to the Contract.

CMAR 506-23 THE CMAR CONTRACTOR'S RESPONSIBILITY FOR THE TRAVELING PUBLIC

The CMAR Contractor shall conduct Work within the construction zone so that there will be minimal hazard to anyone transiting the Work Site on the open lanes of travel. To keep hazards to a minimum, the CMAR Contractor shall, as far as practical, keep equipment, material, and workers from intruding into the travel lanes; remove any hazardous construction debris deposited on those lanes on a continuous and regular basis; inspect and repair the travel lanes; and remove obstacles deposited by the public as they transit the Work site.

Notification that a hazard to the public exists may be received through the CMAR Contractor's inspections, from CPRA's employees, or the public. In any case, corrective action must be taken to remedy the hazard within a reasonable time after notification is received. The CMAR Contractor shall have a contact number answerable on a 24 hour basis so that action can be initiated quickly when hazards are identified.

All claims from the public for losses that are alleged to have occurred within the construction zone will be handled by the CMAR Contractor, even though a subcontractor may have introduced the hazard that caused the damage. The CMAR Contractor shall designate, before the Work commences, the individuals who will be responsible for response to third party claims. The

individuals will provide claimants with a written outline of the CMAR Contractor's claims procedure, along with a written copy of the CMAR Contractor's name, address, and telephone number and the name and title of the CMAR Contractor's individual assigned to damage claim response. The CMAR Contractor shall maintain a status report of all claims filed and the status of such claims. This report must contain, at a minimum, the name, address, and telephone number of the claimant; the nature of the claim; pertinent findings regarding the claim; and a statement regarding the resolution of the claim. This report must be available to CPRA's Project Manager upon request.

CMAR 506-24 ARCHEOLOGICAL AND HISTORICAL FINDINGS

If the CMAR Contractor encounters cultural artifacts or archaeological or historical sites, operations must be discontinued. CPRA's Project Manager will contact the proper authorities in order that an appropriate assessment may be made to determine the disposition thereof and necessary actions relative to the site. When directed, the CMAR Contractor shall excavate the site to preserve the artifacts encountered. Such excavation will be paid for as Extra Work, including an appropriate adjustment in Contract Time. Borrow and muck disposal areas furnished by the CMAR Contractor will be subject to such assessment prior to use.

CMAR 506-25 RAILWAY PROVISIONS

All Work to be performed by the CMAR Contractor in construction on railway ROW shall be in accordance with the provisions of this CMAR Section 506-25.

The CMAR Contractor shall indemnify the railway and its officers and employees from all suits, actions, or claims brought because of injuries or damages sustained by any person or property due to operations of the CMAR Contractor; due to negligence in safeguarding the Work; due to use of unacceptable materials in constructing the Work; due to any negligent act, omission, or misconduct of the CMAR Contractor; or due to claims or amounts recovered from infringements of patent, trademark, or copyright.

Upon completion of the work, the CMAR Contractor shall, within ten Calendar Days, remove from within the limits of the railway's ROW all machinery, equipment, surplus materials, falsework, rubbish, or temporary buildings of the CMAR Contractor, and restore the railway's premises substantially to their former condition satisfactory to the railway's representative. Should the CMAR Contractor fail to make such removal and restoration within ten Calendar Days, the railway shall have the right to make such removal or restoration. The expense incurred will be chargeable to the Project on the railway's force account statement and CPRA will reimburse the railway for such work. The amount will be deducted from payments due the CMAR Contractor.

All costs incurred under this CMAR Section 506-25 and any other provisions of the Contract Documents must be included in the GMP.

Prior to Final Acceptance of the Project, the CMAR Contractor shall secure a Certificate of Release from the railroad company and furnish same to CPRA stating that the CMAR Contractor has satisfactorily restored the railway's premises and has completed payments for all railway services performed for the CMAR Contractor's account, and that the railway waives all claims for damages due to the CMAR Contractor's operations within railway ROW under the Contract. If the CMAR Contractor is unable to secure a Certificate of Release from the railway, the CMAR Contractor shall submit an executed Contractor's Affidavit to CPRA's Project Manager.

CMAR 506-26 DISPUTES RESOLUTION

CMAR 506-26.1 Scope of the Procedure

The following dispute resolution procedure covers all disputes between CPRA and the CMAR Contractor arising from this Contract. Compliance with this procedure is a condition precedent to any litigation in the 19th Judicial District Court for East Baton Rouge Parish, Louisiana. All communications, testimony, and documents prepared for use in this procedure by either party from the time of filing the claim until the conclusion of the procedure shall be deemed to be settlement negotiations and not admissible in any subsequent litigation. The result of the dispute resolution process shall not be admissible in any subsequent litigation, except to enforce the terms of settlement.

The parties agree to make a diligent, good-faith effort to attempt to amicably resolve all disputes arising under or relating to this Agreement, the Project thereunder by conference and negotiations and in the following manner:

- A) The jobsite managers of CPRA and CMAR Contractor shall use their best efforts to settle the dispute within fifteen (15) calendar days from submission of a claim pursuant to CMAR Section 506-26.
- B) If unresolved in said fifteen (15) day period, the Project Manager of CPRA and CMAR Contractor or equivalent level person shall use their best efforts to settle the dispute within fifteen (15) days of their receiving it from their respective site managers.
- C) If unresolved in said second fifteen (15) day period, senior management of both parties shall use their best efforts to settle the dispute within fourteen (14) days. For the purposes of this Contract, senior management is defined as that level of corporate management one or more levels senior to the Project Manager to whom the Project

Manager are accountable functionally and administratively.

- D) In the event that the matter is not resolved by mutual agreement from the above, the following sections provide other dispute resolution options.

CMAR 506-26.2 Continuation of Performance

At all times during the pendency of a dispute under this procedure, the CMAR Contractor shall continue Work pursuant to the terms of this Contract and CPRA shall continue to pay the CMAR Contractor. After resolution, the CMAR Contractor shall pay any amounts due after conclusion of the dispute resolution procedure.

CMAR 506-26.3 Informal Mediation by the Coastal Protection and Restoration Authority Chief Engineer

If a dispute arises between CPRA and CMAR Contractor regarding this Contract, the party seeking to invoke this dispute resolution procedure shall submit an outline statement of its position regarding the dispute to CPRA's Executive Director and the other party. Within 15 Working Days after the submission of the dispute to CPRA's Executive Director, the parties shall meet with CPRA's Executive Director to attempt to resolve the dispute through the informal mediation process. If within 20 Working Days after the submission to CPRA's Executive Director the parties cannot resolve the dispute, the dispute shall be submitted to the process established in CMAR Section 506-26.4 and the dispute shall be resolved in accordance with that process.

CMAR 506-26.4 Formal Mediation

CPRA and CMAR Contractor agree that if the informal mediation process described in CMAR Section 506-26.3 fails, then the parties will submit to at least four hours of formal mediation, as described below, conducted by United States Arbitration & Mediation (USA&M) or its affiliated offices.

A) Mediator

The mediator will be a USA&M mediator located in an office to be agreed upon by CPRA and the CMAR Contractor. CPRA and CMAR Contractor recognize that at the formal mediation and at every other point in the proceedings, neither USA&M nor the mediator will be acting as a legal advisor representative for any or all parties.

B) Formal Mediation Procedure

The formal mediation will involve CPRA and CMAR Contractor meeting with a mediator in an attempt to reach a voluntary settlement for any dispute that rises to the

level of formal mediation. Formal mediation involves no court procedures or rules of evidence, and the mediator will not render a binding decision or force an agreement on CPRA and CMAR Contractor. CPRA and CMAR Contractor shall consult with legal counsel before signing documents which result from the formal mediation.

C) Confidentiality

CPRA and CMAR Contractor recognize that formal mediation proceedings are settlement negotiations, and that all offers, promises, conduct, and statements, whether written or verbal, made in the course of the proceedings, are inadmissible in any arbitration or court proceeding, to the extent allowed by Louisiana state law. CPRA and CMAR Contractor agree to not subpoena or otherwise require the mediator or USA&M employees to testify or produce records, notes, or work product in any future proceedings, and no recording or stenographic record will be made of the formal mediation session. Evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the formal mediation session. In the event the parties do reach a settlement agreement, the terms of that settlement will be admissible in any court or arbitration proceeding required to enforce it, unless the parties agree otherwise. Information disclosed to the mediator in a private caucus shall remain confidential unless the party authorizes disclosure.

D) Costs

CPRA and CMAR Contractor will share equally in the costs of the formal mediation.

CMAR 506-26.5 Judicial Authority

Before CMAR Contractor may bring suit concerning any issue relating to this Contract, the CMAR Contractor must first elevate the dispute in accordance with Section 506-26.

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.

The process contained in this CMAR Section 506-26 must be exhausted prior to the institution of any litigation in the 19th Judicial District Court for East Baton Rouge Parish.

DRAFT

CMAR SECTION 507

PROSECUTION AND PROGRESS

CMAR 507-1 SUBCONTRACTING OR ASSIGNING THE CONTRACT

The list of intended subcontractors and material suppliers are reviewed and submitted with the GMP. In addition, the CMAR Contractor shall update the list of subcontractors and material suppliers as the Work progresses so that CPRA will have, at all times, a current and accurate list of subcontractors along with the Work that they perform and material suppliers along with the material that they supply. This information will keep the process transparent so CPRA and the CMAR Contractor can make informed decisions regarding any changes which may need to make during the process. The pricing and scope of work supplied by each of these vendors is part of the GMP.

All subcontracts must be in writing and must contain all applicable provisions of this Contract Documents and all federal and state laws and regulations. All subcontractors performing Work on the Project must be appropriately licensed with the Louisiana State Licensing Board for Contractors and/or the Louisiana Professional Engineering and Land Surveying Board (LAPELS), as appropriate.

The CMAR Contractor shall allow CPRA access to all subcontracts at all tiers and records regarding the subcontracts and shall provide copies of said subcontracts to CPRA within ten Working Days of CPRA's request for a subcontract. No subcontractor will Work on this Project while on CPRA's disqualified contractors' list.

The intent of this CMAR Section 507-1 will not be circumvented by the CMAR Contractor by placing a subcontractor's employees directly on the CMAR Contractor's payroll. If a person or group of people generally operated as an independent contractor, CPRA will treat them as independent contractors for purposes of this CMAR Section 507-1.

The CMAR Contractor's and its Surety's liability under this Contract and the bonds will not be waived or in any way diminished by subcontracting or other assignment of interest under the Contract.

CMAR 507-2 START AND PROGRESS OF WORK

CMAR 507-2.1 Baseline Progress Schedule

The CMAR Contractor shall prepare and submit to CPRA's Project Manager for final approval a Baseline Progress Schedule as per Appendix 507B – Baseline Progress Schedule within 30 days of Contract award. The baseline schedule was reviewed and agreed upon during the

preconstruction phase for logic, max number of contract days and cost loading of the items of work. Any changes made from the approved schedule shall be specifically reviewed for compliance with the GMP and approved preconstruction schedule. Any changes must be presented in a narrative form with explanations for each change. The Baseline Progress Schedule must show the order in which the CMAR Contractor proposes to perform the Work, the date on which it will start the major items of Work (including, but not limited to, excavation, drainage, paving, structures, mobilization, soil erosion, and sediment control) and the critical features (including, procurement of materials, plant, and Equipment) and the contemplated dates for completing the same. The schedule must be in a suitable scale to indicate graphically the total percentage of Work scheduled to be completed at any time. CPRA requires that the Baseline Progress Schedule, at a minimum, include the following items:

- A) Major work items and activities to be performed;
- B) Seasonal weather limitations;
- C) A time and money curve; and
- D) Phase duration or progress check point events, if applicable; and
- E) The schedule must be cost loaded by activity using the schedule of values from the GMP, the total cost must match the GMP total.

The Baseline Progress Schedule must not contain:

- 1) Excessive leads or lags;
- 2) Assigned constraints, except those specified in the Contract Documents;

The purpose of this scheduling requirement is to ensure adequate planning and execution of the Work, used as a basis for time extensions and to evaluate the progress of the Work. Approval by CPRA regarding the Baseline Progress Schedule will not be construed to imply approval of any particular method or sequence of construction or to relieve the CMAR Contractor of providing sufficient material, equipment, and labor to guarantee completion of the Project in accordance with the Contract Documents. Approval regarding the Baseline Progress Schedule will not be construed to modify or amend the Contract or the date of completion therein.

At the end of each payment estimate period, or at such additional intervals as directed by CPRA's Project Manager, the CMAR Contractor shall do the following:

- a) Adjust the schedule to reflect any changes in the Contract Work dates, logic, phasing, durations, Contract Time extensions granted by Change Order,
- b) Enter on the time-price curve the cumulative total percentage of Work actually in place; describe any changes in the critical path in a written narrative and reasons for the changes; and
- c) Submit three copies of the adjusted schedule to CPRA's Project Manager for Approval,
- d) Provide written explanations for changes to the critical path, original durations, logic changes, new activities and deleted activities.

If, in the opinion of CPRA's Project Manager, the specified Work falls behind the Baseline Progress Schedule, the CMAR Contractor shall take such actions as are necessary to improve its progress. If the CMAR Contractor is behind schedule any month, it must indicate what measures it will take in the next 30 Calendar Days to put the Work back on schedule so as to meet the Contract's completion date. The CMAR Contractor shall not be entitled to any additional compensation unless provided for in other provisions of the Contract on account of the requirement to put the Work back on schedule. In preparing the revised Baseline Progress Schedule, the CMAR Contractor shall consider increasing its Work force, construction plant and equipment, or number of Work shifts. If CPRA's Project Manager does not approve the proposed Baseline Progress Schedule revision, he will require the CMAR Contractor to submit a new revision.

The Baseline Progress Schedule and updates must be submitted by the CMAR Contractor as a part of the weekly progress meetings and will be reviewed by CPRA for approval at least monthly.

The CMAR Contractor shall employ and supply a sufficient force of workers, materials, and Equipment and shall prosecute the Work with such diligence so as to maintain the rate of progress indicated on the Baseline Progress Schedule to prevent Work stoppage and ensure completion of the Project within the Contract Time. Any additional or unanticipated costs or expense required to maintain the schedule will be solely the CMAR Contractor's obligation and must not be charged to CPRA unless provided for in other provisions of the Contract.

The CMAR Contractor shall also furnish 3 week look ahead schedule on a weekly basis indicating the number of personnel, kind of equipment, and location and nature of the Work to be performed.

CMAR 507-2.2 Failure to Submit Baseline Progress Schedule or Update

If the CMAR Contractor fails to submit a Baseline Progress Schedule or any revision or update when required, CPRA's Project Manager will suspend payment for the applicable monthly estimate.

CMAR 507-2.3 Monthly Progress Reports

The CMAR Contractor shall submit a monthly progress report with each payment request, consisting of the following:

- A) A progress narrative;
- B) A monthly Baseline Progress Schedule update for Approval by CPRA's Project Manager (CMAR Section 507-2.1 and Appendix 507B);
- C) A 30 day look ahead schedule
- D) A Change Order status report;
- E) A monthly subcontract report;
- F) Quantity calculations (CMAR Section 508-5.4.1);
- G) An updated Contract Submittals List (CSL);
- H) A summary of hazardous and contaminated substance activities;
- I) Project photographs; and
- J) A statement of Materials and labor used.

CMAR 507-2.3.1 Progress Narrative

The CMAR Contractor shall prepare and submit a monthly progress narrative. The progress narrative must summarize the following information:

- A) Activity and progress for the Contract, including construction and identification of the start and completion dates of Work.;
- B) Problems/issues that arose during the period and remaining problems/issues to be resolved;
- C) Resolution of problems/issues raised in previous progress reports or resolved during the period;

- D) Critical schedule issues and proposed resolutions, proposal of actions planned to correct any negative float or other schedule slippage, and explanation of potential delays and/or problems and their estimated impact on performance and the completion of the Work; explanations for any changes in the critical path, and
- E) Issues which may need CPRA's Project Manager's attention or action for the next month, including Design Reviews. Also, existing issues with pending decisions.
- F) A record of the allowances and a description of the payments made from each.
- G) Future developments and expected achievements.
- H) Delays, status and pending decisions.
- I) Separate Accounting Narrative – 1) This report should show monthly and job to date progress percent vs. cost percentage on each pay item. 2) Create a report to show current encumbrances and expenditures to the budget allocations in the GMP. This report can be modified at the PM's discretion and can be submitted at his discretion. However, the contractor must be able to produce the information with 2 days of requesting.

CMAR 507-2.3.2 Change Order Status Report

The CMAR Contractor shall provide a report of outstanding Change Order requests containing the following:

- A) The CMAR Contractor's and Coastal Protection and Restoration Authority's Change Order identification numbers and/or coding;
- B) The issue title;
- C) A brief description of the change;
- D) Any outstanding issues to be resolved;
- E) The estimated cost and time implications; and
- F) The projected resolution date.

CMAR 507-2.3.3 Subcontract Report

As part of the monthly progress report, the CMAR Contractor shall submit a subcontract report providing CPRA with an updated list of subcontractors (design and construction, at all tiers, including labor only). The location where the subcontractors worked must be shown.

The CMAR Contractor shall also report the results of all procurements completed in the previous month, including those procured competitively and by other means. The CMAR Contractor shall indicate the type of Work or product procured and size of the procurement (in dollars), the names of firms competing for the subcontract, and the name of the successful subcontractor.

The report must indicate the total number of subcontractors and the total dollar value of all subcontracts awarded to date.

The report must indicate, for each subcontract, the following:

- A) The original subcontract amount;
- B) The value of any modifications to date; and
- C) Payments made to date.

CMAR 507-2.3.4 Safety Monthly Report (From SAF)

Complete form SAF and submit monthly. Failure to submit can result in the monthly estimate being held or a portion thereof.

CMAR 507-2.3.5 Contract Submittals List

Within 30 Calendar Days of NTP, the CMAR Contractor shall provide a list of submittals required under the Contract (i.e., Design Plans, Project Specifications, shop drawings, required permits, and pile driving plans). The list shall show a schedule submission date for each submittal and identify the earliest activity affected by each of these submittals. The list must show the record of submittals made to date and show the submittals due over the next three month period along with long lead time items. This list shall be revised and updated monthly with each schedule submission.

CMAR 507-2.3.6 Project Accounting

The CMAR Contractor shall utilize its standard accounting system that will enable the Contractor to plan effectively and to monitor and control for the Project the funds available, cash flow, costs, contract modifications, payments, and other major financial factors by comparison of budget, estimate, total commitment, amounts invoiced, and amounts payable. The Project accounting system utilized by CMAR Contractor will serve as a basic accounting tool and an audit trail. This information is to be provided to CPRA upon request for use in determining the use of CMAR funds versus progress. The CMAR Contractor will retain all Project files in a manner consistent with proper accounting procedures that are sufficient for an audit by CPRA for a period of 5 years after final completion of the Project. The Project accounting system will include the following reports:

- A) Cost Status Report presenting the budget, estimate, and baseline costs (awarded subcontracts and purchase orders) for any given subcontract or budget line item. It shall show approved contract modifications for each subcontract that, when added to the base-line costs, will become the revised costs. Pending contract modifications will also be specifically identified and incorporated into the Cost Status Report to illustrate the total estimated probable cost to complete the Project.
- B) Payment Status Report showing the value in place (both current and cumulative), the amount invoiced to CMAR Contractor (both current and cumulative), the amount paid by the CMAR Contractor to date, the retainage, the amount payable (both current and cumulative), and the balance remaining. A summary of this report shall accompany each pay request.
- C) Detailed Status Report showing the complete activity history of each item in the Project accounting structure. It shall include the budget, estimate and base-line costs figures for each subcontract. It shall give the contract modification history including contract modification numbers, description, proposed and approved dates, the proposed and approved dollar amounts and detailed reasons for the contract modification, and parties responsible. It shall also show all pending or rejected contract modifications. The payment history shall include the date, value-in-place, retainage, and accounts payable.
- D) Cash Flow Diagram showing the projected accumulation of cash payments by the CMAR Contractor against the applicable Project Cash flow projections shall be generated for anticipated monthly payments as well as cumulative payments. This report shall be provided only if required by CPRA.
- E) Job Ledger/Cost Detail shall be maintained as necessary to supplement the operation of the Project accounting system. The job ledger will be used for this Project to provide construction cost accountability for indirect cost items as shown in the GMP, indirect cost expenses, and costs requiring accounting needs.

The CMAR Contractor shall provide sufficient timely written detail as requested and as often as monthly, cost control reports for the Project to permit CPRA and contractor to control and adjust Project requirements, needs, materials, equipment, labor and site elements so that construction for the Project will be completed at a cost that will not exceed the maximum total Project budget.

CMAR 507-3 KEY PERSONNEL

The CMAR Contractor's key personnel are as follows:

- A) Principal-in-Charge;
- B) Project Manager;
- C) Chief Estimator;
- and
- D) All positions listed SOQ.

The CMAR Contractor's Project Manager must be the CMAR Contractor's representative and single point of contact.

CPRA's Project Manager may designate other positions as key personnel, however, the key personnel specifically identified in this CMAR Section 507-3 and in SOQ must continue for the duration of the Project, unless specifically agreed to by CPRA's Project Manager.

Key personnel must be located in the Project vicinity for the duration of the Contract, unless specifically agreed to by CPRA's Project Manager. What constitutes the "Project vicinity" will be in the sole determination of CPRA's Project Manager.

CMAR 507-3.1 Directory

Within 15 Working Days after NTP, the CMAR Contractor shall submit to CPRA's Project Manager a directory and organizational chart showing all of its key personnel. The directory must be updated throughout the Contract as changes occur. The directory must include the names, titles, areas of responsibility, office address and location, office telephone and facsimile numbers, E-mail address, and cellular and/or pager numbers of key personnel and the CMAR Contractor's construction superintendents. The CMAR Contractor shall provide information sufficient for CPRA to contact any of the key personnel on a 24 hour basis for the duration of the Contract.

CPRA's Project Manager will provide a directory of CPRA's Project staff to the CMAR Contractor.

CMAR 507-3.2 Temporary Absence of Key Personnel

If any of the key personnel plans to be absent from the Site for more than 48 hours, the CMAR Contractor shall inform CPRA's Project Manager in writing seven Calendar Days in advance of an "acting" to represent the absent key personnel.

CMAR 507-3.3 Changes in Key Personnel

The CMAR Contractor shall assign the key personnel identified in the CMAR Contractor's Proposal to this Project. The CMAR Contractor shall submit the names and qualifications of proposed replacement key personnel to CPRA's Project Manager 30 Calendar Days in advance of any replacement of any key personnel. CPRA's Project Manager will have the authority to either reject or approve any proposed replacement key personnel in his sole discretion.

The CMAR Contractor shall change key personnel only upon receipt of a written consent from CPRA's Project Manager. CPRA's Project Manager may require written justification from the CMAR Contractor explaining the replacement of any key personnel.

CMAR 507-4 LIMITATION OF OPERATIONS

The CMAR Contractor shall conduct the Work in such manner and sequence to assure the least interference with traffic. The CMAR Contractor shall have due regard to the location of detours, lane closure restrictions and provisions for handling traffic. The CMAR Contractor shall not begin new Work to the prejudice of Work already started. CPRA's Project Manager may require the CMAR Contractor to finish a section on which Work is in progress before starting on additional sections if the finishing of such Section is essential to public convenience and safety.

CMAR 507-5 LABOR, METHODS, AND EQUIPMENT

The CMAR Contractor shall employ sufficient labor and equipment to prosecute the Work to completion in accordance with the Contract.

Workers must have sufficient skill and experience to properly perform the Work.

Any representative of the CMAR Contractor who, in the sole opinion of CPRA's Project Manager, does not perform in a skillful manner or is disorderly must be, upon request of CPRA's Project Manager, immediately removed by the CMAR Contractor. A person removed must not return to the Work. If the CMAR Contractor fails to remove such a person or fails to furnish suitable and sufficient personnel to properly prosecute the Work, CPRA's Project Manager has the authority to suspend any or all of the Work by written notice without incurring any cost to CPRA.

Equipment proposed for use in the Work must be of sufficient size and in such mechanical condition as to meet requirements of the Work and produce a satisfactory quality of Work. No damage to the Roadway, adjacent property, or other Highways will result from the use of Equipment.

When methods and Equipment are not specified, the CMAR Contractor may use any methods or equipment that will accomplish the Work in conformity with the Contract.

The CMAR Contractor may request permission to use a method or type of equipment other than specified in the Contract Documents. The request must be in writing and must include a description of the methods and Equipment proposed and the reasons for requesting the change. If approval is given, it will be on the condition that the CMAR Contractor will be responsible for producing Work in conformity with Contract requirements. If, after trial use of the substituted methods or equipment, CPRA's Project Manager determines that the Work produced does not meet Contract requirements, the CMAR Contractor shall discontinue use of the substituted method or equipment and shall complete the Work with the specified methods and equipment. The CMAR Contractor shall remove the deficient Work and replace it with Work of specified quality or take other corrective action as directed. No change will be made in payment or in contract time as a result of authorizing a change in methods or equipment. CPRA's Project Manager's right to determine that the Work produced does not meet Contract requirements may be given at any time and will not be prejudiced by the fact that the CMAR Contractor has conducted any measure of Work using the substituted methods or equipment.

CMAR 507-6 EXTENSION OF TIME

If a Project has been under partial or full suspension, upon lifting of the suspension, CPRA's Project Manager will furnish the CMAR Contractor a statement showing the number of Calendar Days charged during the partial or full suspension period and will identify the Calendar Days remaining in the Contract. The CMAR Contractor will be allowed one week after receipt of the statement in which to file a written protest identifying in what respect the statement is incorrect, otherwise the statement will be deemed to have been accepted by the CMAR Contractor as correct. Only by mutual written agreement will the Final Acceptance deadline be extended or amended except when CPRA orders extra work.

If CPRA's Project Manager finds that the Work was delayed because of conditions beyond the control and without the fault of the CMAR Contractor or its subcontractors or suppliers, at the sole discretion of CPRA's Project Manager, CPRA's Project Manager may extend the Contract Time in such amount as the conditions justify and in accordance with this CMAR Section 507-6.

If CPRA's Project Manager determines that the extra work does not impact the Critical Path of the Project and was beyond the CMAR Contractor's control, the additional time will not be granted. In all cases where extra work necessitates the extension of time, the extension must be shown in the CPM to show the impact to the critical path and addressed in the Change Order for the extra work. Time will only be awarded for impacts to the critical path.

In no event shall the Contract Time or GMP be adjusted for conditions that could or should have been identified by the CMAR Contractor through its investigations or survey of existing

conditions prior to submission and establishment of the GMP and the baseline CPM Schedule.

CMAR 507-7 OPEN TO TRAFFIC

Whenever all of the Project is in final configuration and suitable condition for travel, it may be designated as "Open to Traffic" prior to completion of the Work, and shall be opened to traffic upon the approval of CPRA's Project Manager. Prior to being designated "Open to Traffic," at a minimum the Project's surfacing material and shoulders, guardrails, signs, and other appurtenances must be completed. Designation of the Project as "Open to Traffic" shall not constitute Final Acceptance of the Project or any part of it, or a waiver of any of the provisions of the Contract.

Whenever the Project is designated as "Open to Traffic," the CMAR Contractor shall conduct the remainder of Work under the Contract so as to cause the least obstruction to traffic and in a timely manner. Provision for the safety of traffic shall be made as required under the Contract.

CMAR 507-8 FAILURE TO COMPLETE ON TIME

Time is of the essence for this Contract.

For each Calendar Day that the Work remains uncompleted after the Final Acceptance date, as set forth in Article 4.0 of the Contract Documents, Part 1 - CMAR Construction Contract, the sum specified in this Section 507-8 will be deducted from payments for the Work, not as penalty but as stipulated damages.

The CMAR Contractor will automatically be subject to stipulated damages by the Final Acceptance date on the Project and the CMAR Contractor hereby waives any requirement of written notice of default for failure to attain Final Acceptance of Project by the Final Acceptance date. The amount of stipulated damages will be deducted from payments for the Work under the Contract. The CMAR Contractor and the Surety will be liable for stipulated damages in excess of amounts due the CMAR Contractor under the Contract. Any stipulated damages may be collected by CPRA under the Retainage or Performance Bond held by the Surety for this Project or through any other remedy available to CPRA by law. Failure on the part of CPRA to deduct stipulated damages from payment for the Work under the Contract will not be a waiver of the rights of CPRA to collect stipulated damages.

CMAR 507-8.1 CMAR Contractor's Stipulated Damages

Stipulated damages for failure to open to traffic and the failure to achieve Final Acceptance will not be assessed simultaneously.

Unless the entire Project is available for its' intended use, the charge of \$_____ will be made for each calendar day that the Work remains uncompleted after the Substantial Completion date.

When the entire Project is complete, including delivery of all final documentation, the charge of \$_____ will be made for each Calendar Day that the Work remains uncompleted after the Final Acceptance date.

CMAR 507-9 DEFAULT AND TERMINATION OF CONTRACT

The CMAR Contractor will be in default if any of the following occur:

- A) Failure to complete the Project within Contract's Time;
- B) The CMAR Contractor becomes insolvent or a petition is filed in the Bankruptcy Courts of the US under Chapters 7 or 13 of the Bankruptcy Code naming the CMAR Contractor as debtor or conversion of a proceeding or petition from Chapter 11 to Chapter 7 or 13 of the Bankruptcy Code or seeks a forced respite under the laws of this state or similar debtor protection by courts of other states;
- C) Allowance of any final judgment to stand unsatisfied for a period of 14 Calendar Days;
- D) Assignment or arrangement for performance by others of all or part of the performance of the Contract, other than by subcontracting pursuant to CMAR Section 507-1, without written approval and consent in advance of CPRA and the Surety in the case of an assignment of the entire Contract, and an assignment of Contract proceeds for the benefit of one or more creditors other than pursuant to a security interest in accordance with Louisiana Revised Statutes 10:9-501, et seq., without prior written approval and consent of CPRA. Any such purported assignment will not be honored without evidence of compliance with this CMAR Section 507-9(D);
- E) Discontinuation of the prosecution of the Work;
- F) Failure to perform with sufficient workers, equipment, or materials to assure prompt completion of the Work;
- G) Performance of the Work unsuitably or neglect or refusal to remove materials or replace or repair rejected Work;
- H) Failure to resume discontinued Work within ten Calendar Days after notice to do so;
- I) Failure to perform the Work in an acceptable manner, violation of any provision in

the Contract, or failure to follow any federal, state, or local laws pertaining to performance;

- J) Failure to follow federal, state, or local laws, rules, and regulations concerning construction safety and health standards or permits or conditions upon the site of the Work which are unsanitary, hazardous, or dangerous to the health or safety of the CMAR Contractor's workmen or the public; or
- K) Fraud.

CPRA will give written notice to the CMAR Contractor, with a copy to the CMAR Contractor's Surety, of CPRA's determination that the CMAR Contractor is in default for any cause specified in this CMAR Section 507-9. CPRA may give notice to the CMAR Contractor of its intent to put the CMAR Contractor in default under this CMAR Section 507-9 and specify a period of time in which the CMAR Contractor shall cure the deficiency or a notice of default will be issued. Upon notice of default, CPRA will have authority, without violating the Contract, to take prosecution of the Work out of the hands of the CMAR Contractor.

Within 30 Calendar Days of receipt of a notification of the CMAR Contractor's default, the Surety must present to CPRA either a plan to assume performance of the Contract and procure completion of the Project or provide CPRA in writing with a reasonable response for the CMAR Contractor's default. If no plan is presented by the Surety within 30 Calendar Days, or at any time if immediate action must be taken to protect the public interest or the safety of the public or workers, CPRA will take prosecution of the Work out of the hands of the CMAR Contractor or Surety and may appropriate or use the materials and/or equipment on the Project or may enter into an agreement for completion of the Contract or use other methods as required for completion of the Contract in an acceptable manner. The Surety will then be responsible for payment to CPRA of the cost of completion of the Project and stipulated damages assessed by the public entity up to the total amount of the Performance Bond. If the Surety has not timely completed the Project and a court of competent jurisdiction has determined that the Surety has in bad faith refused to take over the Project, the Surety will be responsible for the payment of any stipulated damages for any delay in completion of the Project as specified in the Contract.

Contract and any reasonable attorney's fees and court costs incurred by CPRA in collection of payments required by this CMAR Section 507-9.

Nothing herein will be construed to require or obligate CPRA to suspend Contract Time or to release the obligation of the CMAR Contractor and Surety for stipulated damages in accordance with CMAR Section 507-9.

The costs incurred by CPRA due to the CMAR Contractor's default, including attorney's fees, or for completing the Work under Contract, will be deducted from any monies due or which may become due the CMAR Contractor. When this expense exceeds the sum which would have been payable under the Contract, the CMAR Contractor and Surety will be liable and will pay CPRA the amount of such excess.

CMAR 507-10 TERMINATION OF CMAR CONTRACTOR'S RESPONSIBILITY

The Contract will be considered complete when all Work has been satisfactorily completed, the final inspection made, and the Work accepted by CPRA and FHWA (if applicable). The CMAR Contractor will then be released from further obligation except as set forth in the CMAR Contractor's Payment/Performance/Retainage Bond.

Final Acceptance does not relieve the CMAR Contractor's obligations pursuant to any guaranty or warranty under the terms of the Contract. Upon expiration of any warranty or guaranty period, CPRA will release any security tendered and issue a letter of release to the CMAR Contractor.

CMAR 507-11 TERMINATION OF CONTRACT

CPRA may, by written notice, terminate the Contract or any portion thereof when, for reasons beyond either CPRA's or CMAR Contractor's control, the CMAR Contractor is prevented from proceeding or completing the Work as originally contracted or when termination would be in the public interest. Such reasons for termination may include, but will not be limited to, executive orders of the President of the US relating to prosecution of war or national defense, national emergency which creates a serious shortage of materials, orders from duly constituted authorities relating to energy conservation, and restraining orders or injunctions obtained by third party citizen action resulting from national or local environmental protection laws or where the issuance of such order or injunction is primarily caused by acts or omissions of persons or agencies other than the CMAR Contractor.

When the Contract, or a portion thereof, is terminated before completion of the Work, payment will be made for the Work completed. No claim for loss of anticipated profits will be considered.

Reimbursement for organization of the Work, other indirect costs (when not otherwise included in the Contract), and moving equipment and materials to and from the Project will be considered.

Acceptable materials obtained or ordered by the CMAR Contractor for the Work that are not incorporated in the Work will, at the option of the CMAR Contractor, be purchased by CPRA at actual cost as shown by receipted bills and actual cost records at such points of delivery as designated.

Termination of the Contract or a portion thereof will not relieve the CMAR Contractor of responsibility for the completed Work nor will it relieve the Surety from any obligation or liability arising from the Work performed.

DRAFT

DRAFT

FORM SAF
Monthly Safety Report Format
CMAR Contractor:

Period Covered (Month and Year): _____

Name of CMAR Contractor's Safety Manager: _____

Item	Contract Total This Period	Contract Cumulative Total
Number of Man-Hours Worked (construction)		
Number of Lost Workday Cases (entire shift lost)		
Number of Restricted Workday Cases (partial shift lost or reassigned to "light" duty)		
Number of Cases Requiring Medical Attention		
Number of Fatalities		
Number of On-Site Safety Meetings		
Number of On-Site Equipment Accidents		
Number of Vehicle Accidents, including off-site accidents by vehicles working on the Contract		
Number of New Workers on the Site During Period		
Number of New Worker Safety Orientations		
Number of Supervisor/Foreman Safety Sessions		
Number of Site Safety Inspections		

1. Describe circumstances surrounding each lost workday and each fatality case.

2. Describe actions taken and/or planned to prevent reoccurrence.

Signed for the CMAR Contractor:

(Signature)

CMAR Contractor's Project Manager

(Printed or typed name) Board Director

(Date)

(Signature)

(Date)

DRAFT

APPENDIX 507B BASELINE PROGRESS SCHEDULE

(Critical Path Method Schedule)

1.0 DESCRIPTION

The schedule submitted in accordance with CMAR Section 507 shall be prepared using the Critical Path Method (CPM).

1.1 GENERAL

The Project shall be planned and documented using the Baseline Progress Schedule, a conventional CPM schedule in the form of an activity on node diagram based on the principles defined by the 2004 issue of the Construction Planning & Scheduling Manual published by the Associated General Contractors of America (AGC). The schedule shall be used for coordination and monitoring of all Work under the Contract, including, all activities of subcontractors, design, and construction; shall compare the Work performed to the Contract Time and phasing requirements; and shall assign necessary resources for inspection and administration of the Contract.

Acceptance of the schedule by CPRA's Project Manager shall not be construed to imply approval of any particular method or sequence of construction or to relieve the CMAR Contractor of providing sufficient materials, equipment, and labor to guarantee completion of the Project in accordance with the Contract. Acceptance shall not be construed to modify or amend the Contract. The time between NTP and Final Acceptance date in the approved baseline CPM will set contract time for the project.

Failure by the CMAR Contractor to include in the Baseline Progress Schedule any element of Work required for the performance of the Contract shall not excuse the CMAR Contractor from completing all Work required within the completion date(s) specified in the Contract notwithstanding acceptance of the schedule by CPRA's Project Manager.

Float contained in the Baseline Progress Schedule is not for the exclusive use and benefit of either or the CMAR Contractor.

If the CMAR Contractor fails to comply with the provisions of this Appendix 507B – Baseline Progress Schedule, CPRA's PM may suspend payment for the first monthly estimate and subsequent estimates depending on the submittal and approval dates.

1.2 SCHEDULE SUBMITTALS

A) Baseline Progress Schedule

Within 30 Calendar Days following the Contract Award, the CMAR Contractor shall prepare and submit a Baseline Progress Schedule for the entire Project to CPRA's Project Manager for review and Approval. The Baseline Progress Schedule must be consistent with the proposed Baseline Progress Schedule submitted with the GMP.

The CMAR Contractor will incorporate into this schedule all Project activities, activities for the placement of orders and anticipated delivery dates of materials and equipment, activities assigned to subcontractors, activities assigned to the LA DOTD or the CPRA's Project Manager and other outside agencies (such as shop drawing reviews), and all utility Work or work by other contractors within or near the Contract limits.

B) Schedule Updates

See Section 3.3.

C) A 30 day look ahead schedule from the approved CPM

2.0 SOFTWARE

The CMAR Contractor shall prepare all schedules in Primavera P3 or P6 system that can produce a CPM network diagram using the precedence diagramming method and other reports and graphics as described within this Appendix 507B – Baseline Progress Schedule

3.0 SCHEDULE REQUIREMENTS

3.1 GENERAL

The CMAR Contractor's Baseline Progress Schedule shall meet the following requirements:

A) Baseline Progress Schedule Format

The CMAR Contractor shall use the precedence diagramming methods. The Work Breakdown Schedule (WBS) of the Baseline Progress Schedule shall be formatted in a manner consistent with the pricing and payment method contained in the Contract.

B) Project Calendars

Holidays and non-Work days, such as weather days, shall be established in coordination with CPRA's Project Manager.

C) Activities Data

1) Activity Identification Number

Each activity shall have a unique identification number.

2) Activity Description

Each activity shall be clearly described. Use of descriptions referring to percent of a multi-element item (i.e., construct deck 50%) will not be acceptable. Separate activities shall represent different elements of multi-element activities (i.e., construct forms, install rebar, and pour concrete). Multiple activities with the same Work description shall include a location description.

3) Activity Duration

The CMAR Contractor shall subdivide the Work into individual activities having durations of no longer than 30 Working Days each. Exceptions to this rule will be reviewed by CPRA's Project Manager on an activity by activity basis. If multiple shifts and/or overtime are anticipated during the development of activity durations, a list of affected activities and the shift/overtime assumptions shall be provided to CPRA's Project Manager. If requested by CPRA's Project Manager, the CMAR Contractor shall furnish production rates or other information needed to justify the reasonableness of activity time durations.

4) Weather Conditions

Expected seasonal weather conditions, such as precipitation and temperature, shall be included by the CMAR Contractor in the planning and scheduling of activities in accordance with the CPRA Project Manager.

5) Start and Finish Dates

The earliest start date, earliest finish date, latest start date, and latest finish date shall be shown for each activity.

6) Total Float

Total float shall be shown for each activity. Total float is the full amount of time by which the start on an activity may be delayed without causing the Project to last longer.

7) The Baseline Progress Schedule shall contain none of the following:

- a) Excessive leads or lags, as determined solely by the CPRA;
- b) Assigned constraints, except as specified in the Contract Documents or as specifically allowed by CPRA's PM;
- c) Multiple calendars, except as allowed by the Contract Documents; or
- d) Progress override

8) Activity Codes

Activities shall be coded to allow for the following summaries:

- a) Responsible party for the accomplishment of each activity (i.e., CMAR Contractor, subcontractor, LA DOTD, and utility CPRA). The name of each subcontractor shall be included as soon as they are approved by CPRA. Only one party can be responsible for an activity;
- b) Phase/stage during which activity is planned to be accomplished, including design; and
- c) Area/location (i.e., Bridges, ramps, and mainline station).

9) Activity Constraints

The CMAR Contractor shall not constrain the start or completion of any activity unless specifically required by the Contract or specifically allowed by CPRA's Project Manager.

10) Activity Price

The total price per activity shall be included. The total of the price-loaded schedule shall equal the approved GMP. A labor, material, and equipment cost breakdown is not required, but may be provided at the CMAR Contractor's option.

D) Sequence of Operations

The logic diagram or PERT chart shall show the sequence and interdependence of activities required for complete performance.

E) Review of the Baseline Progress Schedule

The CMAR Contractor shall submit to CPRA's Project Manager three copies of the logic diagram (PERT chart) and three copies of the following activities listings:

- 1) Phase – 1st sort, Area/Location 2nd sort, then organized by start and total float. Activities listed in ascending order of their numbers.
- 2) Early Start Sort/Total Float – Activities listed in ascending order based on early start date and total float.
- 3) Critical Path sorted by phase, area and organized by start date.

An electronic back-up copy of the computerized Baseline Progress Schedule also shall be provided.

CPRA's Project Manager will review the Baseline Progress Schedule and then hold a discussion meeting with the CMAR Contractor. Within two weeks from this meeting the CMAR Contractor shall make adjustment to the Baseline Progress Schedule to eliminate conflicts, objections, and ambiguities found by CPRA's Project Manager. The CMAR Contractor shall submit for review three copies of the revised schedule materials as described above.

Upon completion of the final review by CPRA's Project Manager, the CMAR Contractor shall incorporate the final revisions and submit two copies of the schedule, including the computerized Baseline Progress Schedule and three copies of each of the revised logic diagram (PERT chart) and computer printouts. The logic diagram (PERT chart) shall be on 11x17inch size sheets and not a continuous diagram. This final submission shall be submitted for approval within one week of the CMAR Contractor's receipt of the revisions.

3.2 SCHEDULE UPDATING

A) Monthly Progress Reports and Projections

The CMAR Contractor shall update the schedule monthly along with the monthly progress report. Each update shall show actual dates of activities started and completed; the percent of Work completed to date on each activity started, but not yet completed; and the status of procurement of critical materials. The updated schedule data shall be submitted to CPRA's Project Manager electronically. The CMAR Contractor also shall provide updated activity number and total float/early start sorts, a 60 Working Day look-ahead bar chart by early start, and a narrative report. The narrative report shall include a description of problem areas, current and anticipated delaying factors and their estimated impact on performance of other activities and

mandated contract dates, and the explanation of corrective action taken or proposed. See CMAR Sections 507-2.1 and 507-2.2.

The CPRA's Project Manager shall conduct a monthly review of the updated schedule. The review shall occur after receipt of the CMAR Contractor's updated information and shall serve as a forum to discuss slippages, remedies, revisions, and other relevant issues. The CMAR Contractor's appropriate design, construction, and scheduling personnel shall attend these working sessions. These reviews may result in the need for submission of revised schedules.

3.3 CHANGES TO THE ACCEPTED BASELINE PROGRESS SCHEDULES

The Baseline Progress Schedule shall accurately reflect the manner in which the CMAR Contractor intends to proceed with the Project. All changes made to the schedule (i.e., the addition of activities, changes in logic, or changes in activity durations) shall be submitted in writing and are subject to written acceptance by the CPRA's Project Manager before inclusion in the Baseline Progress Schedule.

To initiate changes to the approved schedules, the CMAR Contractor shall meet with CPRA's Project Manager and provide the information necessary to prepare a revised (updated) logic diagram and computer-generated schedule listing.

3.4 COMPLIANCE WITH THE SCHEDULE

The CMAR Contractor shall employ and supply a sufficient force of workers, materials, and equipment and shall prosecute the Work with such diligence so as to maintain the rate of progress indicated on the approved schedule to prevent Work stoppage and ensure completion of the Project within the Contract Time and the GMP. Any additional or unanticipated costs or expense required to maintain the schedule, shall be solely the CMAR Contractor's obligation and shall not be charged to CPRA unless provided for in other provisions of the Contract.

In the event a notice is received of a change to the Contract which is likely to cause or is causing delays, the CMAR Contractor shall notify CPRA's Project Manager in writing within ten Calendar Days, of the effect, if any, of such change, extra work, suspension, or other conditions upon the Baseline Progress Schedule and shall state in what respects, if any, the approved Baseline Progress Schedule should be revised with the reasons therefore. The reasons for these revisions must be succinct, comprehensive, and factual to merit consideration.

4.0 PROGRESS CHECK POINTS AND PAYMENT

Specified schedule submittals and schedule updates shall be considered Progress Check Points. The cost of preparing and updating the CPM schedule and meeting all other requirements of this Specification shall be included the GMP.

Payment will be made as an indirect cost item.

DRAFT

DRAFT

CMAR SECTION 508

GMP, PROGRESS PAYMENT AND ALLOWANCES

This CMAR Section 508 describes and specifies the means of determining the Work progress, and establishes the procedures for the use of allowances if agreed upon in the GMP.

CMAR 508-1 GUARANTEED MAXIMUM PRICE

CPRA shall pay the CMAR Contractor for the Work in this Contract and the CMAR Contractor shall accept the actual cost of Work as detailed in the GMP documents; provided, however, that the sum of the actual cost of work in accordance with the GMP shall not exceed the GMP as originally fixed or as adjusted from time to time as provided in this contract. The CMAR Contractor is reminded this is a guaranteed maximum price.

CMAR 508-1.1 Schedule of Values

The Schedule of Values in the approved GMP documents will be used as a basis for payment as the Work performance in accordance with the Standard Specifications for Roads and Bridges latest Edition and this contract. Those portions of the Schedule of Values allocable to Work to be performed by subcontractors of the CMAR Contractor shall be finalized when the Subcontracts are executed. All estimated construction costs not specifically allocated to a Subcontract (including Work self-performed) with approval of CPRA, may be available for later use on the contract for reallocation to other line items as provided for in this contract. This will be at CPRA's discretion which items if any the money can be used on.

CMAR 508-1.2 Documentation and Reporting Actual Cost of the Work

The CMAR Contractor shall document the actual cost of the Work at buyout as compared to the Guaranteed Maximum Price agreement and shall report this information to CPRA monthly and with each CMAR Contractor recommendation for selection of a bid/proposal for each subcontracting package.

CMAR 508-1.3 Discounts and Penalties

All discounts for prompt payment shall accrue to CPRA to the extent the expense is paid directly by CPRA or from a fund made available by CPRA to the CMAR Contractor for such payments, such as a stockpile payment. To the extent the expense is paid with funds of the CMAR Contractor, all cash discounts shall accrue to the CMAR Contractor. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the cost of the project and CPRA. All penalties incurred due to fault of the CMAR Contractor or its subcontractors

for late payment of materials and or expenses will be paid by the CMAR Contractor and will not be reimbursed under the Contract.

CMAR 508-1.4 CMAR's Responsibilities Following Acceptance of GMP

Following CPRA acceptance of the GMP Proposal, (the accepted GMP Proposal is herein referred to as the "GMP Agreement" or GMP, CMAR Contractor shall continue to monitor the development of the Construction Documents so that, when complete, the Construction Documents adequately incorporate and resolve all qualifications, assumptions, clarifications, exclusions and value engineering issues embodied in the GMP agreement. During the Construction Documents stage, the CMAR Contractor shall deliver a monthly status report to CPRA describing the progress on the incorporation into the Construction Documents of all qualifications, assumptions, clarifications, exclusions, value engineering issues(if applicable) and all other matters relevant to the GMP Agreement.

CMAR 508-1.5 Equitable Adjustment

The CMAR Contractor shall be entitled to an equitable adjustment of the GMP if it is required to pay or bear the burden of any new federal, state, or local tax, or any rate increase of an existing tax, except taxes on income, adopted through statute, court decision, written ruling, or regulation taking effect after incorporation of the GMP agreement. This equitable adjustment does not apply to tax increases borne solely by subcontractors.

CMAR 508-2 APPLICATIONS FOR PROGRESS PAYMENT

CMAR Contractor shall deliver to Project Engineer (or such other person as is designated by CPRA) on the last of each month an application of progress payment in Appendix 508B – Cost of the Work – Schedule of Values in the format specified by CPRA. Each such application for payment shall be based on the Schedule of Values and be in an amount determined by the percentage of completion of the Work in the month being billed. It shall show the percentage of completion of each category of the Work performed in the billing period.

The payment application shall be accompanied (as separate documents) by:

- A) An updated CPM Schedule and narrative schedule update report as provided for herein, and
- B) Conditional lien waivers from each subcontractor entitled to progress payment thereunder; and
- C) Form SAF

In addition, the CMAR Contractor shall provide the following documentation upon specific request by CPRA:

- D) A written accounting in a form agreed by CMAR Contractor and CPRA of the Actual Cost of the Work completed, including copies of all receipts, invoices with check vouchers or other evidence of payment, payrolls, and any and all other evidence which CPRA or its designated representatives shall deem necessary to support the amount requested. This information is subject to audit and payment for these costs is dependent on CPRA's receipt of accurate and complete records of all transactions; and
- E) A report by CMAR Contractor on subcontractor buy-out status, contract sums, and subcontractor pay applications, and
- F) A copy of job cost ledger; and
- G) A copy of timecards for all employees charged to the Project; and
- H) A copy of Construction General Condition's invoices and purchase orders, each for the time periods periodically requested by CPRA. Copies of receipts and/or invoices shall be provided.

The Construction margin identified in Part 1 of the Contract, shall be shown as a separate column identifying the percent on each line item on the Schedule of Contract Values for the Project. Payment of the CMAR Contractor's margin percentage (Overhead and Profit) shall be calculated based on approved invoiced quantities for pay items in the schedule of values. Payments by CPRA to the CMAR Contractor shall be made as described in applicable provisions governing testing, inspection and acceptance in the special provisions or documented elsewhere in the Contract Documents.

Payments for subcontractor work shall not exceed the percentage of Work allocated to that subcontractor for any particular work classification and shall not exceed the total value of the subcontract amount.

CMAR Contractor's acceptance of final payment under this Contract, shall constitute a full and complete release of CPRA from any and all claims, demands, and causes of action whatsoever that CMAR Contractor, its subcontractors, suppliers and consultants or any of their successors or assigns have or may have against CPRA arising from the Project or any provision(s) of this Contract except for those previously made in writing and identified by CMAR as unsettled at the time of the request for final payment.

CMAR 508-2.1 GMP Allowances

The CMAR Contractor and CPRA acknowledge that the GMP contains line items for allowances. Allowances can only be used for the total negotiated amounts established in the GMP and agreed to by CPRA and the CMAR Contractor. Allocations to GMP for allowance items that remain unused upon Final Acceptance shall be returned 100% to CPRA.

The CMAR Contractor shall include in the GMP all allowances stated in the Contract Documents and agreed to in the preconstruction contract phase. Items covered by allowances shall be supplied for such amounts and by such persons or entities as CPRA may direct, but the CMAR Contractor shall not be required to employ persons or entities against which the CMAR Contractor makes reasonable objection. Unless otherwise provided in the Contract Documents:

- A) materials and equipment under an allowance shall be selected by CPRA within a reasonable time frame as defined in CPRA approved Project CPM Schedule;
- B) Allowances shall cover the cost to the CMAR Contractor of materials and equipment delivered at the Site and all required taxes, less applicable trade discounts;
- C) Allowances shall not include professional or construction fees, Construction Indirect Costs, bonds and insurance premiums;
- D) Allowances shall include CMAR Contractor's costs for unloading and handling at the Site, labor installation costs and other expenses associated with the Work the allowance is paying for;
- E) Whenever costs are more than or less than Allowances, the GMP may be adjusted accordingly by amendment or Change Order in accordance with provisions of Section 508-4. The amount of the amendment or Change Order shall reflect the difference between Actual Costs and the Allowances plus allowable margin on such difference in accordance with Section 508-4 hereof if the Actual Costs are greater than the Allowances.

CMAR 508-2.2 Unit Priced Work

In computing amounts in estimates or Work done under unit prices, all estimates, including the final, will be made for actual quantities of Work performed and Material placed in accordance with the requirements contained in the CMAR Contractor Documents as determined as per Section 508-1.2, and Part 1 of the Contract.

CMAR 508-2.3 Scope of Payment

The CMAR Contractor shall receive and accept compensation provided for in the Contract as full payment for furnishing all material and for performing all Work under the Contract in a complete and acceptable manner and for all risk, loss, damage, or expense of whatever character arising out of the nature of the Work or the prosecution thereof.

CMAR 508-2.4 Payment for Stockpiled or Stored Material

CMAR 508-2.4.1 General

Payment for stockpiled or stored material will be considered only for materials anticipated to be stored for periods in excess of 90 Calendar Days. When approved, advance payments may be made for fabricated or natural materials that are to be incorporated in the Project when stockpiled materials are stored on the Project or in a dedicated stockpile at an approved site outside the limits of the Project within the State of Louisiana. Payments will be limited to durable Materials described herein and will represent a significant portion of the Project cost. Perishable articles and small warehouse items are not included. These materials must meet the requirements of the Contract. Payment for stockpiled or stored materials will not constitute acceptance. The CMAR Contractor shall protect the material from damage while in storage.

Payment for Materials stored outside the State of Louisiana will be considered, subject to approval of CPRA's Project Manager. This will generally be limited to adjacent states, except in cases where it will be in the best interest of CPRA to pay for these materials.

Payment may be made for the invoice price for the materials, which must not exceed 85% of the PC which includes the materials. For fabricated materials purchased from commercial sources and delivered to approved storage, partial payment may be the invoice price plus freight and taxes. The CMAR Contractor shall allocate costs for Materials as part of the activities with which the material is associated.

Partial payment for stockpiled materials must be requested by the CMAR Contractor in writing and the following documents must be furnished:

- A) A copy of the invoices from the supplier or manufacturer verifying the cost and quantity of the material; and
- B) If storage is on private property, a copy of the lease or agreement granting CPRA right of entry to property.

Within 30 Calendar Days after payment by CPRA, the CMAR Contractor shall submit a certified copy of invoices from the suppliers for each item for which payment has been made. All such

invoices submitted must state the amount received by the supplier as payment in full for the Materials. If this certification of payment is not presented within the 30 Calendar Day period, the advanced payment will be deducted from future periodic payments.

Title and ownership of Materials for which advancements have been made by CPRA must not vest in CPRA until such Materials are incorporated in the Work and the Work accepted by CPRA. The making of advancements by CPRA will not release the CMAR Contractor from the responsibility for any portion thereof.

CMAR 508-2.4.2 Fabricated or Manufactured Materials

Fabricated or manufactured Materials may include, but are not limited to, the following:

- A) Structural steel;
- B) Fabricated structural steel items;
- C) Steel piling;
- D) Reinforcing steel;
- E) Electrical Equipment;
- F) Mechanical Equipment;
- G) Precast concrete items;
- H) Structural timber;
- I) Timber piling;
- J) Fencing and guard rail Materials;
- K) Fabricated sign structures; and
- L) Sign panels.

CMAR 508-2.4.3 Other Material

These materials will normally be large quantities of natural or manufactured aggregate. The CMAR Contractor's request for payment of stockpiled natural material must give a detailed description of the material, its intended use, and location of the site.

CMAR 508-2.4.4 Equipment Used to Construct the Project

CPRA will not pay for direct costs of equipment used to construct the Project. The CMAR Contractor shall allocate costs for equipment, whether new, used, or rented, as part of the pay items with which the equipment is associated.

CMAR 508-2.4.5 Bond Premiums

The amount payable to the CMAR Contractor for Payment and Performance bond premiums must be a dollar-for-dollar pass through of the CMAR Contractor's costs. No margin is paid on top of this item. No payment will be made to the CMAR for the cost associated with a Retainage bond should the CMAR elect to furnish such a bond in lieu of having retainage held.

CMAR 508-2.4.6 Permits

The amount payable to the CMAR Contractor for permits must be a dollar-for-dollar pass-through of the CMAR Contractor's costs. The CMAR Contractor shall provide backup documentation supporting each cost in this category to CPRA prior to any payment.

CMAR 508-2.4.7 Certification for Periodic Payment

Within seven Calendar Days of receipt of a request in accordance with CMAR Section 508-2.4.1, CPRA's Project Manager will issue to CPRA, with a copy to the CMAR Contractor.

CMAR 508-2.4.8 Payment by the Coastal Protection and Restoration Authority

Within 30 Calendar Days after receipt by CPRA of an acceptable request for periodic payment (such acceptability as determined by CPRA), CPRA will pay the CMAR Contractor the amount of the request approved for payment by CPRA's Project Manager, less any applicable retention and less any amounts that CPRA is otherwise entitled to withhold. If a cap on payment is in place on the Project, in no event will CPRA have any obligation to pay the CMAR Contractor any amount which would result in payment for any activity in excess of the GMP including Change Orders.

CMAR 508-3 RETAINAGE

If an election has been made to have retainage withheld from periodic payments due the CMAR Contractor, CPRA will deduct from the periodic payment an amount equal to five percent of the requested periodic payment.

**CMAR 508-4 EXTRA WORK, FORCE ACCOUNT WORK, AND RECORD
KEEPING**

CMAR 508-4.1 Contract Modifications

CPRA, without invalidating this Contract, may order changes in a Project within the general scope of this Contract consisting of additions, deletions or other revisions, with the Project GMP and the Project construction completion date being adjusted accordingly. Adjustments to the Base GMP or charges to CPRA's allowances shall be in accordance with CMAR Sections 508-4.1.1 to 508-4.6.1. All changes in the Project not covered by an authorized allowance shall be authorized by a Change Order signed by CPRA before the change is implemented. Contract modifications may be issued by CPRA on its own initiative or in response to a proposal by the CMAR Contractors, and shall be subject to the claims process under CMAR Section 508-8.

CMAR 508-4.1.1 Change Process

A Project Contract modification is a written order to the CMAR Contractor signed by CPRA issued after the execution of the Project GMP, authorizing a Change in the Project, the CMAR Contractor's margin for the Project, or the Project construction completion date. Each charge to CPRA's allowances or adjustment in the Project GMP resulting from a Project Contract modification shall clearly separate the amount attributable to the cost of the Project. Except when issued in response to a claim pursuant to Section 508-8, a Contract modification is subject to a claim for additional cost or time pursuant to Section 508-8. For purposes of Section 508-8, the twenty-day period to submit a notice of claim will commence upon issuance of the Contract modification. However, no claim may be filed in response to a Contract modification issued pursuant to Section 508-8.1 as the claim will already have been considered.

The increase or decrease in the cost of the Project resulting from a change in the Project shall be determined in one or more of the following ways:

- A) By mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation by the Project Manager, and CPRA;
- B) By unit prices stated in the Project GMP or subsequently agreed upon;
- C) By force account work described in 508-4.6
- D) By the method provided in CMAR Section 508-4.1.2.

CMAR 508-4.1.2 Cost of Work Performed

If none of the methods set forth in CMAR Section 508-4.1.1 is agreed upon, the CMAR Contractor, provided they receive a written order signed by CPRA, shall promptly proceed with the Work involved. The cost of such Work shall then be determined on the basis of the reasonable expenditures and savings of those performing the Work attributed to the change. However, in the event a contract modification is issued under these conditions, the PM will establish an estimated cost of the work and the CMAR Contractor shall not perform any work whose cost exceeds that estimate without prior written approval by CPRA. In such case, and also under CMAR Section 504-4.1.1 above, the CMAR Contractor shall keep and present, in such form as CPRA may prescribe, an itemized accounting together with appropriate supporting data of the increase in the cost of the Project as outlined the GMP. The amount of decrease in the Project GMP to be allowed by the CMAR Contractor to CPRA for any deletion or change which results in a net decrease in cost for a Project will be the amount of the actual net decrease.

CMAR 508-4.1.3 Unit Prices

If unit prices are stated in a Project GMP or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed contract modification that application of the agreed unit prices to the quantities of Work proposed will cause substantial inequity to CPRA or the CMAR Contractor, the applicable unit prices and the Project GMP shall be equitably adjusted.

CMAR 508-4.1.4 Unknown Conditions

Should unforeseen conditions occur, or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the plans, specifications for the Project, or CPRA-furnished information, or should unknown physical conditions below the surface of the ground, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract, be encountered, the Project GMP and the Project construction completion date shall be equitably adjusted by Contract modification upon a request for Contract modification in accordance with CMAR Section 508-4.1.

CMAR 508-4.1.5 Cost Increases Attributable to CPRA

Increases in the cost of the Project due to a change in the Project attributable to CPRA, either by CPRA's agreement thereto or the grant of a claim under Section 508-8, shall either be charged to CPRA's allowance or result in an increase to the base GMP, in the sole discretion of CPRA. Decreases in the cost of the Project due to a change in the Project shall result in a decrease to the base GMP.

CMAR 508-4.2 Claims for Additional Cost or Time

Only delays that are determined to extend the critical path for the schedule for constructing a Project will result in a time extension. Neither CPRA nor the CMAR Contractor shall be considered to own the schedule float time. All claims for additional cost or time shall be made by request for a contract modification submitted as provided in Section 508-4.1.

If the CMAR Contractor is delayed at any time in the progress of the Work by any act or neglect of CPRA, or of any employee of, or by any separate CMAR Contractor employed by CPRA, or by any changes ordered in the Work by labor disputes, fire, or unusual delay in transportation, unavoidable casualties or any causes beyond the CMAR Contractor's control and its subcontractors, or by delay authorized by CPRA pending resolution of disputes and such delay extends the Project construction completion date, the Project Substantial Completion date shall be extended by contract modification for such reasonable time as CPRA may determine.

In no event shall the Contract Time or GMP be adjusted for conditions that could or should have been identified by the CMAR Contractor through its investigations or survey of existing conditions prior to submission and establishment of the GMP and the CMP Schedule.

CMAR 508-4.3 Minor Changes in the Project

The Project Manager will have authority to order minor changes in the Project not involving an adjustment in the Project GMP or an extension of the Project Construction Completion Date and not inconsistent with the intent of the Plans and Specifications and other contract documents for the Project. Such changes shall be effected by written order. Documentation of changes shall be determined by the PM. Changes shall be approved by the PM and the District Construction Office.

CMAR 508-4.4 Emergencies

In any emergency affecting the safety of persons or property, the CMAR Contractor shall act at its discretion, to prevent threatened damage, injury or loss. Any increase in the GMP or extension of time claimed by the CMAR Contractor on account of emergency work shall be determined as provided in Section 508-4.1.

CMAR 508-4.5 Hazardous Waste Removal

The CMAR Contractor shall or shall cause the removal, encapsulation, transportation and disposal of any hazardous material as may be required in connection with the Work. Hazardous material brought by the CMAR Contractor or the subcontractors shall remain their responsibility for proper disposal. Any hazardous material not specifically shown on the Contract Documents shall be

considered a concealed condition and may be the responsibility of the CMAR Contractor in a contract modification.

CMAR 508-4.6 Force Account Charges

CPRA may deem it is in the best interest of CPRA and the CMAR Contractor to make a fair and equitable settlement for the extra work, to be paid on a force account basis. When force account is the method of payment, the CMAR Contractor will be paid the direct cost of the Work as determined and documented in CMAR Section 508-4.6 (A) through (F).

A) Labor

For labor and working foremen in direct charge of operations, the CMAR Contractor shall receive the wage rates agreed on in writing before beginning Work for each hour that said labor and foremen are engaged in such Work. Jobsite and home office supervisory personnel must not be included as direct labor.

The CMAR Contractor shall receive the actual costs paid to, or on behalf of, workers for subsistence and travel allowances, health and welfare benefits, pension fund benefits, or other benefits when such amounts are required by collective bargaining agreement or other employment contract applicable to the classes of labor employed on the Work, but limited to a maximum daily rate for subsistence and travel allowances. This maximum must be agreed upon prior to the CMAR Contractor incurring such charges.

B) Bond and Insurance

For property damage, liability, and Workers' Compensation insurance premiums; unemployment insurance contributions; social security taxes; and additional bond costs on force account Work, the CMAR Contractor shall receive the actual cost thereof. The CMAR Contractor shall furnish satisfactory evidence of the rates paid for such additional bond, insurance, and tax. No margin is paid on bond and insurances.

C) Materials

For materials used, the CMAR Contractor shall receive the actual cost of such materials delivered to the Work including transportation charges and sales tax, if applicable.

D) Equipment

Allowable costs for construction and marine plant and equipment in sound workable condition owned or controlled and furnished by the CMAR, or a subcontractor at any

tier performing cost plus fee work, shall be based on actual cost data for each piece of equipment or groups of similar serial and series for which CPRA can determine both ownership and operating costs from the contractor's accounting records. When both ownership and operating costs cannot be determined for any piece of equipment or groups of similar serial or series equipment from the contractor's accounting records, costs for that equipment shall be based upon the applicable provisions of USACE Engineer Pamphlet (EP) 1110-1-8, Construction Equipment Ownership and Operating Expense Schedule, Region III. Working conditions shall be considered to be average for determining equipment rates using the schedule unless specified otherwise by CPRA. For equipment not included in the schedule, rates for comparable pieces of equipment may be used or a rate may be developed using the formula provided in the schedule. For forward pricing, the schedule in effect at the time of negotiations shall apply. For retroactive pricing, the schedule in effect at the time the work was performed shall apply.

Rates for equipment rented from an organization under common control, lease-purchase arrangements, and sale-leaseback arrangements, will be determined using the schedule, except that actual rates will be used for equipment leased from an organization under common control that has an established practice of leasing the same or similar equipment to unaffiliated lessees.

When actual equipment costs are proposed and the total amount of the pricing action exceeds the simplified acquisition threshold (SAT), CPRA shall request the CMAR Contractor to submit either certified cost or pricing data, or partial/limited data, as appropriate. The data shall be submitted using the USACE Standard Form 1411, Contract Pricing Proposal Cover Sheet.

E) Subcontracting

When the Work is to be performed by a subcontractor, the CMAR Contractor will be paid the actual and reasonable cost of such subcontracted Work computed as outlined above. Reimbursement for bond costs will be in accordance with CMAR Section 508-2.4.5.

F) Non-Allowable Costs

No additional CMAR Contractor cost reimbursement will be made for general superintendence, small tools or craft-specific tool allowances, or other direct or indirect costs not specifically included in CMAR Section 508-4.6 (A) through (E).

CMAR 508-4.6.1 Force Account Statements

No payment will be made for force account Work until the CMAR Contractor has furnished CPRA's Project Manager with duplicate itemized statements of the cost of such Work detailed as follows:

- A) Name, classification, date, daily hours, total hours, rate, and extension for each laborer and foreman;
- B) Designations, dates, daily hours, total hours, rental rate, and extension for each unit of machinery and equipment (equipment must be applicable to the work);
- C) Quantities of materials, prices, and extensions;
- D) Transportation of materials; and
- E) Cost of property damage, liability, and workers' compensation insurance premiums, unemployment insurance contributions, and social security tax.

The CMAR Contractor's PM and CPRA's PM will compare records of the cost of Work done as ordered on a force account basis. Such comparison must be made daily. Statements must be accompanied by invoices for Materials used and transportation charges. If materials used on force account Work are not purchased for such Work, but are taken from the CMAR Contractor's stock, invoices for the material and evidence of payment for such shall be provided.

CMAR 508-5 ELIMINATED ITEMS

Should any Work contained in the Contract be found unnecessary, CPRA's Project Manager may, upon written order to the CMAR Contractor, eliminate such Work from the Contract. Such action will not invalidate the Contract.

When Work is eliminated, the CMAR Contractor will be reimbursed for activities done toward completion of the Work to be eliminated. No allowance, except as provided herein, will be made for any increased expense, loss of expected reimbursement, or loss of anticipated profits or margins claimed by the CMAR Contractor resulting directly from such elimination.

The Change Order authorizing reimbursements will show how the reimbursements were derived. Except when otherwise authorized by CPRA's Project Manager, such derivation will show breakdowns of costs as detailed in CMAR Section 508-4.1.2.

Upon receipt of written notice from the CMAR Contractor of the projected completion date of all of the requirements for the Project, CPRA's PM will inspect or review all portions of the Project to verify that all Work, including surveys, As-Built Plans, and Design Acceptance, have been satisfactorily completed. Prior to receiving notification for Final Acceptance for the entire Project, the CMAR Contractor must complete any specified training for CPRA personnel.

The CMAR Contractor shall prepare and submit As-Built Plans of the following types in electronic format and one reproducible hard copy set:

- A) Plan and profile sheets;
- B) Signing and striping;
- C) Pavement typical sections;
- D) All Bridge Plans;
- E) Retaining Structure Plans;
- F) Utility relocation Plans;
- G) Drainage Structure Plans;
- H) Cross sections in areas with retaining structures and/or cuts and/or fills in excess of ten feet high; and
- I) Plans of consolidated access points.

Upon verification that all items have been completed, the final inspection by CPRA's PM will be scheduled and conducted within 14 Calendar Days. If the inspection discloses Work, in whole or in part, as being unsatisfactory, CPRA's PM will give the CMAR Contractor the necessary written instructions within the time limit set by CPRA's PM. Upon correction of the Work, CPRA's PM will make an additional inspection and notify the CMAR Contractor accordingly as soon as reasonably possible thereafter.

If there are no outstanding items to be completed or corrected before Final Acceptance of the Project, the CMAR Contractor shall, following inspection:

- 1) Submit to CPRA's PM special guarantees, warranties, maintenance agreements, final certifications, and similar documents required under the Contract;
- 2) Deliver tools, spare parts, instructions, and similar items required to operate and maintain the Work; and
- 3) Make changeover of locks to all equipment and facilities and deliver keys and/or combinations to CPRA's PM.

When in the opinion of CPRA's PM the CMAR Contractor has fully performed the Work under this Contract, CPRA's PM will recommend to the appropriate CPRA officials the Final Acceptance of the Work so completed. If the appropriate CPRA officials accept the recommendation of CPRA's PM, he will thereupon by letter notify the CMAR Contractor of such Final Acceptance, and copies of such Final Acceptance will be sent to other interested parties.

Upon Final Acceptance of the Work, CPRA will execute a certificate that the Work provided for in the Contract has been completed and accepted under the terms of the Contract. The Certificate of Acceptance will be recorded by the CMAR Contractor in the office of the Recorder of Mortgages of any parish in which the Work has been done.

Final Acceptance will be final and conclusive except for defects not readily ascertainable by CPRA; actual or constructive fraud; gross mistakes amounting to fraud; or other errors which the CMAR Contractor knew or should have known about as well as CPRA's rights under any warranty or guarantee. Final Acceptance may be revoked by CPRA at any time prior to the issuance of the final payment upon CPRA's discovery of such defects, mistakes, fraud, or errors in the Work.

Damage, theft, or vandalism to the items by the public after Final Acceptance will be repaired or replaced by CPRA or by the CMAR Contractor. When the damage to an item is such that only partial repair or replacement is required and the Work is to be done by the CMAR Contractor.

Payment will be made as provided in CMAR Section 508. Items damaged due to negligence of the CMAR Contractor will be repaired or replaced at no cost to CPRA.

Final Acceptance does not relieve the CMAR Contractor's obligations pursuant to any guaranty or warranty under the terms of the Contract.

For detailed Project closeout requirements see CMAR Section 510.

CMAR 508-7 FINAL PAYMENT

The entire balance due to the CMAR Contractor, including any amounts withheld as retainage, will be paid; however, before the final payment, the CMAR Contractor shall submit to CPRA a

certificate from the Recorder of Mortgages of the parish in which the Work has been done to the effect that there are no claims or liens recorded against the Contract, in accordance with La. C. C. P. 5059 and Louisiana Revised Statutes 1:55. The date of the certificate must not be prior to the expiration of 45 Calendar Days, but must be prior to the expiration of 90 Calendar Days, after the Certificate of Acceptance was recorded in the Recorder of Mortgage's Office.

Prior to final payment, all releases or waivers on buildings, wells, utilities, and railroads must be furnished as well as any maintenance bonds, certificates from the Health CPRA, tracings, brochures, or other items required by the Contract.

Final payment will not release the CMAR Contractor or Sureties from liability for any fraud in construction; in obtaining periodic payments; in payment for materials, labor, or other supplies or services for the Work; or for any claims for damages, loss, or injury sustained by any person through the fault, negligence or conduct of the CMAR Contractor or any employees, agents, subcontractors, suppliers, or representatives.

CMAR 508-8 NOTICE OF CLAIM: WAIVER OF REMEDIES

CPRA's liability to CMAR Contractor for any claims arising out of or related to the subject matter of this Contract, whether in contract or tort, including, but not limited to, claims for extension of construction time, for payment by CPRA of the costs, damages or losses because of changed conditions under which the work is to be performed, or for additional work, shall be governed by the following provisions:

All claims must be submitted as a Request for contract modification in the manner as provided herein;

The CMAR Contractor must submit a Notice of Claim to CPRA's PM within twenty (20) days of when the CMAR Contractor becoming aware of the occurrence of the event giving rise to the claim; and

Within ten (10) days of submitting its Notice of Claim, the CMAR Contractor shall submit to CPRA its Request for contract modification, which shall include a written statement of all details of the claim, including a description of the work affected.

The CMAR Contractor agrees that CPRA shall not be liable for any claim that the CMAR Contractor fails to timely submit as a Request for contract modification as provided in this paragraph.

Claims may be submitted in response to a contract modification issued by CPRA on its own initiative or in response to a proposal by the CMAR Contractor, but not in response to a contract modification issued pursuant to Section 508-8.1.

CMAR 508-8.1. Contract Modification

After receipt of a Request for Contract modification, CPRA, in consultation with the Project Manager and the applicable designer, shall deliver to the CMAR Contractor its written determination of the claim and issue any corresponding Contract modification. The provisions of section 506-26 shall be employed during this process. As to matters subject to the determination by final CPRA action (not actions for breach of contract or tort) CPRA's written decision shall be final CPRA action unless the CMAR Contractor requests resolution in accordance with 506-26, within twenty-one (21) days of the CMAR Contractor's receipt of CPRA's determination.

CMAR 508-8.2. Delays in Performance

For work the CMAR Contractor performs with its own forces, and in addition to the adjustments provided for in the margin, the CMAR Contractor's exclusive remedy for delays in performance of the construction caused by events beyond its control, including delays claimed to be caused by or attributable to CPRA, PM, and including claims based on breach of contract or negligence, shall be a claim submitted in compliance with CMAR Section 508-8 and be limited to an extension of the scheduled construction time and actual costs, pursuant to CMAR Section 508-4.1.5. If such event results in a change in the Work, the CMAR Contractor's sole remedy is a claim for adjustments in the contract sum. The CMAR Contractor expressly agrees that the foregoing constitute its sole and exclusive remedies for delays and changes in such work, and waives any other remedies for any claim for increase in the Contract price, delays, changes in the Work, damages, losses or additional compensation.

CMAR 508-9 Force Majeure

A "Force Majeure" event is an event that (i) in fact causes a delay in the performance of a Party's obligations under the Contract Documents, and (ii) is beyond the reasonable control of the Party incurring the delay, and (iii) is not due to an intentional act, error, omission, or negligence of such Party, and (iv) could not have reasonably been foreseen and prepared for by such Party at any time prior to the occurrence of the event. Subject to the foregoing criteria, Force Majeure may include events such as war, civil insurrection, riot, fires, epidemics, sabotage, explosions, embargo restrictions, quarantine restrictions, acts or failures to act on the part of governmental authorities including changes in the law and court orders, transportation accidents, strikes, floods, strong hurricanes or tornadoes, earthquakes, or other acts of God which prevent performance. Force Majeure shall not include technological impossibility, failure of equipment supplied by CMAR

Contractor, receipt of and incorporation of defective materials into the Work, failure of suppliers to deliver equipment and materials except where such failure is itself the result of a Force Majeure event, or failure of CMAR Contractor to secure the required permits for prosecution of the Work.

If CMAR Contractor's performance of its contractual obligations is prevented or delayed by an event believed by CMAR Contractor to be Force Majeure, CMAR Contractor shall immediately upon learning of the occurrence of the event or of the commencement of any such delay, but in no case less than three (3) working days thereafter, give to CPRA written Notice (i) of the occurrence of the delay, (ii) of the nature of the event and the cause thereof, (iii) of the anticipated impact on the Work, (iv) of the anticipated period of the delay, and (v) of what course of action CMAR Contractor plans to take in order to mitigate the detrimental effects of the event. CMAR Contractor's timely delivery to CPRA of the Notice of the occurrence of a Force Majeure event is a condition precedent to allowance of an extension of time under this Section; however, receipt of such Notice by CPRA shall not constitute acceptance that the event claimed to be a Force Majeure event is in fact Force Majeure. The burden of proof of the occurrence of a Force Majeure event shall be on CMAR Contractor. Failure to give such Notice promptly and within such time limit may be deemed sufficient reason for denial by CPRA of any extension of time.

If in the opinion of CPRA the event was a Force Majeure event, CMAR Contractor shall be entitled to such extension of time for completing the Project as, in the opinion of CPRA, is reasonable and equitable. In determining whether any such extension shall be granted and in determining the length of such extension, CPRA may take into consideration any omissions or alterations in the Work or equipment, materials and apparatus required by the Contract Documents whereby, in its opinion, the time necessary for completion has been reduced.

The suspension of CMAR Contractor's performance due to a Force Majeure event shall be of no greater scope and no longer duration than is required. CMAR Contractor shall use its reasonable best efforts to continue to perform its obligations hereunder to the extent such obligations are not affected or are only partially affected by the Force Majeure event, and to correct or cure the event or condition excusing performance and otherwise to remedy its inability to perform to the extent its inability to perform is the direct result of the Force Majeure event.

CMAR Contractor's obligations that arose before the occurrence of a Force Majeure event causing the suspension of performance shall not be excused as a result of such occurrence unless such occurrence makes such performance not reasonably possible. The obligation to pay money in a timely manner for obligations and liabilities which matured prior to the occurrence of a Force Majeure event shall not be subject to the Force Majeure provisions.

Any extension of time based on an acknowledged Force Majeure event will depend upon the extent to which the delay affects the construction schedule and will only extend the scheduled dates for

the items of the Work so delayed. Scheduled dates for other portions of the Work not so delayed will remain unchanged. Delays due to Force Majeure events which do not affect the Critical Path of the construction schedule will not entitle the CMAR Contractor to an extension of the final completion deadline date.

CMAR Contractor's sole remedy for the occurrence of a Force Majeure event shall be an extension of time for the activities on the construction schedule that are directly delayed by the Force Majeure event.

DRAFT

DRAFT

FORM 508-06

CERTIFICATION OF TITLE

TO MATERIALS STORED, OR TO BE STORED,

**FOR INCORPORATION INTO COASTAL PROTECTION AND RESTORATION
AUTHORITY PROJECT**

WHEREAS, _____ hereafter referred to as the "CMAR Contractor," is engaged in the performance of the Contract with the Coastal Protection and Restoration Authority, hereafter referred to as the "CPRA," and

WHEREAS, in accord with the Design Plans and Project specifications, the CMAR Contractor has purchased certain Materials for incorporation into the Contract Work from _____, hereafter referred to as the "Vendor," and

WHEREAS, these Materials referred to are as follows:

And,

WHEREAS, to comply with the provisions of the Contract Documents regarding payment of stockpiled Materials requiring certification of the CMAR Contractor's absolute legal title to the Materials described above and warrant of title to the same Materials to CPRA, the CMAR Contractor, and the Vendor have entered into the following agreement.

NOW, THEREFORE, and in consideration of the forgoing premises, the CMAR Contractor and the Vendor agree, with the intention of being bound hereby, as follows:

1. The Vendor has executed this document for the purpose of acknowledging that: the Vendor has made an outright sale and transfer of title for the above Materials to the CMAR Contractor free of all restrictions, filings, or liens; the Vendor is the lawful owner of the above materials and has the right make such transfer of title; and the Vendor will not in the future make any claims whatsoever to such title.
2. The CMAR Contractor certifies and represents that it is the lawful holder of the absolute legal title to the above Materials and has full legal right, power, and authority to sell and transfer such title without restrictions, filings, or liens of any kind on the part of the Vendor and/or any subcontractor.
3. The CMAR Contractor, Vendor, and/or any subcontractor and their successors and assigns, will and do by these presents warrant title to the above described Materials to CPRA.

4. In the event that the Vendor has sold the above described Materials to a subcontractor of the CMAR Contractor, this Certification of Title is hereby amended at all applicable points to reflect this fact. By the execution of this certification, any such subcontractor is acknowledging that: such subcontractor has made an outright sale and transfer of title for the above Materials to the CMAR Contractor free of all restrictions, filings, or liens; such subcontractor is the lawful CPRA of the above materials and has the right to make such transfer of title; and such subcontractor will not in the future make any claims whatsoever to such title.

IN WITNESS WHEREOF, the parties hereto have caused this Certification of Title to be executed this _____ day of _____, 20__.

ATTEST: CMAR CONTRACTOR

By _____

Title _____

ATTEST: SUBCONTRACTOR

By _____

Title _____

ATTEST: VENDOR

By _____

Title _____

For the CMAR Contractor's Project Manager:

Signed: _____

Printed or Typed Name: _____

Date: _____

CPRA Endorsement:

I hereby confirm the achievement of the cumulative amount earned to date indicated herein and concur with this request and certificate except as noted below or attached.

CPRA:

Signed: _____

Printed or Typed Name: _____

Date: _____

Project Engineer:

Signed: _____

Printed or Typed Name: _____

Date: _____

DRAFT

CMAR SECTION 509

FEDERAL REQUIREMENTS

CMAR 509-1 REQUIREMENTS FOR FEDERAL AID PARTICIPATION PROJECTS

The CMAR Contractor shall comply and require its subcontractors to comply with all federal requirements applicable to transportation projects that receive federal credit or funds, including those set forth in CMAR Appendix 509A – Federal Requirements Appendix. In the event of any conflict between any applicable federal requirements and the other requirements of the Contract Documents, the federal requirements shall prevail, take precedence, and be in force over and against any such conflicting provisions.

CMAR 509-2 DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION IN FEDERAL-AID CONSTRUCTION CONTRACTS

This Project is a Disadvantaged Business Enterprise (DBE) goal project. In accordance with the Required Contract Provisions for DBE Participation in Federal Aid Design-Build Contracts contained in Appendix 509A, the DBE goal for approved subcontracting work on this Project is 5% of the total final GMP. The CMAR Contractor shall submit CPRA Form OMF-1A (CMAR) (Request to Sublet) and have it approved by CPRA before any subcontract work is done on the Project. Only those businesses certified by CPRA as DBEs may be utilized in fulfillment of the DBE goal requirement. Such businesses are those certified by the Louisiana Unified Certification Program on the basis of CPRA ship and control by persons found to be socially and economically disadvantaged in accordance with Section 8(a) of the Small Business Act, as amended, and Title 49, Code of Federal Regulations, Part 26 (49CFR 26).

CMAR 509-3 NON-DISCRIMINATION; EQUAL OPPORTUNITY

The CMAR Contractor shall not, and shall cause the subcontractors to not, discriminate on the basis of race, color, national origin, or sex in the performance of the Work under the Contract Documents. The CMAR Contractor shall carry out, and shall cause the subcontractors to carry out, applicable requirements of 49 CFR Part 26. Failure by the CMAR Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as CPRA deems appropriate (subject to the CMAR Contractor's rights to notice and opportunity to cure set forth in this Contract).

The CMAR Contractor shall include this CMAR Section 509-3 in every subcontract (including purchase orders and in every subcontract of any Affiliate for the Work), and shall require that they

be included in all subcontracts at lower tiers, so that such provisions will be binding upon each subcontractor.

The CMAR Contractor confirms for itself and all subcontractors that CMAR Contractor and each subcontractor has an equal employment opportunity policy ensuring Equal Employment Opportunity (EEO) without regard to race, color, national origin, sex, age, religion, or handicap, and that CMAR Contractor and each subcontractor maintains no employee facilities segregated on the basis of race, color, religion, or national origin. The CMAR Contractor shall comply with all applicable laws relating to EEO and nondiscrimination and shall require its subcontractors to comply with such provisions, including those set forth in the Required Contract Provisions for Federal-Aid Construction Contracts and CPRA's Supplemental Specifications for Female and Minority Participation in construction which are both included in Appendix 509A.

CMAR 509-4 PREVAILING WAGES

The CMAR Contractor shall pay or cause to be paid to all applicable workers employed by it or its subcontractors to perform the Work not less than the prevailing rates of wages, as provided in the statutes and regulations applicable to public work contracts, including the Davis-Bacon Act, and as provided in Appendix 509A. The CMAR Contractor shall comply and cause its subcontractors to comply with all laws pertaining to prevailing wages.

It is the CMAR Contractor's sole responsibility to determine the wage rates required to be paid. In the event rates of wages and benefits change while this Contract is in effect, the CMAR Contractor shall bear the cost of such changes and shall have no claim against CPRA on account of such changes. Without limiting the foregoing, no claim will be allowed which is based upon the CMAR Contractor's lack of knowledge or a misunderstanding of any such requirements or the CMAR Contractor's failure to include in the GMP adequate increases in such wages over the duration of this Contract.

The CMAR Contractor shall comply and cause its subcontractors to comply with all laws regarding notice and posting of intent to pay prevailing wages, of prevailing wage requirements, and of prevailing wage rates.

CMAR 509-5 BUY AMERICA PROVISIONS

Pursuant to the "Buy America Provisions" of the Surface Transportation Assistance Act (STAA) of 1982 as promulgated by current FHWA regulation 23 CFR 635.410 and the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) amendment to (STAA), all steel and iron materials permanently installed on this Project shall be manufactured, including application of a coating, in the United States, unless a waiver of these provisions is granted. Coating includes all processes which protect or enhance the value of the material to which the coating is applied. The

Request for waiver must be presented in writing to CPRA by the CMAR Contractor. Such waiver may be granted if it is determined that:

- A) The application of Buy America Provisions would be inconsistent with the public interest; or
- B) Such materials are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

Minimal use of foreign steel and iron materials will be allowed without waiver provided the cost of these materials does not exceed 0.1 percent of the Lump Sum Contract Price or \$2,500, whichever is greater; however, the CMAR Contractor shall make written request to CPRA's Construction Engineering Administrator for permission to use such foreign materials and shall furnish a listing of the materials, their monetary value, and their origin and place of production.

The burden of proof for the origin and place of production and any request for waiver is the responsibility of the CMAR Contractor.

Prior to the use of steel and iron materials in the project, the CMAR Contractor shall furnish Mill Test Reports to CPRA's Project Manager for such steel and iron materials, accompanied by a certification stating that the Mill Test Reports represent the steel and iron materials to be furnished and that such materials were produced and fabricated in the United States.

Pig iron and processed, pelletized, and reduced iron ore are exempt from the Buy America Provisions.

CMAR 509-6 PARTICIPATION IN JOB TRAINING

If the CMAR Contractor desires to participate in job training, as provided by CPRA's Supplemental Specifications for On-the-Job Training which is included in Appendix 509A, the CMAR Contractor shall submit a written request to CPRA's Project Manager with a copy to the Compliance Program Section.

According to the design formula, the number of potential trainees has been established as one. For the purposes of reimbursement, this number of trainees has been translated into an estimated one thousand trainee hours. The pay item for Trainee Reimbursement will be established in the Contract in accordance with the Supplemental Specifications for On-The-Job Training in Appendix 509A and the above hours.

Should the design formula not indicate that the Contract could support training, the Design-Builder may still train upon the approval of CPRA.

CMAR 509-7**FEDERAL-AID PARTICIPATION**

When the United States government participates in the cost of the Work covered by the Contract, the Work shall be under the supervision of the State through CPRA, but subject to inspection and approval of the proper official of the United States government, in accordance with applicable federal statutes, and rules and regulations pursuant thereto. Such inspection shall not make the federal government a party to the Contract and will not interfere with the rights of either party thereunder.

DRAFT

CMAR SECTION 509

APPENDIX 509A

**FEDERAL REQUIREMENTS APPENDIX
TABLE OF CONTENTS**

Attachment A	Coastal Protection and Restoration Authority Required Contract Provisions for Federal-Aid Construction Contracts
Attachment B	Disadvantaged Business Enterprise in Federal-Aid Construction for Design-Build Contracts
Attachment C	Supplemental Specifications for Specific Equal Employment Opportunity Responsibilities
Attachment D	Supplemental Specifications for Female and Minority Participation in Construction
Attachment E	Wage Determination
Attachment F	Supplemental Specifications for On-the-Job-Training
Insert as needed	
Insert as needed	
Insert as needed	
Insert as needed	

DRAFT

**CMAR SECTION 510
PROJECT CLOSEOUT**

CMAR 510-1 PURPOSE

This Section describes methods for the CMAR Contractor, CPRA and/or CPRA Representative to use in processing Project closeout of construction documentation. CPRA PM will be responsible for submitting the Final Documents.

CMAR 510-2 REQUIRED FINAL DOCUMENTATION FOR CMAR PROJECTS

CMAR 510-2.1 VERIFICATION OF THE FINAL QUANTITIES

- A) The Summary of Final Quantities report from Site Manager shall be printed and signed by CPRA Project Manager.
- B) Final Partial Estimate shall include any deductions for any failing materials not removed and replaced. Each deduction should be shown separately.
- C) Recap of Weather and Workdays- Print recap in Site Manager and CPRA Project
- D) Manager shall sign.

CMAR 510-2.2 AS-BUILT PLANS

CMAR 510-2.3 CHANGE ORDERS

All original Change Orders will be submitted by CPRA Project Manager.

CMAR 510-2.4 CERTIFICATION OF DOCUMENTATION AND STORAGE

The CMAR Contractor is required to keep all records for a period of five (5) years. The CMAR shall supply a certified letter indicating where the records are kept, where they can be viewed or made available, and a contact name. These records include all documentation, including but not limited to Traffic Control Logs and Videos, all Correspondence, complete accounting of the Project as described in Section 504-8.

CMAR 510-2.4.1 Traffic Control Logs

The CMAR Contractor will submit a certified letter that the Traffic Control Logs were kept for the Project. The logs and videos will not be submitted unless requested otherwise.

CMAR 510-2.4.2 Specifications

The CMAR Contractor will submit a certified letter indicating what specifications were adopted for the Project.

CMAR 510-2.4.2 Notice of Termination

The CMAR Contractor will supply any certificate of release, agreements or rights of entries required for the Project. CPRA PM will verify the Notice of Termination (NOT) is completed if an NOI was performed.

CMAR 510-3 FINAL INSPECTION AND ACCEPTANCE

The CMAR Contractor will notify CPRA Project Manager of completion of work. At that time, the CMAR Contractor, the CQAM and CPRA Project Manager will perform a pre-final inspection to identify all work items to be completed prior to project acceptance. CPRA representative will recommend the Contract for acceptance to CPRA PM when all work has been satisfactorily completed, the final inspection made, and all CMAR documentation has been submitted and approved.

CPRA has the responsibility and authority for the Final Acceptance of all Work.

Final Acceptance will be based upon satisfactory completion of all the Work in accordance with the Contract Documents including the satisfactory fulfillment of the CMAR Contractor's Construction Quality Management Plan, which is an integral part of the Project CQAP, and the completion of Final Inspection by CPRA.

The CMAR Contractor shall complete all Work and provide all documents, certifications, and other information in accordance with the Contract Documents. The Final Acceptance decision will be in part based on the CMAR Contractor's QA construction inspection and inspection audit, QA testing, verification testing, Independent Assurance testing and the final Inspection. Any deviations from the sampling and testing methods and frequencies indicated the Construction Quality Management Plan or the CMAR Contractor's Project Specifications will require CPRA's Approval prior to the start of construction on any affected Work. If there is a discrepancy between the CMAR Contractor's Project Specifications, Quality Management Plan or the Project CQAP, the more stringent requirements will apply unless otherwise agreed in writing by CPRA.

Final Acceptance will also require certificates of compliance and/or Manufacturer's test results where specified in the Project Specifications or the Standard Specifications.