

2020-0324

INTRODUCED BY: MATTHEW JEWELL, PARISH PRESIDENT  
(GRANTS OFFICE)  
BOBBY DONALDSON, COUNCILMAN-AT-LARGE, DIVISION A  
HOLLY FONSECA, COUNCILWOMAN-AT-LARGE, DIVISION B  
LA SANDRA DARENSBOURG GORDON, COUNCILWOMAN, DISTRICT I  
MARY K. CLULEE, COUNCILWOMAN, DISTRICT II  
MARILYN B. BELLOCK, COUNCILWOMAN, DISTRICT V  
BOB FISHER, COUNCILMAN, DISTRICT VI  
JULIA FISHER-PERRIER, COUNCILWOMAN, DISTRICT VII

RESOLUTION NO. 6522

A resolution to approve and authorize the execution of an Intergovernmental Agreement between the State of Louisiana through the Coastal Protection and Restoration Authority Board and St. Charles Parish Government regarding the construction of the Kellogg Pump Station T-Wall (BA-0244) project in Luling.

**WHEREAS,** the Kellogg Pump Station T-Wall Construction project (herein after referred to as project), a phase of the West Bank Hurricane Protection Levee, is being constructed for the purpose of reducing the threat of harm to citizens and damage to property in St. Charles Parish through the prevention of storm surge and flooding; and,

**WHEREAS,** the project has been included in the Coastal Protection and Restoration Authority (CPRA) 2017 Coastal Master Plan as a key component of the Upper Barataria Risk Reduction System Program; and,

**WHEREAS,** the CPRA Fiscal Year 2021 Annual Plan budget allocated \$2,500,000 in Gulf of Mexico Energy Security Act funding to be applied to the project; and,

**WHEREAS,** the project has been identified as an integrated coastal protection project eligible for funding under Section 105 of the Gulf of Mexico Energy Security Act of 2006; and,

**WHEREAS,** sufficient funds are included in the Parish's 2020 Budget to fund the local share of the project; and,

**WHEREAS,** the CPRA has prepared the necessary Intergovernmental Agreement to provide funding for the project and it is the desire of the Parish Council to approve said agreement.

**NOW, THEREFORE, BE IT RESOLVED, THAT WE, THE MEMBERS OF THE ST. CHARLES PARISH COUNCIL,** do hereby approve and authorize the execution of an Intergovernmental Agreement between the State of Louisiana through the Coastal Protection and Restoration Authority Board and St. Charles Parish for funding to complete the Kellogg Pump Station T-Wall Construction project.

**BE IT FURTHER RESOLVED** that the Parish President is hereby authorized to execute said agreement and to act on behalf of St. Charles Parish in all matters pertaining to this project.

The foregoing resolution having been submitted to a vote, the vote thereon was as follows:

YEAS: DONALDSON, FONSECA, DARENSBOURG GORDON, CLULEE, GIBBS,  
DUFRENE, BELLOCK, FISHER-PERRIER  
NAYS: NONE  
ABSENT: FISHER

And the resolution was declared adopted this 16<sup>th</sup> day of November, 2020, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: [Signature]  
SECRETARY: Michelle Dupont  
DLVD/PARISH PRESIDENT: November 17, 2020  
APPROVED: [Signature] DISAPPROVED: \_\_\_\_\_

PARISH PRESIDENT: Matthew Jewell  
RETD/SECRETARY: November 18, 2020  
AT: 3:40 pm RECD BY: [Signature]

**INTERGOVERNMENTAL AGREEMENT**  
**BETWEEN**  
**STATE OF LOUISIANA,**  
**THROUGH THE COASTAL PROTECTION AND RESTORATION AUTHORITY**  
**BOARD**  
**AND**  
**SAINT CHARLES PARISH GOVERNMENT**  
**REGARDING**  
**CONSTRUCTION OF THE KELLOGG PUMP STATION T-WALL**  
**CONSTRUCTION BA-0244**

**THIS INTERGOVERNMENTAL AGREEMENT** (“Agreement”), is entered into and effective on July 1, 2020, by and between the State of Louisiana through the Coastal Protection and Restoration Authority Board, (hereinafter referred to as the “STATE”) acting by and through the Chairman of the Board, Kyle R. “Chip” Kline, Jr., and the Saint Charles Parish Government (hereinafter referred to as the “SCPG”) represented by its duly authorized Parish President, Matthew Jewell (the STATE and SCPG are collectively referred to herein as the “Parties”).

**WHEREAS**, Article VII, Section 14 of the Louisiana Constitution provides, in part, that “(f)or a public purpose, the state and its political subdivisions . . . may engage in cooperative endeavors with each other . . .”; and

**WHEREAS**, pursuant to La. R.S. 49:214.5.2(A)(1), the Coastal Protection and Restoration Authority Board (the “BOARD”) represents the State of Louisiana’s position relative to the protection, conservation, enhancement, and restoration of the coastal area of the state through oversight of integrated coastal protection projects and programs and at La. R.S. 49:214.5.2(A)(7), the BOARD has the power and authority to enter into any contract with any political subdivision of the state for the study, planning, engineering, design, construction, operation, maintenance, repair, rehabilitation, or replacement of any integrated coastal protection project and to this end, may contract for the acceptance of any grant of money upon the terms and conditions, including any requirement of matching the grants in whole or part, which may be necessary; and

**WHEREAS**, pursuant to La. R.S. 49:214.6.1, the Coastal Protection and Restoration Authority (“CPRA”) is the implementation and enforcement arm of the BOARD and is directed by the policy set by the BOARD, and pursuant to La. R.S. 49:214.6.2 and La. R.S. 49:214.6.3, CPRA shall administer the programs of the BOARD and shall implement projects relative to the protection, conservation, enhancement, and restoration of the coastal area of the State of Louisiana through oversight of integrated coastal projects and programs consistent with the legislative intent as expressed in La. R.S. 49:214.1, and the BOARD directs, CPRA to administer and implement the obligations undertaken by the BOARD pursuant to this Agreement; and

**WHEREAS**, the SCPG has the authority of a local political subdivision to enter into agreements with governmental bodies, such as the STATE, for the public welfare, health, safety and good order of its jurisdiction by virtue of the specific authority granted in La. R.S.33:1236) ; and

**WHEREAS**, the SCPG is authorized under La. R.S. 38:281, et seq., La. R.S. 38:301, and La. Const. Article VI, Part III of the Louisiana Constitution to provide for the construction and maintenance of levees, levee drainage, flood protection, and hurricane flood protection within the territorial jurisdiction of the SCPG, and all purposes incidental thereto, including on its own behalf or for the areas or districts under its authority; and

**WHEREAS**, under La. R.S. 38:281 et seq., R.S. 38:301, and La. Const. Article VI, Part III, the construction, maintenance, and care and inspection of levees, and all other things incidental thereto, within the jurisdiction of the numerous levee districts and levee authorities established by Louisiana law shall devolve on the levee districts and levee authorities and the boards of commissioners of the respective levee districts and levee authorities; and

**WHEREAS**, the Parties desire to enter into this Agreement for the purpose of reducing the threat of harm to citizens and damage to property in St. Charles Parish through the prevention of backwater flooding, by constructing the Kellogg Pump Station Fronting Protection (“Project” or “Kellogg Pump Station T-Wall Construction”); and

**WHEREAS**, the Project is an integrated coastal protection project eligible for funding under Section 105 the Gulf of Mexico Energy Security Act (GOMESA) Act of 2006 (Title I of Division C of Public Law 109-432; 43 U.S.C. 1331 *et seq.*; 120 Stat. 3000), 30 C.F.R. Parts 219 and 1219, Louisiana Constitution Article VII, Sections 9(B), 10.1 and 10.2, and La. R.S. 49:214.5.4(E); and

**WHEREAS**, the Project is consistent with the STATE’S 2017 Coastal Master Plan and Fiscal Year 2021 Annual Plan, and is identified as eligible for allocation of proposed GOMESA funding, contingent upon funding being made available to the STATE for the Project; and

**WHEREAS**, during the construction phase, the STATE and SCPG will mutually develop a specific operation, maintenance, repair, rehabilitation and replacement (OMRR&R) plan for the Kellogg Pump Station T-Wall Construction; and

**WHEREAS**, SCPG will be responsible for 100% of the OMRR&R of Kellogg Pump Station T-Wall Construction, but plans to enter into cooperative agreements or other sub-agreements in accordance with the Constitution and laws of the State of Louisiana with other local sponsors for the performance of SCPG’s OMRR&R obligations under the agreement; and

**WHEREAS**, SCPG will be responsible for 100% of the Construction Administration, Supervision and Inspection, and Quality Assurance (QA) services, project management support during construction and design engineering services during construction of the Kellogg Pump Station T-Wall; and

**WHEREAS**, this Agreement will be mutually beneficial to the Parties in the furtherance of their respective statutory purposes, duties, and authorities, and each Party expects to receive a public benefit at least equal to the costs of the responsibilities undertaken pursuant hereto; and

**WHEREAS**, the STATE and SCPG, in connection with this Agreement, desire to foster a partnering strategy and a working relationship between the Parties through a mutually developed formal strategy of commitment and communication embodied herein, which creates an environment where trust and teamwork prevent disputes, foster a cooperative bond between the Parties, and to facilitate the successful implementation of the Project as described herein; and

**NOW, THEREFORE**, in consideration of the Parties’ mutual undertakings herein and the purposes, duties, and authorities granted under La. R.S. 49:214.1 *et seq.*, the constitution and general laws of the State of Louisiana, the Parties hereto do hereby agree as follows:

**ARTICLE I**  
**PURPOSE AND IDENTIFICATION**

**A. Purpose.**

The Purpose of this Agreement is to set forth the terms, conditions, and responsibilities to be performed by the SCPG and the STATE in the construction of the Project which will benefit the Ellington Area Community in Saint Charles Parish.

**B. Identification.**

For the purpose of administration, identification and record keeping, State Project Number BA-0244 is assigned to this Project. This number will be used to identify all Project costs.

**ARTICLE II**  
**PROJECT DESCRIPTION**

The objectives of the Kellogg Pump Station T-Wall Construction BA-0244 project is to construct new T-Wall fronting protection for existing Kellogg Pump Station and extending the exiting drainage pipes through the T-wall monoliths. Adjacent earthen levees will be tied in to the newly constructed frontal protection T-walls. This project would allow the SCPG to provide greater flood protection to the Ellington Area Community.

The SCPG will perform the following scope of work for the Kellogg Pump Station T-Wall Construction Project:

1. Preparing the site, including demolition, clearing, and grubbing the location;
2. Construction of the T-Wall and other features as provided in Attachment A;
3. Seeding and fertilizing the Project once construction is complete if necessary.

The SCPG's construction of the Kellogg Pump Station T-Wall Construction will consist of the following:

1. The full scope and Project responsibilities of the work described in this Agreement are provided in Article IV and Attachment A.
2. Land rights:
  - a. SCPG understands and agrees that the costs of determining the necessary land rights, easements, rights-of-way, relocations, disposal areas, and servitudes (LERRDS) needed for construction and Operation, Maintenance, Repair, Rehabilitation and Replacement (OMRR&R) are not eligible for reimbursement under this Agreement and that SCPG will be responsible for determining the manner and method by which they are acquired and will be 100% responsible for any Project cost associated with these efforts.
  - b. SCPG also understands and agrees that SCPG is responsible for 100% of any Project cost associated with acquisition of LERRDS, whether permanent or temporary in nature. SCPG understands and agrees that these costs are not eligible for reimbursement under this Agreement.
3. SCPG is responsible for acquiring any and all local, state, and federal permits required for construction and OMRR&R of the project including but not limited to, Letters of No Objection, Coastal Use Permits, and Section 408 permits. SCPG shall submit copies of applicable permits to CPRA prior to initiating a regulated/permitted construction activity.
4. Access Roadways - Planning, design & construction of any access roads that may be necessary.

5. SCPG will be responsible for 100% of the Construction Administration, Safety and Inspection, and QA services, project management support during construction and design engineering services during construction
6. With regard to the scope of this Agreement, SCPG will be responsible for investigation, study, cleanup, and response determined to be necessary relative to any hazardous, toxic or radioactive waste material, whether regulated by a local government, state government or the Federal Government and for 100% of any Project cost associated with such investigation, study, cleanup, or response. SCPG understands and agrees that these costs are not eligible for reimbursement under this Agreement.
7. Development of OMRR&R - The STATE and SCPG shall mutually develop a specific operation and maintenance, repair, rehabilitation and replacement (OMRR&R) plan for the Kellogg Pump Station T-Wall Construction, under which plan SCPG will be responsible for 100% of the OMRR&R for the Project, upon completion of construction.
  - a. The OMRR&R Plan must be approved by CPRA at the completion of construction.
  - b. The OMRR&R plan and the conditions set forth therein shall be incorporated into this Agreement as if written herein and the terms therein shall survive the termination or expiration of this Agreement for any reason. Failure to operate in accordance with the established OMRR&R Plan shall be considered a breach of contract for which CPRA may seek any remedy available under this Agreement or any other law, rule, or regulation.
8. Requests for Reimbursement for Change orders – requests for reimbursement for construction change orders that exceed the original awarded construction contract amount shall be submitted to CPRA for review and approval in advance of work being performed. Approval of such requests for reimbursement shall be at CPRA’s sole discretion.
9. Engineer of Record:
  - a. The Engineer of record for the project shall be retained by SCPG for construction administration and design engineering services during construction for the duration of the project.

**ARTICLE III**  
**PROJECT FUNDING**

This Agreement shall be administered as follows:

- A. The STATE, through CPRA, shall provide to the SCPG, a maximum of **\$2,500,000.00** for the Construction Phase of the Project from qualified revenues generated from Outer Continental Shelf oil and gas activity provided to the STATE under GOMESA (the “GOMESA Funds”). Any additional funds required for completion of the project, including but not limited to, design, construction administration, safety and inspection, shall be the sole responsibility of the SCPG. The GOMESA Funds available to SCPG for the Construction of the Project are as follows: **\$2,500,000.00** from the FY 20-21 allocation of GOMESA Funds, contingent upon receipt of funding from GOMESA and the funding being included in the STATE’S Fiscal Year 2021 Annual Plan approved by the Louisiana Legislature. The funding will be provided on a reimbursement basis to the SCPG based upon submittal and approval of invoices and deliverables as set forth more fully in Articles III, IV, and V herein, and in accordance with all other terms and conditions of this Agreement. The Project Budget Estimate is provided in **Attachment B**, which is attached hereto and incorporated herein. This is intended to be a reasonable cost estimate; actual

quantities, hours, and hourly rates shall be billed as incurred not to exceed the maximum Project cost as specified herein.

- B. All funding expended for this Project shall be used for the purposes stated herein, in accordance with constitutional and statutory restrictions on the use of the GOMESA Funds for public purposes and federal funds, and in accordance with all applicable state and federal statutes, laws, rules and regulations. The use of Project funding shall at all times be consistent with sound construction practices and engineering principles and practices as may be directed and defined by the CPRA Engineering Division. All funding shall be subject to Article XIX entitled, "Fiscal Funding Clause".

#### **ARTICLE IV** **SCOPE AND PROJECT RESPONSIBILITY**

##### **A. Project Tasks**

1. The STATE, through CPRA, or its agent will perform the following:
  - a) Develop the Intergovernmental Agreement with associated terms and conditions including the reimbursement to the SCPG of **\$2,500,000.00** total maximum Construction Phase of the Project cost.
  - b) Provide funding on a reimbursable basis in accordance with the terms and conditions of the Intergovernmental Agreement for the Construction Phase of the Project.
  - c) Provide appropriate personnel for consultation as required.
  - d) Provide access to relevant construction resources required in the performance of the work.
  - e) At its discretion, perform secondary review of Final (95%) Plans and Specifications. The SCPG has primary responsibility to review and provide comments on the Final (95%) Plans and Specifications. SCPG also has responsibility to provide Ready For Bid Contract Documents incorporating all comments.
  - f) At its discretion, attend pre-bid conference, progress meetings, and final inspection if requested by the SCPG.
  - g) At its discretion, perform secondary review of bids received prior to contract award. The SCPG has primary responsibility to review, and evaluate bids.
  - h) At its discretion, perform secondary review/approval of any change orders proposed during construction prior to incurring charges
  - i) At its discretion, attend pre-bid conference, if requested by the SCPG.
  
2. The SCPG, or its agent, will perform the following:
  - (a) Perform the Construction in accordance with **Attachment A** and the terms and conditions of this Agreement. Engineering and design of the Project shall be in accordance with the CPRA minimum design standards, and accepted sound engineering principles as delineated in the Design Criteria to be developed by SCPG within 30 days of execution of this Agreement, which shall be updated throughout the term of this Agreement.
  - (b) SCPG is responsible for acquiring any and all local, state, and federal permits required for construction and OMRRR&R of the project including but not limited to, Letters of No Objection, Coastal Use Permits, and Section 408 permits. SCPG shall submit copies of applicable permits to CPRA prior to initiating a regulated/permitted construction activity.
  - (c) Oversight of contracted work to perform any tasks listed above and in accordance with the following:
    - (i) Scopes of Work issued by SCPG, and the associated costs to be incurred by SCPG to contractors/subcontractors/consultants or other third parties for work pertaining to the Project using the GOMESA Funds shall be reviewed

and approved in writing by the CPRA Project Manager identified in Article VII prior to the issuance of a Notice to Proceed (NTP) for such work by SCPG A minimum period of 2 weeks is required by CPRA for review.

- (ii) Scope of Work changes shall be properly documented, organized, and shall be submitted to the CPRA Project Manager for review and written approval prior to the issuance of a NTP for such change in Scope of Work by SCPG. A minimum period of 2 weeks is required by CPRA for review.
  - (iii) Value Engineering Cost Savings to the Project shall be documented, detailed, and submitted to the CPRA for review and approval prior to the issuance of a NTP for a change in scope of work by SCPG pertaining to the Value Engineering Cost Savings. A minimum period of 3 weeks is required by CPRA for review.
  - (iv) Upon request of SCPG in writing, CPRA, in its sole discretion, may complete its review in less than 2 weeks.
  - (v) Upon request of CPRA, SCPG will provide any design to CPRA.
  - (vi) The SCPG will provide CPRA a monthly report that will include status of the work performed, funds expended by task, project schedule with percent completion, and tasks or milestones not completed with explanation and the proposed solution to get the project back on schedule.
- (d) Receive, approve, and pay invoices from consultants/contractors/subcontractors/ vendors on a timely basis and in accordance with this Article IV and Article VI and all applicable state, federal, and local laws.
  - (e) Submit invoices, certified by the SCPG and its contractor, to CPRA for reimbursement.
  - (f) Provide any progress schedules/work directives as may be necessary to facilitate the Project.
  - (g) The SCPG shall adhere to all applicable state and federal funding requirements and guidelines, as well as to all terms and conditions of this Agreement. At CPRA's sole discretion, SCPG's failure to adhere to these requirements may result in no payment to SCPG.

## **B. Public Bid**

When a public works work item/task is of a scope and magnitude that is beyond the construction capabilities of the SCPG or exceeds the contract limit allowed by state law, the work shall be procured in accordance with state law. In such a case, the SCPG shall advertise and receive bids for such work in accordance with the Public Bid Laws of the State of Louisiana, and generally as follows:

1. Written authorization must be obtained from the STATE, through CPRA, prior to advertising the Project or any phase thereof for bids. The SCPG shall submit a copy of the complete package of Contract Documents with its written request for authority to advertise.
2. The SCPG will solicit bids for the materials, labor, and equipment needed to construct the Project in accordance with the Public Bid Law of the State, including, but not limited to La. R.S.38:2211, et seq. and as applicable to political subdivisions of the State.
3. The SCPG shall solicit bids utilizing the Louisiana Uniform Public Work Bid Form applicable to most state agencies and all political subdivisions as mandated by La. R.S. 38:2211, et seq., and as promulgated by the Louisiana Division of Administration and located in Title 34 of the Louisiana Administrative Code.

4. After receipt of bids and before award of the contract, the SCPG shall submit to the STATE, through CPRA, copies of the three (3) lowest bidder's proposals and proof of advertising. The SCPG's submittal shall include: proof of publication of advertisement for bids; bid tabulation form certified by the engineer and the contracting agency; bid proposals and bid bonds of the three (3) lowest bidders, bid evaluation and recommendation of award, and proposed notice of Award of Contract.
5. After receiving comments from the CPRA, the SCPG may then award and execute the construction contract and will submit to the CPRA copies of the notice of Award of Contract and executed Contract and Performance/Payment bond(s).
6. The Contract and bonds shall be recorded in the Clerk of Court office(s) for the SCPG in the parishes where the work is to be performed. Proof of recordation of the Contract and bonds shall be submitted to the STATE, through CPRA, along with a copy of the Notice to Proceed. Once those items have been submitted to the CPRA, the SCPG shall adopt a Resolution Certifying Compliance with the Public Bid Law and the requirements of La. R.S. 38:2211, et seq. and send a certified copy of the resolution to the CPRA.

### **C. Construction**

During the construction period, the SCPG or its agent will document Project construction with monthly status reports that summarize the progress of construction, identify any potential or actual problems associated with compliance with the construction contract, and describe any field changes or change orders. The BOARD, through CPRA shall receive copies of these reports by the 10<sup>th</sup> calendar day of each month and be invited to preconstruction conferences and all construction progress meetings. The SCPG will immediately notify CPRA of any construction delays or specific environmental concerns.

The SCPG or its agent will arrange for and conduct final inspection of the completed works or improvement. Such inspection shall be made in conjunction with CPRA, if requested to do so. The SCPG will provide CPRA with a certified engineer's approval of the final project inspection upon project completion, as well as a Construction Completion Report, including but not limited to as-built drawings (CAD drawings and input files), verification of completed punch-list items, photographic documentation of completed work, and any other information requested by CPRA, within two months of final inspection, if requested.

The work for this Project shall be performed in accordance with **Attachment A** and all Engineering Design Documents, Plans, and Specifications shall be in accordance with the CPRA minimum design standards and accepted sound engineering principles as delineated in the Design Criteria to be developed by SCPG as provided in Article IV, A.2 (a). These documents shall be prepared by or under the direct supervision of a professional engineer licensed in the discipline of civil engineering and registered in the State of Louisiana in accordance with Louisiana Revised Statutes Titles 37 and 46, regarding Professional and Occupational Standards, as governed by the Louisiana Professional Engineering and Land Surveying Board.

## **ARTICLE V DELIVERABLES**

1. The SCPG shall provide to the STATE, in accordance with the process referenced in Article VI and through CPRA's Project Manager identified in Article VII, the following:
  - a. Prior to reimbursement, the SCPG shall render detailed monthly invoices for payment of work performed and all documentation necessary to support the invoice, including



a summary of the type of work, total value of the work performed, and the costs incurred, as provided in **Attachment C** (Monthly Monitoring Reports), along with the following:

- i. Monthly contracted services summary;
  - b. Copies of all recorded time sheets/records for contractors/ subcontractors/vendors shall be included in the detailed monthly invoices;
  - c. Invoices shall be certified by the SCPG's contractor/ subcontractor/vendor and another properly designated official representing the SCPG as being correct and completed in accordance with the Contract Documents; and
  - d. All invoices shall be subject to verification, adjustment and/or settlement as a result of any audit referenced in Article VII of this Agreement. Project costs in excess of those described in Article III shall be borne 100% by the SCPG; and
  - e. Written certification required in Article IV.A.2(a); and,
  - f. Written certification that all Federal statutes, laws, rules, and regulations, that apply to GOMESA have been met; and,
  - g. Any other Project-related documents requested by CPRA
2. The SCPG shall provide to the STATE, a copy of a Resolution passed by its Board of Commissioners authorizing its execution of this Agreement.
3. The SCPG shall submit to the STATE a copy of any final documents produced in connection with the performance of the work outlined herein, including but not limited to, surveys, test results, land rights documents, design documents, plans, and specifications, as-built drawings, and OMRR&R Plan generated for the Project in accordance with this Agreement. However, in the event that the SCPG needs to publicly bid any portion of the work for this Project, the SCPG shall keep confidential and shall not disclose, subject to the requirements of the Louisiana Public Records law and Louisiana Public Bid Law, any Project documents to any other entity, except its consultants, agents, or representatives for the Project, prior to advertising such work for public bid.

## **ARTICLE VI** **PAYMENT**

All costs incurred by the SCPG, which are directly related to the work described herein, will be eligible for reimbursement in accordance with established guidelines and in accordance with Articles III, IV and V herein.

The SCPG will be reimbursed 100% up to an amount not to exceed a maximum of **\$2,500,000.00**, subject to the terms and conditions set forth herein, for all costs, needed to fully construct the Project as described in Article IV. However, it is the intent of this Agreement that reimbursement shall not exceed the original awarded contract value for the contract between the SCPG and their contractor.

The SCPG shall pay all contractor/subcontractor/vendor invoices, and the STATE through CPRA, shall reimburse the SCPG for its payments to the consultant/contractor/subcontractor/vendor, provided that SCPG shall provide the deliverables referenced in Article V to the State, through CPRA's Project Manager identified in Article VII. Subject to any other terms of this Agreement, in no case shall the sum total of payments made by the STATE, through CPRA, to the SCPG exceed **\$2,500,000.00** for the initial term of this Agreement.

The SCPG shall implement and adhere to accounting procedures to assure that reimbursable costs are allowable, reasonable, and allocable. Reimbursement will be limited to allowable, reasonable, and allocable costs.

The STATE will not reimburse SCPG for costs of construction not completed in accordance with the engineering and design standards set forth in Article IV.A.2(a).

All payments shall be subject to verification, adjustment, and/or settlement as a result of any audit referenced herein.

The participation by the STATE in the Project shall in no way be construed to make the STATE a party to any contract between the SCPG and its consultant(s)/contractor(s)/subcontractor(s).

## **ARTICLE VII**

### **RECORD KEEPING, REPORTING, AUDITS AND MONITORING**

The contract monitor for this Agreement is Ignacio Harrouch, P.E.. The Project Manager for this Project shall be Jaskaran Singh, P.E., or his designee. The STATE shall provide the SCPG notice of any changes to the designated Project Manager within seven (7) days of any such change.

The Project Manager shall maintain a file relative to the necessary acquisition of services, labor and materials needed to complete the Project. Likewise, the SCPG shall maintain a procurement file relative to the necessary acquisition of services, labor, and materials needed to complete the Project that will be subject to review by the STATE at any time and upon request.

SCPG agrees to abide by the requirements of all applicable state and federal statutes, laws, rules, and regulations, including but not limited to assurance that all documentation shall be sufficient to meet any requirements set by the Federal Government relative to GOMESA, including without limitation, 2 C.F.R. part 200, including but not limited to 2 C.F.R. part 200, Subpart F "Audit Requirements", and the Department of Interior's Bureau of Ocean Energy Management Office of Natural Resources, Revenue's regulations relative to the GOMESA Funds at 30 C.F.R. Parts 219 and 1219. SCPG and its consultants/contractors/subcontractors shall act in good faith to supply the STATE and/or the United States Department of Interior with any supporting material or documentation needed for release of the GOMESA Funds or for legal compliance.

The SCPG and its consultants/contractors/subcontractors shall maintain all documents, papers, books, field books, accounting records, appropriate financial records and other evidence, including electronic records that are pertinent to the GOMESA Funds, pertaining to costs incurred for the Project and shall make such materials available for inspection at all reasonable times during the contract period and for a five (5) year period from the date of reimbursement under the Project for inspection by the STATE, the Inspector General and/or the Legislative Auditor, the United States Department of the Interior's Office of Inspector General (DOI OIG), and the Government Accountability Office (GAO); however, prior to disposal of any Project data for the Project, the SCPG shall obtain prior written approval from the STATE, through CPRA.

Each Party acknowledges and agrees that the Legislative Auditor of the State of Louisiana, the auditors of the Office of the Governor, Division of Administration, DOI OIG, and the GAO shall have the authority to audit all records and accounts of the STATE and the SCPG which relate to this Agreement, and those of any subcontractors which relate to this Agreement. Any audit shall be performed in accordance with R.S. 24:513 *et seq.* and/or 2 C.F.R. part 200, Subpart F "Audit Requirements", as applicable. SCPG further agrees to make available to the Office of the Governor, Division of Administration, the Office of the Inspector General the DOI OIG, and the GAO any documents, papers or other records, including electronic records of SCPG that are pertinent to the GOMESA Funds, in order to make audits, investigations, examinations, excerpts, transcripts, and copies of such documents. This right also includes timely and reasonable access to SCPG's personnel for the purpose of interview and discussion related to such documents. This right of access shall continue as long as records are required to be retained.

The STATE and the SCPG, and any consultants/contractors/subcontractors paid under this Agreement shall maintain all books and records pertaining to this Agreement for a period of five (5) years after the date of final payment under the prime contract and any subaward/contract/subcontract entered into under this Agreement.

The purpose of submission of documentation by STATE to the SCPG, or by the SCPG to the STATE as required by this Agreement is to verify that such documentation is being produced, to provide evidence of the progress of the Project, and to verify that the expenditure of Project funds occurs in accordance with the terms of this Agreement. As between the STATE and SCPG, the STATE assumes no responsibility to provide extensive document review for any documents received from SCPG or its consultants/contractors/subcontractors or to determine the completeness or accuracy of any such documentation. The SCPG and its consultants/contractors/subcontractors shall also be responsible for, and assure, compliance with all applicable state and federal statutes, laws, rules, and regulations in carrying out any of its obligations under this Agreement.

SCPG shall assist CPRA with any audit reporting required by 2 C.F.R. 200. The Parties further agree that they will comply with 2 C.F.R. part 200, Subpart F "Audit Requirements".

SCPG shall be responsible for monitoring any consultants, contractors and subcontractors to ensure that work performed in connection with this Agreement comports with the Agreement's terms and all applicable federal and state laws, rules, regulations, and guidelines.

#### **ARTICLE VIII** **TERMINATION FOR CAUSE**

The STATE may terminate this Agreement for cause based upon the failure of SCPG to comply with the terms and/or conditions of the Agreement; provided that the STATE shall give the SCPG written notice specifying the SCPG's failure. If within thirty (30) days after receipt of such notice, the SCPG shall not have either corrected such failure or, in the case which cannot be corrected in thirty (30) days, begun in good faith to correct said failure and thereafter proceeded diligently to complete such correction, then the STATE may, at its option, place the SCPG in default and the Agreement may terminate on the date specified in such notice.

The SCPG may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the STATE to comply with the terms and conditions of this Agreement; provided that the SCPG shall give the STATE written notice specifying the STATE's failure and providing a reasonable opportunity for the STATE to cure the defect.

In the event that either Party elects to terminate this Agreement pursuant to this Article, the Parties agree to participate in a final cost accounting as of the date of termination and in accordance with the terms and conditions herein. The obligations under this Article shall survive termination or expiration of this Agreement for any reason.

#### **ARTICLE IX** **TERMINATION FOR CONVENIENCE**

The STATE may terminate this Agreement at any time by giving thirty (30) days written notice to the SCPG. The SCPG may likewise terminate this Agreement at any time by giving thirty (30) days written notice to the STATE. The SCPG shall be entitled to reimbursement for the costs of deliverables in progress, to the extent work has been performed satisfactorily as of the date of termination and any costs or expenses the SCPG incurs which are directly associated with the

termination, modification, or change of any underlying engineering, design and/or consultant contracts for the Project.

In the event that either Party elects to terminate this Agreement pursuant to this Article, the Parties agree to participate in a final cost accounting as of the date of termination and in accordance with the terms and conditions herein. The obligations under this Article shall survive termination or expiration of this Agreement for any reason.

#### **ARTICLE X** **ALLOWABLE COSTS**

Costs that result from obligations incurred by SCPG during a suspension or after termination are not allowable unless the STATE expressly authorizes them in writing in the notice of suspension or termination or subsequently. However, costs during suspension or after termination are allowable if: (1) the costs result from obligations which were properly incurred by SCPG before the effective date of suspension or termination, and are not in anticipation of it; and (2) the costs would be allowable if the grant award was not suspended or expired normally at the end of the period of performance in which the termination takes effect.

#### **ARTICLE XI** **NON-DISCRIMINATION CLAUSE**

The Parties agrees to abide by the requirements of the following provisions as applicable: Titles VI and VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972; Section 504 of the Federal Rehabilitation Act of 1973, as amended; the Vietnam Era Veteran's Readjustment Assistance Act of 1974 (VEVRAA); Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975 (ADEA), as amended, and the requirements of the Americans with Disabilities Act of 1990 (ADA), including the revised ADA Standards for Accessible Design for Construction Awards revised regulations implementing Title II of the ADA and Title III of the ADA, as amended; Federal Executive Order (EO) 11246 "Equal Employment Opportunity", as amended by EO 11375 "Amending Executive Order 11246 Relating to Equal Employment Opportunity" and implementing regulations at 41 C.F.R. part 60 "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor" and EO 12086 "Equal Employment Opportunity Functions"); and EO 13166 "Improving Access to Services for Persons With Limited English Proficiency."

The Parties agree not discriminate in employment practices, and will render services under this contract in accordance with 41 C.F.R. 60-1.4 and without regard to race, color, religion, sex, sexual orientation, national origin, veteran status, political affiliation, or disabilities.

Any act of discrimination committed by either Party, or failure to comply with these statutory obligations, when applicable, shall be grounds for termination of this Agreement.

#### **ARTICLE XII** **COMPLIANCE WITH FEDERAL LAW**

The Parties and any of their consultants, contractors and subcontractors employed in the completion of any construction-related activity, project or program conducted with the GOMESA Funds agree to comply with any applicable Federal labor laws covering non-Federal construction, which may include but are not limited to, the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*), as supplemented by Department of Labor Regulations (29 C.F.R. part 5) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c), as supplemented by Department of Labor Regulations (29 C.F.R. part 3) and to the extent applicable 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the

provisions of the Davis-Bacon Act) (formerly 40 U.S.C. 276a *et seq.*), the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328), and the Federal Funding Accountability and Transparency Act (FFATA) (<https://www.fsr.gov>). The Parties further agree, in the case of any equipment and/or product authorized to be purchased under this Agreement, to comply with the Buy American Act 41 U.S.C. 8301-8305 (formerly 41 U.S.C. 10a-10c). The Parties further agree to comply with any mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201), as applicable, and 2 C.F.R. §200.322.

The Parties also agree to comply with any applicable Federal environmental laws, which may include but are not limited to, The National Environmental Policy Act (42 U.S.C. § 4321 *et seq.*), The Endangered Species Act (16 U.S.C. § 1531 *et seq.*), Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 *et seq.*), Clean Water Act Section 404 (33 U.S.C. § 1344 *et seq.*), The Migratory Bird Treaty Act (16 U.S.C. §§ 703-712), Bald and Golden Eagle Protection Act (16 U.S.C. § 668 *et seq.*), and Executive Order No. 13186, Responsibilities of Federal Agencies to Protect Migratory Birds, National Historic Preservation Act (16 U.S.C. § 470 *et seq.*), Clean Air Act (42 U.S.C. § 7401 *et seq.*), Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*) (Clean Water Act), Executive Order 11738 (“Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants or loans”), the Flood Disaster Protection Act (42 U.S.C. § 4002 *et seq.*), Executive Order 11988 (“Floodplain Management”), Executive Order 13807 (“Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects”), Executive Order 11990 (“Protection of Wetlands”), Executive Order 13112 (“Invasive Species”), The Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*), The Coastal Barriers Resources Act (16 U.S.C. § 3501 *et seq.*), The Wild and Scenic Rivers Act (16 U.S.C. § 1271 *et seq.*), The Safe Drinking Water Act (42 U.S.C. § 300 *et seq.*), The Resource Conservation and Recovery Act (42 U.S.C. § 6901 *et seq.*), The Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) (42 U.S.C. § 9601 *et seq.*), Executive Order 12898 (“Environmental Justice in Minority Populations and Low Income Populations”), Rivers and Harbors Act (33 U.S.C. 407), Marine Protection, Research and Sanctuaries Act (Pub. L. 92-532, as amended), National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*), Executive Order 13089 (“Coral Reef Protection”), Executive Order 13783 (“Promoting Energy Independence and Economic Growth”), Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*), and the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*). SCPG must immediately notify CPRA in writing, pursuant to Article XXXVII, if SCPG becomes aware of any impact on the environment that may impact the use of GOMESA Funds for the Project.

### ARTICLE XIII

#### **GENERAL ADMINISTRATIVE AND FINANCIAL REQUIREMENTS**

SCPG shall comply with, and require any consultants, contractors and subcontractors employed in the completion of any activity, project or program conducted with the GOMESA Funds to comply with, all conditions of the GOMESA Funds as applicable, including but not limited to: (i) GOMESA, (ii) all applicable provisions of 2 C.F.R. 200, (iii) 30 C.F.R. Parts 219 and 1219, (iv) La. R.S. 49:214.5.4(E), and (v) any CPRA Internal Agency Policies applicable to SCPG and/or to consultants, contractors and subcontractors, and the provisions provided therein. All provisions contained in any of the above-cited laws, rules, regulations, guidelines, policies, or other documents, will be deemed incorporated by reference to this Agreement.

SCPG shall also be responsible for payment of all applicable taxes related to the GOMESA Funds.

**ARTICLE XIV**  
**HOLD HARMLESS AND INDEMNITY**

The SCPG shall be fully liable for the actions of its successors, officers, directors, assigns, agents, representatives, employees, partners, consultants, contractors, subcontractors, vendors, and other persons under its control, and shall fully indemnify and hold the STATE and its successors, officers, directors, assigns, agents, representatives, employees, partners, consultants, contractors, subcontractors, vendors, and other persons under its control, harmless from suits, actions, damages, and costs of every name and description relating to personal injury and/or damage to real or personal tangible property, caused by the negligence, failure to act or legal fault of the SCPG, its successors, officers, directors, assigns, agents, representatives, employees, partners, consultants, contractors, subcontractors, vendors, and other persons under its control, without limitation, except that the SCPG shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the negligent act or failure to act or legal fault of the STATE, and its successors, officers, directors, assigns, agents, representatives, employees, partners, consultants, contractors, subcontractors, vendors, and other persons under its control.

No Party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or force majeure. The Parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties herein.

The obligations under this Section shall survive termination or expiration of this Agreement for any reason.

**ARTICLE XV**  
**AMENDMENTS**

Notwithstanding any other provision herein, the Parties agree that any change to this Agreement shall require a written amendment, mutually agreed upon and signed by both Parties. The terms and conditions contained in this Agreement may not be amended, modified, superseded, subsumed, terminated, or otherwise altered except by mutual written consent of all Parties hereto.

**ARTICLE XVI**  
**OWNERSHIP**

All records, reports, documents and other material delivered or transmitted to the SCPG by the STATE shall remain the property of the STATE and shall be returned by the SCPG to the STATE upon request at termination or expiration of this Agreement. All records, reports, documents, or other material related to this Agreement and/or obtained or prepared by the SCPG in connection with performance of the services contracted for herein shall be the property of the SCPG, and shall be retained in accordance with the terms of this Agreement.

**ARTICLE XVII**  
**NO ASSIGNMENT**

The SCPG shall not assign any interest in this Agreement and shall not transfer any interest in same (whether by assignment, subrogation or novation), without prior written consent of the STATE, provided however, that claims for money due or to become due to the SCPG from the STATE may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the STATE.

**ARTICLE XVIII**  
**FINANCIAL CAPABILITY**

SCPG hereby acknowledges and certifies that it is aware of the financial obligations of the SCPG under this Agreement and that SCPG will have the financial capability to satisfy the obligations of the SCPG under this Agreement, including but not limited to all obligations for OMRR&R of the Project.

SCPG agrees to take any and all appropriate steps to obtain funding for the responsibilities undertaken by SCPG pursuant to this Agreement and/or any future agreements(s) and for which STATE has not agreed to provide funding therefore. Should current or future revenues dedicated to the Project be insufficient to fulfill the obligations of the SCPG for the Project, SCPG is obligated to make reasonable good faith efforts to obtain or seek funding from other sources, including, but not limited to additional taxes, fees, tolls, grants, donations, legislative appropriations, reallocation of funds, or decreasing the cost or extent of other operations. Nothing herein shall prevent STATE from seeking additional funding to assist the BOARD, CPRA or SCPG with the responsibilities undertaken by any Party pursuant to this Agreement.

**ARTICLE XIX**  
**FISCAL FUNDING CLAUSE**

The continuation of this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the Agreement by the Louisiana Legislature and the release of funds to the State from the Federal Government. If the Louisiana Legislature fails to appropriate sufficient monies to provide for the continuation of the Agreement, or if the allocation is rescinded or reduced by the State in case of an emergency, or by the Federal Government, or the appropriation is reduced by veto of the Governor or by any other means provided in the appropriations act to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of the Agreement, the Agreement shall terminate on the date of the beginning of the first fiscal year for which funds are rescinded, reduced, or not appropriated.

**ARTICLE XX**  
**CERTIFICATION OF DEBARMENT / SUSPENSION STATUS**

All Parties certify with their execution of this Agreement that it is not suspended, debarred or ineligible from entering into contracts or agreements with any department or agency of the Federal Government, or in receipt of notice of proposed debarment or suspension. The SCPG further certifies with its execution of this Agreement that it is not suspended, debarred or ineligible from entering into contracts or agreements with any department or agency of the State of Louisiana, or in receipt of notice of proposed debarment or suspension.

All Parties agree to secure from any consultant(s), contractor(s) and/or subcontractor(s) for the Project certification that such consultant(s), contractor(s) and/or subcontractor(s) are not suspended, debarred or declared ineligible from entering into contracts with any department or agency of the Federal Government, or in receipt of a notice of proposed debarment or suspension. The Parties further agree to secure from any consultant(s), contractor(s) and/or subcontractor(s) for the Project certification that such consultant(s), contractor(s) and/or subcontractor(s) are not suspended, debarred or declared ineligible from entering into contracts with any department or agency of the State of Louisiana, or in receipt of a notice of proposed debarment or suspension.

All Parties agree to provide immediate notice to the other Party in the event of it or its consultant(s), contractor(s) and/or any subcontractor(s) associated with the Project being

suspended, debarred or declared ineligible by any department or agency of the Federal Government, or upon receipt of a notice of a proposed debarment or suspension, either prior to or after execution of this Agreement. The SCPG further agrees to provide immediate notice to the STATE in the event of it or its consultant(s), contractor(s) and/or any subcontractor(s) being suspended, debarred or declared ineligible by any department or agency of the State of Louisiana, or upon receipt of a notice of a proposed debarment or suspension, either prior to or after execution of this Agreement.

Upon notice of suspension, debarment, or declaration that either Party and/or its consultant(s), contractor(s) and/or any subcontractor(s) is/are ineligible to enter into contracts with any department or agency of the Federal Government, either prior to or after execution of this Agreement, each Party reserves the right to review cause for said debarment, suspension, or declaration of ineligibility, and to terminate this Agreement pursuant to the terms of Article VIII in this Agreement, or take such other action it deems appropriate under this Agreement. Upon notice of suspension, debarment, or declaration that the SCPG and/or its consultant(s), contractor(s), and/or any subcontractor(s) is/are ineligible to enter into contracts with any department or agency of the State of Louisiana, either prior to or after execution of this Agreement, the STATE further reserves the right to review cause for said debarment, suspension, or declaration of ineligibility, and to terminate this Agreement pursuant to the terms of Article VIII in this Agreement, or to take such other action it deems appropriate under this Agreement.

**ARTICLE XXI**  
**NO THIRD PARTY BENEFICIARY**

Nothing herein is intended and nothing herein may be deemed to create or confer any right, action, or benefit in, to, or on the part of any person not a party to this Agreement as indicated herein or by operation of law.

**ARTICLE XXII**  
**RELATIONSHIP OF PARTIES**

- A. In the exercise of their respective rights and obligations under this Agreement, the SCPG and the STATE each act in an independent capacity and no Party is to be considered the officer, agent, or employee of the other, unless otherwise provided by law.
- B. In the exercise of its rights and obligations under this Agreement, no Party shall provide, without the consent of the other Party, any consultant/contractor/ subcontractor with a release that waives or purports to waive any rights the other Party may have to seek relief or redress against that consultant/contractor/subcontractor either pursuant to any cause of action that the other Party may have or for violation of any law.
- C. The participation by STATE in the Project shall in no way be construed to make the STATE a party to any contract between the SCPG, consultant(s), contractor(s) and/or subcontractor(s) or between the STATE and any third party. The participation by the SCPG in the Project shall in no way be construed to make SCPG a party to any contract between the STATE and/or either's consultant(s), contractor(s) and/or subcontractor(s), or any third party.

**ARTICLE XXIII**  
**APPLICABLE LAW, VENUE AND DISPUTES**



This Agreement shall be governed by and construed in accordance with the laws of the State of Louisiana. Before any Party to this Agreement may bring suit in any court concerning any issue relating to this Agreement, such Party must first seek in good faith to resolve the issue through negotiation or other forms of non-binding alternative dispute resolution mutually acceptable to the Parties. The exclusive venue for any suit arising out of this Agreement shall be in the Nineteenth Judicial District Court for the Parish of East Baton Rouge, Louisiana.

**ARTICLE XXIV**  
**DELAY OR OMISSION**

No delay or omission in the exercise or enforcement of any right or remedy accruing to a Party under this Agreement shall impair such right or remedy or be construed as a waiver of any breach theretofore or thereafter occurring. The waiver of any condition or the breach of any term, covenant, or condition herein or therein contained shall not be deemed to be a waiver of any other condition or of any subsequent breach of the same or any other term, covenant or condition herein or therein contained.

**ARTICLE XXV**  
**REPORTING OF FRAUD, WASTE, ABUSE OR CRIMINAL ACTIVITY**

In accordance with 2 C.F.R. §200.113, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the GOMESA Funds shall be reported in writing to the U.S. Department of Interior and U.S. Department of Interior Office of Inspector General.

Online: Hotline Complaint Form ([https://forms.doioig.gov/hotlinecomplaint\\_form.aspx](https://forms.doioig.gov/hotlinecomplaint_form.aspx))

Toll-Free Phone: 1-800-424-5081

Fax to: 703-487-5402 (ATTN: HOTLINE OPERATIONS)

Or report via U.S. Mail: Office of Inspector General, U.S. Department of the Interior, 381 Elden Street, Suite 3000, Herndon, VA 20170, ATTN: Intake Management Unit

Additionally, in accordance with La. R.S. 24:523.1, any actual or suspected misappropriation, fraud, waste or abuse of public funds shall be reported to the Louisiana Legislative Auditor Hotline via one of the following:

Toll-Free Phone: 1-844-50-FRAUD (1-844-503-7283); or

Fax to: 1-844-40-FRAUD (1-844-403-7283)

Or report via U.S. Mail: LLA Hotline P. O. Box 94397 Baton Rouge, LA 70804

**ARTICLE XXVI**  
**SEVERABILITY**

The terms and provisions of this Agreement are severable. Unless the primary purpose of this Agreement would be frustrated, the invalidity or unenforceability of any term or condition of this Agreement shall not affect the validity or enforceability of any other term or provision of this Agreement. The Parties intend and request that any judicial or administrative authority that may deem any provision invalid, reform the provision, if possible, consistent with the intent and purposes of this Agreement, and if such a provision cannot be reformed, enforce this Agreement as set forth herein in the absence of such provision.

**ARTICLE XXVII**  
**ENTIRE AGREEMENT**

This Agreement constitutes the entire understanding and reflects the entirety of the undertakings between the Parties with respect to the subject matter hereof, superseding all negotiations, prior discussions and preliminary agreements. There is no representation or warranty of any kind made in connection with the transactions contemplated hereby that is not expressly contained in this Agreement.

**ARTICLE XXVIII**  
**PROVISION REQUIRED BY LAW DEEMED INSERTED**

Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either Party the Agreement shall forthwith be amended to make such insertion or correction.

**ARTICLE XXIX**  
**ANTI-LOBBYING**

SCPG and its consultant(s), contractor(s), or subcontractor(s) agree not to use proceeds from this Agreement to urge any elector to vote for or against any candidate or proposition on an election ballot nor shall such funds be used to lobby for or against any proposition or matter having the effect of law being considered by the Louisiana Legislature or any local governing authority. This provision shall not prevent the normal dissemination of factual information relative to a proposition on any election ballot or a proposition or matter having the effect of law being considered by the Louisiana Legislature or any local governing authority.

SCPG and all of its consultant(s), contractor(s) and subcontractor(s) shall certify that they have complied with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) and that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee or a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. SCPG and each of its and all of its consultant(s), contractor(s) and subcontractor(s) shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. SCPG shall also complete a Certification Regarding Lobbying as provided in **Attachment D**.

**ARTICLE XXX**  
**PROHIBITED ACTIVITY, CONFLICTS OF INTEREST AND CODE OF ETHICS**

SCPG and its consultant(s), contractor(s), and subcontractor(s) are prohibited from using, and shall be responsible for its consultant(s), contractor(s), and subcontractor(s) being prohibited from using, the GOMESA Funds provided herein for political activities, inherently religious activities, lobbying, political patronage, nepotism activities, and supporting either directly or indirectly the enactment, repeal, modification or adoption of any law, regulation or policy at any level of government. SCPG and its consultant(s), contractor(s), and subcontractor(s) will comply

with the provision of the Hatch Act (5 U.S.C. 1501 *et seq.*), which limits the political activity of employees.

SCPG and any entity or individual performing work under this Agreement subject to any form of legal agreement with SCPG, including without limitation, consultants, contractors and subcontractors, must comply with the conflicts of interest provisions referenced in CPRA's Conflicts of Interest Policy as contained in CPRA's Policy No. 4, entitled "Governmental Ethics Compliance and Dual Employment", effective April 1, 2009, as well as any additional agency conflicts of interest policies or procedures that CPRA may implement in the future.

SCPG and any entity or individual performing work under this Agreement subject to any form of legal agreement with SCPG, including without limitation, consultants, contractors and subcontractors, must also comply with Chapter 15 of Title 42 of the Louisiana Revised Statutes (La. R.S. 42:1101 *et seq.*, Code of Governmental Ethics) in the performance of services called for in this Agreement. SCPG agrees to immediately notify the CPRA if potential violations of the Code of Governmental Ethics arise at any time during the term of this Agreement.

### **ARTICLE XXXI** **COVENANT AGAINST CONTINGENT FEES**

SCPG shall warrant that no person or other organization has been employed or retained to solicit or secure this Agreement upon contract or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warranty, the STATE shall have the right to annul this Agreement without liability in accordance with Article VIII ("Termination for Cause") of this Agreement or, in its discretion, to deduct from this Agreement or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee, or to seek such other remedies as legally may be available.

### **ARTICLE XXXII** **CONSULTANTS, CONTRACTORS AND SUBCONTRACTORS**

SCPG may, with prior written permission from the STATE, enter into subcontracts with third parties for the performance of any part of SCPG's duties and obligations. In no event shall the existence of a subcontract operate to release or reduce the liability of SCPG to the STATE for any breach in the performance of SCPG's or any subcontractor's duties.

### **ARTICLE XXXIII** **COPYRIGHT**

The STATE reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the materials, including but not limited to reports, maps, or documents produced as a result of this Agreement, in whole or in part, and to authorize others to do so. The SCPG also reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the materials, including but not limited to reports, maps, or documents produced as a result of this Agreement, in whole or in part, and to authorize others to do so. The Parties also understand and agree that they will not interfere with any rights the Federal Government may have with respect to the right to reproduce, publish, distribute, exhibit and/or otherwise use the work described herein for Federal purposes.

**ARTICLE XXXIV**  
**DRUG FREE WORKPLACE COMPLIANCE**

SCPG hereby certifies that it shall provide a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988, as amended and with 24 C.F.R. Part 21. Further, in any contracts executed by and between SCPG and any third parties funded using the GOMESA Funds under this Agreement, there shall be a provision mandating compliance with the Drug-Free Workplace Act of 1988, as amended, in accordance with 48 FAR 23.500, *et seq.*, and 48 C.F.R. 52.223-6.

**ARTICLE XXXV**  
**REMEDIES FOR NONCOMPLIANCE**

The SCPG acknowledges that any of the GOMESA Funds not used in accordance with the terms and conditions of this Agreement, state and federal law or conditions of the GOMESA Funds, shall be reimbursed to the STATE, and that any cost and expense in excess of the total maximum Project cost, as agreed to by the STATE and set forth herein, shall be the sole responsibility of the SCPG. STATE shall also be entitled to any other remedies for noncompliance as provided herein.

If SCPG or its consultant(s), contractor(s), and/or subcontractor(s) fail to comply with Federal statutes, regulations or the terms and conditions of a Federal award for the GOMESA Funds, in addition to Termination for Cause or Termination for Convenience, the STATE may take one or more of the following actions, as appropriate in the circumstances: (a) temporarily withhold cash payments pending correction of the deficiency by SCPG or its consultant(s), contractor(s), and/or subcontractor(s) or more severe enforcement action as necessary; (b) disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance; (c) wholly or partly suspend or terminate payment of the GOMESA Funds; (d) recommend that suspension or debarment proceedings be initiated under 2 C.F.R. part 180 and Federal awarding agency regulations; (e) withhold further Federal awards for the project or program; or (f) Take other remedies that may be legally available. The SCPG shall be given a reasonable time in which to cure noncompliance. Any dispute may be resolved in accordance with the procedure set forth in Article XXIII (“Applicable Law, Venue and Disputes”) of this Agreement.

**ARTICLE XXXVI**  
**NO AUTHORSHIP PRESUMPTIONS**

Each of the Parties has had an opportunity to negotiate the language of this Agreement in consultation with legal counsel prior to its execution. No presumption shall arise or adverse inference be drawn by virtue of authorship. Each Party hereby waives the benefit of any rule of law that might otherwise be applicable in connection with the interpretation of this Agreement, including but not limited to any rule of law to the effect that any provision of this Agreement shall be interpreted or construed against the Party who (or whose counsel) drafted that provision. The rule of no authorship presumption set forth in this paragraph is equally applicable to any person that becomes a Party by reason of assignment and/or assumption of this Agreement and any successor to a signatory Party.

**ARTICLE XXXVII**  
**DESIGNATION OF POINTS OF CONTACT**

The Parties designate the following persons to be their official contacts in relation to this Agreement. Any Party may change its contact person upon written notice to the other Party. Any

notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given, if in writing and delivered personally or sent by registered or certified mail as follows:

If to SCPG:

Matthew Jewell  
Parish President, St. Charles Parish Government  
P.O. Box 302  
Hahnville, LA 70057  
985-783-5000  
mlj@stcharlesgov.net

If to the CPRA BOARD:

Kyle R. "Chip" Kline, Jr.  
Chairman  
Capitol Annex - State of Louisiana  
P.O. Box 44027  
Baton Rouge, LA 70804-4027  
225-342-7669

If to CPRA:

Lawrence B. Haase  
Executive Director  
Coastal Protection and Restoration Authority  
Post Office Box 44027  
Baton Rouge, LA 70804-4027  
225-342-4683

#### **ARTICLE XXXVIII**

#### **EFFECTIVE DATE / DURATION / MODIFICATION / TERMINATION**

This Agreement shall be effective for a period of twenty-four months, commencing on July 1, 2020, and terminating on July 1, 2022, unless otherwise terminated or amended by written mutual agreement of all parties or in accordance with the terms herein.

Except as otherwise provided herein, the provisions, terms and conditions contained in this Agreement may not be amended, modified, superseded, terminated, or otherwise altered except by mutual written consent of all Parties hereto.

This Agreement may be executed in multiple originals.

THUS DONE, PASSED, AND SIGNED on the dates indicated below before the below-named notary and competent witnesses.

**SAINT CHARLES PARISH GOVERNMENT**

**COASTAL PROTECTION AND RESTORATION AUTHORITY BOARD**

BY: Matthew Jewell  
Matthew Jewell, Parish President

BY: Kyle R. "Chip" Kline, Jr.  
Kyle R. "Chip" Kline, Jr., Chairman

DATE: 11-24-2020

DATE: 10/19/20

72-6001208  
(SCPG's Federal Identification Number)

**WITNESSES:**

**WITNESSES:**

Rebeck C Champagne  
Signature

Joann D. Hicks  
Signature

Rebeck C. champagne  
Print Name

Joann D. Hicks  
Print Name

Dawn H. Haddon  
Signature

Jennifer Dark Moon  
Signature

Dawn H. Haddon  
Print Name

**JENNIFER DARK MOON**  
Print Name

STATE OF LOUISIANA  
PARISH OF LA. ST. CHARLES

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for said Parish and State aforesaid, on this 24<sup>th</sup> day of November 2020 personally came and appeared Matthew Jewell to me known, who declared that he is the Parish President of the St. Charles Parish Government that he executed the foregoing instrument on behalf of said entity and that the instrument was signed pursuant to the authority granted to him by said entity and that he acknowledged the instrument to be the free act and deed of said entity.

[Handwritten Signature]  
Signature

Corey M. Oubre  
Print Name

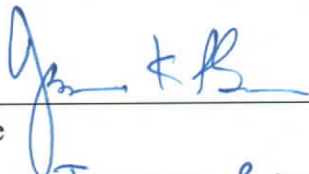
#28909  
Louisiana Notary Public / Bar Number

My commission expires: for LISC

(SEAL)

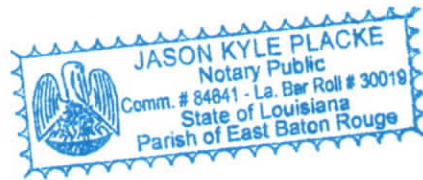
**STATE OF LOUISIANA**  
**PARISH OF EAST BATON ROUGE**

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for said Parish and State aforesaid, on this 19<sup>th</sup> day of October, 2020 personally came and appeared Kyle R. "Chip" Kline, Jr., to me known, who declared that he is the Chairman of the Coastal Protection and Restoration Authority Board, that he executed the foregoing instrument on behalf of said State Agency and that the instrument was signed pursuant to the authority granted to him by said State Agency and that he acknowledged the instrument to be the free act and deed of said State Agency.

  
Signature  
JASON K. PLACKE  
Print Name  
30619  
Louisiana Notary Public / Bar Number

My commission expires: AT DEATH

(SEAL)





## CERTIFICATION REGARDING LOBBYING

### CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

DATE: 10/19/2020



\_\_\_\_\_  
Kyle R. "Chip" Kline, Jr., Chairman  
Coastal Protection and Restoration Authority Board

## ATTACHMENT A

### BA-0244 SCOPE OF WORK

The Kellogg Pump Station is part of the Ellington flood protection alignment which is approximately three miles long and will provide flood protection comprising a system of earthen levees, the new Ellington Pump Station, frontal protection T-walls at the existing Kellogg and Cousin's Canal Pump Stations and at the two existing pipelines. The Construction shall include the following:

1. Frontal protection T-walls comprised of one 40-ft long and two 25-ft long reinforced concrete monolith sections with a top of wall grade at EL 14.5. These monoliths will be approximately 190 feet away from the existing Kellogg Pump Station.
2. Adjacent earthen levees will be tied in to the newly constructed frontal protection T-walls.
3. Four discharge pipe bents will support three 48-in. diameter pipes to pass water from the existing pump station to a discharge basin at the flood side of the frontal protection T-walls. Pipe bents will be pile supported.
4. The discharge basin base will comprise of grouted riprap underlain by crushed limestone bedding with a finished grade at EL -3.

**ATTACHMENT B**  
**PROJECT BUDGET ESTIMATE**

Item No.	Description	Unit Price	Unit	Quantity	Cost
<b>GENERAL</b>					
1	Mobilization	\$250,000.00	LS	1	\$ 250,000.00
	<b>Subtotal</b>				<b>\$ 250,000.00</b>
<b>STRUCTURAL</b>					
2	Driven Steel Piling (HP 14x89 Pile, 125'-0" Long Top 10' Coated, Coal Tar Epoxy)	\$80.00	LF	4875	\$ 390,000.00
3	Piling, Concrete Precast, Prestressed (14-inch x 14-inch) 14" Square Precast Concrete Piles, 79' Long	\$50.00	LF	1500	\$ 75,000.00
4	Compression Pile Load Tests	\$60,000.00	EACH	1	\$ 60,000.00
5	Tension Pile Load Tests	\$40,000.00	EACH	1	\$ 40,000.00
6	Reloading Test Pile	\$16,000.00	EACH	1	\$ 16,000.00
7	Temporary Retaining Structures, -Cofferdam (Temporary Sheet piling)	\$850,000.00	LS	1	\$ 850,000.00
8	Construction Dewatering	\$100,000.00	LS	1	\$ 100,000.00
9	Driven Steel Sheet Piling, PZ-22	\$35.00	SF		\$ 161,700.00
	Steel Sheet Seepage Wall	\$35.00	SF	2430	
	Steel Sheet Pile Scour Wall	\$35.00	SF	2190	
10	Cast-In-Place Structural Concrete		LS		\$ 478,470.00
	Structural Excavation	\$23.00	BCY	2090	
	Structural Backfill	\$20.00	BCY	170	
	Concrete Dry Bottom	\$300.00	CY	20	
	Reinforced Concrete T-Wall Base Slab	\$900.00	CY	180	
	Reinforced Concrete T-Wall Stem	\$1,250.00	CY	130	
	Reinforced Concrete Stair Pad	\$900.00	CY	10	
	Discharge Pipe Concrete Saddles (Support Structures)	\$1,250.00	CY	70	
11	Discharge Protective Ground Slope Paving (4" Thick)	\$25,000.00	LS	1	\$ 25,000.00
12	Structural Steel Metal Work				\$ 39,150.00
	Valve Access Platform	\$100.00	SF	150	
	Valve Access Platform Stairs	\$7,500.00	LS	2	
	Valve Access Platform Gaurd rail	\$75.00	LF	122	
	<b>Subtotal</b>				<b>\$ 2,235,320.00</b>
<b>MECHANICAL</b>					
13	Pump 1 and 3 Extension	\$206,470	EA	2	\$ 412,940.00
14	Pump 2 Extension	\$172,040	EA	1	\$ 172,040.00
15	Bypass Pumping	\$149,050	LS	1	\$ 149,050.00
	<b>Subtotal</b>				<b>\$ 734,030.00</b>
<b>ELECTRICAL</b>					
16	Controls Conduit	9,502.88	LS	1	\$ 9,502.88
17	Power & Lighting Conduit and Conductors	\$15,593	LS	1	\$ 15,593.05
18	Lighting	\$6,161	LS	1	\$ 6,161.25
19	Basic Electrical Materials & Consumables	\$22,216	LS	1	\$ 22,215.72
	<b>Subtotal</b>				<b>\$ 53,472.90</b>
<b>CIVIL</b>					
20	Traffic Control & Coordination	\$10,000.00	LS	1	\$ 10,000.00
21	Silt Fence	\$5.00	LF	200	\$ 1,000.00
22	Truck Washdown Racks	\$25,000.00	EA	1	\$ 25,000.00
23	Grouted Rip-Rap (55lb)	\$90.00	TON	500	\$ 45,000.00
24	Excavation	\$10.00	CY	1,500	\$ 15,000.00
25	Excavated Material Hauled Off-Site	\$12.00	CY	200	\$ 2,400.00
26	Embankment	\$10.00	CY	1,400	\$ 14,000.00
27	Embankment(off-site)	\$30.00	CY	100	\$ 3,000.00
28	Surfacing	\$125.00	CY	150	\$ 18,750.00
29	Geotextile (Separator)	\$4.00	SY	500	\$ 2,000.00
30	Bedding for Discharge Basin	\$90.00	CY	100	\$ 9,000.00
31	Drain Inlet	\$3,000.00	EA	1	\$ 3,000.00
32	Drain Pipe (15" RCP)	\$150.00	LF	80	\$ 12,000.00
33	Dewatering Work Plan	\$10,000.00	LS	1	\$ 10,000.00
34	Granular Material	\$20.00	CY	480	\$ 9,600.00
35	Staff Gages	\$3,500.00	EA	1	\$ 3,500.00
	<b>Subtotal</b>				<b>\$ 183,250.00</b>
	<b>SUBTOTAL</b>				<b>\$ 3,456,072.90</b>
	Contingency (10%)				\$ 345,607.29
	<b>TOTAL CONSTRUCTION COST</b>				<b>\$ 3,801,680.19</b>

**ATTACHMENT C**  
**MONTHLY MONITORING REPORT**  
**CONTRACT NO. \_\_\_\_\_**

Date: \_\_\_\_\_

Contracting Party: \_\_\_\_\_ CPRA Contract No. \_\_\_\_\_

Project Title: “ \_\_\_\_\_ ”

Invoice No. \_\_\_\_\_ Invoice Amount: \_\_\_\_\_

Total Contract Amount: \$ \_\_\_\_\_ Contract Balance: \$ \_\_\_\_\_

Total Task Amount: \$ \_\_\_\_\_ Task Balance: \$ \_\_\_\_\_

Total invoiced to date: \$ \_\_\_\_\_

**I. WORK COMPLETED TO DATE (ACCORDING TO TYPE CONTRACT):**

- A. Percentage of work completed [include percentage completed and/or milestones accomplished (give dates)].
- B. Hourly (include services performed and number of hours worked).
- C. Scope of Services Outlined by Tasks (include tasks completed or portion of task completed to date).
- D. Actual Costs Incurred
- E. Fee Schedule

**II FOR EACH PROJECT A NARRATIVE OF IMPLEMENTATION PROGRESS INCLUDING:**

- A. Tasks and/or milestones accomplished (give dates)
  
  
  
  
  
  
  
  
  
  
- B. Tasks and/or milestones not accomplished with explanation or assessment of:
  - 1. Nature of problems encountered:

2. Remedial action taken or planned:
  
  
  
  
  
  
  
  
  
  
3. Whether minimum criteria for measure can still be met:
  
  
  
  
  
  
  
  
  
  
4. Likely impact upon achievement:

III DELIVERABLES

IV OTHER DISCUSSIONS OF SPECIAL NOTE

Contracting Party \_\_\_\_\_ Date \_\_\_\_\_  
(Printed Name)

Approval \_\_\_\_\_ Date \_\_\_\_\_  
CPRA Project Manager (Printed Name)

Approval \_\_\_\_\_ Date \_\_\_\_\_  
CPRA Contract Monitor or Designee (Printed Name)

## ATTACHMENT D

### CERTIFICATION REGARDING LOBBYING

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DATE:

11-24-2020



Matthew Jewell, Parish President  
Saint Charles Parish Government