

Ord.

REVOKED

2014-0205

INTRODUCED BY: V.J. ST. PIERRE, JR., PARISH PRESIDENT  
(DEPARTMENT OF PLANNING AND ZONING)

ORDINANCE NO. 14-7-9

An ordinance to approve and authorize the Parish President to execute an Intergovernmental Agreement between St. Charles Parish and the State of Louisiana Coastal Protection and Restoration Authority (CPRA), for the East LaBranche Shoreline Protection Project, State Project No. PO-43, in the amount of \$2,000,000.

WHEREAS, St. Charles Parish has \$1,743,446 from Coastal Impact Assistance Program (CIAP) through U.S. Fish and Wildlife Service; and,

WHEREAS, the CPRA CIAP allocation of \$2,000,000 would take the project to a logical point where the total investment would be protected against Lake Pontchartrain wave energy; and,

WHEREAS, St. Charles Parish through a Cooperative Agreement with the Pontchartrain Levee District has designed and permitted this project; and,

WHEREAS, St. Charles Parish wishes to enter into an Intergovernmental Agreement with the State of Louisiana Coastal Protection and Restoration Authority, for additional construction funding for the East LaBranche Shoreline Protection Project.

**THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:**

**SECTION I.** The St. Charles Parish Council approves and authorizes the Parish President to execute an Intergovernmental Agreement between St. Charles Parish and the State of Louisiana Coastal Protection and Restoration Authority (CPRA), for the East LaBranche Shoreline Protection Project, State Project No. PO-43, in the amount of \$2,000,000.

The forgoing ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS: SCHEXNAYDRE, LEWIS, WILSON, WOODRUFF, BENEDETTO, HOGAN, COCHRAN, FLETCHER, FISHER-PERRIER  
NAYS: NONE  
ABSENT: NONE

And the ordinance was declared adopted this 21st day of July, 2014, to become effective five (5) days after publication in the official journal.

CHAIRMAN: [Signature]  
SECRETARY: [Signature]  
DLVD/PARISH PRESIDENT: [Signature]  
APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_  
PARISH PRESIDENT: [Signature]  
RETD/SECRETARY: [Signature]  
AT: 3:15pm RECD BY: [Signature]

REVOKED

By: Ord. 14-8-15  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**INTERGOVERNMENTAL AGREEMENT**  
**BETWEEN**  
**THE STATE OF LOUISIANA**  
**COASTAL PROTECTION AND RESTORATION AUTHORITY**  
**AND**  
**ST. CHARLES PARISH**  
**REGARDING**  
**EAST LABRANCHE SHORELINE PROTECTION**

**THIS INTERGOVERNMENTAL AGREEMENT**, (“Agreement”) effective as of \_\_\_\_\_, 2014, is made and entered into by and between agencies of the State of Louisiana through the Coastal Protection and Restoration Authority Board (“CPRA Board”) acting by and through its Chairman, Jerome Zeringue, and the St. Charles Parish Government (“Sponsor”) represented by its President, \_\_\_\_\_, to serve a public purpose by providing shoreline protection and preserving critical wetlands in St. Charles Parish, for the Project known as the East LaBranche Shoreline Protection.

**WHEREAS**, Article VII, Section 14(c) of the Constitution provides that “For a public purpose, the state and its political subdivisions or political corporations may engage in cooperative endeavors with each other, with the United States or its agencies, or with any public or private association, corporation, or individual”; and

**WHEREAS**, pursuant to La. R.S. 49:214.5.2(A)(1) the CPRA Board represents the State of Louisiana 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 pursuant to La. R.S. 49:214.5.2(A)(7) the CPRA 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 CPRA Board and is directed by the policy set by the CPRA 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 CPRA 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, accordingly, CPRA shall administer and implement the obligations undertaken by the CPRA Board pursuant to this Agreement; and

**WHEREAS**, the St. Charles Parish Government is the governing authority of St. Charles Parish, with the authority of a local political subdivision to enter into agreements with governmental bodies, such as the CPRA Board, for the public welfare, health, safety and good order of St. Charles Parish by virtue of the specific authority granted in its Home Rule Charter; and

**WHEREAS**, the Coastal Impact Assistance Program (CIAP) was established by Section 384 of the Energy Policy Act of 2005 (Act) to assist producing States and their coastal political subdivisions (CPSs) in mitigating the impacts from Outer Continental Shelf (OCS) oil and gas production; and

**WHEREAS**, the CIAP legislation appropriated approximately \$500 million for Fiscal Years 2007 through 2010 to be distributed to the State of Louisiana and its CPSs; and

**WHEREAS**, in order to receive CIAP funds, States must submit a CIAP Plan to the U. S. Department of the Interior, Bureau of Ocean Energy Management, Regulation, and Enforcement (FWS), formerly known as the Minerals Management Service (MMS), describing how these funds will be expended and then FWS must approve that Plan before disbursing any CIAP funds to a State and its CPSs; and

**WHEREAS**, the CIAP provision of the Act, established by amending Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a.), listed five categories of authorized uses of CIAP funds, one of which includes projects and activities for the conservation, protection, or restoration of coastal areas, including wetland (43 U.S.C. §1356a. (d)(1)(A)); 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 CPRA Board and the Sponsor, 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 facilitate successful implementation of the East LaBranche Shoreline Protection.

**WHEREAS**, Sponsor has received CIAP grant from FWS in the amount of \$1,743,446.49 to construct East LaBranche Shoreline Protection to protect it against erosion from wave energy from Lake Pontchartrain.

**WHEREAS**, Sponsor has determined that it will not be able to build this project unless there is supplemental funding in the amount of \$2,000,000.00.

**WHEREAS**, Sponsor has completed the design of the project and has secure Permits to construct East LaBranche Shoreline Protection.

**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 Home Rule Charter of St. Charles Parish, and the constitution and general laws of the State of Louisiana, the Sponsor and the CPRA Board do hereby agree as follows:

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

- A. **Purpose.** The Purpose of this Agreement is to set forth the terms for administering the East LaBranche Shoreline Protection, hereinafter sometimes called the "Project", as more particularly described below.
- B. **Identification.** For the purpose of administration, identification and record keeping, State Project Number PO-43 is assigned to this Project. This number will be used to identify all Project costs.
- C. **Project Monitor.** For the purpose of this Agreement, David Williams or his designee or successor, will serve as the CPRA Project Monitor for this Project and will be the liaison between the CPRA Board and CPRA, and Sponsor.

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

**Description and Location of Project:** This project involves the continuation of rock shoreline protection project on the south shore of Lake Pontchartrain in St. Charles Parish. The project will consist of installing approximately 10,500 linear feet of rock dike at or near the +1.0 foot NAVD 88 contour on the existing shoreline. Construction access will be via flotation channels excavated to -6.0 feet NAVD 88. The CIAP Parish allocated funds will construct approximately 1,400 ft but would not address a critical area which is not protected will compromise the 1,400 ft. The CPRA CIAP allocation of \$2,000,000 would take the project to a logical point where the total investment would be protected against Lake Pontchartrain wave energy.

**Project Justification:** The shoreline erosion rate in the project area is approximately 9.5 feet per year and, given the performance of similar projects in the vicinity, the proposed project is anticipated to stop that shoreline erosion. The Lake Pontchartrain shoreline is susceptible to erosion because of the long fetch across the lake, the vulnerable shoreline configuration, and the highly unconsolidated sediment base. This chronic erosion has breached the lake shoreline in several locations, exposing fragile, highly organic marsh substrates to increased wave and tidal energy and resulting in large, shallow pond formation in the interior marsh. The existing shoreline protection projects, installed in 1987 and 1993, protect approximately 8,700 feet of the fragile shoreline. The proposed East and West LaBranche CIAP funded projects would extend the existing shoreline protection along the Lake Pontchartrain shoreline for the LaBranche wetlands, from Bayou LaBranche on the west to the Jefferson Parish line on the east.

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

The CPRA Board will provide a total of \$2,000,000.00 in state-allocated CIAP funds to the St. Charles Parish Government for the construction of the Project. This funding is contingent upon award and receipt of these CIAP funds from the FWS.

The Parties further acknowledge and agree that the maximum funding available pursuant to this Agreement shall be \$2,000,000.00, contingent upon and payable out of state-allocated CIAP funds. The funds provided by the CPRA Board to the Sponsor shall be used solely for the purposes stated herein and in accordance with constitutional and statutory restrictions on the use of State funds for public purposes and shall be used in accord with all applicable federal and state statutes, laws, rules, and regulations, including but not limited to the provisions applicable to CIAP funding and programs and the Louisiana Public Bid Law. Their use shall also be at all times consistent with sound engineering principles and practices. The Sponsor acknowledges and agrees that any State funds not used in accord with the terms of this Agreement and State and federal law will be reimbursed by Sponsor to the CPRA Board and/or the State Treasury, and that any cost and expense in excess of the \$2,000,000.00 provided by the CPRA Board, shall be the sole responsibility of the Sponsor.

**ARTICLE IV**  
**PROJECT TASKS, PLANS, SPECIFICATIONS, BIDDING AND DELIVERABLES**

**Sponsor will perform the following:**

**A. Project Tasks, Plans and Specifications**

1. Project Tasks

- a) Obtain any and all required permits from State and Federal agencies including but not limited to, the United States Army Corps of Engineers; LADEQ; LADNR, etc.

- b) Prepare plans and specifications.
- c) Solicit for bids for construction of the Project in accordance with all applicable federal, state, and local laws, rules, regulations, and guidelines.
- d) Award contract to successful bidder in accordance with all applicable federal, state, and local laws, rules, regulations, and guidelines.
- e) Manage, oversee, and monitor construction of the Project..
- f) Monitor performance of restored wetlands over a minimum one year period.
- g) Organize and host informational meetings to the public as necessary.

## 2. Retainage

The Sponsor agrees to provide for withholding retainage in the amount of ten percent (10%) of the contract price on construction contracts of less than \$500,000.00 and five percent (5%) on contracts of \$500,000.00 or more, as specified in La. R.S. 38:2248, which CPRA will withhold from its periodic payments to the Sponsor.

## 3. Stipulated Damages

The Sponsor further agrees to provide for the payment of stipulated or liquidated damages by the contractor to the Sponsor in the amount of \$500 for each day the contractor fails to timely complete the work specified in the contract.

## 4. CPRA Review

The Sponsor shall submit the final plans and specifications to CPRA for review and comment before final certification by the Engineer.

## **B. Public Bid and Contract**

The Sponsor shall advertise and receive bids for Project construction in accordance with the Public Bid Laws of the State of Louisiana, and generally as follows:

1. Written authorization must be obtained from the CPRA prior to advertising the Project or any phase thereof for bids. The Sponsor shall submit a copy of the complete package of bid documents with its written request for authority to advertise
2. The Sponsor will solicit bids for the services, labor and materials needed to construct the Project in accordance with the Public Bid Laws of the State, including, but not limited to La. R.S.38:2211, *et seq.* applicable to political subdivisions of the State.
3. The Sponsor shall solicit bids in strict accordance with the Louisiana Public Bid Law (La. R.S. 38:2211, *et seq.*), utilizing the Louisiana Uniform Public Work Bid Form applicable to most state agencies and all political subdivisions as mandated by La. R.S. 38:2212.
4. Within fifteen (15) days following receipt of bids and before award of the contract, the Sponsor shall submit to the CPRA proof of publication of advertisement for bids; bid tabulation form certified by the engineer and the contracting agency; bid proposals and bid security or bond of the three (3) lowest bidders, and proposed Notice of Award of Contract.

5. After receiving comments from the CPRA, the Sponsor may then award and execute the construction contract in accordance with the Public Bid Law and shall submit to the CPRA, copies of the Notice of Award of Contract, executed construction contract, and performance/payment bond(s).
6. The contract and performance/payment bonds shall be recorded in the Clerk of Court's office for the parish or parishes where the Project is to be constructed. Proof of recordation shall be submitted to the CPRA along with a copy of the Notice to Proceed. Once those items have been submitted to the CPRA, the Sponsor shall adopt a Resolution Certifying Compliance with the Public Bid Law and Sponsor shall send a certified copy of the resolution to the CPRA.
7. Upon completion and acceptance of the work, the Notice of Acceptance of the work shall be recorded in the Clerk of Court's office for the parish or parishes where the Project was constructed. Proof of recordation of the Notice of Acceptance shall be submitted to the CPRA along with a copy of the Notice of Acceptance. Once those items have been submitted to the CPRA, the Sponsor shall adopt a resolution certifying that Sponsor has accepted the work, and Sponsor shall send a certified copy of the resolution to the CPRA.

CPRA's review or receipt of copies of project and/or bid documents from the Sponsor shall not relieve the Sponsor of its responsibility to comply with public bid and contracting laws, and any other federal, state, or local laws that may apply, nor does it transfer or imply any liability upon CPRA or the CPRA Board in the event that Sponsor fails to comply with any applicable federal, state, or local public bid, procurement, or contracting laws, rules, regulations, or guidelines.

**C. Deliverables**

1. Receive requisite permits from required entities. Provide copies to the CPRA.
2. The Project Manager of the Sponsor's Engineering and Design firm shall oversee the Project construction according to plans and specifications. The Engineering and Design firm and Sponsor will manage the public bid process to select the contractor, and will supervise and inspect during construction to ensure compliance with the plans, specifications, permits and regulatory approvals.
3. During the construction period, the Engineering and Design Project Manager will document project construction with weekly reports including pictures that summarize the daily progress of construction, identify any potential or actual problems associated with compliance with the construction contracts or permits and describe any field changes or change orders. Sponsor shall notify CPRA immediately of any construction delays or specific environmental concerns. Signage will be installed that meets FWS requirements.
4. Sponsor, through the Engineering and Design firm will arrange for and conduct final inspection for the completed works. The CPRA shall be provided the final Construction Completion Report upon project completion, including as built drawing, within three months of final inspection if requested.
5. The Engineering and Design firm and Sponsor shall submit annual Project status reports to CPRA and FWS through completion of Phase II.
6. The Project Manager will include in specifications to erect a sign per the requirements of FWS.

## **ARTICLE V** **PAYMENT**

The CPRA Board, through CPRA, shall pay the Sponsor on an invoice by invoice basis for work performed as approved by the CPRA Project Monitor assigned to the Project, less the specified retainage, up to a maximum of \$2,000,000.00, which total includes the retainage, and represents the \$2,000,000.00 in CPRA Board allocated CIAP funds. Project costs in excess of \$2,000,000.00 shall be borne 100% by the Sponsor. The Sponsor shall render detailed invoices monthly for payment of work performed that include the summary and type of work, total value of the work performed and/or the costs incurred. Invoices shall be certified by the Sponsor's Engineer and another properly designated official representing the Sponsor as correct and in compliance with the plans and specifications. All invoices shall be subject to verification, adjustment and/or settlement as a result of any audit referenced in Articles VI or XIX of this Agreement.

The participation by the CPRA Board and the CPRA in the Project shall in no way be construed to make the CPRA a party to any contract between the Sponsor and any of its contractors or subcontractors to this Project.

## **ARTICLE VI** **RECORD KEEPING, REPORTING AND AUDITS**

The Sponsor will 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 CPRA Board and/or CPRA at any time.

The Sponsor shall maintain all documents, papers, field books, accounting records, appropriate financial records and other evidence 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 CPRA Board and/or CPRA, the Inspector General, and/or the Legislative Auditor; however, prior to disposal of any Project data, the Sponsor shall obtain prior written approval from the CPRA Board and/or CPRA. The Sponsor shall furnish copies of Project records to the CPRA Board and/or CPRA and/or the Legislative Auditor within thirty (30) days of a written request.

The submission of documentation to the CPRA Board and/or CPRA as required by this Agreement and its Supplements 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 funds occurs in accordance with the terms of this Agreement. Unless a written request is received from the Sponsor, the CPRA Board and/or CPRA will not provide extensive document review for the Project or take responsibility for determining whether or not this documentation is complete and accurate. The Sponsor shall also assure full compliance with all state and federal statutes, laws, rules, and regulations, including but not limited to assurance that all documentation shall be sufficient to meet the requirements of the FWS for release of CIAP funds. Sponsor understands and recognizes that FWS may conduct oversight and monitoring of the progress and financial status of each grant through reporting requirements under 43 C.F.R. Part 12.80 and 12.81, and that FWS may require a single or program-specific audit conducted for each year \$500,000 or more is expended, in accordance with the provisions of OMB Circular A-133, Section .215(c). The parties also recognize that the sub-grant of State CIAP funds from the CPRA Board to the Sponsor shall be disbursed through and subject to compliance with all applicable sections of 43 C.F.R. Part 12, *Administrative and Audit Requirements and Cost Principles for Assistance Programs* and that the CIAP program is considered by FWS to be a mandatory, noncompetitive grant program without definitive award dates.

The Sponsor shall provide to the CPRA Board and/or CPRA any requested reports on the status of the Project. The CPRA Board and/or CPRA reserves the right to audit the Project records at any time.

**ARTICLE VII**  
**RELEASE OF FINAL PAYMENT (RETAINAGE)**

In addition to any other condition for reimbursement, either contained herein or pursuant to law, or federal rules and regulations, the release of the final payment (retainage) on all or any segment or phase of this Project shall not be made by the CPRA until such time as the Sponsor provides the CPRA with the following items:

1. Construction Completion Report including as-built drawings;
2. Certification by the Sponsor's Engineer that the work is complete and that all work has been performed in accordance with the plans and specifications;
3. Recommendation of acceptance by the Sponsor's Engineer (Substantial Completion) and Notice of Acceptance of work issued by the Sponsor to its contractor;
4. A Resolution by the Sponsor accepting the work;
5. A certified copy of the Recordation of Acceptance;
6. A certified copy of the Clear Lien Certificate forty-five (45) days after recordation of acceptance;
7. In the event of unresolved liens, notification of the Sponsor's intent to deposit the amount withheld in response to the liens in a court of competent jurisdiction, and, thereafter, copies of all pleadings evidencing deposit of those funds into the registry of the court;
8. Final Cost Statement in duplicate, with two (2) copies of the As-Built Drawings or Plans of Record; and
9. A certified payment request from the Sponsor.

If the Sponsor intends to phase the Project under separate construction contracts, the Sponsor shall request approval from the CPRA. Also, the Sponsor shall advise the CPRA of the scope of each phase and provide a marked up copy of the cost estimate in the approved application for funding showing each phase.

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

The CPRA Board may terminate this Agreement for cause based upon the failure of the Sponsor to comply with the terms and/or conditions of the Agreement; provided that the CPRA Board shall give the Sponsor written notice specifying the Sponsor's failure. If within thirty (30) days after receipt of such notice, the Sponsor 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 CPRA Board may, at its option, place the Sponsor in default and the Agreement shall terminate on the date specified in such notice. The Sponsor may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the CPRA Board to comply with the terms and conditions of this Agreement; provided that the Sponsor shall give the CPRA Board written notice specifying the CPRA Board's failure and a reasonable opportunity for the CPRA Board to cure the defect.

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

The CPRA Board may terminate this Agreement at any time by giving thirty (30) days written notice to the Sponsor. Upon receipt of notice, the Sponsor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders, for materials, facilities, services and supplies in connection with the performance of this



Agreement. The Sponsor shall be entitled to reimbursement for the costs of deliverables in progress, to the extent work has been performed satisfactorily and all termination expense the Sponsor incurs associated with termination of any underlying engineering and/or construction contract directly related to the project.

**ARTICLE X**  
**OPERATION & MAINTENANCE RESPONSIBILITY**

The Sponsor agrees to assume all maintenance and operation costs for the Project upon completion, including all future alterations as may be required without cost to the State or the CPRA Board or CPRA.

**ARTICLE XI**  
**PROGRESS SCHEDULE**

Within thirty (30) days after this Agreement is executed, the Sponsor shall submit to the CPRA a progress schedule that indicates, using a bar graph, the various activities that must be accomplished to develop construction plans and specifications and to let a construction contract within the time allotted. The schedule shall be submitted to the Project Monitor designated for the Project by the CPRA.

**ARTICLE XII**  
**DISCRIMINATION CLAUSE**

The Sponsor agrees to abide by the requirements of the following as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and the Fair Housing Act of 1968, as amended; and the Sponsor also agrees to abide by the requirements of the Americans with Disabilities Act of 1990. The Sponsor agrees not to discriminate in its employment practices, and will render services under this contract without regard to race, color, religion, sex, national origin, veteran status, political affiliation, or disabilities. Any act of discrimination committed by the Sponsor, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this Agreement.

**ARTICLE XIII**  
**COMPLIANCE WITH FEDERAL LAW**

The Sponsor must comply with applicable Federal labor laws covering non-Federal construction, including but not limited to, 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 Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)). The Sponsor acknowledges that CPRA may, as appropriate, adjust or withhold credit for such work-in-kind to reflect any payment that should have been made by the Sponsor or any of its agents or contractors pursuant to these laws.

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

Sponsor shall be fully liable for the actions of its own agents, employees, partners, subcontractors, and other persons under its control, and shall fully indemnify, defend, and hold harmless the CPRA Board and the CPRA, from suits, actions, damages, attorney's fees, and costs of every name and description relating to personal injury and/or damage to real or personal tangible property, caused by Sponsor, its agents, employees, partners, contractors, subcontractors, or any other persons under its control, without limitation, except that Sponsor shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the negligent act or failure to act by the CPRA Board and the

CPRA, and its agents, employees, partners, subcontractors, or other persons under its control.

Neither 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.

This hold harmless and indemnity provided by the Sponsor to the CPRA Board and the CPRA applies to any person engaged upon or in connection with the engineering services, construction and construction engineering required by or performed for Sponsor including, but not limited to, any omissions, defects or deficiencies in the plans, specifications or estimates or by virtue of any extra work, delays, disruptions, inefficiencies or nonpayment of any engineering, construction, or construction engineering cost incurred or any other claim of whatever kind or nature arising from, out of, or in anyway connected with the Project, to the extent permitted by law.

Nothing in this Agreement shall be construed as a waiver of any defenses or immunities provided to any party hereto by any Federal or Louisiana law or statute. It is clearly the intent of all parties that all parties shall be allowed to assert any and all defenses and immunities provided by Federal or Louisiana law.

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

#### **ARTICLE XV TAXES**

The Sponsor agrees that the responsibility for payment of taxes, if any, from the funds received under this Agreement, its Supplements and/or legislative appropriation shall be the Sponsor's obligation and identified under Federal Tax Identification Number shown on the signature sheet.

#### **ARTICLE XVI AMENDMENTS**

The parties hereto agree that any change in the scope of the Project shall require a written amendment, agreed to and signed by both parties.

#### **ARTICLE XVII OWNERSHIP**

All records, reports, documents and other material delivered or transmitted to Sponsor by the CPRA Board or CPRA related to this Agreement shall remain the property of the CPRA Board or CPRA, and shall be returned by Sponsor to the CPRA Board or CPRA, at Sponsor's expense. All records, reports, documents, or other material related to this Agreement and/or obtained or prepared by the CPRA Board or CPRA in connection with performance of the services hereunder shall be the property of the CPRA Board or CPRA, and retained in accord with the terms of this Agreement. All records, reports, documents and other material delivered or transmitted to the CPRA Board or CPRA by Sponsor related to this Agreement shall remain the property of Sponsor, and shall be returned by the CPRA Board or CPRA to Sponsor, at the CPRA Board's or CPRA's expense. All records, reports, documents, or other material related to this Agreement and/or obtained or prepared by Sponsor in connection with performance of the services hereunder shall be the property of Sponsor, and retained in accord with the terms of this Agreement.

**ARTICLE XVIII**  
**ASSIGNMENT**

The parties shall not assign any interest in this Agreement and shall not transfer any interest in same (whether by assignment or novation), without prior written consent of the other party.

**ARTICLE XIX**  
**AUDITOR'S CLAUSE**

It is hereby agreed that the Legislative Auditor of the State of Louisiana, and/or the Office of the Governor, Division of Administration auditors and/or the Office of the Inspector General shall have the authority to audit all records and accounts of Sponsor and any subcontractors which relate to this Agreement. Any such audit shall be conducted in accordance with La. R.S. 24:513.

The Sponsor and any 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 subcontract entered into under this Agreement.

**ARTICLE XX**  
**FISCAL FUNDING CLAUSE**

The continuation of this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the Agreement by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of the Agreement, or if the allocation is rescinded or reduced by CPRA in case of an emergency, or the appropriation is reduced by veto of the Governor or by any means provided in the appropriations act to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of the 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 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.

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

- A. In the exercise of their respective rights and obligations under this Agreement, Sponsor, CPRA, and the CPRA Board each act in an independent capacity, and none of them is to be considered the officer, agent, or employee of any 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 parties, any contractor with a release that waives or purports to waive any rights the other party may have to seek relief or redress against that contractor either pursuant to any cause of action that the other party may have or for violation of any law.
- C. The participation by the CPRA Board or the CPRA in this Project in accordance with the terms and conditions of this Agreement shall in no way be construed to make CPRA or the CPRA Board a party to any contract between Sponsor and its contractors or subcontractors or any other third party.

**ARTICLE XXIII**  
**DISPUTES**

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**  
**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 Saint Charles Parish Government:

V.J. St. Pierre, Jr.  
Parish President  
St. Charles Parish Government

If to CPRA:

Jerome Zeringue,  
Chairman, Coastal Protection and Restoration Authority  
Capitol Annex - State of Louisiana  
P.O. Box 44027  
Baton Rouge, LA 70804-4027  
(225) 342-7669

If to CPRA:

Kyle Graham,  
Executive Director  
Office of Coastal Protection and Restoration  
Post Office Box 44027  
Baton Rouge, LA 70804-4027  
(225) 342-4683

**ARTICLE XXV**  
**EFFECTIVE DATE / DURATION / MODIFICATION / TERMINATION**

This Agreement shall not be effective until it has been approved and signed by all parties.

The Agreement shall remain in effect as of the date first written above, and shall remain in effect until termination by written mutual agreement of all parties or in accordance with the terms herein. However, all work shall be completed and Project closed out no later than July 31, 2016. 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 this 20<sup>th</sup> day of August, 2014, before the below-named notary and competent witnesses.

WITNESSES:

ST. CHARLES PARISH

*Aneadra Coleman*  
(Witness - SIGN)

Aneadra Coleman  
(Witness - PRINT)

*Tiffany Clark*  
(Witness - SIGN)

Tiffany Clark  
(Witness - PRINT)

BY: *V.J. St. Pierre, Jr.*  
V.J. St. Pierre, Jr.  
President

72-6001208  
(Sponsor's Federal Identification Number)

STATE OF LOUISIANA

PARISH OF ST. CHARLES

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for said Parish and State aforesaid, on this 20<sup>th</sup> day of August 2014, personally came and appeared \_\_\_\_\_ to me known, who declared that he is the President of the St Charles Parish, 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.

*[Signature]*  
Signature

58225  
Louisiana Notary Public / Bar Number

My commission expires: at death.

(SEAL)