



**COASTAL EROSION PLANNING AND RESPONSE ACT**  
**PROJECT COOPERATION AGREEMENT**  
**GLO Contract No. 20-132-011-C293**  
**CEPRA Project No. 1675**

This project cooperation agreement (the “Contract”) is entered into by and between the **General Land Office** (the “GLO”) and **Galveston Bay Foundation**, the Qualified Project Partner (“QPP”), each a “Party” and collectively “the Parties,” under the Coastal Erosion Planning and Response Act, Texas Natural Resources Code Sections 33.601-.613 (“CEPRA” or the “Act”) for CEPRA Project No. 1675, entitled, “*Oyster Lake Habitat Protection and Restoration - Phase III*”.

**Article 1 – General Provisions**

**1.01 Purpose**

The purpose of this Contract is to set forth the terms and conditions of the cooperation of QPP in a CEPRA project led by the QPP and managed by the GLO, with funding provided by the GLO and QPP.

**1.02 Contract Documents**

The GLO and QPP hereby agree that this Contract, the following documents, and listed documents, which are incorporated herein for all purposes in their entirety, shall govern the Contract:

- Attachment A:       Project Work Plan, Budget, and Map(s)**  
**Attachment B:       General Affirmations**

**1.03 Definitions**

“[Account](#)” means the coastal erosion response account as defined in Section 33.604 of the Texas Natural Resources Code.

“[Administrative and Audit Regulations](#)” means all applicable statutes, regulations, and other laws governing administration or audit of this Contract, which may include Title 2, Part 200, Code of Federal Regulations and Chapter 321 of the Texas Government Code.

“[Attachment](#)” means documents, terms, conditions, or additional information physically added to this Contract following the execution page or incorporated by reference, as if physically attached.

“Budget” means the cost share budget for the Project, as detailed in Attachment A to this Contract, the Project Work Plan, Budget, and Map(s).

“CEPRA” or the “Act” means the Coastal Erosion Planning and Response Act, Texas Natural Resources Code Sections 33.601-.613.

“Contract” means this entire document, along with any Attachments, both physical and incorporated by reference.

“Fiscal Year” means the period beginning September 1 and ending August 31 each year, which is the annual accounting period for the State of Texas.

“GAAP” means “generally accepted accounting principles.”

“GASB” means the Governmental Accounting Standards Board.

“General Affirmations” means the statements in Attachment B, attached hereto and incorporated herein for all purposes, which QPP agrees to and affirms by executing this Contract.

“GLO” means the Texas General Land Office, its officers, employees, and designees.

“Intellectual Property” means patents, rights to apply for patents, trademarks, trade names, service marks, domain names, copyrights, schematics, industrial models, inventions, know-how, trade secrets, computer software programs, other intangible proprietary information, and all federal, state, or international registrations or applications for any of the foregoing.

“Partner Match” means the amount contributed by QPP and all funding sources other than the CEPRA Account to pay the shared Project costs set forth in the Budget.

“Project” means the activities described in **Section 2.01** and detailed in the Work Plan in Attachment A of this Contract.

“Public Information Act” means Chapter 552 of the Texas Government Code.

“Qualified Project Partner” or “QPP” means Galveston Bay Foundation.

“Travel Regulations” means all applicable statutes, regulations, laws, and Comptroller guidance related to reimbursement for Provider’s travel expenses, including: Title 34, Section 5.22, of the Texas Administrative Code; Chapter 660 of the Texas Government Code; the General Appropriations Act; and *Textravel*, the Comptroller’s travel regulation guidance available on the Comptroller’s website.

“Work Plan” means the methodology, means, and manner in which the Project shall be accomplished, as detailed in Attachment A of this Contract, the Project Work Plan and Budget.

#### **1.04 Interpretive Provisions**

- a) The meanings of defined terms apply to the singular and plural forms of the defined terms;
- b) The words “hereof,” “herein,” “hereunder,” and similar words refer to this Contract as a whole and not to any particular provision, section, Attachment, work order, or schedule of this Contract unless otherwise specified;
- c) The term “including” means “including, without limitation.”

- d) Unless otherwise expressly provided, references to contracts include subsequent amendments and other modifications thereto, to the extent such amendments and modifications are not prohibited by the terms of this Contract, and a reference to a statute or regulation includes statutory or regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation;
- e) The captions and headings of this Contract are for convenience of reference only and shall not affect the interpretation of this Contract;
- f) All Attachments to this Contract, including those incorporated by reference, and any amendments are considered part of the terms of this Contract;
- g) This Contract may use several limitations, regulations, or policies to regulate the same or similar matters. Each such limitation, regulation, and policy is cumulative and shall be performed in accordance with its terms;
- h) Unless otherwise expressly provided, reference to any action of or by the GLO by way of consent, approval, or waiver is deemed modified by the phrase “in its/their sole discretion.” Notwithstanding the preceding, the GLO shall not unreasonably withhold or delay any approval, consent, or waiver required or requested of it;
- i) Time is of the essence in this Contract;
- j) Conflicts between this Contract and its Attachments conflict shall be resolved in the following order of precedence: first, the Signed Contract; then Attachments to the Contract in this order: Attachment A and Attachment B.

## **Article 2 – Scope of Project**

### **2.01 Project Requirements**

The Parties shall cooperate to undertake CEPRAs 1675 Oyster Lake Habitat Protection and Restoration - Phase III (the “Project”). The Project area is depicted on the Project Location Map(s), attached hereto and incorporated herein in their entirety for all purposes in **Attachment A**. The Parties shall complete the Project in accordance with the Project Work Plan and Budget in Attachment A and the General Affirmations in **Attachment B**.

The Parties may amend the Project Work Plan or Budget by written agreement. QPP may initiate an amendment by submitting a written request and detailed justification to the GLO Project Manager listed in **Section 2.02**. Amendments to the Project Work Plan or Budget may delay performance of the Project. QPP shall be solely responsible for any costs it incurs while awaiting GLO approval of requested amendments.

### **2.02 Project Managers**

The designated Project Managers for this Project are:

**GLO**

Carver Wray  
Texas General Land Office  
Coastal Resources Division  
P. O. Box 12873  
Austin, TX 78711-2873

**QPP**

Phillip Smith  
Galveston Bay Foundation  
1100 Hercules Ave.  
Houston, TX 77058

**Article 3 - Term**

**3.01 Duration**

This Contract shall be effective as of the date executed by the last Party and shall terminate upon the earlier of the completion of the Project, in the GLO's sole determination, August 31, 2023. The contract may be extended upon mutual agreement. Extensions shall be from September 1 to August 31, always coinciding with the state's fiscal year. Services QPP performs before this Contract is effective or after it ceases to be effective are performed at QPPs sole risk.

**3.02 Early Termination**

The GLO may terminate this Contract by giving QPP written notice specifying a termination date at least thirty (30) days after the date of the notice. Upon receipt of such notice, QPP shall cease any work, terminate any subcontracts, and incur no further expense related to this Contract. Early termination shall be subject to the equitable settlement of the Parties' interests accrued up to the date of termination.

**3.03 Abandonment or Default**

If QPP abandons work or defaults on the contract, the GLO may terminate the Contract without notice.

**Article 4 – Funding**

**4.01 Total Project Budget**

The Parties must pay all expenses associated with the performance of this Contract in accordance with the Budget in Attachment A.

**4.02 GLO Funds**

The GLO shall expend an amount not to exceed **\$4,560,000.00**, as detailed in the Budget in Attachment A.

**4.03 QPP and Partner Match**

Any QPP, Third-Party, or Partner Match required for this project must be provided in accordance with the Budget in Attachment A.

The Act requires QPP to provide a minimum in matching funds. QPP's percentage is listed in Attachment A of shared Project costs. The Act's requirement is satisfied by the Partner Match which includes the total sum to be contributed by QPP under this section.

**4.04 Alternative Source Funding**

The Parties shall cooperate to investigate and secure funding from sources other than the Account for the Project and its maintenance. QPP may use alternative sources of funding it acquires after the execution of this Contract toward the Partner Match.

#### 4.05 GOMESA Funding

QPP represents and warrants that it will use all amounts received under this Contract that are attributable to disbursements under the Gulf of Mexico Energy Security Act (GOMESA) in accordance with all applicable Federal and State laws and only for one or more of the following purposes: projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses; mitigation of damage to fish, wildlife, or natural resources; implementation of a federally-approved marine, coastal, or comprehensive conservation management plan; or mitigation of the impact of outer Continental Shelf (as that term is defined in 43 U.S.C.A. § 1331) activities through the funding of onshore infrastructure projects.

#### 4.06 Proof of Match and Requests for Reimbursement

QPP shall submit proof of Partner Match and reimbursement requests to the GLO documenting and fully substantiating the Project costs and expenses that QPP has incurred. All QPP expenditures must be supported by actual receipts, cancelled checks, or such other documentation that, in the judgment of the GLO, substantiates the value of the expenditures. Expenditures are subject to the review and approval of the GLO and approval of expenditures is in the sole discretion of the GLO.

The GLO will not reimburse QPP for travel expenses of any kind without prior written GLO approval. The GLO will only reimburse travel expenses directly attributable to QPP's performance of this Contract at the rates established or adopted by the Comptroller of the State of Texas, as outlined in the Travel Regulations.

Subject to the maximum Contract amount authorized herein and upon specific, prior, written approval by the GLO, lodging, travel, and other incidental direct expenses may be reimbursed under this Contract for professional or technical personnel who are working away from the cities in which they are permanently assigned and conducting business specifically authorized in the scope of services in **Attachment A**.

The limits for reimbursements are the rates established or adopted by the Comptroller, as outlined in the Travel Regulations. **QPP understands and acknowledges that any travel-expense reimbursement by the GLO is not a per diem. The GLO will only reimburse actual, allowable expenses in accordance with the Travel Regulations.**

**QPP must submit itemized receipts to support any request for travel-expense reimbursement.**

Proof of match and requests for reimbursement must:

- a) be submitted to [vendorinvoices@glo.texas.gov](mailto:vendorinvoices@glo.texas.gov) and [carver.wray@glo.texas.gov](mailto:carver.wray@glo.texas.gov);
- b) be supported by documentation that, in the judgment of the GLO, allows for full substantiation of the costs incurred; and
- c) prominently display "**GLO Contract No. 20-132-011-C293**"

If QPP does not submit proof of match and reimbursement requests in strict accordance with the instructions in this section, payment may be significantly delayed.

#### **4.07 Progress Reports**

Progress reports shall be submitted with reimbursement requests in portable document format (pdf.) to [carver.wray@glo.texas.gov](mailto:carver.wray@glo.texas.gov) in the manner and form specified by the GLO. A final closeout report summarizing all expenditures, reimbursement requests, project deliverables, and project milestones should be provided to the GLO within sixty (60) days after the completion of the Project.

### **Article 5 - State Funding**

#### **5.01 State Funding**

- a) This Contract shall not be construed as creating any debt on behalf of the State of Texas and/or the GLO in violation of Article III, Section 49, of the Texas Constitution. In compliance with Article VIII, Section 6 of the Texas Constitution, all obligations of the GLO hereunder are subject to the availability of state funds. If such funds are not appropriated or become unavailable, this Contract may be terminated and the Parties discharged from further obligations, subject to the equitable settlement of their respective interests, accrued up to the date of termination.
- b) Any claim by QPP for damages under this Contract may not exceed the amount due and owing QPP or the amount of funds appropriated for payment, but not yet paid to QPP, under the annual budget in effect at the time of the breach. Nothing in this provision shall be construed as a waiver of sovereign immunity.

#### **5.02 General Affirmations**

To the extent they apply, QPP certifies it has reviewed the General Affirmations in Attachment B and that QPP is in compliance with all the requirements contained therein.

### **Article 6 – Records, Inspection and Audit, Retention, Public Information and Confidentiality**

#### **6.01 Books and Records**

QPP shall keep and maintain full, true, and complete records in accordance with GAAP or GASB, whichever is applicable, as necessary to fully disclose to the GLO, the Texas State Auditor's Office, the United States Government, and/or their authorized representatives sufficient information to determine compliance with the terms and conditions of this Contract, other applicable agreements, and all state and federal rules, regulations, and statutes.

#### **6.02 Inspection and Audit**

- a) All records related to this Contract, including records of QPP and its Subcontractors, shall be subject to the Administrative and Audit Regulations.
- b) The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract. Acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit

committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. QPP shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through QPP and the requirement to cooperate is included in any subcontract it awards.

- c) State agencies authorized to audit and inspect QPP, its records, subcontractors, and subcontractors' records include the GLO, the GLO's contracted examiners, the State Auditor's Office, the Texas Attorney General's Office, the Texas Comptroller of Public Accounts, and their authorized designees.

### **6.03 Period of Retention**

Each Party shall retain in its records this Contract and all documents related to this Contract. Unless a longer retention period is specified by applicable law or regulation, the Parties may destroy the Contract and related documents only after the seventh anniversary of the date: the Contract is completed or expires; or all issues that arise from any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the Contract or related documents are resolved.

### **6.04 Confidentiality**

To the extent permitted by law, QPP and the GLO shall keep all information confidential, in whatever form produced, prepared, observed, or received by QPP or the GLO to the extent that such information is: (a) confidential by law; (b) marked or designated "confidential" (or words to that effect) by QPP or the GLO; or (c) information that QPP or the GLO are otherwise required to keep confidential by this Contract. Furthermore, QPP will not advertise that it is doing business with the GLO, use this Contract as a marketing or sales tool, or make any press releases concerning this Contract without the prior written consent of the GLO.

### **6.05 Public Records**

The GLO may post this Contract and related documents on its website. Information related to this Contract and its performance may be subject to the Public Information Act and will be withheld or disclosed in accordance therewith. QPP shall make any information created or exchanged with the state pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state/the GLO. QPP shall make any information required under the Public Information Act available to the GLO in portable document file (".pdf") format or any other format agreed between the parties. By failing to mark as "confidential" or a "trade secret" any information QPP believes to be excepted from public disclosure, QPP waives all claims it may make against the GLO for releasing such information without prior notice to QPP. QPP shall notify the GLO's Office of General Counsel within twenty-four hours of QPP's receipt of any third party written requests for information, and forward a copy of said written requests to [PIALegal@glo.texas.gov](mailto:PIALegal@glo.texas.gov).

## **Article 7 - Intellectual Property**

### **7.01 Ownership and Intellectual Property**

- a) The GLO shall own, and QPP hereby irrevocably assigns to the GLO, all ownership right, title, and interest in and to all Intellectual Property acquired or developed by QPP pursuant to this Contract, including without limitation all Intellectual Property in and to reports, drafts of reports, data, drawings, computer programs and codes, and/or any other information or materials acquired or developed by QPP under this Contract. The GLO shall have the right to obtain and to hold in its name any and all patents, copyrights, trademarks, service marks, registrations, or such other protection as may be appropriate to the subject matter, including extensions and renewals thereof.
- b) QPP must give the GLO and the State of Texas, as well as any person designated by the GLO or the State of Texas, all assistance and execute such documents, as required to perfect the rights granted to the GLO herein without any charge or expense beyond the stated amount payable to QPP for the services authorized under this Contract.

### **7.02 Copyright**

- (a) QPP agrees and acknowledges that all expressive content subject to copyright protection, including without limitation all reports, drafts of reports, drawings, artwork, photographs, video, computer programs and codes, and/or any other expressive content acquired or developed by QPP pursuant to this Contract (individually, a “Work,” and collectively the “Works”), will be made the exclusive property of the GLO. QPP acknowledges that each Work is a “work made for hire” under the United States Copyright Act of 1976. All rights in and to each Work, including the copyright to the Work, shall be and remain the sole and exclusive property of the GLO.
- (b) If, for any reason, any Work or any portion of a Work is not a work made for hire, QPP hereby irrevocably assigns to the GLO ownership of all right, title and interest in and to the Works or such portion of any Work, including without limitation the entire and exclusive copyright in the Works and all rights associated with the copyright, including but not limited to reproduction rights, distribution rights, the right to prepare translations and other derivative works, and the right to display the Works in all formats and media now known or developed in the future.
- (c) QPP must give the GLO and the State of Texas, as well as any person designated by the GLO or the State of Texas, all assistance required to perfect the rights granted to the GLO defined herein without any charge or expense beyond the stated amount payable to QPP for the services authorized under this Contract.

### **7.03 Publication**

Reports, publications, presentations, and all other materials produced by QPP with funding provided in whole or in part under this Contract shall carry on the front cover or title page of such items, appropriate acknowledgement of financial or other support by the GLO and, if applicable, all federal entities providing funds or other support for the Project.



## **Article 8 - Miscellaneous Provisions**

### **8.01 Insurance.**

QPP shall acquire, for the duration of this Contract, insurance and with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount customarily carried within the industry. QPP may be requested to submit evidence of insurance as required under this Contract, including (if requested) a schedule of coverage (or “underwriter’s schedules”) establishing to the satisfaction of the GLO the nature and extent of coverage granted by each such policy. In the event that any policy is determined to be deficient to comply with the terms of this Contract, QPP shall secure such additional policies or coverage as the GLO may reasonably request or that are required by law or regulation. If coverage expires during the term of this Contract, QPP must produce renewal certificates for each type of coverage.

### **8.02 Legal Obligations**

QPP shall procure and maintain for the duration of this Contract any license, authorization, insurance, waiver, permit, qualification, or certification required by federal, state, county, or city statute, ordinance, law, or regulation to be held by QPP to provide the goods or services required by this Contract. QPP shall pay all taxes, assessments, fees, premiums, permits, and licenses required by law. QPP shall pay any such government obligations not paid by its subcontractors during performance of this Contract.

### **8.03 Taxes, Workers Compensation, Unemployment Insurance**

- a) QPP shall be solely liable and responsible for payment of QPP’s and QPP’s employees’ taxes of whatever kind, arising out of the execution or performance of the Contract. QPP shall comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and workers’ compensation. The GLO and the State of Texas shall not be liable to QPP or its officers, agents, employees, representatives, contractors, assignees, designees, subcontractors, or others for the payment of taxes or the provision of unemployment insurance, workers’ compensation, or any benefit available to a state employee or employee of another governmental entity.
- b) QPP shall indemnify, defend, and hold harmless the State of Texas, the GLO, and/or their officers, agents, employees, representatives, contractors, assignees, and/or designees from and against any and all liability, actions, claims, demands, damages, proceedings, or suits, and all related costs, attorney fees, and expenses arising out of, connected with, or resulting from tax liability, unemployment insurance, or workers’ compensation in the execution or performance of the Contract and any Work Orders issued under the Contract. QPP and the GLO shall furnish timely written notice to each other of any such claim. QPP shall be liable to pay all costs of defense including attorneys’ fees. QPP shall coordinate its defense with the GLO and the Office of the Attorney General if the GLO or another Texas state agency is a named co-defendant with QPP in any suit. QPP may not agree to settle any such lawsuit or other claim without first obtaining the written consent of the GLO and, if applicable, the Office of the Attorney General.

#### **8.04 Indemnity**

QPP shall indemnify, defend, and hold harmless the State of Texas, the GLO, and/or their officers, agents, employees, representatives, contractors, assignees, and/or designees from and against any and all liability, actions, claims, demands, damages, proceedings, or suits, and all related costs, attorney fees, and expenses arising out of, connected with, or resulting from any acts or omissions of QPP or its officers, agents, employees, representatives, suppliers, contractors, subcontractors, assignees, designees, order fulfillers, or suppliers of contractors or subcontractors in the execution or performance of the Contract and any Work Orders issued under the Contract. QPP and the GLO shall furnish timely written notice to each other of any such claim. QPP shall be liable to pay all costs of defense including attorneys' fees. QPP shall coordinate its defense with the GLO and the Office of the Attorney General if the GLO or another Texas state agency is a named co-defendant with QPP in any suit. QPP may not agree to settle any such lawsuit or other claim without first obtaining the written consent of the GLO and, if applicable, the Office of the Attorney General.

#### **8.05 Infringement**

- a) QPP shall indemnify, defend, and hold harmless the State of Texas, the GLO, and/or their officers, agents, employees, representatives, contractors, assignees, and/or designees from and against any and all liability, actions, claims, demands, damages, proceedings, or suits, and all related costs, attorney fees, and expenses arising out of, connected with, or resulting from infringement of any United States patent, copyright, trade or service mark, or any other intellectual or intangible property right that occurs in the execution or performance of the Contract and any Work Orders issued under the Contract. QPP and the GLO shall furnish timely written notice to each other of any such claim. QPP shall be liable to pay all costs of defense including attorneys' fees. QPP shall coordinate its defense with the GLO and the Office of the Attorney General if the GLO or another Texas state agency is a named co-defendant with QPP in any suit. QPP may not agree to settle any such lawsuit or other claim without first obtaining the written consent of the GLO and, if applicable, the Office of the Attorney General.
- b) QPP shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without QPP's written approval, (iii) any modifications made to the product by the QPP pursuant to Customer's specific instructions, or (iv) any use of the product or service by Customer that is not in conformity with the terms of any applicable license agreement.
- c) If QPP becomes aware of an actual or potential claim, or the GLO provides QPP with notice of an actual or potential claim, QPP shall, at QPP's sole expense: (i) procure for the GLO the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with a functionally equivalent or superior product or service so that the GLO's use is non-infringing.

## **8.06 Relationship of the Parties**

QPP is associated with the GLO only for the purposes and to the extent specified in this Contract. QPP is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract creates a partnership or joint venture, employer-employee or principal-agent relationships, or any liability whatsoever with respect to the indebtedness, liabilities, or obligations of QPP or any other party. QPP shall be solely responsible for, and the GLO shall have no obligation with respect to: withholding of income taxes, FICA, or any other taxes or fees; industrial or workers' compensation insurance coverage; participation in any group insurance plans available to employees of the State of Texas; participation or contributions by the State to the State Employees Retirement System; accumulation of vacation leave or sick leave; or unemployment compensation coverage provided by the State.

## **8.07 Compliance with Other Laws**

In its performance of this Contract, QPP shall comply with all applicable federal, state, county, and city laws, statutes, ordinances, and regulations. QPP is deemed to know of and understand all applicable laws, statutes, ordinances, and regulations.

## **8.08 Notices**

Any notices required under this Contract shall be deemed delivered when deposited either in the United States mail, postage paid, certified, return receipt requested; or with a common carrier, overnight, signature required, to the appropriate address below:

### **If to the GLO:**

Texas General Land Office  
1700 Congress Avenue  
Austin, TX 78701  
Attention: Contract Management Division

### **If to QPP:**

Galveston Bay Foundation  
1100 Hercules Ave.  
Houston, TX 77058

Notice given in any other manner shall be deemed effective only if and when received by the Party to be notified. Either Party may change its address for notice by written notice to the other Party as herein provided.

## **8.09 Governing Law and Venue**

This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit brought under this Contract shall be in a court of competent jurisdiction in Travis County, Texas. QPP irrevocably waives any objection, including any objection to personal jurisdiction, the laying of venue, or based on forum non conveniens, it has or may have to the bringing of any action or proceeding in such jurisdiction in respect of this Contract or any related document. **NOTHING IN THIS**

**CONTRACT SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO OR THE STATE OF TEXAS.**

#### **8.10 Dispute Resolution**

Except as otherwise provided by statute, rule, or regulation, QPP shall use the dispute resolution process established in Chapter 2260 of the Texas Government Code and related rules to attempt to resolve any dispute under this Contract, including a claim for breach of contract by the GLO, that the Parties cannot resolve in the ordinary course of business. Neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of such a claim constitute grounds for QPP to suspend performance of this Contract. Notwithstanding this provision, the GLO reserves all legal and equitable rights and remedies available to it. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.**

#### **8.11 Entire Contract and Modifications**

This Contract, its Attachment(s), and any purchase order(s) issued in conjunction with this Contract constitute the entire agreement of the Parties and are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in such Attachment(s) and/or purchase order(s) shall be harmonized with this Contract to the extent possible. Unless such Attachment or purchase order specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language shall be construed consistently with the terms of this Contract.

#### **8.12 Proper Authority**

Each Party hereto represents and warrants that **(1)** it has authority to perform under this contract under authority granted in Chapter 33, Texas Natural Resources Code, and **(2)** the person executing this Contract on its behalf has full power and authority to enter into this Contract on behalf of the Party they represent.

#### **8.13 Counterparts**

This Contract may be executed in any number of counterparts, each of which shall be an original, and all such counterparts shall together constitute but one and the same Contract. If the Contract is not executed by QPP within thirty (30) days of receipt, this Contract may be declared null and void, in the sole discretion of the GLO.

#### **8.14 Severability**

If a court of competent jurisdiction determines any provision of this Contract is invalid, void, or unenforceable, the remaining terms, provisions, covenants, and conditions of this Contract shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

#### **8.15 Force Majeure**

Except with respect to the obligation of payments under this Contract, if either Party, after a good faith effort, is prevented from complying with any express or implied covenant of this Contract by reason of war; terrorism; rebellion; riots; strikes; acts of God; any valid order, rule, or regulation of governmental authority; or similar events that are beyond the control of the affected Party (collectively referred to as a "Force Majeure"), then, while so prevented, the affected Party's obligation to comply with such covenant shall be

suspended, and the affected Party shall not be liable for damages for failure to comply with such covenant. In any such event, the Party claiming Force Majeure shall promptly notify the other Party of the Force Majeure event in writing and, if possible, such notice shall set forth the extent and duration thereof. The Party claiming Force Majeure shall exercise due diligence to prevent, eliminate, or overcome such Force Majeure event where it is possible to do so and shall resume performance at the earliest possible date. However, if non-performance continues for more than thirty (30) days, the GLO may, at its sole discretion, terminate this Contract immediately upon written notification to QPP.

#### **8.16 Survival of Terms and Provisions**


The terms and conditions of this Contract related to the following subjects shall survive the termination of this Contract: definitions; interpretation; warranties; affirmations; prohibition on debts created on behalf of the State of Texas and/or the GLO; limitation of any QPP claim for damages to the amount of funds appropriated for payment but not yet paid to QPP; ownership; intellectual property; third-party reliance; books and records; inspection and audit; records retention period; confidentiality; public records; insurance; taxes; workers' compensation; unemployment insurance; QPP's obligation to procure and maintain, at its sole expense, all government licenses, authorizations, insurance, waivers, permits, and/or qualifications necessary for QPP or any subcontractors to provide the goods or services described in this Contract; indemnity; assignment and subcontracting; relationship of the parties; compliance with laws; notices; governing law and venue; severability; dispute resolution; merger and integration; invoice and fee verification; property rights; default; and amendment.

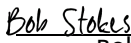
**Signature page follows**

**Signature Page for GLO Contract No. 20-132-011-C293  
CEPRA Project No. 1675**

**GENERAL LAND OFFICE**

**GALVESTON BAY FOUNDATION**

DocuSigned by:  
  
Mark A. Havens, Chief Clerk/  
Deputy Land Commissioner

DocuSigned by:  
  
By: Bob Stokes  
Title: President


Date of execution: 7/7/2020


Date of execution: 7/7/2020

OGC 

PM 


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**Attachments to this Contract:**

**Attachment A: Project Work Plan, Budget, and Map(s)**

**Attachment B: General Affirmations**

**Attachments Follow**

**PROJECT WORK PLAN**  
**OYSTER LAKE HABITAT PROTECTION AND RESTORATION - PHASE III**  
**CEPRA PROJECT #1675**

1. To address the Oyster Lake Habitat Protection and Restoration - Phase III project (project), the GLO shall be the supporting the Galveston Bay Foundation (the Qualified Project Partner "QPP") and fulfill the following tasks:

- a) Provide from the CEPRA account an amount not to exceed \$60,000.00 to the project budget, which constitutes 60% of the total final design costs, through reimbursement to the QPP for allowable expenses.
- b) Provide from the GOMESA account an amount not to exceed \$4,500,000.00, which constitutes 100% of the construction costs, through reimbursement to the QPP for allowable expenses.
- c) Confer with QPP on location and extent of the project area/scope of work.
- d) Provide timely approval regarding selection of any Professional Service Provider (PSP) and/or construction contractor solicited by QPP for performance of this project.
- e) Provide timely comment or approval on QPP's submittals.
- f) Provide financial point of contact.
- g) Assist in identifying legal requirements for the use of state -owned submerged land and facilitate the QPP's efforts to obtain all state-owned land use authorizations.

2. To address the project, the QPP shall be the lead project partner and fulfill the following tasks:

- a) Provide documentation for a total expenditure of \$40,000.00 in partner match which constitutes 40.0% of the total final project design costs to the GLO.
- b) Confer and cooperate with the GLO to delineate and document the exact location and extent of the project area.
- c) Consult with the GLO on the project scope of work and any change in construction related costs.
- d) Provide GLO with an estimated timeline for performance of the project.
- e) Initiate communications of a general nature between the GLO and the QPP during the project.
- f) Consult and include GLO in any project meetings or decision-making processes.
- g) If applicable, submit for GLO review and comment a copy of any construction solicitation/bid material.
- h) Submit for GLO approval regarding selection of QPP's preferred PSP and, if applicable, construction contractor.
- i) Submit match funding reimbursement requests to the GLO with supporting documentation for all labor, material, and PSP expenses.
- j) Submit for GLO review and comment/approval opinion of construction costs, engineering design, plans, and/or specifications.
- k) Provide financial point of contact.
- l) Manage the project and contract with a PSP to:
  - i. Finalize construction Contract Documents, including drawings, technical specifications and Owner's construction proposal solicitation or bid documents as necessary.
  - ii. Conduct a Coastal Boundary Survey in accordance with Texas Natural Resources Code §133.36, if deemed necessary.
  - iii. Perform construction contract administration services including on-site observation of the work.
  - iv. Prepare final project construction report(s).
  - v. If necessary, conduct post construction monitoring/surveying.

**PROJECT WORK PLAN**  
**OYSTER LAKE HABITAT PROTECTION AND RESTORATION - PHASE III**  
**CEPRA PROJECT #1675**

- m) Confer with USFWS Brazoria NWR to apply for, hold, and maintain, if acquired, all required permits, leases, and other authorizations necessary for the project to ensure compliance with all general and special conditions contained therein.
- n) If applicable, schedule and conduct a substantial completion inspection of the project with the GLO, followed by a final inspection as warranted, prior to project acceptance.
- o) Serve as the point of contact for communication with the PSP and/ or construction contractor and any other contracted entities under the terms of QPP's respective contracts with those providers. However, this does not restrict or preclude communication of a general nature between the GLO and QPP's contracted parties during the course of the project.
- p) Serve as the source for all media advisories, inquiries and press releases regarding the project and advise GLO in a timely manner of any inquiries made about the project.
- q) Schedule and conduct monthly project status meetings. In addition, meeting minutes are to be submitted to the GLO CEPRA Project Manager.
- r) If necessary, provide GLO authorization to participate in meetings regarding the project with relevant permitting authorities.
- s) Provide a financial point of contact.
- t) Document local support for the project.
- u) Comply with all federal, state, and local regulations, where applicable.
- v) Deliverable(s)/Milestone(s):
  - i. Reporting: Monthly reports will be provided to the GLO within 7 days of the end of each month. A final project completion report summarizing all financial expenditures, deliverables received, and project timeline should be supplied to the GLO upon 60 days of project closeout.
  - ii. Request for reimbursement: Requests for reimbursement must be submitted monthly and must be accompanied by a short statement of work describing any tasks completed during the reimbursement period. Reimbursement requests must be supported by actual receipts, cancelled checks, or such other documentation that in the judgment of the GLO, substantiates the expenditures, if allowable. Reimbursement requests shall be sent to the email address provided ([VendorInvoices.glo.texas.gov](mailto:VendorInvoices.glo.texas.gov)) and to the GLO Project Manager. Failure to comply with this requirement may, at the sole discretion of the GLO result in a project delay or cessation of work. Any costs incurred resulting from QPP's failure to comply with these reimbursement requirements are responsibility of QPP.



**BUDGET**  
**Oyster Lake Habitat Protection and Restoration - Phase III**

**CEPRA PROJECT NO. 1675**

**PROJECT COSTS**

<b>CONTRACTUAL</b>	<b>AMOUNT</b>
<b>Oyster Lake Habitat Protection and Restoration - Phase III</b>	<b>\$4,600,000.00</b>
<b>TOTAL PROJECT COST NOT TO EXCEED</b>	<b>\$4,600,000.00</b>

**TOTAL COST SHARING SUMMARY**  
**DESIGN COST SHARING SUMMARY**

<b>QUALIFIED PROJECT PARTNER (QPP): 40% of total project design costs</b>	
QPP Commitment	
USFWS-Coastal Program:	\$40,000.00
<b>QPP's TOTAL CONTRIBUTION:</b>	<b>\$40,000.00</b>
<b>GLO COST SHARING: 60% of total project design costs</b>	
CEPRA Funds:	\$60,000.00
<b>GLO COST SHARING:</b>	<b>\$60,000.00</b>
<b>CONSTRUCTION COST SHARING SUMMARY</b>	
<b>GOMESA TIER 1: 100% of Total Construction Costs</b>	
GOMESA Contribution :	\$4,500,000.00
<b>Total GLO Contribution:</b>	<b>\$4,500,000.00</b>
<b>TOTAL PROJECT CONTRIBUTIONS</b>	<b>\$4,600,000.00</b>



### **General Affirmations**

To the extent they apply, Qualified Project Partner affirms and agrees to the following, without exception:

1. Qualified Project Partner represents and warrants that, in accordance with Section 2155.005 of the Texas Government Code, neither Qualified Project Partner nor the firm, corporation, partnership, or institution represented by Qualified Project Partner, or anyone acting for such a firm, corporation, partnership, or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws, or (2) communicated directly or indirectly the contents of this Contract or any solicitation response upon which this Contract is based to any competitor or any other person engaged in the same line of business as Qualified Project Partner.
2. If the Contract is for services, Qualified Project Partner shall comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.
3. Under Section 231.006 of the Family Code, the vendor or applicant [Qualified Project Partner] certifies that the individual or business entity named in this Contract, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.
4. A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application. Qualified Project Partner certifies it has submitted this information to the GLO.
5. If the Contract is for the purchase or lease of computer equipment, as defined by Texas Health and Safety Code Section 361.952(2), Qualified Project Partner certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code, related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in Title 30 Texas Administrative Code Chapter 328.
6. Pursuant to Section 2155.003 of the Texas Government Code, Qualified Project Partner represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract.
7. Payments due under the Contract shall be directly applied towards eliminating any debt or delinquency Qualified Project Partner owes to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support.
8. Upon request of the GLO, Qualified Project Partner shall provide copies of its most recent business continuity and disaster recovery plans.

9. If the Contract is for consulting services governed by Texas Government Code Chapter 2254, Subchapter B, in accordance with Section 2254.033 of the Texas Government Code, relating to consulting services, Qualified Project Partner certifies that it does not employ an individual who has been employed by The GLO or another agency at any time during the two years preceding the Qualified Project Partner's submission of its offer to provide consulting services to the GLO or, in the alternative, Qualified Project Partner, in its offer to provide consulting services to the GLO, disclosed the following: (i) the nature of the previous employment with the GLO or other state agency; (ii) the date the employment was terminated; and (iii) the annual rate of compensation for the employment at the time of its termination.
10. If the Contract is not for architecture, engineering, or construction services, except as otherwise provided by statute, rule, or regulation, Qualified Project Partner must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve any dispute arising under the Contract. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.**
11. If the Contract is for architecture, engineering, or construction services, subject to Texas Government Code, Section 2260.002 and Texas Civil Practice and Remedies Code Chapter 114, and except as otherwise provided by statute, rule, or regulation, Qualified Project Partner shall use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve all disputes arising under this Contract. Except as otherwise provided by statute, rule, or regulation, in accordance with the Texas Civil Practice and Remedies Code, Section 114.005, claims encompassed by Texas Government Code, Section 2260.002(3) and Texas Civil Practice and Remedies Code Section 114.002 shall be governed by the dispute resolution process set forth below in subsections (a)-(d). **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.**
  - a. Notwithstanding Texas Government Code, Chapter 2260.002(3) and Chapter 114.012 and any other statute or applicable law, if the Qualified Project Partner's claim for breach of contract cannot be resolved by the parties in the ordinary course of business, Qualified Project Partner may make a claim against the GLO for breach of contract and the GLO may assert a counterclaim against the Qualified Project Partner as is contemplated by Texas Government Code, Chapter 2260, Subchapter B. In such event, Qualified Project Partner must provide written notice to the GLO of a claim for breach of the Contract not later than the 180th day after the date of the event giving rise to the claim. The notice must state with particularity: (1) the nature of the alleged breach; (2) the amount the Qualified Project Partner seeks as damages; and (3) the legal theory of recovery.
  - b. The chief administrative officer, or if designated in the Contract, another officer of the GLO, shall examine the claim and any counterclaim and negotiate with the Qualified Project Partner in an effort to resolve them. The negotiation must begin no later than the 120th day after the date the claim is received, as is contemplated by Texas Government Code, Chapter 2260, Section 2260.052.

- c. If the negotiation under paragraph (b) above results in the resolution of some disputed issues by agreement or in a settlement, the parties shall reduce the agreement or settlement to writing and each party shall sign the agreement or settlement. A partial settlement or resolution of a claim does not waive a party's rights under this Contract as to the parts of the claim that are not resolved.
  - d. If a claim is not entirely resolved under paragraph (b) above, on or before the 270th day after the date the claim is filed with the GLO, unless the parties agree in writing to an extension of time, the parties may agree to mediate a claim made under this dispute resolution procedure. This dispute resolution procedure is the Qualified Project Partner's sole and exclusive process for seeking a remedy for an alleged breach of contract by the GLO if the parties are unable to resolve their disputes as described in this section.
  - e. Nothing in the Contract shall be construed as a waiver of the state's or the GLO's sovereign immunity. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas under this Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies or immunities or be considered as a basis for estoppel. The GLO does not waive any privileges, rights, defenses, or immunities available to it by entering into this Contract or by its conduct, or by the conduct of any representative of the GLO, prior to or subsequent to entering into this Contract.
  - f. Except as otherwise provided by statute, rule, or regulation, compliance with the dispute resolution process provided for in Texas Government Code, Chapter 2260, subchapter B and incorporated by reference in subsection (a)-(d) above is a condition precedent to the Qualified Project Partner: (1) filing suit pursuant to Chapter 114 of the Civil Practices and Remedies Code; or (2) initiating a contested case hearing pursuant to Subchapter C of Chapter 2260 of the Texas Government Code.
12. If Texas Government Code Chapter 2270 prohibiting state contracts with companies boycotting Israel applies to Qualified Project Partner and this Contract, then Qualified Project Partner verifies it does not boycott Israel and will not boycott Israel during the term of this Contract.
  13. This Contract is contingent upon the continued availability of lawful appropriations by the Texas Legislature. Qualified Project Partner understands that all obligations of the GLO under this Contract are subject to the availability of state funds. If such funds are not appropriated or become unavailable, the GLO may terminate the Contract. The Contract shall not be construed as creating a debt on behalf of the GLO in violation of Article III, Section 49a of the Texas Constitution.
  14. Qualified Project Partner certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.

15. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Qualified Project Partner certifies that it is not (1) the executive head of the GLO, (2) a person who at any time during the four years before the effective date of the Contract was the executive head of the GLO, or (3) a person who employs a current or former executive head of the GLO.
16. Qualified Project Partner represents and warrants that all statements and information prepared and submitted in connection with this Contract are current, complete, true, and accurate. Submitting a false statement or making a material misrepresentation during the performance of this Contract is a material breach of contract and may void the Contract or be grounds for its termination.
17. Pursuant to Section 2155.004(a) of the Texas Government Code, Qualified Project Partner certifies that neither Qualified Project Partner nor any person or entity represented by Qualified Project Partner has received compensation from the GLO to participate in the preparation of the specifications or solicitation on which this Contract is based. Under Section 2155.004(b) of the Texas Government Code, Qualified Project Partner certifies that the individual or business entity named in this Contract is not ineligible to receive the specified contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate. This Section does not prohibit Qualified Project Partner from providing free technical assistance.
18. Qualified Project Partner represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
19. If the Contract is for professional or consulting services governed by Texas Government Code Chapter 2254, Qualified Project Partner represents and warrants that none of its employees including, but not limited to, those authorized to provide services under the Contract, were former employees of the GLO during the twelve (12) month period immediately prior to the date of execution of the Contract.
20. The Contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the Contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the GLO.
21. IF THE CONTRACT IS NOT FOR ARCHITECTURE OR ENGINEERING SERVICES GOVERNED BY TEXAS GOVERNMENT CODE CHAPTER 2254, QUALIFIED PROJECT PARTNER, TO THE EXTENT ALLOWED BY LAW, SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THE GLO, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING

FROM ANY ACTS OR OMISSIONS OF QUALIFIED PROJECT PARTNER OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY QUALIFIED PROJECT PARTNER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND QUALIFIED PROJECT PARTNER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. QUALIFIED PROJECT PARTNER AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

22. IF THE CONTRACT IS FOR ARCHITECTURE OR ENGINEERING SERVICES GOVERNED BY TEXAS GOVERNMENT CODE CHAPTER 2254, QUALIFIED PROJECT PARTNER, TO THE EXTENT ALLOWED BY LAW, SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THE GLO, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED DAMAGES, COSTS, ATTORNEY FEES, AND EXPENSES TO THE EXTENT CAUSED BY, ARISING OUT OF, OR RESULTING FROM ANY ACTS OF NEGLIGENCE, INTENTIONAL TORTS, WILLFUL MISCONDUCT, PERSONAL INJURY OR DAMAGE TO PROPERTY, AND/OR OTHERWISE RELATED TO QUALIFIED PROJECT PARTNER'S PERFORMANCE, AND/OR FAILURES TO PAY A SUBCONTRACTOR OR SUPPLIER BY THE QUALIFIED PROJECT PARTNER OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, CONSULTANTS UNDER CONTRACT TO QUALIFIED PROJECT PARTNER, OR ANY OTHER ENTITY OVER WHICH THE CONTRACTOR EXERCISES CONTROL, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY QUALIFIED PROJECT PARTNER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND QUALIFIED PROJECT PARTNER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. QUALIFIED PROJECT PARTNER AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

23. TO THE EXTENT ALLOWED BY LAW, QUALIFIED PROJECT PARTNER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE GLO AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF QUALIFIED PROJECT PARTNER PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER

SERVICE PROVIDED HEREUNDER; AND/OR (3) THE GLO'S AND/OR QUALIFIED PROJECT PARTNER'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO THE GLO BY QUALIFIED PROJECT PARTNER OR OTHERWISE TO WHICH THE GLO HAS ACCESS AS A RESULT OF QUALIFIED PROJECT PARTNER'S PERFORMANCE UNDER THE CONTRACT. QUALIFIED PROJECT PARTNER AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. QUALIFIED PROJECT PARTNER SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY QUALIFIED PROJECT PARTNER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND QUALIFIED PROJECT PARTNER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. IN ADDITION, QUALIFIED PROJECT PARTNER WILL REIMBURSE THE GLO AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE GLO DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF QUALIFIED PROJECT PARTNER OR IF THE GLO IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, THE GLO WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND QUALIFIED PROJECT PARTNER WILL PAY ALL REASONABLE COSTS OF THE GLO'S COUNSEL.

24. Qualified Project Partner has disclosed in writing to the GLO all existing or potential conflicts of interest relative to the performance of the Contract.
25. Sections 2155.006 and 2261.053 of the Texas Government Code prohibit state agencies from accepting a solicitation response or awarding a contract that includes proposed financial participation by a person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under Sections 2155.006 and 2261.053 of the Texas Government Code, Qualified Project Partner certifies that the individual or business entity named in this Contract is not ineligible to receive the specified contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
26. Qualified Project Partner understands that the GLO will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material related to this Contract may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Qualified Project Partner shall make any information created or exchanged with the State/GLO pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State or the GLO.



27. The person executing this Contract certifies that he/she is duly authorized to execute this Contract on his/her own behalf or on behalf of Qualified Project Partner and legally empowered to contractually bind Qualified Project Partner to the terms and conditions of the Contract and related documents.
28. If the Contract is for architectural or engineering services, pursuant to Section 2254.0031 of the Texas Government Code, which incorporates by reference Section 271.904(d) of the Texas Local Government Code, Qualified Project Partner shall perform services (1) with professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license, and (2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.
29. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract. The acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Qualified Project Partner shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the Contract and the requirement to cooperate is included in any subcontract it awards. The GLO may unilaterally amend the Contract to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code.
30. Qualified Project Partner certifies that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in the Contract by any state or federal agency.
31. Qualified Project Partner expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, Qualified Project Partner represents and warrants to the GLO that any technology provided to the GLO for purchase pursuant to this Contract is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of: providing equivalent access for effective use by both visual and non-visual means; presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this Section, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans With Disabilities Act or similar state or federal laws. Examples of

methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.

32. If the Contract is for the purchase or lease of covered television equipment, as defined by Section 361.971(3) of the Texas Health and Safety Code, Qualified Project Partner certifies its compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code, related to the Television Equipment Recycling Program.
33. Pursuant to Section 572.069 of the Texas Government Code, Qualified Project Partner certifies it has not employed and will not employ a former state officer or employee who participated in a procurement or contract negotiations for the GLO involving Qualified Project Partner within two (2) years after the date that the contract is signed or the procurement is terminated or withdrawn. This certification only applies to former state officers or employees whose state service or employment ceased on or after September 1, 2015.
34. The GLO does not tolerate any type of fraud. GLO policy promotes consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Qualified Project Partner shall report any possible fraud, waste, or abuse that occurs in connection with the Contract to the GLO's Fraud Reporting hotline at (877) 888-0002.
35. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and Qualified Project Partner agrees that the Contract can be terminated if Qualified Project Partner knowingly or intentionally fails to comply with a requirement of that subchapter.
36. If Qualified Project Partner, in its performance of the Contract, has access to a state computer system or database, Qualified Project Partner must complete a cybersecurity training program certified under Texas Government Code Section 2054.519, as selected by the GLO. Qualified Project Partner must complete the cybersecurity training program during the initial term of the Contract and during any renewal period. Qualified Project Partner must verify in writing to the GLO its completion of the cybersecurity training program.
37. Under Section 2155.0061, Texas Government Code, Qualified Project Partner certifies that the entity named in this contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.



**AMENDMENT NO. 1 TO  
GLO CONTRACT NO. 20-132-011-C293**

**THE GENERAL LAND OFFICE** (the “GLO”) and **GALVESTON BAY FOUNDATION** (“Qualified Project Partner”), each a “Party” and collectively “the Parties” to GLO Contract No. 20-132-011-C293 (the “Contract”), desire to amend the Contract. Therefore, the Parties agree as follows:

1. **SECTION 3.01** of the Contract is amended to reflect a termination date of **August 31, 2025**.
2. This Amendment shall be effective upon the earlier of the date of the last signature or August 31, 2023.
3. The terms and conditions of the Contract not amended herein shall remain in force and effect.

**SIGNATURE PAGE FOLLOWS**

SIGNATURE PAGE FOR AMENDMENT NO. 1 TO  
GLO CONTRACT No. 20-132-011-C293

GENERAL LAND OFFICE

GALVESTON BAY FOUNDATION

DocuSigned by:

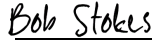


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Mark A. Havens, Chief Clerk/

Deputy Land Commissioner

Date of execution: 7/10/2023

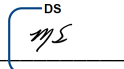
DocuSigned by:



86405B837D904B8  
Name: Bob Stokes

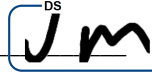
Title: President


Date of execution: 7/10/2023

OGC 

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