



DRAFT

STATE OF TEXAS

TWDB Contract No. [INSERT CONTRACT #]

COUNTY OF TRAVIS

Floodplain Management Account

Regional Flood Planning

THIS Contract, (hereinafter "CONTRACT"), is between the Texas Water Development Board (hereinafter "TWDB") and [INSERT ACTUAL], the political subdivision designated by the REGIONAL FLOOD PLANNING GROUP as its representative (hereinafter "CONTRACTOR").

ARTICLE I. DEFINITIONS: For the purposes of this CONTRACT, the following terms or phrases are defined as follows:

- A. TWDB – the Texas Water Development Board, or its designated representative.
- B. TWDB APPROVAL DATE – November 9, 2023
- C. COMMITTED FUNDS – [INSERT ACTUAL] is currently available to CONTRACTOR pursuant to the terms of this CONTRACT for the development of the TECHNICAL MEMORANDUM and the REGIONAL FLOOD PLAN. The COMMITTED FUNDS include necessary and direct costs incurred on or after CONTRACT INITIATION DATE, and certain eligible costs related to Task 10 incurred on or after, and prior to CONTRACT INITIATION DATE.
- D. CONTRACT VALUE – Same as the committed funds amount.
- E. CONTRACT INITIATION DATE – (INSERT ACTUAL DATE)
- F. CONTRACTOR – [INSERT PLANNING SPONSOR NAME HERE]
- G. DEADLINE FOR CONTRACT EXECUTION – June 30, 2024.
- H. EXECUTIVE ADMINISTRATOR – the Executive Administrator of TWDB or a designated representative.
- I. TECHNICAL MEMORANDUM – a memorandum to be prepared by CONTRACTOR and submitted to the EXECUTIVE ADMINISTRATOR summarizing the findings and all work performed under the Scope of Work and any future amended Scope of Work (i.e., through the identification of the region's flood risks and identification of potential flood management evaluations and potentially feasible flood management strategies and flood mitigation projects).

- J. TECHNICAL MEMORANDUM DEADLINE – September 19, 2025
- K. DRAFT FLOOD MANAGEMENT EVALUATION (FME) LIST – the Flood Management Evaluation (FME) List to be prepared by CONTRACTOR and submitted to the EXECUTIVE ADMINISTRATOR pursuant to Scope of Work Task 5B.
- L. DRAFT FLOOD MANAGEMENT EVALUATION (FME) LIST DEADLINE –JANUARY 26, 2026
- M. DRAFT REGIONAL FLOOD PLAN – the Regional Flood Plan to be initially prepared by CONTRACTOR and submitted to the EXECUTIVE ADMINISTRATOR for comments pursuant to the CONTRACT.
- N. DRAFT REGIONAL FLOOD PLAN DEADLINE – February 26, 2027
- O. REGIONAL FLOOD PLAN – a plan including any amendments that have been adopted by the REGIONAL FLOOD PLANNING GROUP and that meets the requirements contained in Texas Water Code § 16.062 and 31 Texas Administrative Code Chapters 361 and 362 and is submitted to TWDB for approval.
- P. REGIONAL FLOOD PLAN DEADLINE – January 10, 2028
- Q. FIRST REIMBURSEABLE EXPENSE DATE – The first day that work performed under this CONTRACT is eligible for reimbursement will be November 09, 2023 for limited administrative costs associated with public notices. TWDB will not reimburse expenses associated with Exhibit A, Scope of Work, until after CONTRACT INITIATION DATE.
- R. FINAL REIMBURSEABLE EXPENSE DATE – The last day that work performed under this CONTRACT is eligible for reimbursement will be July 31 2028.
- S. CONTRACT EXPIRATION DATE – This CONTRACT expires on July 31, 2028 . The last day that any budget amendment requests may be submitted under the CONTRACT will be May 29, 2028.
- T. FINAL PAYMENT REQUEST DEADLINE – The latest day that the final payment request may be submitted for reimbursement will be October 30, 2028.
- U. FLOOD PLANNING REGION – Region [INSERT HERE] designated under Texas Water Code § 16.062(a)(1) and 31 Texas Administrative Code § 361.11.
- V. REGIONAL FLOOD PLANNING GROUP – Region [INSERT REGION HERE] Regional Flood Planning Group), designated under and in compliance with Texas Water Code §16.062(c) and 31 Texas Administrative Code §361.11 to develop regional flood plans.

W. STATE FLOOD PLANNING DATASET – A data platform to be developed and maintained by TWDB that stores data related to flood planning. It is used to display and disseminate regional and statewide flood planning data.

X. PAYMENT REQUEST SUBMISSION SCHEDULE – A minimum of quarterly.

ARTICLE II. CONDITIONS AND EXCEPTIONS TO STANDARD AGREEMENT OF THIS CONTRACT.

A. TWDB will not be liable for any expenses incurred in excess of COMMITTED FUNDS.

This CONTRACT does not require CONTRACTOR to incur costs beyond those that can be paid with COMMITTED FUNDS. However, this provision does not relieve the REGIONAL FLOOD PLANNING GROUP from its duty under Texas Water Code §16.062 to prepare a regional flood plan.

B. Other provisions specific to each region: None.

ARTICLE III. RECITALS

Whereas, CONTRACTOR has been designated by the REGIONAL FLOOD PLANNING GROUP as its representative to enter into Contracts with TWDB for financial assistance to develop a REGIONAL FLOOD PLAN for the FLOOD PLANNING REGION;

Whereas, CONTRACTOR applied to TWDB for a planning grant to develop a REGIONAL FLOOD PLAN;

Whereas, CONTRACTOR is the entity that will act as administrator of TWDB's planning grant and will be responsible for the execution of this CONTRACT; and

Whereas, on TWDB APPROVAL DATE, TWDB approved CONTRACTOR's application for financial assistance.

Now, therefore, TWDB and CONTRACTOR, agree as follows:

ARTICLE IV. PROJECT DESCRIPTION AND SERVICES TO BE PERFORMED

A. CONTRACTOR will develop a TECHNICAL MEMORANDUM and REGIONAL FLOOD PLAN for the FLOOD PLANNING REGION according to:

- (1) Exhibit A – Scope of Work
- (2) Exhibit B – Task and Expense Budgets

- (3) Exhibit C – Technical Guidelines for Regional Flood Planning¹
 - (4) Exhibit D – Data Submittal Guidelines for Regional Flood Planning¹
 - (5) Exhibit E – Original Application (cover pages as a reference to the full, original grant application)
 - (6) Exhibit F – Certification of Procurement of Professional Services and in accordance with the requirements of Texas Water Code Chapter 16 and with 31 Texas Administrative Code Chapters 361 and 362.
- B. The EXECUTIVE ADMINISTRATOR will provide technical assistance within available resources to CONTRACTOR if such assistance is requested for performing regional flood planning activities; and, as necessary, will facilitate resolution of conflicts within the FLOOD PLANNING REGION or between regions.
 - C. CONTRACTOR will provide for public participation in the planning process as specified in Texas Water Code § 16.062 and 31 Texas Administrative Code § 361.21.
 - D. CONTRACTOR must provide its best efforts as determined by the EXECUTIVE ADMINISTRATOR to produce a REGIONAL FLOOD PLAN that has been adopted by the REGIONAL FLOOD PLANNING GROUP and that was developed in accordance with the statutory and rule requirements identified in this CONTRACT.
 - E. CONTRACTOR must obtain prior approval of the REGIONAL FLOOD PLANNING GROUP for all potential flood management evaluations and potentially feasible flood mitigation projects and flood management strategies to be evaluated as part of the REGIONAL FLOOD PLAN development.

ARTICLE V. SCHEDULE, REPORTS, RESPONSIBILITIES, AND OTHER DELIVERABLES

- A. CONTRACTOR must execute this CONTRACT on or before the DEADLINE FOR CONTRACT EXECUTION or TWDB’s commitment to pay COMMITTED FUNDS will be rescinded.
- B. This CONTRACT begins on the CONTRACT INITIATION DATE and expires on the CONTRACT EXPIRATION DATE.
- C. PAYMENT REQUEST SUBMISSION. CONTRACTOR must provide written progress reports according to the PAYMENT REQUEST SUBMISSION SCHEDULE with each payment reimbursement request or release of advance funds. The progress reports must include:
 - (1) a brief statement of the overall progress made since the last progress report for each task budget item;

¹ *The ‘Exhibit C - Technical Guidelines for Regional Flood Planning’ and ‘Exhibit D -Data Submittal Guidelines for Regional Flood Planning’ will be posted on the TWDB website at: <https://www.twdb.texas.gov/flood/planning/planningdocu/2023/index.asp>. The RFPGs must utilize the latest version posted on the website up to July 31st of 2021.*

- (2) a brief description of any problems that have been encountered during the previous reporting period that may affect the study, delay the timely completion of any portion of this CONTRACT, or inhibit the completion of or cause a change in any of the study's products or objects; and
- (3) a description of any action CONTRACTOR plans to take to correct any problems that have been encountered or identified.

D. TECHNICAL MEMORANDUM. CONTRACTOR must complete the TECHNICAL MEMORANDUM according to Article II, Paragraph A of this Section. CONTRACTOR must submit the TECHNICAL MEMORANDUM to the REGIONAL FLOOD PLANNING GROUP for approval at a regular REGIONAL FLOOD PLANNING GROUP meeting. After such approval, CONTRACTOR must submit the TECHNICAL MEMORANDUM to the EXECUTIVE ADMINISTRATOR. CONTRACTOR must deliver two electronic copies of the TECHNICAL MEMORANDUM, one (1) in searchable Portable Document Format (PDF) and one (1) in Microsoft Word (MSWord) Format, to the EXECUTIVE ADMINISTRATOR no later than the TECHNICAL MEMORANDUM DEADLINE.

1. CONTRACTOR will populate TWDB's state flood planning database with associated data, prior to submission of the TECHNICAL MEMORANDUM in accordance with this CONTRACT. TWDB will not accept a TECHNICAL MEMORANDUM or consider it administratively complete until the associated data in TWDB's state flood planning data submittal is complete and accurate, and the required summary tables are included in the TECHNICAL MEMORANDUM in accordance with this CONTRACT.
2. The TECHNICAL MEMORANDUM DEADLINE may be extended at the discretion of the EXECUTIVE ADMINISTRATOR either on the EXECUTIVE ADMINISTRATOR's initiative or upon a written request received from CONTRACTOR, at least thirty (30) days prior to the deadline, stating good cause for the extension.
3. After a 30-day review period, the EXECUTIVE ADMINISTRATOR will either accept or reject the TECHNICAL MEMORANDUM based on administrative completeness. If the TECHNICAL MEMORANDUM is rejected, the rejection letter sent to CONTRACTOR will state the reasons for rejection and the steps CONTRACTOR needs to take to have the TECHNICAL MEMORANDUM accepted.
4. In the event CONTRACTOR has produced a TECHNICAL MEMORANDUM that, despite CONTRACTOR'S best efforts, has not been authorized for submittal by the REGIONAL FLOOD PLANNING GROUP, CONTRACTOR must provide all data, material, reports, and work accomplished under the CONTRACT to TWDB.

- E. CONTRACTOR or CONTRACTOR's representative (e.g., Subcontractor) must attend at least one state flood planning data submittal training session provided by TWDB staff at times and locations to be determined by TWDB.
- F. DRAFT FLOOD MANAGEMENT EVALUATION LIST. CONTRACTOR must submit a list of FMEs that were identified and recommended but not performed. The list must include those FMEs that the RFPG would like the TWDB to perform. Subject to Executive Administrator approval and TWDB financial and other resources, the Executive Administrator may perform the FMEs on behalf of the RFPG based on the list provided.
- G. DRAFT REGIONAL FLOOD PLAN. CONTRACTOR must complete the DRAFT REGIONAL FLOOD PLAN according to Article II, Paragraph A of this Section. CONTRACTOR must submit the DRAFT REGIONAL FLOOD PLAN to the REGIONAL FLOOD PLANNING GROUP and allow the REGIONAL FLOOD PLANNING GROUP to conduct a public meeting in a central location in the FPR to receive and consider comments on the DRAFT REGIONAL FLOOD PLAN. CONTRACTOR must submit the DRAFT REGIONAL FLOOD PLAN to the EXECUTIVE ADMINISTRATOR after the REGIONAL FLOOD PLANNING GROUP authorizes such submittal.

The EXECUTIVE ADMINISTRATOR will provide any written comments to CONTRACTOR within 120 calendar days.

- (1) CONTRACTOR MUST provide the pertinent TWDB state flood planning dataset, including appropriate documentation and quality check, by February 26, 2027, in accordance with this CONTRACT.
- (2) The DRAFT REGIONAL FLOOD PLAN DEADLINE may be extended at the discretion of the EXECUTIVE ADMINISTRATOR either on their own initiative or upon a written request received from CONTRACTOR at least thirty (30) days prior to the deadline, stating good cause for the extension.
- (3) CONTRACTOR must include a copy of the EXECUTIVE ADMINISTRATOR'S comments on the DRAFT REGIONAL FLOOD PLAN in the adopted REGIONAL FLOOD PLAN, with a summary of all other comments received on the DRAFT REGIONAL FLOOD PLAN, including written explanations of how the REGIONAL FLOOD PLAN was revised in response to comments or why changes recommended in a comment were not warranted.
- (4) CONTRACTOR will deliver two electronic copies of a DRAFT REGIONAL FLOOD PLAN, to the EXECUTIVE ADMINISTRATOR no later than the DRAFT REGIONAL FLOOD PLAN DEADLINE. CONTRACTOR must submit:
 - one (1) electronic copy of all files on which the plan is based (e.g. spreadsheets, maps);
 - two (2) electronic copies of the entire REGIONAL FLOOD PLAN, one (1) in searchable Portable Document Format (PDF) and one (1) in Microsoft Word (MSWord) Format.

- In compliance with Texas Administrative Code Chapters 206 and 213 (related to Accessibility and Usability of State Web Sites, Web Content Accessibility Guidelines (WCAG) 2.0 Level AA Standard – Web Content Accessibility Guidelines (WCAG) 2.1 Level AA Standard – WCAG 2.1 Quick Reference can be found at: <https://www.w3.org/WAI/WCAG21/quickref/>.
 - Complying with this clause will require demonstrated proof of compliance utilizing TWDB's checklists. For the deliverable in .pdf format, use the checklist and verification form found at https://www.twdb.texas.gov/about/contract_admin/doc/Accessibility-Checklist-and-Certification-with-Instructions.pdf to demonstrate compliance and submit the completed form with the deliverable. Acceptance of the final report(s) or other deliverable(s) is contingent upon compliance with this clause. The electronic copy of the REGIONAL FLOOD PLAN will comply with the requirements and standards specified in statute; and,
 - one (1) bound, double-sided copies of the REGIONAL FLOOD PLAN to the EXECUTIVE ADMINISTRATOR no later than the REGIONAL FLOOD PLAN DEADLINE.
- H. REGIONAL FLOOD PLAN. CONTRACTOR must make corrections, updates, or modifications, to the TWDB state flood planning dataset, as necessary, prior to REGIONAL FLOOD PLAN DEADLINE in accordance with this CONTRACT. TWDB will not accept a REGIONAL FLOOD PLAN or consider it administratively complete until the associated data in TWDB's state flood planning dataset is complete and accurate and the relevant flood planning data and maps are included in the REGIONAL FLOOD PLAN. CONTRACTOR also must transfer copies of all data and reports generated by the planning process and used in developing the REGIONAL FLOOD PLAN to the EXECUTIVE ADMINISTRATOR no later than the REGIONAL FLOOD PLAN DEADLINE. The REGIONAL FLOOD PLAN and the data collected and transmitted for the REGIONAL FLOOD PLAN must be prepared in the format and according to specifications prescribed in Flood Planning Guidance Documents contained in Exhibits C and D to this CONTRACT. In the event CONTRACTOR has produced a REGIONAL FLOOD PLAN, that despite CONTRACTOR'S best efforts has not been adopted by the REGIONAL FLOOD PLANNING GROUP, CONTRACTOR must provide all data, material, reports, and work accomplished under the CONTRACT to TWDB.
- (1) Delivery of a REGIONAL FLOOD PLAN that meets statutory and rule requirements and all associated data and reports generated through the planning process and used in developing the REGIONAL FLOOD PLAN. as determined by the EXECUTIVE ADMINISTRATOR on or before the REGIONAL FLOOD PLAN DEADLINE constitutes completion of the terms of this CONTRACT by CONTRACTOR.
 - (2) After a 90-day review period, the EXECUTIVE ADMINISTRATOR will either accept or reject the REGIONAL FLOOD PLAN. If the final plan is rejected, the rejection letter sent to CONTRACTOR will state the reasons for rejection and the steps CONTRACTOR must take to have the REGIONAL FLOOD PLAN accepted and the retainage released.

- I. ANNUAL AUDIT. During the term of this CONTRACT, TWDB reserves the right to request the CONTRACTOR to submit an annual audit of the general purpose financial statements prepared in accordance with generally accepted auditing standards by a certified public accountant or licensed public accountant. Audits must be submitted to TWDB no later than 120 days following the close of CONTRACTOR's fiscal year.
- J. FINANCIAL ACCOUNTING. CONTRACTOR and its subcontractors must maintain satisfactory financial accounting documents and records, including copies of invoices, receipts, time and attendance records, supporting salaries and wages, in accordance with generally accepted accounting principles for a term of three years after completion of this CONTRACT and must make them available for examination and audit by TWDB at any time upon 24 hours' notice from the EXECUTIVE ADMINISTRATOR or the EXECUTIVE ADMINISTRATOR's designee. Accounting by CONTRACTOR and its subcontractors must be in a manner consistent with generally accepted accounting principles.
- K. CONTRACTOR must provide information to an entity or person who is independent of CONTRACTOR and who is selected by the REGIONAL FLOOD PLANNING GROUP sufficient to allow that person or entity to routinely provide reports of expenses and use of planning funds to the REGIONAL FLOOD PLANNING GROUP. The person to whom the information is provided may be a member of the REGIONAL FLOOD PLANNING GROUP. CONTRACTOR must allow such person or entity full access to all records relating to this CONTRACT, including all financial records.

ARTICLE VI. COMPENSATION AND REIMBURSEMENT

- A. PAYMENT REQUEST SUBMISSION. CONTRACTOR must provide written progress reports according to the PAYMENT REQUEST SUBMISSION SCHEDULE with each payment reimbursement request or release of advance funds. The progress reports must include:
 - (1) brief statement of the overall progress made since the last progress report for each task budget item;
 - (2) a brief description of any problems that have been encountered during the previous reporting period that may affect the study, delay the timely completion of any portion of this CONTRACT, or inhibit the completion of or cause a change in any of the study's products or objects; and
 - (3) a description of any action CONTRACTOR plans to take to correct any problems that have been encountered or identified.
- B. TWDB agrees to compensate and reimburse CONTRACTOR a total amount not to exceed the COMMITTED FUNDS for costs incurred and paid by CONTRACTOR pursuant to performance of this CONTRACT, as specified in Article I.
- C. Eligible expenses incurred by CONTRACTOR from the FIRST REIMBURSEABLE EXPENSE DATE through FINAL REIMBURSEABLE EXPENSE DATE will be eligible for

- reimbursement by TWDB. CONTRACTOR will be eligible for reimbursement only for the categories set forth in the budget for this CONTRACT. All requests for reimbursement must be accompanied by copies of invoices and receipts. TWDB will reimburse the actual expenses allowed herein during the term of the CONTRACT.
- D. Requests for advance or reimbursement for subcontractor expenses will only be considered where such subcontracts or agreements have been determined by the EXECUTIVE ADMINISTRATOR to be consistent with the terms of this CONTRACT. CONTRACTOR understands that CONTRACTOR should obtain its own legal review of subcontracts and agreements that CONTRACTOR enters into. CONTRACTOR must provide proof of work performed and incurred expenses by subcontractors prior to reimbursement by TWDB. CONTRACTOR is fully responsible for paying all charges by subcontractors.
- E. CONTRACTOR must adhere to all requirements in state law and TWDB rules pertaining to the procurement of professional services, including 31 TAC § 361.72(c). Prior to associated reimbursements, CONTRACTOR must submit a Certification of Procurement of Professional Services in accordance with Exhibit F to this CONTRACT, evidencing that the Region's subcontractors were properly and competitively procured for this planning cycle. Expenses incurred under subcontracts or agreements that have not been approved by the EXECUTIVE ADMINISTRATOR or do not otherwise comply with the terms of this CONTRACT are not eligible for reimbursement.
- F. At the sole discretion of the EXECUTIVE ADMINISTRATOR, CONTRACTOR may modify task and expense budget categories to the extent that the resulting change in amount in any one task or expense category does not exceed 35% of the total authorized amount by this CONTRACT for that task or category. Larger deviations require submission of a written request that is approved by the Regional Flood Planning Group and approved by the EXECUTIVE ADMINISTRATOR or designee that will be documented through an Approved Budget Memorandum to the TWDB CONTRACT file. CONTRACTOR will be required to provide written explanation for the overage and reallocation of the task and expense amount. Associated shifts in amounts between budget task and expense categories authorized under this paragraph will not change the COMMITTED FUNDS amount.
- G. Within thirty (30) days after the execution of this CONTRACT, the EXECUTIVE ADMINISTRATOR will advance to CONTRACTOR twenty percent of the COMMITTED FUNDS, unless CONTRACTOR requests and the EXECUTIVE ADMINISTRATOR approves advances of less than twenty percent.

- H. All advanced funds received must be deposited into an interest-bearing account by CONTRACTOR and proportionate share of the interest earned must be allocated to the grant to be used to reimburse the SUBCONTRACTOR(S).
- I. After CONTRACTOR has received the initial advance, the TWDB will then begin reimbursing the CONTRACTOR based on reimbursement request amounts, in addition to and aside from the initial twenty percent advance, so that after the first TWDB reimbursement is received by CONTRACTOR, CONTRACTOR will have retained the full amount of the initial advance funds to be available to pay its SUBCONTRACTOR prior to the CONTRACTOR'S second reimbursement request to the TWDB.
- J. The TWDB will reimburse CONTRACTOR up to 95 percent of the COMMITTED FUNDS available for costs incurred and paid by CONTRACTOR pursuant to performance of this CONTRACT. Once seventy-five percent of the contract amount has been reimbursed, aside from the initial twenty percent advance amount, the CONTRACTOR will then submit reimbursement requests that will apply to the twenty percent advance amount remaining. The five percent retainage will be withheld until CONTRACTOR submits a REGIONAL FLOOD PLAN, as described in Article III, Paragraphs G and H of this section. If the EXECUTIVE ADMINISTRATOR determines that CONTRACTOR has utilized its best efforts to have a FINAL REGIONAL FLOOD PLAN adopted by the REGIONAL FLOOD PLANNING GROUP for submittal to TWDB, but has been unable, despite those best efforts, to do so, the EXECUTIVE ADMINISTRATOR may release the five percent retainage solely within the EXECUTIVE ADMINISTRATOR'S discretion.
- K. CONTRACTOR must submit payment requests and documentation for reimbursement in accordance with the approved task and expense budgets contained in Exhibit B to this CONTRACT. For all reimbursement billings, including any subcontractor's expenses, the EXECUTIVE ADMINISTRATOR must have provided written approval of all CONTRACTS or agreements between CONTRACTOR and the subcontractor. CONTRACTOR is fully responsible for paying all charges by subcontractors prior to reimbursement by TWDB.
- M. The written progress report required by Article III, Paragraph C of this Section, and the following documentation which documents the COMMITTED FUNDS, must be submitted by CONTRACTOR to the EXECUTIVE ADMINISTRATOR in support of its requests for reimbursement. CONTRACTOR must submit a progress report and the following documentation which documents the COMMITTED FUNDS for the reporting period even if the COMMITTED FUNDS for the period is ZERO:
1. Completed and Signed Payment Request Checklist that includes the following:
 - (a) TWDB CONTRACT Number;
 - (b) Total expenses for the billing period; beginning (date) to ending (date);
 - (c) Total Services for this billing period;
 - (d) Total In-kind services;
 - (e) Less Local Share of the COMMITTED FUNDS for the billing period;

- (f) Total of TWDB's share of the COMMITTED FUNDS for the billing period;
 - (g) Amount of retainage to be withheld for the billing period;
 - (h) Total costs to be reimbursed by TWDB for the billing period; and
 - (i) Certification, signed by CONTRACTOR's authorized representative, that the expenses submitted for the billing period are a true and correct representation of amounts paid for work performed directly related to this CONTRACT.
2. For direct expenses incurred by CONTRACTOR other than subcontracted work:
- (a) A spreadsheet showing the tasks that were performed; the percent and cost of each task completed; a total cost figure for each direct expense category including labor, fringe, overhead, travel, and other expenses such as communication and postage, technical and computer services, expendable supplies, printing and reproduction; and
 - (b) Copies of invoices for other expenses
3. For direct expenses incurred by CONTRACTOR for subcontracted work:
- (a) Copies of invoices from the subcontractors to CONTRACTOR
 - (b) A spreadsheet showing the tasks that were performed; the percent and cost of each task completed; a total cost figure for each direct expense category including labor, fringe, overhead, travel, and other expenses such as communication and postage, technical and computer services, expendable supplies, printing and reproduction; and the total dollar amount due to the Subcontractor; and
 - (c) Copies of invoices for other expenses
4. For travel expenses for CONTRACTOR and/or subcontractor(s):
- (a) Names, dates, work locations, time periods at work locations, itemization of subsistence expenses of each employee, which will be reimbursed at rates authorized for state employees by the General Appropriations Act, Tex. Leg. Regular Session, 2013, Article IX, Part 5, as amended or superseded. Receipts required for lodging. Any eligible travel expenses related to a subcontract may be reimbursed at the current rate for State of Texas employees which can be found at: <https://fmx.cpa.state.tx.us/fmx/travel/texttravel/trans/personal.php>
 - (b) Copies of invoices or tickets for transportation costs or, if not available, names, dates, and points of travel of individuals; and
 - (c) All other reimbursable travel expenses -- invoices or purchase vouchers showing reason for expense with receipts to evidence the amount incurred.
5. Incomplete requests will be returned to CONTRACTOR if deficiencies are not resolved within ten (10) business days.
6. If the reimbursement request cannot be processed due to the need for an amendment to the CONTRACT, CONTRACTOR will be required to resubmit the Payment Request Checklist dated after the execution of the amendment.
- N. In accordance with Section I, Article I, CONTRACTOR will provide a final reconciliation of expended amounts under the CONTRACT. Within thirty (30) days of

the EXECUTIVE ADMINISTRATOR'S final accounting of the amounts expended by CONTRACTOR and the amounts reimbursed by TWDB to CONTRACTOR, the EXECUTIVE ADMINISTRATOR will reimburse the difference provided the reimbursement does not exceed the COMMITTED FUNDS.

ARTICLE VII. INTELLECTUAL PROPERTY: OWNERSHIP, PUBLICATION, AND ACKNOWLEDGEMENT

- A. "Use" of a work product, whether a Contractor Work, a Subcontractor Work or otherwise, means and includes, without limitation, any lawful use, copying or dissemination of the work product, or any lawful development, use, copying or dissemination of derivative works of the work product, in any media or forms, whether now known or later existing.
- B. "No Compensation Obligation" means there is no obligation on the part of one co-owner or licensee of a work, whether a Contractor Work, a Subcontractor Work or otherwise, to compensate other co-owners, licensees or licensors of the work for any use of the work by the using co-owner or licensee, including but not limited to compensation for or in the form of: royalties; co-owner or licensee accounting; sharing of revenues or profits among co-owners, licensees or licensors; or any other form of compensation to the other co-owners, licensees or licensors on account of any use of the work.
- C. "Dissemination" includes, without limitation, any and all manner of: physical distribution; publication; broadcast; electronic transmission; Internet streaming; posting on the Internet or world wide web; or any other form of communication, transmission, distribution, sending or providing, in any forms or formats, and in or using any media, whether now known or later existing.
- D. TWDB has an unlimited, unrestricted, perpetual, irrevocable, non-exclusive royalty-free right to access and receive in usable form and format, and to use all technical or other data or information developed by CONTRACTOR and SUBCONTRACTOR in, or otherwise resulting from, the performance of services under this CONTRACT.
- E. For purposes of this Article, "Contractor Works" are work products developed by CONTRACTOR and Subcontractor(s) using funds provided under this CONTRACT or otherwise rendered in or related to the performance in whole or in part of this CONTRACT, including but not limited to reports, drafts of reports, or other material, data, drawings, studies, analyses, notes, plans, computer programs and codes, or other work products, whether final or intermediate.
 - 1. It is agreed that all Contractor Works will be the joint property of TWDB and CONTRACTOR.
 - 2. The parties hereby agree that, if recognized as such by applicable law, the Contractor Works are intended to and will be works-made-for-hire with joint ownership between TWDB and CONTRACTOR as such works are created in whole or in part.

3. If the Contractor Works do not qualify as works-made-for-hire under applicable law, CONTRACTOR hereby conveys co-ownership interest in such works to TWDB as they are created in whole or in part. If present conveyance is ineffective under applicable law, CONTRACTOR agrees to convey a co-ownership interest in the Contractor Works to TWDB after creation in whole or in part of such works, and to provide written documentation of such conveyance upon request by TWDB.
 4. TWDB and CONTRACTOR acknowledge that the copyright in and to a copyrightable Contractor Work exists upon creation of the Contractor Work and its fixing in any tangible medium. CONTRACTOR or TWDB may register the copyrights to such Works jointly in the names of CONTRACTOR and TWDB.
 5. TWDB and CONTRACTOR each have full and unrestricted rights to use a Contractor Work with No Compensation Obligation.
- F. For purposes of this Article, “Subcontractor Works” include all work product developed in whole or in part by or on behalf of Subcontractors engaged by CONTRACTOR to perform work for or on behalf of CONTRACTOR under this CONTRACT (or by the Subcontractor’s Subcontractors hereunder, and so on). CONTRACTOR must secure in writing from any Subcontractors so engaged:
1. unlimited, unrestricted, perpetual, irrevocable, royalty-free rights of TWDB (and, if desired, of CONTRACTOR) to access and receive, and to use, any and all technical or other data or information developed in or resulting from the performance of services under such engagement, with No Compensation Obligation; and either:
 2. assignment by the Subcontractor to TWDB (and, if desired by them, jointly to CONTRACTOR) of ownership (or joint ownership with CONTRACTOR) of all Subcontractor Works, with No Compensation Obligation; or
 3. grant by Subcontractor of a non-exclusive, unrestricted, unlimited, perpetual, irrevocable, world-wide, royalty-free license to TWDB (and, if desired by them, CONTRACTOR) to use any and all Subcontractor Works, including the right to sublicense use to third parties, with No Compensation Obligation.
- G. No unauthorized patents. Contractor Works and Subcontractor Works or other work product developed or created in the performance of this CONTRACT or otherwise using funds provided hereunder will not be patented by CONTRACTOR or their Subcontractor(s) unless the Executive Administrator consents in writing to submission of an application for patent on such works; and provided that, unless otherwise agreed in writing:
1. any application made for patent must include and name TWDB (and, as applicable and desired by them, both CONTRACTOR and the Subcontractor) as co-owners of the patented work;
 2. no patent granted will in any way limit, or be used by CONTRACTOR or Subcontractor to limit or bar TWDB’s rights hereunder to access and receive in useable form and format, and right to use, any and all technical or other data

- or information developed in or resulting from performance pursuant to this CONTRACT or Subcontract or the use of funds provided hereunder; and
3. TWDB (and, if applicable, CONTRACTOR) will have No Compensation Obligation to any other co-owners or licensees of any such patented work.
- H. CONTRACTOR must include terms and conditions in all CONTRACTS or other engagement agreements with any Subcontractors as are necessary to secure these rights and protections for TWDB; and must require that their Subcontractors include similar such terms and conditions in any CONTRACTS or other engagements with their Subcontractors. For the purposes of this section, "Subcontractors" includes independent contractors (including consultants) and also employees working outside the course and scope of employment.
- I. Any work products subject to a TWDB copyright or joint copyright and produced or developed by CONTRACTOR or their Subcontractor pursuant to this CONTRACT or Subcontract or using any funding provided by TWDB may be reproduced in any media, forms or formats by TWDB or CONTRACTOR at their own cost, and be disseminated in any medium, format or form by any party at its sole cost and in its sole discretion. CONTRACTOR may utilize such work products as they may deem appropriate, including Dissemination of such work products or parts thereof under their own name, provided that any TWDB copyright is noted on the materials.
- J. CONTRACTOR agrees to acknowledge TWDB in any news releases or other publications relating to the work performed under this CONTRACT.

ARTICLE VIII. SUBCONTRACTS

- A. Requests for advance or reimbursement for subcontractor expenses will only be considered where such subcontracts or agreements have been determined by the EXECUTIVE ADMINISTRATOR to be consistent with the terms of this CONTRACT. The purpose of this review is solely to ensure that the subcontracts and agreements are consistent with this CONTRACT and that the rights of TWDB, particularly in regard to ownership of data, are protected. CONTRACTOR understands that CONTRACTOR should obtain its own legal review of subcontracts and agreements that CONTRACTOR enters into. CONTRACTOR agrees that TWDB assumes no legal obligations under its subcontracts or agreements and is merely a third-party beneficiary of the same.
- B. CONTRACTOR must provide a Certification of Procurement of Professional Services, attached as Exhibit F, to the EXECUTIVE ADMINISTRATOR. CONTRACTOR must also provide a list of all subcontractors. Exhibit F and the list of all subcontractors may be updated periodically to maintain accuracy.
- C. The subcontracts and agreements must provide that in the event of any conflict with the provisions of this CONTRACT the provisions of this CONTRACT will prevail.

D. Each Subcontract entered into to perform required work under this CONTRACT must contain the following information and provisions:

- (1) A clause stating the following: “Subcontractor agrees and acknowledges that it is subject to all applicable requirements of the master contract between (Name of Contractor) and the Texas Water Development Board, TWDB Contract No. xxxxxxxxxxx. Subcontractor adopts by reference the requirements of Article VIII, Section 11, of TWDB Contract No. xxxxxxxxxxx for this Subcontract.”
- (2) **Contract Dates** – There should be a starting date and expiration date for work under the Subcontract.
- (3) **Contract Amount** – The subcontract should list the total dollar value.
- (4) **Terms of Reimbursement** – Subcontracts must be cost reimbursable. Lump sum agreements are not permitted for services. Please also note that TWDB does not reimburse “handling costs” (mark-ups) on any expenses. Any eligible travel expenses related to a subcontract may be reimbursed at the current rate for State of Texas employees which can be found at: <https://fm.xcpa.texas.gov/fmx/travel/texttravel/>
- (5) **Scope of Work** – The terms of the scope of work must be consistent with the scope of the CONTRACT and Exhibit A.
- (6) **Task Budget and Expense Budget**– as appropriate. The Task Budget and Expense Budget must be provided in a format similar to Exhibit B of this CONTRACT, with specific cost details for each task or specific item of work to be performed by the subcontractor and for each category of reimbursable expenses.
- (7) **Signatures** – Each subcontract must be executed appropriately by signature, by each party to the agreement.
- (8) **State Auditor’s Right to Audit** - 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.
- (9) **Financial Records:** SUBCONTRACTOR(s) and any contracted parties must maintain satisfactory financial accounting documents and records, including copies of invoices and receipts, and must make them available for examination and audit by the EXECUTIVE ADMINISTRATOR of TWDB. Accounting by the SUBCONTRACTOR(s) and

any contracted parties must be in a manner consistent with generally accepted accounting principles

(10) Excess Obligations Prohibited/No Debt Against the State: This SUBCONTRACT and Agreement shall not be construed as creating any debt by or on behalf of the State of Texas and the TWDB, and all obligations of the State of Texas are subject to the availability of funds. To the extent the performance of this SUBCONTRACT transcends the biennium in which this SUBCONTRACT is entered into, this SUBCONTRACT is specifically contingent upon the continued authority of the TWDB and appropriations therefore.

(11) License, Permits, and Insurance: For the purpose of this CONTRACT, the SUBCONTRACTOR(s) will be considered an independent CONTRACTOR and therefore solely responsible for liability resulting from negligent acts or omissions. SUBCONTRACTOR(s) must obtain all necessary insurance, in the judgment of the SUBCONTRACTOR(s), to protect itself, CONTRACTOR, TWDB, and employees and officials of TWDB from liability arising out of this CONTRACT. SUBCONTRACTOR(s) must indemnify and hold TWDB and the State of Texas harmless, to the extent the SUBCONTRACTOR(s) may do so in accordance with state law, from any and all losses, damages, liability, or claims therefore, on account of personal injury, death, or property damage of any nature whatsoever caused by the SUBCONTRACTOR(s), arising out of the activities under this CONTRACT. SUBCONTRACTOR(s) must be solely and entirely responsible for procuring all necessary licenses and permits which may be required for the SUBCONTRACTOR(s) to perform the subject work.

(12) Ownership: It is agreed that all reports, drafts of reports, or other material, data, drawings, computer programs and codes associated with this CONTRACT and developed by the (Name of SUBCONTRACTOR) pursuant to this CONTRACT will become the joint property of the REGIONAL FLOOD PLANNING GROUP, (Name of CONTRACTOR), (Name of SUBCONTRACTOR), and the Texas Water Development Board. These materials must not be copyrighted or patented by the (Name of SUBCONTRACTOR). (Name of SUBCONTRACTOR) agrees that neither the Regional Flood Planning Group nor the Texas Water Development Board are parties to this CONTRACT and agrees that that these entities have no liability under the terms of this CONTRACT. The Texas Water Development Board is solely a third-party beneficiary under this CONTRACT.

(13) Compliance with TWDB rules and state law: The SUBCONTRACTOR(s) must comply with TWDB rules and adhere to all requirements in state law pertaining to the procurement of professional services.

(14) Subaward Monitoring: CONTRACTOR represents and warrant that it will monitor the activities of any subrecipient as necessary to ensure that subawards are used for authorized purposes, in compliance with applicable statutes, regulations, and the terms and conditions of the subaward, and that subaward performance goals are achieved.

ARTICLE IX. AMENDMENT, TERMINATION, AND STOP ORDERS

- A. This CONTRACT may be altered or amended by mutual written consent or terminated by the EXECUTIVE ADMINISTRATOR at any time by written notice to CONTRACTOR. The EXECUTIVE ADMINISTRATOR may terminate this CONTRACT if the REGIONAL FLOOD PLANNING GROUP withdraws its designation of CONTRACTOR as the CONTRACT representative of the REGIONAL FLOOD PLANNING GROUP. Upon receipt of such termination notice, CONTRACTOR must, unless the notice directs otherwise, immediately discontinue all work in connection with the performance of this CONTRACT and cancel all existing orders insofar as such orders are chargeable to this CONTRACT. CONTRACTOR must submit a statement showing in detail the work performed under this CONTRACT up to the date of termination. TWDB, at its discretion, will pay CONTRACTOR for the work, actually performed under this CONTRACT, less all payments that have been previously made and any approved by the EXECUTIVE ADMINISTRATOR to conclude the CONTRACT. Thereupon, copies of all work accomplished under this CONTRACT must be delivered promptly to TWDB.
- B. Any request to amend the CONTRACT Scope of Work (Exhibit A) must be submitted in writing by CONTRACTOR to TWDB following approval by the REGIONAL FLOOD PLANNING GROUP [31 TAC § 361.12(a)(5)].
- C. The EXECUTIVE ADMINISTRATOR may issue a Stop Work Order to CONTRACTOR at any time. Upon receipt of such order, CONTRACTOR must discontinue all work and cancel all orders under to this CONTRACT, unless the Stop Work Order directs otherwise. If the EXECUTIVE ADMINISTRATOR does not issue a Restart Order within 60 days after receipt by CONTRACTOR of the Stop Work Order, this CONTRACT terminated in accordance with the foregoing provisions.

ARTICLE X. LICENSES, PERMIT, AND INSURANCE

- A. For the purpose of this CONTRACT, CONTRACTOR will be considered an independent contractor and therefore solely responsible for liability resulting from negligent acts or omissions.
- B. CONTRACTOR will be solely and entirely responsible for procuring all necessary licenses and permits which may be required for CONTRACTOR to perform the subject work.

ARTICLE XI. SEVERANCE PROVISION

Should any one or more provisions of this CONTRACT be held to be null, void, voidable, or for any reason whatsoever of no force and effect, such provision(s) will be construed as severable from the remainder of this CONTRACT and will not affect the validity of all other provisions of this CONTRACT, which will remain of full force and effect.

ARTICLE XII. GENERAL TERMS AND CONDITIONS

1. GENERAL TERMS

- A. **Disaster Recovery Plan.** Upon request of TWDB, CONTRACTOR must provide descriptions or copies of its business continuity and disaster recovery plans.
- B. **Dispute Resolution.** The dispute resolution process provided for in Texas Government Code Chapter 2260 must be used to attempt to resolve any dispute arising under this CONTRACT.
- C. **Excess Obligations Prohibited/No Debt Against the State.** This Contract is subject to termination or cancellation without penalty to TWDB, either in whole or in part, subject to the availability of state funds.
- D. **False Statements.** If CONTRACTOR signs its application with a false statement or it is subsequently determined that CONTRACTOR has violated any of the representations, guarantees, warranties, certifications or affirmations included in its application, CONTRACTOR will be in default under the CONTRACT and TWDB may terminate or void the CONTRACT.
- E. **Force Majeure.** Neither CONTRACTOR nor TWDB will be liable to the other for any delay in or failure of performance of any requirement contained in this CONTRACT caused by force majeure. The existence of such causes of delay or failure will extend the period of performance until after the causes of delay or failure have been removed, provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.
- F. **Governing Law and Venue.** This CONTRACT is 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 this CONTRACT is fixed in any court of competent jurisdiction in Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to TWDB.
- G. **Indemnification.** CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND TWDB, 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 CONTRACTOR 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 MUST BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT, AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. CONTRACTOR AND TWDB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. ALTERNATE LANGUAGE FOR CITIES, COUNTIES AND ENTITIES THAT CANNOT INDEMNIFY:

Liability. CONTRACTOR agrees to be fully responsible for its negligent acts or omissions or tortious acts. Nothing herein will be construed as consent by the State of Texas, TWDB or any state agency or entity as consent to be sued in any matter arising out of this CONTRACT.

- H. **Public Information Act.** CONTRACTOR understands that TWDB will comply with the Texas Public Information Act, Texas Government Code Chapter 552, as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation and other material in connection with this CONTRACT may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Texas Government Code § 2252.907, CONTRACTOR is required to make any information created or exchanged with the State pursuant to this 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.
- I. **State Auditor's Right to Audit.** 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.
- J. **Uniform Grant Management Standards.** CONTRACTOR is required to follow the Texas Comptroller of Public Account's Uniform Grant Management Standards in accordance with Chapter 783 of the Texas Government Code, as applicable.
- K. **No Waiver of Sovereign Immunity.** The Parties expressly agree that no provision of the grant or contract is in any way intended to constitute a waiver

by TWDB or the State of Texas of any immunities from suit or from liability that TWDB or the State of Texas may have by operation of law.

- L. **Records Retention.** CONTRACTOR must maintain and retain all records relating to the performance of the grant, including supporting fiscal documents adequate to ensure that claims for grant funds are in accordance with applicable State of Texas requirements. These records must be maintained and retained by CONTRACTOR for a period of four (4) years after the grant expiration date or until all audit, claim, and litigation matters are resolved, whichever is later. TWDB reserves the right to direct CONTRACTOR to retain documents for a longer period of time or transfer certain records to TWDB custody when it is determined the records possess longer term retention value. CONTRACTOR must include the substance of this clause in all subawards and subcontracts.

2. STANDARDS OF PERFORMANCE

- A. **Personnel.** CONTRACTOR must assign only qualified personnel to perform the services required under this CONTRACT. CONTRACTOR is responsible for ensuring that any Subcontractor utilized also assigns only qualified personnel. Qualified personnel are persons who are properly licensed to perform the work and who have sufficient knowledge, skill and ability to perform the tasks and services required herein according to the standards of performance and care for their trade or profession.
- B. **Professional Standards.** CONTRACTOR must provide the services and deliverables in accordance with applicable professional standards. CONTRACTOR represents and warrants that it is authorized to acquire Subcontractors with the requisite qualifications, experience, personnel and other resources to perform in the manner required by this CONTRACT.
- C. **Procurement Laws.** CONTRACTOR must comply with applicable State of Texas procurement laws, rules and policies, including but not limited to competitive bidding and the Professional Services Procurement Act, Texas Government Code, Chapter 2254, relating to contracting with persons whose services are within the scope of practice of: accountants, architects, landscape architects, land surveyors, medical doctors, optometrists, professional engineers, real estate appraisers, professional nurses, and certified public accountants.
- D. **Independent Contractor.** Both parties hereto, in the performance of this CONTRACT, act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party will not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.

- E. **Proprietary and Confidential Information.** CONTRACTOR warrants and represents that any information that is proprietary or confidential and is received by CONTRACTOR from TWDB or any governmental entity will not be disclosed to third parties without the written consent of TWDB or applicable governmental entity, whose consent will not be unreasonably withheld.
- F. **Contract Administration.** TWDB will designate a project manager for this CONTRACT. The project manager will serve as the point of contact between TWDB and CONTRACTOR. TWDB's project manager will supervise TWDB's review of CONTRACTOR's technical work, deliverables, draft reports, the FINAL REPORT, payment requests, schedules, financial and budget administration, and similar matters. The project manager does not have any express or implied authority to vary the terms of the CONTRACT, amend the CONTRACT in any way or waive strict performance of the terms or conditions of the CONTRACT.
- G. **Nepotism.** CONTRACTOR must comply with Texas Government Code Chapter 573 by ensuring that no officer, employee or member of CONTRACTOR's governing body votes or confirm the employment of any person related within the second degree of affinity or the third degree of consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise such person. This prohibition does not prohibit the employment of a person who has been continuously employed for a period of two years prior to the election or appointment of the officer, employee or governing body member related to such person in the prohibited degree.
- H. **Open Meetings.** CONTRACTOR must comply with Texas Government Code Chapter 551, which requires all regular, special or called meetings of governmental bodies to be open to the public, except as otherwise provided by law.

3. AFFIRMATIONS AND CERTIFICATIONS

- A. **Antitrust Affirmation.** CONTRACTOR represents and warrants that, in accordance with Texas Government Code § 2155.005, neither CONTRACTOR nor any firm, corporation, partnership, or institution represented by CONTRACTOR, 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 & Commerce Code, or the federal antitrust laws; or (2) communicated directly or indirectly the contents of the proposal resulting in this CONTRACT to any competitor or any other person engaged in the same line of business as CONTRACTOR.
- B. **Child Support Obligation Affirmation.** Under Texas Family Code § 231.006, CONTRACTOR certifies that the individual or business entity named in this CONTRACT 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.

- C. **Dealings With Public Servants.** Pursuant to Texas Government Code § 2155.003, CONTRACTOR 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 goods or services being supplied.
- D. **Debts and Delinquencies Affirmation.** CONTRACTOR agrees that any payments due under the CONTRACT will be applied towards any debt or delinquency that is owed to the State of Texas.
- E. **E-Verify Program.** CONTRACTOR certifies that for contracts for services, CONTRACTOR will utilize the U.S. Department of Homeland Security’s E-Verify system during the term of the CONTRACT to determine the eligibility of: 1) all persons employed by CONTRACTOR to perform duties within Texas; and 2) all persons, including Subcontractors, assigned by CONTRACTOR to perform work pursuant to the CONTRACT within the United States of America.
- F. **Entities that Boycott Israel.** Pursuant to Texas Government Code § 2271.002, CONTRACTOR certifies that either (i) it meets one of the exemption criteria under § 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. CONTRACTOR must state any facts that make it exempt from the boycott certification.
- G. **Excluded Parties.** CONTRACTOR certifies that it is not listed on the federal government’s terrorism watch list as described in Executive Order 13224.
- H. **Executive Head of a State Agency Affirmation.** In accordance with Texas Government Code § 669.003, relating to contracting with the executive head of a state agency, CONTRACTOR certifies that it is not: 1) the executive head of TWDB; 2) a person who at any time during the four years before the date of this CONTRACT was the executive head of TWDB; or 3) a person who employs a current or former executive head of TWDB.

If Section 669.003 applies, CONTRACTOR must provide the following information:

Name of Former Executive: _____
 Name of State Agency: _____
 Date of Separation from State Agency: _____
 Position with Contractor: _____
 Date of Employment with Contractor: _____

- I. **Financial Participation Prohibited.** Pursuant to Texas Government Code § 2155.004(a), CONTRACTOR certifies that neither CONTRACTOR nor any person or entity represented by CONTRACTOR has received compensation

from TWDB or any agency of the State of Texas for participation in the preparation of the specifications or solicitation on which this CONTRACT is based. Under Texas Government Code § 2155.004(b), CONTRACTOR 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.

- J. **Foreign Terrorist Organizations.** CONTRACTOR represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Texas Government Code § 2252.152.
- K. **Human Trafficking Prohibition.** Under Texas Government Code § 2155.0061, CONTRACTOR 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.
- L. **Lobbying Prohibition.** CONTRACTOR represents and warrants that TWDB's payments to CONTRACTOR and CONTRACTOR's receipt of appropriated or other funds under the contract are not prohibited by Texas Government Code §§ 556.005 or 556.0055, related to the prohibition on payment of state funds to a lobbyist or for lobbying activities.
- M. **No Conflict of Interest.** CONTRACTOR represents and warrants that the provision of goods and services or other performance under this CONTRACT will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety. CONTRACTOR also represents and warrants that, during the term of this CONTRACT, CONTRACTOR will immediately notify TWDB, in writing, of any existing or potential conflict of interest relative to the performance of the CONTRACT.
- N. **Prior Disaster Relief Declaration.** Texas Government Code §§ 2155.006 and 2261.053 prohibit state agencies from accepting a 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 Texas Government Code § 418.004, occurring after September 24, 2005. Under Texas Government Code §§ 2155.006 and 2261.053, CONTRACTOR 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.
- O. **Suspension and Debarment.** Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration.

- P. **Enforcement of Certain Federal Laws Regulating Firearms, Firearm Accessories, and Firearm Ammunition.** CONTRACTOR certifies that it is not prohibited from receiving state funds under Texas Penal Code § 1.10(d) (related to federal laws regulating firearms, firearm accessories, and firearm ammunition). CONTRACTOR also agrees that, during the term of this CONTRACT, CONTRACTOR will immediately notify TWDB, in writing, of any suit against it by the Attorney General of Texas under Texas Penal Code § 1.10(f).

THE FOLLOWING CLAUSE APPLIES TO CONTRACTS FOR STATE GRANT FUNDS GIVEN TO CITIES AND COUNTIES:

Enforcement of Public Camping Bans. CONTRACTOR certifies that it is not prohibited from receiving state grant funds under Texas Local Government Code § 364.004 (related to public camping bans). CONTRACTOR also agrees that, during the term of this CONTRACT, CONTRACTOR will immediately notify TWDB, in writing, of any suit against it by the Attorney General of Texas under Texas Local Government Code § 354.003.

THE FOLLOWING CLAUSE APPLIES TO CONTRACTS FOR STATE GRANT FUNDS GIVEN TO STATE AGENCIES (INCLUDING UNIVERSITY SYSTEMS OR SYSTEMS OF HIGHER EDUCATION), CITIES, COUNTIES AND SPECIAL DISTRICTS AND AUTHORITIES (not defined):

Firearm Suppressor Regulation. CONTRACTOR certifies that it is not prohibited from receiving state grant funds under Texas Government Code § 2.103 (related to the regulation of firearm suppressors). CONTRACTOR also agrees that, during the term of this CONTRACT, CONTRACTOR will immediately notify TWDB, in writing, of any suit against it by the Attorney General of Texas under Texas Government Code § 2.104.

Legal Authority. CONTRACTOR represents that it possesses legal authority to apply for the grant. A resolution, motion or similar action has been duly adopted or passed as an official act of CONTRACTOR's governing body, authorizing the filing of the application or response, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative, or the designee of CONTRACTOR to act in connection with the application or response and to provide such additional information as may be required.

Political Polling Prohibition. CONTRACTOR represents and warrants that it does not perform political polling and acknowledges that appropriated funds may not be granted to, or expended by, any entity which performs political polling.

APPLICABLE TO GRANT AGREEMENTS/CONTRACTS FOR CONSULTING SERVICES:

Disclosure of Prior State Employment. In accordance with Texas Government Code § 2254.033, relating to consulting services, CONTRACTOR certifies that it does not employ an individual who has been employed by TWDB or another agency at any time during the two

years preceding the submission of its bid or response, or, in the alternative, CONTRACTOR has disclosed in its bid or response the following: (i) the nature of the previous employment with TWDB or another 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.

APPLICABLE TO GRANT AGREEMENTS/CONTRACTS FOR CONSULTING SERVICES:

Former Agency Employees. CONTRACTOR 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 TWDB during the twelve (12) month period immediately prior to the date of execution of this CONTRACT.

APPLICABLE TO GRANT AGREEMENTS/CONTRACTS FINANCED FROM APPROPRIATE FUNDS. (Note: The term “unit of local government” is defined in General Appropriations Act, Art IX, § 4.04 (2020-2021 Biennium) to be: (1) a council of governments, a region planning commission, or a similar regional planning agency created under Chapter 391 of the Local Government Code; (2) a local workforce development board; or (3) a community center as defined by Health and Safety Code § 534.001(b).

Limitations on Grants to Units of Local Government. CONTRACTOR acknowledges and agrees that appropriated funds may not be expended in the form of a grant to, or contract with, a unit of local government unless the terms of the grant or contract require that the funds received under the grant or contract will be expended subject to the limitations and reporting requirements similar to those provided by the following:

- Texas General Appropriations Act, Art. IX, Parts 2 and 3, except there is no requirement for increased salaries for local government employees;
- Texas Government Code §§ 556.004-556.006; and
- Texas Government Code §§ 2113.012 and 2113.101.

ARTICLE XIII. CORRESPONDENCE

All correspondence between the parties must be made to the following addresses:

For TWDB:

For CONTRACTOR:

Contract Issues:

Texas Water Development Board
Attention: Regional Flood Planner
P.O. Box 13231
Austin, Texas 78711-3231
Email: FloodPlanning@twdb.texas.gov

Contract Issues:

Name
Company
Address
City, State ZIP
Email:

Payment Request Submission:

Texas Water Development Board
Attention: Accounts Payable
P.O. Box 13231
Austin, Texas 78711-3231
Email: invoice@twdb.texas.gov

Payment Request Submission:

Name
Company
Address
City, State ZIP
Email:

Physical Address:

Stephen F. Austin Building
1700 N. Congress Avenue, 6th Floor
Austin, Texas 78701

Physical Address:

Building Name
Street Address
City, State ZIP

IN WITNESS WHEREOF, the parties have caused this CONTRACT to be duly executed.

TEXAS WATER DEVELOPMENT BOARD

CONTRACTOR

Jeff Walker
Executive Administrator

NAME
TITLE

Date: _____

Date: _____