

**AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES ON
A DEFINED SCOPE OF SERVICES BASIS**

This Agreement for Professional Engineering Services, hereinafter called "Agreement," is entered into by the **Ark-Tex Council of Governments** a **political subdivision** of the State of **Texas**, hereinafter referred to as "Client", duly authorized to act by the **Regional Flood Planning District** of said Client, and **HALFF ASSOCIATES, INC.**, a Texas corporation, acting through a duly authorized officer, herein called "Engineer," relative to Engineer providing professional engineering services to the Client. Client and Engineer when mentioned collectively shall be referred to as the "Parties".

WITNESSETH:

WHEREAS, Client assumed administrative responsibilities for the Region 2 Regional Flood Planning Group (R2RFPG) in October of 2020, at the request of that group and subsequent approval of the ATCOG's Board of Directors on May 27, 2021; and

WHEREAS, the R2RFPG has designated Client as its representative to enter into a grant contract with the Texas Water Development Board (TWDB) for financial assistance to develop the 2023 Regional Flood Plan for the R2RFPG; and

WHEREAS, the TWDB approved Client's application for grant funding on November 19, 2020; and

WHEREAS, the TWDB and Client executed a grant contract, effective October 26, 2020, which provides funding for Client's performance of the scope of work associated with development of the 2023 Regional Flood Plan for the R2RFPG (Project) (TWDB contract No. 2101792501); and

WHEREAS, Client desires to obtain professional services in connection with the Project; and

WHEREAS, the Engineer represents that it is qualified and capable of performing the services proposed herein, is acceptable to Client, and is willing to enter into an Agreement with Client to perform such services; and

WHEREAS, on April 1, 2021, the R2RFPG selected Engineer as the Engineer for the Project,

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, Client and Engineer agree as follows:

I. Definition and Exhibits.

- A. Contract:** the Contract between the TWDB and Client, effective October 26, 2020 pursuant to its terms, and all attachments associated with the Contract, the whole being attached hereto as Exhibit A, and the definitions (Article 1) of which Contract are incorporated by reference into this Agreement as if set forth in full herein; and
- B. Project Documents:** all documents, reports, studies, and other material in any form prepared by the Engineer pursuant to this Agreement.

The following documents are attached hereto and are referenced throughout:

Exhibit A – Contract between the TWDB and Client, effective October 26, 2020, as the same may be amended;

Exhibit B – Scope of Basic Services, as the same may be amended;

Exhibit C – Task and Expense Budgets for services performed by Engineer hereunder, as the same may be amended; and

Exhibit D – Hourly Billing Rates of Engineer

II. Term of Agreement.

- A. Term of Agreement.** This Agreement shall become effective on May ____, 2021 and expires on June 30, 2023.
- B. Agreement Initiation Date** This agreement was initiated on April 2, 2021, the day after selection by the Regional Flood

III. Services to be Performed by Engineer. Engineer shall provide to the Client basic engineering services as described in the scope of services attachment and fully incorporated herein as “**Exhibit B**” which services may include, but will not be limited to, those services normally rendered by an engineer to a political subdivision. Engineer shall perform its obligations under this agreement as an independent contractor and not as an agent or fiduciary of any other party.

IV. Compensation. The maximum fee for this Agreement is \$834,400.00. Client agrees to pay monthly invoices or their undisputed portions within 60 days of receipt. Payment later than 60 days shall include interest at 1 percent (1%) per month or lesser maximum enforceable interest rate, from the date the Client received the invoice until the date Engineer receives payment. Such interest is due and payable when the overdue payment is made. With the exception of, a five (5%) percent retainage that will be withheld until Client submits a Regional Flood Plan to the TWDB and payment is approved and paid.

Time-related charges will be billed as specified in this Agreement. Unless stated otherwise in this Agreement, direct expenses, subcontracted services and direct costs will be billed at actual cost. Mileage will be billed at current IRS rates.

The first day that work performed under this AGREEMENT is eligible for reimbursement will be the AGREEMENT INITIATION DATE for work and expenses associated with Exhibit B, Basic Services Scope of Work.

V. Client's Obligations. The Client agrees that it will (i) designate a specific person to act as the Client's representative, (ii) provide Engineer with any previous studies, reports, data, budget constraints, special Client requirements, or other pertinent information known to the Client, when necessitated by a project, (iii) Client agrees to provide site access, and to provide those services described in the attached Scope of Services assist Engineer in obtaining access to property necessary for performance of Engineer's work for the Client, (iv) make prompt payments in response to Engineer's statements and (v) respond in a timely fashion to requests from Engineer. Engineer is entitled to rely upon and use, without independent verification and without liability, all information and services provided by the Client or the Client's representatives.

VI. Termination of Work. Either the Client or the Engineer may terminate this Agreement at any time with or without cause upon giving the other Party ten (10) calendar days' prior written notice. Client agrees that termination of Engineer for Client's convenience shall only be utilized in good faith and shall not be utilized if either the purpose or the result of such termination is the performance of all or part of Engineer's services under this Agreement by Client or by another service provider. Following Engineer's receipt of such termination notice the Client shall, within ten (10) calendar days of Client's receipt of Engineer's final invoice, pay the Engineer for all services rendered and all costs incurred up to the date of Engineer's receipt of such notice of termination.

VII. Ownership of Documents. Upon Engineer's completion of services and receipt of payment in full, Engineer shall grant to Client a non-exclusive license to possess the final drawings and instruments produced in connection with Engineer's performance of the work under this Agreement, if any. Said drawings and instruments may be copied, duplicated, reproduced and used by Client for the purpose of constructing, operating and maintaining the improvements. Client agrees that such documents are not intended or represented to be suitable for reuse by Client or others for purposes outside the Scope of Services of this Agreement. Notwithstanding the foregoing, Client understands and agrees that any and all computer programs, GIS applications, proprietary data or processes, and certain other items related to the services performable under this Agreement are and shall remain the sole and exclusive property of Engineer and may not be used or reused, in any form, by Client without the express written authorization of Engineer. Client agrees that any reuse by Client, or by those who obtain said information from or through Client, without written verification or adaptation by Engineer, will be at Client's sole risk and without liability or legal exposure to Engineer or to Engineer's employees, agents, representatives, officers, directors, affiliates, shareholders, owners, members, managers, attorneys, subsidiary entities, advisors, subconsultants or independent contractors or associates. Engineer may reuse all drawings, reports, data and other information developed in performing the services described by this Agreement in Engineer's other activities. Furthermore, The TWDB shall have unlimited rights to technical or other data resulting directly from the performance of services under this Agreement. It is agreed that all reports, drafts of reports, or other material, data, drawings, computer programs and codes associated with this Agreement and developed by the Engineer(s) or its contracted parties pursuant to this Agreement shall become the joint property of the Engineer(s) and the TWDB. These materials shall not be copyrighted or patented by the Engineer(s) or by any consultants involved in this Agreement unless the EXECUTIVE ADMINISTRATOR of the TWDB approves in writing the right to establish copyright or patent; provided, however, that copyrighting or patenting by the Engineer(s) or its Subcontractors will in no way limit the TWDB 's access to or right to request and receive or distribute data and information obtained or developed pursuant to this Agreement. Any material subject to a TWDB copyright and produced by the Engineer(s) or TWDB pursuant to this Agreement may be printed by the Engineer(s) or the TWDB at their own cost and distributed by either at their discretion. The Engineer(s) may otherwise utilize such material provided under this Agreement as it deems necessary and appropriate, including the right to publish and distribute the materials or any parts thereof under its own name, provided that any TWDB copyright is appropriately noted on the printed materials.

The Engineer(s) and its contracted parties agree to acknowledge the TWDB in any news releases or other publications relating to the work performed under this Agreement.

VIII. Notices. Any notices to be given hereunder by either party to the other may be affected either by personal delivery, in

writing, or by registered or certified mail.

IX. Sole Parties and Entire Agreement. This Agreement shall not create any rights or benefits to anyone except the Client and Engineer and contains the entire agreement between the parties. For the purpose of this Agreement, the Engineer will be considered an independent Engineer and therefore solely responsible for liability resulting from negligent acts or omissions. Oral modifications to this Agreement shall have no force or effect.

X. Insurance. The Engineer shall obtain all necessary insurance, in the judgment of the Engineer, to protect themselves, the Client, the TWDB, and employees and officials of the TWDB from liability arising out of this Agreement. Engineer shall, at its own expense, purchase, maintain and keep in force throughout the duration of this Agreement and for a period of four (4) years thereafter, professional liability insurance. The limits of liability shall be \$1,000,000 per claim and in the aggregate. Engineer shall submit to the Client a certificate of insurance prior to commencing any work for the Client.

XI. Prompt Performance by Engineer. All services provided by Engineer hereunder shall be performed in accordance with the degree of care and skill ordinarily exercised under similar circumstances by competent members of the engineering profession in the State of **Texas** applicable to such engineering services contemplated by this Agreement.

XII. Client Objection to Personnel. If at any time after entering into this Agreement, the Client has any reasonable objection to any of Engineer's personnel, or any personnel, professionals and/or consultants retained by Engineer, Engineer shall promptly propose substitutes to whom the Client has no reasonable objection, and Engineer's compensation shall be equitably adjusted to reflect any difference in Engineer's costs occasioned by such substitution.

XIII. Assignment and Delegation. Neither the Client nor Engineer may assign their rights or delegate their duties without the written consent of the other party. This Agreement is binding on the Client and Engineer to the fullest extent permitted by law. Nothing herein is to be construed as creating any personal liability on the part of any Client officer, employee or agent.

XIV. Jurisdiction and Venue. This Agreement shall be administered under the substantive laws of the State of **Texas** (and not its conflicts of law principles) which shall be used to govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation, its validity, interpretation, construction, performance and enforcement. Exclusive venue shall lie in any court of competent jurisdiction in **Bowie County, Texas**.

XV. Integration, Merger and Severability. This Agreement and the Scope of Services, including fee and schedule are fully incorporated herein and represent the entire understanding of Client and Engineer. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The Agreement may not be modified or altered except in writing signed by both Parties. This Agreement constitutes, represents and is intended by the Parties to be the complete and final statement and expression of all of the terms and arrangements between the Parties to this Agreement with respect to the matters provided for in this Agreement. This Agreement supersedes any and all prior or contemporaneous agreements, understandings, negotiations, and discussions between the Parties and all such matters are merged into this Agreement. Should any one or more of the provisions contained in this Agreement be determined by a court of competent jurisdiction or by legislative pronouncement to be void, invalid, illegal, or unenforceable in any respect, such voiding, invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be considered as if the entirety of such void, invalid, illegal, or unenforceable provision had never been contained in this Agreement.

XVI. Exclusivity of Remedies. The Parties acknowledge and agree that the remedies set forth in this Agreement (Agreed Remedies) are and shall remain the Parties' sole and exclusive remedy with respect to any claim arising from, or out of, or related to, the subject matter of this Agreement. The Parties agree that Engineer is to have no liability or responsibility whatsoever to Client for any claim(s) or loss(es) of any nature, except as set forth in this Agreement. No Party shall be able to avoid the limitations expressly set forth in this Agreement by electing to pursue some other remedy.

XVII. Timeliness of Performance. Engineer shall perform its professional services with due and reasonable diligence consistent with sound professional practices and in accordance with the agreed upon schedule incorporated herein in "**Exhibit A**".

XVIII. Dispute Resolution. In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to schedule a series of no less than two meetings of senior personnel of Client and Engineer in which the disagreement or conflict will be discussed. The first of such meetings will be scheduled as soon as possible following identification of such disagreement or conflict and the second meeting must occur within thirty (30) days following the initial meeting. Subsequent meetings, if any may be scheduled upon mutual agreement of the parties. The parties agree that these two meetings are conditions precedent to the institution of legal proceedings unless such meetings will adversely affect the rights of one or more of the parties as such rights relate to statutes of limitation or repose.

XIX. PROJECT ENHANCEMENT/BETTERMENT. IF A COMPONENT OF THE CLIENT'S PROJECT IS OMITTED FROM THE ENGINEER'S

CONTRACT DOCUMENTS DUE TO THE BREACH OF CONTRACT OR NEGLIGENCE OF THE ENGINEER, THE ENGINEER WILL NOT BE LIABLE TO THE CLIENT TO THE EXTENT OF ANY BETTERMENT OR ADDED VALUE TO THE PROJECT. SPECIFICALLY, THE CLIENT WILL BE RESPONSIBLE FOR THE AMOUNT IT WOULD HAVE PAID TO THE CONSTRUCTION CONTRACTOR (OR SUPPLIER OR SUBCONTRACTOR OR OTHER) FOR THE COMPONENT AS IF SUCH HAD BEEN INCLUDED IN THE ENGINEER'S CONTRACT DOCUMENTS. NOTWITHSTANDING THE FOREGOING, THE ENGINEER WILL BE RESPONSIBLE, TO THE EXTENT REASONABLE AND NECESSARY TO PLACE CLIENT IN THE SAME POSITION IT WOULD HAVE BEEN BUT FOR SUCH BREACH OR NEGLIGENCE, FOR THE REASONABLE (I) RETROFIT EXPENSE, (II) WASTE, OR (II) INTERVENING INCREASE IN THE COST OF THE COMPONENT FURNISHED THROUGH A CHANGE ORDER FROM THE CONTRACTOR. TO THE EXTENT THAT CONTRACTOR PROVIDED UNIT PRICING THE CLIENT UNDERSTANDS AND AGREES THAT THE ISSUE OF INTERVENING UNIT COST INCREASES WOULD ONLY BE APPLICABLE TO NEWLY IDENTIFIED ITEMS, NOT INCREASES IN QUANTITY OF EXISTING ITEMS.

IF IT IS NECESSARY TO REPLACE A COMPONENT OF THE PROJECT DUE TO THE BREACH OF CONTRACT OR NEGLIGENCE OF THE ENGINEER, THE ENGINEER WILL NOT BE LIABLE TO THE CLIENT FOR THE ENHANCEMENT OR UPGRADE OF THE COMPONENT BEYOND THAT ORIGINALLY INCLUDED IN THE CONTRACT DOCUMENTS. IN ADDITION, IF THE COMPONENT HAS AN IDENTIFIABLE USEFUL LIFE THAT IS LESS THAN THE SYSTEM/STRUCTURE/IMPROVEMENT ITSELF, THE DAMAGES OF THE OWNER SHALL BE REDUCED TO THE EXTENT THAT THE USEFUL LIFE OF THE COMPONENT WILL BE EXTENDED BY THE REPLACEMENT THEREOF.

XX. AGREED REMEDIES

A. IT IS THE INTENT OF THE PARTIES TO THIS AGREEMENT THAT ENGINEER'S SERVICES UNDER THIS AGREEMENT SHALL NOT SUBJECT ENGINEER'S INDIVIDUAL EMPLOYEES, OFFICERS OR DIRECTORS TO ANY PERSONAL LEGAL EXPOSURE FOR CLAIMS AND RISKS ASSOCIATED WITH THE SERVICES PERFORMED OR PERFORMABLE UNDER THIS AGREEMENT.

B. IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO BOTH THE CLIENT AND THE ENGINEER AND ACKNOWLEDGING THAT THE ALLOCATION OF RISKS AND LIMITATIONS OF REMEDIES ARE BUSINESS UNDERSTANDINGS BETWEEN THE PARTIES AND THESE RISKS AND REMEDIES SHALL APPLY TO ALL POSSIBLE LEGAL THEORIES OF RECOVERY. CLIENT FURTHER AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT OR ANY REFERENCE TO INSURANCE OR THE EXISTENCE OF APPLICABLE INSURANCE COVERAGE, THAT THE TOTAL LIABILITY, IN THE AGGREGATE, OF THE ENGINEER AND ENGINEER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS TO THE CLIENT OR TO ANYONE CLAIMING BY, THROUGH OR UNDER THE CLIENT, FOR ANY AND ALL CLAIMS, LOSSES, COSTS OR DAMAGES WHATSOEVER ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATED TO, THE SERVICES UNDER THIS AGREEMENT FROM ANY CAUSE OR CAUSES OF THE ENGINEER OR THE ENGINEER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS, SHALL NOT EXCEED THE ENGINEER'S FEE RECEIVED FOR THE SERVICES PERFORMED UNDER THIS AGREEMENT OR \$1,000,000, WHICHEVER IS GREATER. INCREASED LIMITS MAY BE NEGOTIATED FOR ADDITIONAL FEE.

C. NOTWITHSTANDING ANY OTHER PROVISION OF THE AGREEMENT, ENGINEER SHALL HAVE NO LIABILITY TO THE CLIENT FOR CONTINGENT, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, REVENUE OR PROFIT; OPERATING COSTS AND FACILITY DOWNTIME; OR OTHER SIMILAR BUSINESS INTERRUPTION LOSSES, HOWEVER, THE SAME MAY BE CAUSED.

D. CLIENT MAY NOT ASSERT ANY CLAIM AGAINST ENGINEER AFTER THE SHORTER OF (1) 3 YEARS FROM SUBSTANTIAL COMPLETION OF SERVICES GIVING RISE TO THE CLAIM, OR (2) THE STATUTE OF LIMITATION PROVIDED BY LAW.

XXI. State Auditor. By executing this Agreement, the Engineer accepts the authority of the State Auditor's Office, under direction of the legislative audit committee, to conduct audits and investigations in connection with any and all state funds received pursuant to this contract. The Engineer shall comply with and cooperate in any such investigation or audit. The Engineer agrees to provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit. The Engineer also agrees to include a provision in any subcontract related to this contract that requires the Engineer to submit to audits and investigation by the State Auditor's Office in connection with any and all state funds received pursuant to the subcontract.

XXII. Financial Record. The Engineer and its contracted parties shall maintain satisfactory financial accounting documents and records, including copies of invoices and receipts, and shall make them available for examination and audit by the EXECUTIVE ADMINISTRATOR of the TWDB. Accounting by the Engineer and its contracted parties shall be in a manner consistent with generally accepted accounting principles.

XXIII. No Debt Against the State. This 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 Agreement transcends the biennium in which this Agreement is entered into, this Agreement is specifically contingent upon the continued authority of the TWDB and appropriations, therefore.

XIV. Licenses, Permit. The Engineer shall be solely and entirely responsible for procuring all appropriate licenses and permits, which may be required by any competent authority for the Engineer to perform the subject work. The Engineer shall comply with BOARD rules

and adhere to all requirements in state law pertaining to the procurement of professional services. The Engineer shall indemnify and hold the TWDB and the State of Texas harmless, to the extent the Engineer 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 Engineer, arising out of the activities under this Agreement.

XXV. Regional Flood Planning Additional Requirements. 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 Engineer pursuant to this Agreement shall become the joint property of the REGIONAL FLOOD PLANNING GROUP, Engineer and the Texas Water Development Board. These materials shall not be copyrighted or patented by the Engineer, Engineer 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.

XXVI. Wavier. Any failure by Engineer to require strict compliance with any provision of this Agreement shall not be construed as a waiver of such provision, and Engineer may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.

XXVII. Signatories. The Client and Engineer mutually warrant and represent that the representation of each who is executing this Agreement on behalf of the Client or Engineer, respectively, has full authority to execute this Agreement and bind the entity so represented.

IN WITNESS WHEREOF, the parties, having read and understood this Agreement, have executed such in duplicate copies, each of which shall have full dignity and force as an original, on the ____ day of _____, 20__.

HALFF ASSOCIATES, INC.

CLIENT: ARK-TEX COUNCIL OF GOVERNMENTS, TEXAS

By: _____
Signature

Printed Name

Title

Date

By: _____
Signature

Printed Name

Title

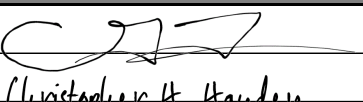

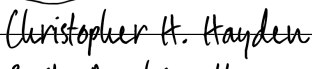

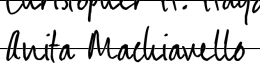
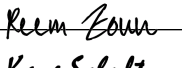
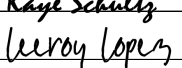




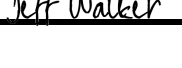
Date

TEXAS WATER DEVELOPMENT BOARD
CONTRACT INITIATION FORM

TWDB Contact Information			
Contract Manager		Anita Machiavello	
Office/Division/Section		WSI/Flood Planning/Regional Flood Planning	
Phone Number		512-463-5158	
Contract Information and Funds Expiration			
Contract No.	2101792501	Grant	Yes
Payable	X	Receivable	
Contract Dates			
Board Approval Date (N/A if no date)		Start Date	Expiration Date
11/19/20		10/26/20	06/30/23
Amendments: Original Execution			Original Expiration
Contractor Information			
Proposal Number		5161	
Vendor ID # (aka: Tax Payer ID#)		75-1293383	
Vendor Name		Ark-Tex Council of Governments	
Street Address		4808 Elizabeth Street	
City, State, Zip		Texarkana, TX, 75503	
Telephone Number		903-832-8636	
Vendor Contract Mgr/Email Address		Chris Brown / cbrown@atcog.org	
Signer of Contract/Email Address		Chris Brown / cbrown@atcog.org	
Anticipated Budget			
Contractor Share of Costs		\$ -	
TWDB Share of Costs		\$ 910,400.00	
Receivable Share of Costs		\$ -	
Total Contract Costs		\$ 910,400.00	
CONTRACT ADMINISTRATION Vendor Status			
Please Initial each Item			
CW	USAS (PYADDR/PYHOLD)		
CW	Franchise Tax Search		
CW	SAM Check	Expiration Date: 11/29/2021	
CW	Debarred Vendor List		
CW	Boycott Israel		
CW	Ties to Sudan/Iran/Foreign Terrorist Organizations/Designated Foreign Terrorist Org		
N/A	W-9 Received (new contractor only-if applicable)		

Requested Action	X	New Contract
		Amendment
		Amendment No. (if applicable)
Payable/Receivable Contract Relationship		
Payable or Receivable TWDB Contract Number(s) that this Contract is related to:		
External Contract No.		
CFDA No.		
List of Counties for Study Area (Enter names, statewide, or non specific). If statewide, community count = 254		
Bowie, Camp, Cass, Cooke, Delta, Fannin, Franklin, Grayson, Gregg, Harrison, Hopkins, Hunt, Lamar, Marion, Morris, Panola, Red River, Titus, Upshur, Wood		
Retainage for Contract		
Retainage %	5%	
Special Instructions	The five percent retainage will be withheld until Contractor submits a regional flood plan, as described by the contract	
Detailed Description of Contract		
These funds are allocated to the Ark-Tex Council of Governments in its role as Planning Group Sponsor for the Region 2 Lower Red-Sulphur-Cypress RFPG to develop its regional flood plan.		
Detailed Description of Amendment		
N/A		
Best Value Standard - Procurement Method (X method used)		
Method	X	Announcement/Publication
RFQ/RFP/RFA/RFO	X	580-21-RFA-0010
Interagency/Local		
Purchase		
Receivable Grant		
PCC CODE - For Finance Review		9 Exempt
If no PCC Code, DocType will be 9 and a legal cite is required.		
Legal Cite: Tx Govt Code 771		

BUDGET USE ONLY

TWDB SHARE										
FUND (4-XXXX)	COBJ (4-XXXX)	MOF (3-XXX)	DEPT (4-XXXX)	PCA (5-XXXXX)	Work # (6-XXXXXX)	AY 2019	AY 2020	AY 2021	Total	Funds Expire
0179	7613	89	L750	36276	FL2601	\$ -	\$ -	\$ 910,400.00	\$ 910,400.00	N/A
						\$ -	\$ -	\$ -	\$ -	
						\$ -	\$ -	\$ -	\$ -	
						\$ -	\$ -	\$ -	\$ -	
						\$ -	\$ -	\$ -	\$ -	
Total						\$ -	\$ -	\$ 910,400.00	\$ 910,400.00	
RECEIVABLE SHARE										
FUND (4-XXXX)	COBJ (4-XXXX)	MOF (3-XXX)	DEPT (4-XXXX)	PCA (5-XXXXX)	Work # (6-XXXXXX)	AY 2019	AY 2020	AY 2021	Total	Funds Expire
						\$ -	\$ -	\$ -	\$ -	
						\$ -	\$ -	\$ -	\$ -	
						\$ -	\$ -	\$ -	\$ -	
						\$ -	\$ -	\$ -	\$ -	
						\$ -	\$ -	\$ -	\$ -	
Total						\$ -	\$ -	\$ -	\$ -	
Contract Total						\$ -	\$ -	\$ 910,400.00	\$ 910,400.00	
APPROVAL SIGNATURES and CONFIRMATION OF COMPLIANCE WITH AGENCY POLICY & THE STATE OF TEXAS CONTRACT MANAGEMENT GUIDE										
By signing this form, you are certifying that this contract packet and its contents meet with your approval										
Contract Approval		Printed Name				Signature			Date	
Contract Administration		Cameron Turner							3/26/2021	
Budget Officer		Chris Hayden	Joseph Monyer						3/26/2021	
Contract Manager		Anita Machiavello	James Bronikowski						3/26/2021	
Division Director		Reem Zoun							3/26/2021	
Legal Counsel		Kaye Schultz							3/29/2021	
Accounting/Finance		LeeRoy Lopez	Letty Molina:	LM	EE: 				3/29/2021	
Deputy Executive Administrator		Jessica Zuba							3/30/2021	
Executive Administrator or Designee		Jeff Walker	Amanda Lavin:						4/1/2021	

NEW CONTRACT☒ **PAYABLE**☐ **RECEIVABLE****CONTRACT AMOUNT \$** 910,400.00**BOARD APPROVAL DATE (IF APPLICABLE)** 11/19/2020

Contract No. 2101792501		CONTRACTOR Ark-Tex Council of Governments	DATE AND INITIAL
Procurement & Contract Services Martha Jasse _____ Contract Specialist		<input checked="" type="checkbox"/> Assign contract number; Enter contract information into CAS and Worklog; Assignment Date <u>3/4/2021</u> <input checked="" type="checkbox"/> Obtain Budget Coding from Budget Officer for CIF <input checked="" type="checkbox"/> Request TWDB Vendor Set-Up & Direct Deposit Form from Contractor (need VID for CIF) <input checked="" type="checkbox"/> Prepare Draft contract, CIF, and Letter (if applicable)	MJ 3/5/2021
PCS Approval <input checked="" type="checkbox"/> Cameron Turner Jared Basurto Jenny Kim		Do FFATA, HB 1295 or IT Requirements apply? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Manager/Director , Contracting and Purchasing reviews and approves	ct 3/12/21
<input type="checkbox"/> Kaye Schultz		Contract Attorney reviews and approves Comments: Comments and minor edits in track changes	KS 3/17/21
<input type="checkbox"/> Anita Machiavello		Contract Manager reviews and approves Provide contractor e-mail information for signatory and others who require a copy of the executed contract <small>EMAIL ADDRESSES:</small> Copy: cbrown@atcog.org Sign: cbrown@atcog.org	AM 3/15
<input type="checkbox"/> James Bronikowski		Program Manager reviews and approves	JB 3/17/21
<input type="checkbox"/> Glenn Jennings <input type="checkbox"/> Shanna Packer <input checked="" type="checkbox"/> Joseph Monyer <input type="checkbox"/> Loren Sammon		Budget Officer verifies Fund, Object of Expense, MOF, Department Code, PCA, Work Number, and Fiscal Year information CIF data validated.	jcm 03/18/21
<input checked="" type="checkbox"/> Chris Hayden		Review Budget Entry CHH 3.23.21	CHH 3/23/21
<input type="checkbox"/> April Weiss (Receivable) <input checked="" type="checkbox"/> Eldrisha Eubanks (Payable) <input checked="" type="checkbox"/> Letty Molina		Review and Comment if needed	3/15/21 EE
<input type="checkbox"/> Larry French <input type="checkbox"/> Carla Guthrie <input type="checkbox"/> Kevin Kluge <input type="checkbox"/> Temple McKinnon <input type="checkbox"/> Darrell Thompson	<input type="checkbox"/> Saul Nuccitelli <input type="checkbox"/> Clay Schultz <input type="checkbox"/> Mark Wyatt <input checked="" type="checkbox"/> Reem Zoun	Division Director reviews and approves	RZ 03/18/21
<input type="checkbox"/> Ashley Harden <input type="checkbox"/> Edna Jackson <input type="checkbox"/> John Dupnik	<input type="checkbox"/> Rebecca Trevino <input type="checkbox"/> Richard Wade <input checked="" type="checkbox"/> Jessica Zuba	Deputy Executive Administrator/CFO reviews, approves, and signs transmittal letter (<i>if delegated; < \$25,000</i>)	jz 03/21/20 21
PCS Martha Jasse _____ Contract Specialist		<input type="checkbox"/> Verify/Accept internal review comments <input type="checkbox"/> Upload executed contract into CAS <input type="checkbox"/> Update all pertinent fields in CAS <input type="checkbox"/> Update Worklog <input type="checkbox"/> Move files to Active Contracts Folder	

By signing this form, you are certifying that this packet and its contents meet with your approval



STATE OF TEXAS

TWDB Contract No. 2101792501

COUNTY OF TRAVIS

Floodplain Management Account

REGIONAL FLOOD PLANNING

THIS Contract, (hereinafter "CONTRACT"), between the Texas Water Development Board (hereinafter "TWDB") and Ark-Tex Council of Governments, the political subdivision designated by the REGIONAL FLOOD PLANNING GROUP as its representative (hereinafter "CONTRACTOR"), is composed of two parts: Section I - Specific Conditions and Exceptions to the Standard Agreement; and Section II - Standard Agreement. In the event of any conflict, the terms and conditions set forth in Section I will prevail over terms and conditions in Section II.

SECTION I. SPECIFIC CONDITIONS AND EXCEPTIONS TO STANDARD AGREEMENT

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 19, 2020
- C. COMMITTED FUNDS – \$910,400.00 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 EXECUTION DATE, and certain eligible costs related to Task 10 incurred on or after the CONTRACT INITIATION DATE.
- D. CONTRACT INITIATION DATE – October 26, 2020
- E. CONTRACTOR – Ark-Tex Council of Governments
- F. DEADLINE FOR CONTRACT EXECUTION – April 15, 2021
- G. EXECUTIVE ADMINISTRATOR – the Executive Administrator of TWDB or a designated representative.
- H. 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).

- I. TECHNICAL MEMORANDUM DEADLINE – January 7, 2022
- J. 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.
- K. DRAFT REGIONAL FLOOD PLAN DEADLINE – August 1, 2022
- L. 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.
- M. FINAL REGIONAL FLOOD PLAN DEADLINE – January 10, 2023
- N. FIRST REIMBURSEABLE EXPENSE DATE – The first day that work performed under this CONTRACT is eligible for reimbursement will be the CONTRACT INITIATION DATE for limited administrative costs associated with public notices. TWDB will not reimburse expenses associated with Exhibit A, Scope of Work, until after CONTRACT EXECUTION DATE.
- O. FINAL REIMBURSEABLE EXPENSE DATE – The last day that work performed under this CONTRACT is eligible for reimbursement will be June 30, 2023.
- P. CONTRACT EXPIRATION DATE – This CONTRACT expires on June 30, 2023. The last day that any budget amendment requests may be submitted under the CONTRACT will be May 1, 2023.
- Q. FINAL PAYMENT REQUEST DEADLINE – The latest day that the final payment request may be submitted for reimbursement will be September 30, 2023.
- R. FLOOD PLANNING REGION – Region 2 Lower Red-Sulphur-Cypress designated under Texas Water Code § 16.062(a)(1) and 31 Texas Administrative Code § 361.11.
- S. REGIONAL FLOOD PLANNING GROUP – Region 2 Lower Red-Sulphur-Cypress 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.
- T. 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 collect, analyze, and disseminate regional and statewide flood planning data.

- U. PAYMENT REQUEST SUBMISSION SCHEDULE – A minimum of quarterly.
- V. CONTRACT EXECUTION DATE– The date CONTRACT is signed by the EXECUTIVE ADMINISTRATOR as shown on the last page of this CONTRACT document.

ARTICLE II. OTHER SPECIAL 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.

SECTION II. STANDARD AGREEMENT

ARTICLE I. 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 acting as administrator of TWDB's planning grant and 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 II. PROJECT DESCRIPTION AND SERVICES TO BE PERFORMED

- A. CONTRACTOR must 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 must 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 management strategies and flood mitigation projects to be evaluated as part of the REGIONAL FLOOD PLAN development.

ARTICLE III. SCHEDULE, REPORTS, AND OTHER PRODUCTS

- 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. 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;
 2. a brief description of any problems that have been encountered during the previous reporting period that may affect the study, delay the timely

¹ 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 RFPs must utilize the latest version posted on the website until July 31, 2021.

- 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. 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, if the REGIONAL FLOOD PLANNING GROUP authorizes such submittal. 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.

CONTRACTOR must populate TWDB's state flood planning database with associated data, prior to submission of the TECHNICAL MEMORANDUM in accordance with this CONTRACT.

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.

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.

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.

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. 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 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 REGIONAL FLOOD PLANNING GROUP may submit the DRAFT REGIONAL FLOOD PLAN prior to the required public meeting but must assure the EXECUTIVE ADMINISTRATOR that the meeting will be completed in time to meet the FINAL REGIONAL FLOOD PLAN DEADLINE for submission of an APPROVED REGIONAL FLOOD PLAN. CONTRACTOR must deliver two electronic copies of a DRAFT REGIONAL FLOOD PLAN, one (1) in searchable Portable Document Format (PDF) and one (1) in Microsoft Word (MSWord) Format, to the EXECUTIVE ADMINISTRATOR no later than the DRAFT REGIONAL FLOOD PLAN DEADLINE. The EXECUTIVE ADMINISTRATOR will provide any written comments to CONTRACTOR within 120 calendar days.

CONTRACTOR must provide the pertinent TWDB state flood planning dataset, including appropriate documentation and quality check, by DRAFT REGIONAL FLOOD PLAN DEADLINE, in accordance with this CONTRACT. CONTRACTOR must incorporate the required online planning database reports from the state flood planning database within the submitted DRAFT REGIONAL FLOOD PLAN in accordance with this CONTRACT.

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.

- G. 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.

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) 2.1 Level AA Standard – WCAG 2.1 Quick Reference, which can be found at: <https://www.w3.org/WAI/WCAG21/quickref/>), the electronic copy of the REGIONAL FLOOD PLAN will comply with the requirements and standards specified in statute; and,

- five (5) bound, double-sided copies of the REGIONAL FLOOD PLAN to the EXECUTIVE ADMINISTRATOR no later than the FINAL REGIONAL FLOOD PLAN DEADLINE.
- H. CONTRACTOR must make corrections, updates, or modifications, to the TWDB state flood planning dataset, as necessary, prior to the FINAL 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 FINAL 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 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.
- I. Delivery of a REGIONAL FLOOD PLAN that meets statutory and rule requirements as determined by the EXECUTIVE ADMINISTRATOR on or before the FINAL REGIONAL FLOOD PLAN DEADLINE constitutes completion of the terms of this CONTRACT by CONTRACTOR.
- J. 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.
- K. ANNUAL AUDIT. During the term of this CONTRACT, TWDB will reserve 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.

ARTICLE IV. COMPENSATION AND REIMBURSEMENT

- A. TWDB agrees to compensate and reimburse CONTRACTOR in 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 Section I, Article I.
- B. Eligible expenses incurred by CONTRACTOR from the FIRST REIMBURSEABLE EXPENSE DATE through FINAL REIMBURSEABLE EXPENSE DATE will be reimbursed 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.

- C. Requests for Advance or Reimbursement for Subcontractor Expenses. 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. CONTRACTOR is fully responsible for paying all eligible charges by subcontractors prior to reimbursement by TWDB.

Each subcontract or agreement must include a task and expense budget estimate in a format similar to Exhibit B to 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. The subcontracts and agreements must conform to the terms of the CONTRACT and include provisions which require subcontractor compliance with TWDB rules. The subcontracts and agreements must provide that in the event of any conflict with the provisions of this CONTRACT the provisions of the CONTRACT will prevail. In addition, each subcontract or agreement that in any manner involves the collection or manipulation of data must include the provisions in Paragraph D of this Article below.

- D. 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.
- E. 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 which 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.

- F. 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.
- G. 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.

Method of Payment: Initial Advance followed by Reimbursement of Invoice

- H. 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.
- I. 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).
- J. After CONTRACTOR has received the initial advance, TWDB will begin reimbursing 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 CONTRACTOR's second reimbursement request to TWDB.
- K. 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, CONTRACTOR may 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 DRAFT 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.

- L. 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 eligible 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 which 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 SUBCONTRACTOR(S) 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(S); 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, 2019, 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://fm.xcpa.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 for some reason the reimbursement request cannot be processed due to the need for an amendment to the CONTRACT, CONTRACTOR must 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 V. 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 are 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 are 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 SUBCONTRACTOR(S) engaged by CONTRACTOR to perform work for or on behalf of CONTRACTOR under this

CONTRACT (or by the SUBCONTRACTOR'S SUBCONTRACTOR(S) hereunder, and so on). CONTRACTOR must secure in writing from any SUBCONTRACTOR(S) 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 mustnot 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(S)) 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) has 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 SUBCONTRACTOR(S) 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, "SUBCONTRACTOR(S)" 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(S) 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 VI. SUBCONTRACTS

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

- A. **Contract Dates** – There should be a starting date and ending date for work under the Subcontract.
- B. **Contract Amount** – The subcontract should list the total dollar value.
- C. **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://fmx.cpa.texas.gov/fmx/travel/texttravel/>
- D. **Scope of Work** – The terms of the scope of work must be consistent with the scope of the CONTRACT.
- E. **Task Budget** – as appropriate. The task budget must be consistent with the task budget specified in the TWDB CONTRACT.
- F. **Expense Budget** – as appropriate. The expense budget must be consistent with the expense budget specified in the TWDB CONTRACT.
- G. **Signatures** – Each subcontract must be executed appropriately by signature, by each party to the agreement.
- H. **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.

- I. **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.
- J. **Excess Obligations Prohibited/No Debt Against the State:** Any SUBCONTRACT is subject to termination or cancellation without penalty to TWDB, either in whole or in part, subject to the availability of state funds.
- K. **License, Permits, and Insurance:** For the purpose of this CONTRACT, SUBCONTRACTOR is an independent CONTRACTOR and therefore solely responsible for liability resulting from negligent acts or omissions. SUBCONTRACTOR must obtain all necessary insurance, in the judgment of SUBCONTRACTOR, to protect itself, CONTRACTOR, TWDB, and employees and officials of TWDB from liability arising out of this SUBCONTRACT. SUBCONTRACTOR must indemnify and hold TWDB and the State of Texas harmless, to the extent the SUBCONTRACTOR 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, arising out of the activities under this SUBCONTRACT. SUBCONTRACTOR must be solely and entirely responsible for procuring all necessary licenses and permits which may be required for the SUBCONTRACTOR to perform the subject work.
- L. **Ownership:** It is agreed that all reports, drafts of reports, or other material, data, drawings, computer programs and codes associated with this SUBCONTRACT and developed by SUBCONTRACTOR) pursuant to this CONTRACT will become the joint property of the REGIONAL FLOOD PLANNING GROUP, CONTRACTOR, SUBCONTRACTOR, and the Texas Water Development Board. These materials must not be copyrighted or patented by the SUBCONTRACTOR. SUBCONTRACTOR agree that neither the Regional Flood Planning Group nor the Texas Water Development Board are parties to this SUBCONTRACT and agrees that that these entities have no liability under the terms of this SUBCONTRACT. The Texas Water Development Board is solely a third-party beneficiary under this SUBCONTRACT.
- M. **Compliance with TWDB rules and state law:** SUBCONTRACTOR must comply with TWDB rules and adhere to all requirements in state law pertaining to the procurement of professional services.

ARTICLE VII. 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 IX. LICENSES, PERMIT, AND INSURANCE

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

ARTICLE X. 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 XI. 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 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.

- 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.

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 § 2270.002, CONTRACTOR certifies that either (i) it meets one of the exemption criteria under § 2270.002; 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.

ARTICLE XII. CORRESPONDENCE

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

For **TWDB:**

Contract Issues:

Texas Water Development Board
Attention: Procurement & Contract
Services
P.O. Box 13231
Austin, Texas 78711-3231
Email: contracts@twdb.texas.gov

Payment Request Submission:

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

Physical Address:

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

For **ARK-TEX COUNCIL OF GOVERNMENTS:**

Contract Issues:

Chris Brown
Ark-Tex Council of Governments
4808 Elizabeth Street
Texarkana, TX 75503
Email: cbrown@atcog.org

Payment Request Submission:

Chris Brown
Ark-Tex Council of Governments
4808 Elizabeth Street
Texarkana, TX 75503
Email: cbrown@atcog.org

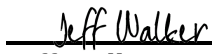
Physical Address:

Ark-Tex Council of Governments
4808 Elizabeth Street
Texarkana, TX 75503

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

TEXAS WATER DEVELOPMENT BOARD

ARK-TEX COUNCIL OF GOVERNMENTS



Jeff Walker
Executive Administrator



Chris Brown
Executive Director

Date: 4/1/2021

Date: 3/31/2021

Exhibit A

Scope of Work

March 2021

**First Cycle of Regional Flood Plan Development
(2020–2023)**

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Task 1 – Planning Area Description

In addition to generally meeting all applicable rules and statute requirements governing regional and state flood planning under 31 Texas Administrative Code (TAC) Chapters 361 and 362, this portion of work must, in particular, include all work necessary to meet all the requirements of 31 TAC §361.30, 361.31, and 361.32.

The objective of this task is to prepare a standalone chapter to be included in the 2023 Regional Flood Plan that describes the Flood Planning Region (FPR).

This Task includes, but is not limited to, performing all work in accordance with TWDB rules and guidance required to prepare a chapter that includes:

1. A brief, general descriptions of the following:
 - a. social and economic character of the region such as information on development, population, economic activity, and economic sectors most at risk of flood impacts;
 - b. the areas in the FPR that are flood-prone and the types of major flood risks to life and property in the region;
 - c. key historical flood events within the region including associated fatalities and loss of property;
 - d. political subdivisions with flood-related authority and whether they are currently actively engaged in flood planning, floodplain management, and flood mitigation activities;
 - e. the general extent of local regulation and development codes relevant to existing and future flood risk;
 - f. agricultural and natural resources most impacted by flooding; and
 - g. existing local and regional flood plans within the FPR.
2. A general description of the location, condition, and functionality of existing natural flood mitigation features and constructed major flood infrastructure within the FPR, including but not limited to:
 - a. rivers, tributaries, and functioning floodplains;
 - b. wetlands;
 - c. playa lakes;
 - d. sinkholes;
 - e. alluvial fans;
 - f. vegetated dunes;
 - g. levees;
 - h. sea barriers, walls, and revetments;
 - i. tidal barriers and gates;
 - j. stormwater tunnels;
 - k. stormwater canals;
 - l. dams that provide flood protection;
 - m. detention and retention ponds;
 - n. weirs;
 - o. storm drain systems; and
 - p. any other flood-related infrastructure within the FPR.

3. Include a tabulated list and GIS map of existing infrastructure.
4. Include an assessment of existing infrastructure.
5. Explain, in general, the reasons for non-functional or deficient natural flood mitigation features or major flood infrastructure being non-functional or deficient, provide a description of the condition and functionality of the feature or infrastructure and whether and when the natural flood feature or major flood infrastructure may become fully functional, and provide the name of the owner and operator of the major flood infrastructure.
6. A general description of the location, source of funding, and anticipated benefits of proposed or ongoing major infrastructure and flood mitigation projects in the FPR, including:
 - a. new structural flood mitigation projects currently under construction;
 - b. non-structural flood mitigation projects currently being implemented; and
 - c. structural and non-structural flood mitigation projects with dedicated funding to construct and the expected year of completion.
7. A review and summary of relevant existing planning documents in the region. Documents to be summarized include those referenced under 31 TAC §361.22.

The information gathered and developed in preparation of this chapter must be subject to the following review process prior to submission of any deliverables:

1. Review of the chapter documents and related information by RFPG members.
2. Modifications to the chapter document based on RFPG, public, and/or agency comments.
3. Submittal of chapter document to TWDB for review and approval.
4. All effort required to obtain final approval of the Regional Flood Plan chapter by TWDB.

Deliverables: A completed Chapter 1 describing the FPR, existing natural flood mitigation features, constructed major flood infrastructure, and major infrastructure and flood mitigation projects currently under development. A tabulated list and GIS map of existing infrastructure and their conditions. Any additional deliverables identified in the TWDB Flood Planning guidance documents.

Task 2A – Existing Condition Flood Risk Analyses

In addition to generally meeting all applicable rules and statute requirements governing regional and state flood planning under 31 TAC Chapters 361 and 362, this portion of work must, in particular, include all work necessary to meet all the requirements of 31 TAC §361.33.

The objective of this task is to prepare a chapter to be combined with Task 2B and included in the 2023 Regional Flood Plan that describes the existing and future condition flood risk in the FPR.

The RFPGs must perform existing condition flood risk analyses for the region comprising: (1) flood hazard analyses that determine the location, magnitude, and frequency of flooding; (2) flood exposure analyses to identify who and what might be harmed within the region; and (3) vulnerability analyses to identify vulnerabilities of communities and critical facilities.

The information developed must be used to assist the RFPG to establish priorities in subsequent planning tasks, to identify areas that need Flood Management Evaluations (FMEs), and to efficiently deploy its resources.

This Task includes, but is not limited to, performing all work in accordance with TWDB rules and guidance required to:

1. Perform existing condition flood hazard analyses to determine the location and magnitude of both 1% annual chance and 0.2% annual chance flood events as follows:
 - a. collect data and conduct analyses sufficient to characterize the existing conditions for the planning area;
 - b. identify areas within each FPR where hydrologic and hydraulic model results are already available and summarize the information;
 - c. utilize best available data, including hydrologic and hydraulic models for each area;
 - d. prepare a map showing areas identified by the RFPG as having an annual likelihood of inundation of more than 1% and 0.2%, the areal extent of this inundation, and the sources of flooding for each area; and
 - e. prepare a map showing gaps in inundation boundary mapping and identify known flood-prone areas based on location of hydrologic features, historic flooding and/or local knowledge.
2. Develop high-level, region-wide, and largely GIS-based existing condition flood exposure analyses using the information identified in the flood hazard analysis to identify who and what might be harmed within the region for, at a minimum, both 1% annual chance and 0.2% annual chance flood events as follows:
 - a. analyses of existing development within the existing condition floodplain and the associated flood hazard exposure;
 - b. for the floodplain as defined by FEMA or as defined by an alternative analysis if the FEMA-defined floodplain is not considered best available;
 - c. may include only those flood mitigation projects with dedicated construction funding and scheduled for completion prior to adoption of the next state flood plan.
 - d. must consider the population and property located in areas where existing levees or dams do not meet FEMA accreditation as inundated by flooding without those structures in place. Provisionally accredited structures may be allowed to provide flood protection, unless best available information demonstrates otherwise.
 - e. must consider available datasets to estimate the potential flood hazard exposure including, but not limited to:
 - i. number of residential properties and associated population;
 - ii. number of non-residential properties;
 - iii. other public infrastructure;
 - iv. major industrial and power generation facilities;
 - v. number and types of critical facilities;
 - vi. number of roadway crossings;
 - vii. length of roadway segments; and
 - viii. agricultural area and value of crops exposed.
 - f. must include a qualitative description of expected loss of function, which is the effect that a flood event could have on the function of inundated structures (residential, commercial, industrial, public, or others) and infrastructure, such as transportation, health and human services, water supply, wastewater treatment, utilities, energy generation, and emergency services.

3. Perform existing condition vulnerability analyses as follows:
 - a. identify resilience of communities located in flood-prone areas identified as part of the existing condition flood exposure analyses, utilizing relevant data and tools.
 - b. identify vulnerabilities of critical facilities to flooding by looking at factors such as proximity to a floodplain or other bodies of water, past flooding issues, emergency management plans, and location of critical systems like primary and back-up power.
4. All data produced as part of the existing condition flood exposure analysis and the existing condition vulnerability analysis must include:
 - a. underlying flood event return frequency;
 - b. type of flood risk;
 - c. county;
 - d. HUC12;
 - e. existing flood authority boundaries;
 - f. Social Vulnerability Indices for counties and census tracts; and
 - g. other categories as determined by RFPGs or in TWDB Flood Planning guidance documents.

The information gathered and developed in preparation of this chapter must be subject to the following review process prior to submission of any deliverables:

1. Review of the chapter documents and related information by RFPG members.
2. Modifications to the chapter document based on RFPG, public, and/or agency comments.
3. Submittal of chapter document to TWDB for review and approval.
4. All effort required to obtain final approval of the Regional Flood Plan chapter by TWDB.

Deliverables:

- Prepare a stand-alone chapter (including work from both Tasks 2A & 2B) to be included in the 2023 Regional Flood Plan.
- Prepare maps according to 1(d) and 1(e).
- A tabulated list and GIS map of all pertinent information. All maps should be submitted with underlying GIS data utilized to prepare them.
- Any additional deliverables identified in the TWDB Flood Planning guidance documents.

Task 2B – Future Condition Flood Risk Analyses

In addition to generally meeting all applicable rules and statute requirements governing regional and state flood planning under 31 TAC Chapters 361 and 362, this portion of work must, in particular, include all work necessary to meet all the requirements of 31 TAC §361.34.

The objective of this task is to prepare a chapter to be combined with Task 2A and included in the 2023 Regional Flood Plan that describes the existing and future condition flood risk in the FPR.

RFPGs must perform future condition flood risk analyses for the region comprising: (1) flood hazard analyses that determine the location, magnitude and frequency of flooding; (2) flood exposure analyses to identify who and what might be harmed within the region; and (3) vulnerability analyses to identify vulnerabilities of communities and critical facilities.

The information developed must be used to assist the RFPG to establish priorities in subsequent planning tasks, to identify areas that need FMEs, and to efficiently deploy its resources.

This Task includes, but is not limited to, performing all work in accordance with TWDB rules and guidance required to:

1. Perform future condition flood hazard analyses to determine the location and magnitude of both 1% annual chance and 0.2% annual chance flood events as follows:
 - a. collect data and conduct analyses sufficient to characterize the future conditions for the planning area based on a "no-action" scenario of approximately 30 years of continued development and population growth under current development trends and patterns, and existing flood regulations and policies based on:
 - i. current land use and development trends and practices and associated projected population based on the most recently adopted state water plan decade and population nearest the next regional flood plan adoption date plus approximately 30 years or as provided for in TWDB Flood Planning guidance documents;
 - ii. reasonable assumptions regarding locations of residential development and associated population growth;
 - iii. anticipated relative sea level change and subsidence based on existing information;
 - iv. anticipated changes to the functionality of the existing floodplain;
 - v. anticipated sedimentation in flood control structures and major geomorphic changes in riverine, playa, or coastal systems based on existing information;
 - vi. assumed completion of flood mitigation projects currently under construction or that already have dedicated construction funding; and
 - vii. other factors deemed relevant by the RFPG.
 - b. identify areas within each FPR where future condition hydrologic and hydraulic model results are already available and summarize the information;
 - c. utilize best available data, including hydrologic and hydraulic models for each area;
 - d. where future condition results are not available, but existing condition hydrologic and hydraulic model results are already available, the RFPGs must modify hydraulic models to identify future conditions flood risk for 1% and 0.2% annual chance storms based on simplified assumptions utilizing the information identified in this task.
 - e. prepare a map showing areas of 1% and 0.2% annual chance of inundation for future conditions, the areal extent of this inundation, and the sources of flooding for each area.
 - f. prepare a map showing gaps in inundation boundary mapping and identify known flood-prone areas based on location of hydrologic features, historic flooding, and/ or local knowledge.
2. Perform future condition flood exposure analyses using the information identified in the future condition flood hazard analysis to identify who and what might be harmed within the region for, at a minimum, both future condition 1% annual chance and future condition 0.2% annual chance flood events as follows:
 - a. analyses of existing and future developments within the future condition floodplain and the associated flood hazard exposure; and

- b. to include only those flood mitigation projects with dedicated construction funding scheduled for completion prior to the next regional flood plan adoption date plus 30 years or as provided for in TWDB Flood Planning guidance documents.
 - c. Identification of flood prone areas associated with the hazard exposure analyses must be based on analyses that rely primarily on the use and incorporation of existing and available:
 - i. FIRMs or other flood inundation maps and GIS related data and analyses;
 - ii. available hydraulic flood modeling results;
 - iii. model-based or other types of geographic screening tools for identifying flood prone areas; and
 - iv. other best available data or relevant technical analyses that the RFPG determines to be the most updated or reliable.
- 3. Perform future condition vulnerability analyses as follows:
 - a. identify resilience of communities located in flood-prone areas identified as part of the future condition flood exposure analyses, utilizing relevant data and tools.
 - b. identify vulnerabilities of critical facilities to flooding by looking at factors such as proximity to a floodplain or other bodies of water, past flooding issues, emergency management plans, and location of critical systems like primary and back-up power.
- 4. All data produced as part of the future condition flood exposure analysis and the future condition vulnerability analysis must include:
 - a. underlying flood event return frequency;
 - b. type of flood risk;
 - c. county;
 - d. HUC12;
 - e. existing flood authority boundaries;
 - f. Social Vulnerability Indices for counties and census tracts; and
 - g. other categories as determined in TWDB Flood Planning guidance documents.

The information gathered and developed in preparation of this chapter must be subject to the following review process prior to submission of any deliverables:

- 1. Review of the chapter documents and related information by RFPG members.
- 2. Modifications to the chapter document based on RFPG, public, and/or agency comments.
- 3. Submittal of chapter document to TWDB for review and approval.
- 4. All effort required to obtain final approval of the Regional Flood Plan chapter by TWDB.

Deliverables:

- Prepare a stand-alone chapter (including work from both Tasks 2A & 2B) to be included in the 2023 Regional Flood Plan.
- Prepare maps according to 1(e) and 1(f). A tabulated list and GIS map of all pertinent information. All maps should be submitted with underlying GIS data utilized to prepare them.
- Any additional deliverables identified in the TWDB Flood Planning guidance documents.

Task 3A – Evaluation and Recommendations on Floodplain Management Practices

In addition to generally meeting all applicable rules and statute requirements governing regional and state flood planning under 31 TAC Chapters 361 and 362, this portion of work must, in particular, include all work necessary to meet all the requirements of 31 TAC §361.35.

Recognizing the extent that previous and current practices may have increased flood risks, including residual risks, and considering broad floodplain management and land use approaches that will avoid increasing flood risks, and avoid negatively affecting neighboring areas, the RFPG must accomplish the following tasks.

This Task includes, but is not limited to, performing all work in accordance with TWDB rules and guidance required to:

1. Consider the extent to which a lack of, insufficient, or ineffective current floodplain management and land use practices, regulations, policies, and trends related to land use, economic development, and population growth, allow, cause, or otherwise encourage increases to flood risks to both:
 - a. existing population and property, and
 - b. future population and property.
2. Take into consideration the future flood hazard exposure analyses performed under Task 2B, consider the extent to which the 1% annual chance floodplain, along with associated flood risks, may change over time in response to anticipated development and associated population growth and other relevant man-made causes, and assess how to best address these potential changes.
3. Based on the analyses in (1) and (2), make recommendations regarding forward-looking floodplain management and land use recommendations, and economic development practices and strategies, that should be implemented by entities within the FPR. These region-specific recommendations may include minimum floodplain management and land use standards and should focus on how to best address the changes in (2) for entities within the region. These recommendations will inform recommended strategies for inclusion in the Regional Flood Plan.
4. RFPGs may also choose to adopt region-specific, minimum floodplain management or land use or other standards that impact flood-risk, that may vary geographically across the region, that each entity in the FPR must adopt prior to the RFPG including in the Regional Flood Plan any Flood Management Evaluations, Flood Management Strategies, or Flood Mitigation Projects that are sponsored by or that will otherwise be implemented by that entity.
5. Consider example floodplain management and infrastructure protection standards provided by TWDB.

The information gathered and developed in preparation of this chapter must be subject to the following review process prior to submission of any deliverables:

1. Review of the chapter documents and related information by RFPG members.
2. Modifications to the chapter document based on RFPG, public, and/or agency comments.
3. Submittal of chapter document to TWDB for review and approval.
4. All effort required to obtain final approval of the Regional Flood Plan chapter by TWDB.

Deliverables:

- Prepare a stand-alone chapter (including work from both Tasks 3A & 3B) to be included in the 2023 Regional Flood Plan.
- List region-specific recommendations regarding forward-looking floodplain management and land use, which may include minimum floodplain management and land use standards.
- Any additional deliverables identified in the TWDB Flood Planning guidance documents.

Task 3B – Flood Mitigation and Floodplain Management Goals

In addition to generally meeting all applicable rules and statute requirements governing regional and state flood planning under 31 TAC Chapters 361 and 362, this portion of work must, in particular, include all work necessary to meet all the requirements of 31 TAC §361.36.

In this task, the RFPG must consider the Guidance Principles under 31 TAC §362.3, Tasks 1-3A, input from the public, and other relevant information and considerations.

The RFPG must use these goals to guide the RFPG in carrying out the following Tasks 4A – 5.

This Task includes, but is not limited to, performing all work in accordance with TWDB rules and guidance required to:

1. Identify specific and achievable flood mitigation and floodplain management goals along with target years by which to meet those goals for the FPR to include, at a minimum, goals specifically addressing risks to life and property.
2. Recognize and clearly state the levels of residual risk that will remain in the FPR even after the stated flood mitigation goals are fully met.
3. Structure and present the goals and the residual risks in an easily understandable format for the public including in conformance with TWDB Flood Planning guidance documents.
4. When appropriate, choose goals that apply to full single HUC8 watershed boundaries or coterminous groups of HUC8 boundaries within the FPR.
5. Identify both short-term goals (10 years) and long-term goals (30 years).

The information gathered and developed in preparation of this chapter must be subject to the following review process prior to submission of any deliverables:

1. Review of the chapter documents and related information by RFPG members.
2. Modifications to the chapter document based on RFPG, public, and/or agency comments.
3. Submittal of chapter document to TWDB for review and approval.
4. All effort required to obtain final approval of the Regional Flood Plan chapter by TWDB.

Deliverables:

- Prepare a stand-alone chapter (including work from both Tasks 3A & 3B) to be included in the 2023 Regional Flood Plan.
- Identify flood mitigation and floodplain management goals considering minimum recommended flood protection goal provided by TWDB.
- Identify specific and achievable flood mitigation and floodplain management goals (10 year and 30 year) in an easily understandable format for the public.

- Any additional deliverables identified in the TWDB Flood Planning guidance documents.

Task 4A – Flood Mitigation Needs Analysis

In addition to generally meeting all applicable rules and statute requirements governing regional and state flood planning under 31 TAC Chapters 361 and 362, this portion of work must, in particular, include all work necessary to meet all the requirements of 31 TAC §361.37.

The RFPG must conduct the analysis in a manner that will ensure the most effective and efficient use of the resources available to the RFPG.

This Task includes, but is not limited to, performing all work in accordance with TWDB rules and guidance required to:

1. Based on the analyses and goals developed by the RFPG under Tasks 2A through 3B and any additional analyses or information developed using available screening-level models or methods, the RFPG must identify locations within the FPR that the RFPG considers to have the greatest flood mitigation and flood risk study needs by considering:
 - a. the areas in the FPR that the RFPG identified as the most prone to flooding that threatens life and property;
 - b. the relative locations, extent, and performance of current floodplain management and land use policies and infrastructure located within the FPR, particularly within the locations described in (a);
 - c. areas identified by the RFPG as prone to flooding that don't have adequate inundation maps;
 - d. areas identified by the RFPG as prone to flooding that don't have hydrologic and hydraulic models;
 - e. areas with an emergency need;
 - f. existing modeling analyses and flood risk mitigation plans within the FPR;
 - g. flood mitigation projects already identified and evaluated by other flood mitigation plans and studies;
 - h. documentation of historic flooding events;
 - i. flood mitigation projects already being implemented; and
 - j. any other factors that the RFPG deems relevant to identifying the geographic locations where potential FMEs and potentially feasible FMSs and FMPs must be identified and evaluated under §361.38.

The information gathered and developed in preparation of this chapter must be subject to the following review process prior to submission of any deliverables:

1. Review of the chapter documents and related information by RFPG members.
2. Modifications to the chapter document based on RFPG, public, and/or agency comments.
3. Submittal of chapter document to TWDB for review and approval.
4. All effort required to obtain final approval of the Regional Flood Plan chapter by TWDB.

Deliverables:

- Prepare a stand-alone chapter (including work from both Tasks 4A & 4B) to be included in the 2023 Regional Flood Plan.
- A map identifying the geographic locations within the FPR considered to have the greatest flood mitigation and flood risk study needs where potential FMEs and potentially feasible FMSs and FMPs must be evaluated
- A tabulated list and GIS map of all pertinent information. All maps should be submitted with underlying GIS data utilized to prepare them.
- Any additional deliverables identified in the TWDB Flood Planning guidance documents.

Task 4B – Identification and Evaluation of Potential Flood Management Evaluations and Potentially Feasible Flood Management Strategies and Flood Mitigation Projects

In addition to generally meeting all applicable rules and statute requirements governing regional and state flood planning under 31 TAC Chapters 361 and 362, this portion of work must, in particular, include all work necessary to meet all the requirements of 31 TAC §361.38.

Based on analyses and decisions under Tasks 2A through 4A the RFPG must identify and evaluate potential FMEs and potentially feasible FMSs and FMPs, including nature-based solutions, some of which may have already been identified by previous evaluations and analyses by others.

This Task includes, but is not limited to, performing all work in accordance with TWDB rules and guidance required to:

1. Receive public comment on a proposed process to be used by the RFPG to identify and select FMEs, FMSs, and FMPs for the 2023 Regional Flood Plan.
2. Summarize the RFPG process for identifying potential FMEs and potentially feasible FMSs and FMPs and include a description of the process in the draft and final adopted Regional Flood Plan.
3. Identify potentially feasible FMSs and FMPs in accordance with the RFPG established process.
4. When evaluating FMSs and FMPs the RFPG must, at a minimum, identify one solution that provides flood mitigation associated with a 1% annual chance flood event. In instances where mitigating for 1% annual chance events is not feasible, the RFPG must document the reasons for its infeasibility, and at the discretion of the RFPG, other FMSs and FMPs to mitigate more frequent events may also be identified and evaluated based on TWDB Flood Planning guidance documents.
5. For areas within the FPR that the RFPG does not yet have sufficient information or resources to identify potentially feasible FMSs and FMPs, the RFPG must identify areas for potential FMEs that may eventually result in FMSs and/or FMPs.
6. The RFPG must evaluate potentially feasible FMSs and FMPs understanding that, upon evaluation and further inspection, some FMSs or FMPs initially identified as potentially feasible may, after further inspection, be reclassified as infeasible.
7. FMPs will be ranked in the state flood plan and
 - a. must represent discrete, projects;
 - b. must not entail an entire capital program or drainage masterplan; and

- c. may rely on other flood-related projects.
8. Evaluations of potentially feasible FMSs and FMPs require associated, detailed hydrologic and hydraulic modeling results that quantify the reduced impacts from flood events and the associated benefits and costs. Information may be based on previously performed evaluations of projects and related information. Evaluations of potentially feasible FMS and FMPs must include the following information and be based on the following analyses:
- a. A reference to the specific flood mitigation or floodplain management goal addressed by the feasible FMS or FMP;
 - b. A determination of whether FMS or FMP meets an emergency need;
 - c. An indication regarding the potential use of federal funds, or other sources of funding, as a component of the total funding mechanism;
 - d. An equitable comparison between and consistent assessment of all FMSs and FMPs that the RFPG determines to be potentially feasible;
 - e. A demonstration that the FMS or FMP will not negatively affect a neighboring area;
 - f. A quantitative reporting of the estimated benefits of the FMS or FMP, including reductions of flood impacts of the 1% annual chance flood event and other storm events identified and evaluated if the project mitigates to a more frequent event, to include, but not limited to:
 - (1) Associated flood events that must, at a minimum, include the 1% annual chance flood event and other storm events identified and evaluated;
 - (2) Reduction in habitable, equivalent living units flood risk;
 - (3) Reduction in residential population flood risk;
 - (4) Reduction in critical facilities flood risk;
 - (5) Reduction in road closure occurrences;
 - (6) Reduction in acres of active farmland and ranchland flood risk;
 - (7) Estimated reduction in fatalities, when available;
 - (8) Estimated reduction in injuries, when available;
 - (9) Reduction in expected annual damages from residential, commercial, and public property; and
 - (10) Other benefits as deemed relevant by the RFPG including environmental benefits and other public benefits.
 - g. A quantitative reporting of the estimated capital cost of FMPs in accordance with TWDB Flood Planning guidance documents;
 - h. Calculated benefit-cost ratio for FMPs in accordance with *Exhibit C: General Guidelines* and based on current, observed conditions;
 - i. For projects that will contribute to water supply, all relevant evaluations required under §357.34(e) (relating to Identification and Evaluation of Potentially Feasible Water Management Strategies and Water Management Strategy Projects), as determined by the EA based on the type of contribution, and a description of its consistency with the currently adopted State Water Plan;
 - j. A description of potential impacts and benefits from the FMS or FMP to the environment, agriculture, recreational resources, navigation, water quality, erosion, sedimentation, and impacts to any other resources deemed relevant by the RFPG;

- k. A description of residual, post-project, and future risks associated with FMPs including the risk of potential catastrophic failure and the potential for future increases to these risks due to lack of maintenance;
 - l. Implementation issues including those related to rights-of-way, permitting, acquisitions, relocations, utilities and transportation; and
 - m. Funding sources and options that exist or will be developed to pay for development, operation, and maintenance of the FMS or FMP.
- 9. Evaluations of potential FMEs must be at a reconnaissance or screening-level, unsupported by associated detailed hydrologic and hydraulic analyses. These must be identified for areas that the RFPG considers a priority for flood risk evaluation but that do not yet have the required detailed hydrologic and hydraulic modeling or associated project evaluations available to evaluate specific FMSs or FMPs for recommendation in the Regional Flood Plan. These FMEs must be based on recognition of the need to develop detailed hydrologic models or to perform associated hydraulic analyses and associated project evaluations in certain areas identified by the RFPG. Evaluations of potential FMEs must include the following analyses:
 - a. A reference to the specific flood mitigation or floodplain management goal to be addressed by the potential FME.
 - b. A determination of whether FME may meet an emergency need.
 - c. An indication regarding the potential use of federal funds, or other sources of funding as a component of the total funding mechanism.
 - d. An equitable comparison between and consistent assessment of all FMEs.
 - e. An indication of whether hydrologic and or hydraulic models are already being developed or are anticipated in the near future and that could be used in the FME.
 - f. A quantitative reporting of the estimated benefits, including reductions of flood risks, to include:
 - (1) Estimated habitable, living unit equivalent and associated population in FME area;
 - (2) Estimated critical facilities in FME area;
 - (3) Estimated number of roads closures occurrences in FME area;
 - (4) Estimated acres of active farmland and ranchland in FME area; and
 - (5) A quantitative reporting of the estimated study cost of the FME and whether the cost includes use of existing or development of new hydrologic or hydraulic models.
 - g. For FMEs, RFPGs do not need to demonstrate that an FME will not negatively affect a neighboring area.
- 10. RFPGs must evaluate and present potential FMEs and potentially feasible FMSs and FMPs with sufficient specificity to allow state agencies to make financial or regulatory decisions to determine consistency of the proposed action before the state agency with an approved Regional Flood Plan.
- 11. Analyses must clearly designate a representative location of the FME and beneficiaries including a map and designation of HUC12 and county location.
- 12. Analyses must be performed in accordance with TWDB Flood Planning guidance documents.
- 13. All data produced as part of the analyses under this task must be organized and summarized in the Regional Flood Plan in accordance with TWDB Flood Planning guidance documents.

14. Plans to be considered in developing this chapter include relevant plans referenced under 31 TAC §361.22.

The information gathered and developed in preparation of this chapter must be subject to the following review process prior to submission of any deliverables:

1. Review of the chapter documents and related information by RFPG members.
2. Modifications to the chapter document based on RFPG, public, and/or agency comments.
3. Submittal of chapter document to TWDB for review and approval.
4. All effort required to obtain final approval of the Regional Flood Plan chapter by TWDB.

Deliverables:

- Prepare a stand-alone chapter (including work from both Tasks 4B & 5) to be included in the 2023 Regional Flood Plan.
- A list of the potentially feasible FMSs and associated FMPs that were identified by the RFPG. The TWDB Flood Planning guidance documents will include minimum data submittal requirements and deliverable format.
- A map identifying the geographic locations within the FPR considered to have the greatest flood mitigation and flood risk study needs where potential FMEs and potentially feasible FMSs and FMPs must be evaluated. TWDB Flood Planning guidance documents will include minimum data submittal requirements and deliverable format.
- Data must be organized and summarized in the Regional Flood Plan in accordance with TWDB Flood Planning guidance documents.
- A tabulated list and GIS map of all pertinent information. All maps should be submitted with underlying GIS data utilized to prepare them.
- Any additional deliverables identified in the TWDB Flood Planning guidance documents.

Task 4C – Prepare and Submit Technical Memorandum

In addition to generally meeting all applicable rules and statute requirements governing regional and state flood planning under 31 TAC Chapters 361 and 362, this portion of work must, in particular, include all work necessary to meet all the requirements of 31 TAC §361.13(e).

This Task includes, but is not limited to, performing all work in accordance with TWDB rules and guidance required to:

1. Prepare a concise Technical Memorandum to include:
 - a. A list of existing political subdivisions within the FPR that have flood-related authorities or responsibilities;
 - b. A list of previous flood studies considered by the RFPG to be relevant to development of the Regional Flood Plan;
 - c. A geodatabase and associated maps in accordance with TWDB Flood Planning guidance documents that the RFPG considers to be best representation of the region-wide 1% annual chance flood event and 0.2% annual chance flood event inundation boundaries, and the source of flooding for each area, for use in its risk analysis, including indications of locations where such boundaries remain undefined;

- d. A geodatabase and associated maps in accordance with TWDB Flood Planning guidance documents that identifies additional flood-prone areas not described in (c) based on location of hydrologic features, historic flooding, and/or local knowledge;
 - e. A geodatabase and associated maps in accordance with TWDB Flood Planning guidance documents that identifies areas where existing hydrologic and hydraulic models needed to evaluate FMSs and FMPs are available;
 - f. A list of available flood-related models that the RFPG considers of most value in developing its plan;
 - g. The flood mitigation and floodplain management goals adopted by the RFPG per §361.36;
 - h. The documented process used by the RFPG to identify potentially feasible FMSs and FMPs;
 - i. A list of potential FMEs and potentially feasible FMSs and FMPs identified by the RFPG, if any; and
 - j. A list of FMSs and FMPs that were identified but determined by the RFPG to be infeasible, including the primary reason for it being infeasible.
2. Approve submittal of the Technical Memorandum to TWDB at a RFPG meeting subject notice requirements in accordance with 31 TAC §361.21(h). The Technical Memorandum must be submitted to TWDB in accordance with Section I Article I of the contract.

Task 5 – Recommendation of Flood Management Evaluations and Flood Management Strategies and Associated Flood Mitigation Projects

In addition to generally meeting all applicable rules and statute requirements governing regional and state flood planning under 31 TAC Chapters 361 and 362, this portion of work must, in particular, include all work necessary to meet all the requirements of 31 TAC §361.39.

The objective of this task is to evaluate and recommend Flood Management Evaluations (FMEs), Flood Management Strategies (FMSs) and their associated Flood Mitigation Projects (FMPs) to be included in the 2023 Regional Flood Plan that describes the work completed, presents the potential FMEs, potentially feasible FMSs and FMPs, recommended and alternative FMSs and FMPs, including all the technical evaluations, and presents which entities will benefit from the recommended FMSs and FMPs.

Work associated with any Task 5 subtasks is contingent upon a written notice-to-proceed. This Task includes, but is not limited to, performing all work in accordance with TWDB rules and guidance required to:

1. Recommend FMSs and FMPs to reduce the potential impacts of flood based on the evaluations under §361.38 and RFPG goals and that must, at a minimum, mitigate for flood events associated with at 1% annual chance (100-yr flood) where feasible. In instances where mitigating for 100-year events is not feasible, FMS and FMPs to mitigate more frequent events may be recommended based on TWDB Flood Planning guidance documents. Recommendations must be based upon the identification, analysis, and comparison of alternatives that the RFPG determines will provide measurable reductions in flood impacts in support of the RFPG's specific flood mitigation and/or floodplain management goals.

2. Provide additional information in conformance with TWDB Flood Planning guidance documents which will be used to rank recommended FMPs in the state flood plan.
3. Recommend FMEs that the RFPG determines are most likely to result in identification of potentially feasible FMSs and FMPs that would, at a minimum, identify and investigate one solution to mitigate for flood events associated with a 1% annual chance flood event and that support specific RFPG flood mitigation and/or floodplain management goals.
4. Recommended FMSs or FMPs may not negatively affect a neighboring area or an entity's water supply.
5. Recommended FMSs or FMPs that will contribute to water supply may not result in an overallocation of a water source based on the water availability allocations in the most recently adopted State Water Plan.
6. Specific types of FMEs, FMSs, or FMPs that should be included and that should not be included in Regional Flood Plans must be in accordance with TWDB Flood Planning guidance documents.
7. FMS and FMP documentation must include a strategy or project description, discussion of associated facilities, project map, and technical evaluations addressing all considerations and factors required under 31 TAC §361.38(h).
8. Coordinate and communicate with FME, FMS, and FMP sponsors, individual local governments, regional authorities, and other political subdivisions.
9. Process documentation of selecting all recommended FMSs and associated FMPs including development of FMS evaluations matrices and other tools required to assist the RFPG in comparing and selecting recommended FMSs and FMPs.
10. Document the evaluation and selection of all recommended FMS and FMPs, including an explanation for why certain types of strategies may not have been recommended.

The information gathered and developed in preparation of this chapter must be subject to the following review process prior to submission of any deliverables:

1. Review of the chapter documents and related information by RFPG members.
2. Modifications to the chapter document based on RFPG, public, and/or agency comments.
3. Submittal of chapter document to TWDB for review and approval.
4. All effort required to obtain final approval of the Regional Flood Plan chapter by TWDB.

Deliverables:

- Prepare a stand-alone chapter (including work from both Tasks 4B & 5) to be included in the 2023 Regional Flood Plan to include technical analyses of all evaluated FMSs and FMPs.
- A list of the recommended FMEs, FMSs, and associated FMPs that were identified by the RFPG. TWDB Flood Planning guidance documents will include minimum data submittal requirements and deliverable format.
- Data must be organized and summarized in the Regional Flood Plan in accordance with TWDB Flood Planning guidance documents.
- A tabulated list and GIS map of all pertinent information. All maps should be submitted with underlying GIS data utilized to prepare them.
- Any additional deliverables identified in the TWDB Flood Planning guidance documents.

Task 6A – Impacts of Regional Flood Plan

In addition to generally meeting all applicable rules and statute requirements governing regional and state flood planning under 31 TAC Chapters 361 and 362, this portion of work must, in particular, include all work necessary to meet all the requirements of 31 TAC §361.40.

This Task includes, but is not limited to, performing all work in accordance with TWDB rules and guidance required to include:

1. a region-wide summary of the relative reduction in flood risk that implementation of the Regional Flood Plan would achieve within the region including with regard to life, injuries, and property.
2. a statement that the FMPs in the plan, when implemented, will not negatively affect neighboring areas located within or outside of the FPR.
3. a general description of the types of potential positive and negative socioeconomic or recreational impacts of the recommended FMSs and FMPs within the FPR.
4. a general description of the overall impacts of the recommended FMPs and FMSs in the Regional Flood Plan on the environment, agriculture, recreational resources, water quality, erosion, sedimentation, and navigation.

The information gathered and developed in preparation of this chapter must be subject to the following review process prior to submission of any deliverables:

1. Review of the chapter documents and related information by RFPG members.
2. Modifications to the chapter document based on RFPG, public, and/or agency comments.
3. Submittal of chapter document to TWDB for review and approval.
4. All effort required to obtain final approval of the Regional Flood Plan chapter by TWDB.

Deliverables: Prepare a stand-alone chapter (including work from both Tasks 6A & 6B) to be included in the 2023 Regional Flood Plan. Any additional deliverables identified in the TWDB Flood Planning guidance documents.

Task 6B – Contributions to and Impacts on Water Supply Development and the State Water Plan

In addition to generally meeting all applicable rules and statute requirements governing regional and state flood planning under 31 TAC Chapters 361 and 362, this portion of work must, in particular, include all work necessary to meet all the requirements of 31 TAC §361.41.

This Task includes, but is not limited to, performing all work in accordance with TWDB rules and guidance required to:

1. Include a region-wide summary and description of the contribution that the regional flood plan would have to water supply development including a list of the specific FMSs and FMPs that would contribute to water supply.
2. Include a description of any anticipated impacts, including to water supply or water availability or projects in the State Water Plan, that the regional flood plan FMSs and FMPs may have.

The information gathered and developed in preparation of this chapter must be subject to the following review process prior to submission of any deliverables:

1. Review of the chapter documents and related information by RFPG members.
2. Modifications to the chapter document based on RFPG, public, and/or agency comments.
3. Submittal of chapter document to TWDB for review and approval.
4. All effort required to obtain final approval of the Regional Flood Plan chapter by TWDB.

Deliverables: Prepare a stand-alone chapter (including work from both Tasks 6A & 6B) to be included in the 2023 Regional Flood Plan. Any additional deliverables identified in the TWDB Flood Planning guidance documents.

Task 7 – Flood Response Information and Activities

In addition to generally meeting all applicable rules and statute requirements governing regional and state flood planning under 31 TAC Chapters 361 and 362, this portion of work must, in particular, include all work necessary to meet all the requirements of 31 TAC §361.42.

This Task includes, but is not limited to, performing all work in accordance with TWDB rules and guidance required to:

1. Summarize the nature and types of flood response preparations within the FPR including providing where more detailed information is available regarding recovery.
2. Coordinate and communicate, as necessary, with entities in the region to gather information.
3. RFPGs must not perform analyses or other activities related to planning for disaster response or recovery activities.
4. Plans to be considered in developing this chapter include relevant plans referenced under 31 TAC §361.22.

The information gathered and developed in preparation of this chapter must be subject to the following review process prior to submission of any deliverables:

1. Review of the chapter documents and related information by RFPG members.
2. Modifications to the chapter document based on RFPG, public, and/or agency comments.
3. Submittal of chapter document to TWDB for review and approval.
4. All effort required to obtain final approval of the Regional Flood Plan chapter by TWDB.

Deliverables: Prepare a stand-alone chapter to be included in the 2023 Regional Flood Plan. Any additional deliverables identified in the TWDB Flood Planning guidance documents.

Task 8 – Administrative, Regulatory, and Legislative Recommendations

In addition to generally meeting all applicable rules and statute requirements governing regional and state flood planning under 31 TAC Chapters 361 and 362, this portion of work must, in particular, include all work necessary to meet all the requirements of 31 TAC §361.43.

The objective of this task is to prepare a separate chapter to be included in the 2023 Regional Flood Plan that presents the RFPG's administrative, legislative, and regulatory recommendations.

This Task includes, but is not limited to, performing all work in accordance with TWDB rules and guidance required to develop:

1. Legislative recommendations that they consider necessary to facilitate floodplain management and flood mitigation planning and implementation.
2. Other regulatory or administrative recommendations that they consider necessary to facilitate floodplain management and flood mitigation planning and implementation.
3. Any other recommendations that the RFPG believes are needed and desirable to achieve its regional flood mitigation and floodplain management goals.
4. Recommendations regarding potential, new revenue-raising opportunities, including potential new municipal drainage utilities or regional flood authorities, that could fund the development, operation, and maintenance of floodplain management or flood mitigation activities in the region.

The information gathered and developed in preparation of this chapter must be subject to the following review process prior to submission of any deliverables:

1. Review of the chapter documents and related information by RFPG members.
2. Modifications to the chapter document based on RFPG, public, and/or agency comments.
3. Submittal of chapter document to TWDB for review and approval.
4. All effort required to obtain final approval of the Regional Flood Plan chapter by TWDB.

Deliverables: Prepare a stand-alone chapter to be included in the 2023 Regional Flood Plan. Any additional deliverables identified in the TWDB Flood Planning guidance documents.

Task 9 – Flood Infrastructure Financing Analysis

In addition to generally meeting all applicable rules and statute requirements governing regional and state flood planning under 31 TAC Chapters 361 and 362, this portion of work must, in particular, include all work necessary to meet all the requirements of 31 TAC §361.44.

The objective of this task is to report on how sponsors of recommended FMPs propose to finance projects.

This Task includes, but is not limited to, performing all work in accordance with TWDB rules and guidance required to:

1. Coordinate and communicate with individual local governments, regional authorities, and other political subdivisions.
2. Perform a survey, including the following work:
 - a. Contacting FME and FMP sponsors.
 - b. Collection and collation of data.
 - c. Documentation of the effectiveness of survey methodology, providing percent survey completions, and whether an acceptable minimum percent survey completion was achieved.
 - d. Submission of data.

3. Coordinate with FME and FMP sponsors as necessary to ensure detailed needs and costs associated with their anticipated evaluations and projects are sufficiently represented in the Regional Flood Plan for future funding determinations.
4. Indicate how individual local governments, regional authorities, and other political subdivisions in their region propose to finance the region's recommended FMPs, and FMEs included in their flood plan. The assessment must also describe what role the RFPG proposes for the state in financing recommended FMPs, and FMEs. As projects are implemented, those improvements and associated benefits must be incorporated into and reflected in the subsequent Regional Flood Plans.
5. Summarize the survey results.

The information gathered and developed in preparation of this chapter must be subject to the following review process prior to submission of any deliverables:

1. Review of the chapter documents and related information by RFPG members.
2. Modifications to the chapter document based on RFPG, public, and/or agency comments.
3. Submittal of chapter document to TWDB for review and approval.
4. All effort required to obtain final approval of the Regional Flood Plan chapter by TWDB.

Deliverables: A completed Chapter 9 must be delivered in the 2023 Regional Flood Plan to include summary of reported financing approaches for all recommended FMPs and FMEs. Data must be submitted in accordance with TWDB guidance documents. Any additional deliverables identified in the TWDB Flood Planning guidance documents.

Task 10 – Public Participation and Plan Adoption

The objective of this task is to address public participation, public meetings, eligible administrative and technical support activities, and other requirements and activities eligible for reimbursement. Objectives also include activities necessary to complete and submit a draft and final Regional Flood Plan, and obtain TWDB approval of the Regional Flood Plan.

In this task, the RFPG must evaluate and ensure that the draft and final Regional Flood Plan satisfies the requirements for regional flood plans in the guidance principles adopted in Title 31 TAC §362.3 and must include a statement in the draft and final Regional Flood Plan explaining how the Regional Flood Plan satisfies the requirements of each of the guidance principles in accordance with Title 31 TAC §361.20.

This Task includes, but is not limited to, performing all work in accordance with TWDB rules and guidance required to:

1. In addition to generally meeting all applicable statute requirements governing regional and state flood planning this portion of work must, in particular, include all technical and administrative support activities necessary to meet all the requirements of 31 TAC Chapters 361 and 362 that are not already addressed under the scope of work associated with other contract Tasks but that are necessary and or required to complete and deliver an draft Regional Flood Plan and final, adopted Regional Flood Plan to TWDB and obtain approval of the adopted Regional Flood Plan by TWDB.
2. Organization, support, facilitation, and documentation of all meetings associated with: preplanning meeting; consideration of a substitution of alternative flood management

strategies; public meeting after adoption of the draft Regional Flood Plan and prior to adoption of the final Regional Flood Plan; and consideration of Regional Flood Plan amendments, alternative FMS substitutions, or Board-directed revisions.

Technical Support and Administrative Activities

1. RFPGs must support and accommodate periodic presentations by the TWDB for the purpose of orientation, training, and retraining as determined and provided by the TWDB during regular RFPG meetings.
2. Attendance and participation of technical consultants at RFPG, subgroup, subcommittees, special and or other meetings including preparation and follow-up activities.
3. Developing technical and other presentations and handout materials for regular and special meetings to provide technical and explanatory data to the RFPG and its subcommittees, including follow-up activities.
4. Administrative and technical support and participation in RFPG activities, and documentation of any RFPG workshops, work groups, subgroup and/or subcommittee activities.
5. Technical support and administrative activities associated with periodic and special meetings of the RFPG including developing agendas and coordinating activities for the RFPG.
6. Provision of progress reports to TWDB for work performed under this Contract.
7. Development of draft and final responses for RFPG approval to public questions or comments as well as approval of the final responses to comments on Regional Flood Plan documents.
8. Intraregional and interregional coordination and communication, and or facilitation required within the FPR and with other RFPGs to develop a Regional Flood Plan.
9. Incorporation of all required data and reports into Regional Flood Plan document.
10. Modifications to the Regional Flood Plan documents based on RFPG, public, and or agency comments.
11. Preparation of a Regional Flood Plan chapter summarizing Task 10 activities including review by RFPG and modification of document as necessary.
12. Development and inclusion of Executive Summaries in both draft Regional Flood Plan and final Regional Flood Plan.
13. Production, distribution, and submittal of all draft and final Regional Flood Plan-related planning documents for RFPG, public and agency review, including in hard-copy format when required.
14. Assembling, compiling, and production of the completed draft Regional Flood Plan and Final Regional Flood Plan document(s) that meet all requirements of statute, 31 TAC Chapters 361 and 362, Contract and associated guidance documents.
15. Submittal of the Regional Flood Plan documents in both hard copy and electronic formats to TWDB for review and approval; and all effort required to obtain final approval of the Regional Flood Plan by TWDB.

Other Activities

1. Review of all Regional Flood Plan-related documents by RFPG members.
2. Development and maintenance of a RFPG website or RFPG-dedicated webpage on the RFPG administrator's website for posting planning group meeting notices, agendas, materials, and plan information.
3. Limited non-labor, direct costs associated with maintenance of the RFPG website.

4. Development of agendas, presentations, and handout materials for the public meetings to provide to the general public.
5. Documentation of meetings to include recorded minutes and/or audio recordings as required by the RFPG bylaws and archiving and provision of minutes to public.
6. Preparation and transmission of correspondence, for example, directly related to public comments on Regional Flood Plan documents.
7. Promoting consensus decisions through conflict resolution efforts including monitoring and facilitation required to resolve issues between and among RFPG members and stakeholders in the event that issues arise during the process of developing the Regional Flood Plan, including mediation between RFPG members, if necessary.
8. RFPG membership solicitation activities.
9. Meeting all posting, meeting, and other public notice requirements in accordance with the open meetings act, statute, and 31 TAC §361.21 and any other applicable public notice requirements.
10. Solicitation, review, and dissemination of public input, as necessary.
11. Any efforts required, but not otherwise addressed in other SOW tasks that may be required to complete an Regional Flood Plan in accordance with all statute and rule requirements.

Deliverables:

- A completed Chapter 10 summarizing public participation activities and appendices with public comments and RFPG responses to comments.
- Complete draft Regional Flood Plan and final, adopted Regional Flood Plan documents.
- Any additional deliverables identified in the TWDB Flood Planning guidance documents.

Exhibit B

Region 2 Lower Red-Sulphur-Cypress Flood Planning Group Task and Expense Budgets

February 2021

First Cycle of Regional Flood Plan Development (2020–2023)

This document is subject to future revision based upon any future Legislative actions.

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1 Contractor Task Budget

	TASK		AMOUNT
CAS Item No.	Regional Flood Planning Task No.	Description	
1	1	Planning Area Description	\$45,520.00
2	2A	Existing Condition Flood Risk Analysis	\$91,040.00
3	2B	Future Condition Flood Risk Analysis	\$91,040.00
4	3A	Evaluation and Recommendations on Floodplain Management Practices	\$18,208.00
5	3B	Flood Mitigation and Floodplain Management Goals	\$9,104.00
6	4A	Flood Mitigation Needs Analysis	\$27,312.00
7	4B	Identification and Evaluation of Potential Flood Management Evaluations and Potentially Feasible Flood Management Strategies and Flood Mitigations Projects	\$136,560.00
8	4C	Prepare and Submit Technical Memorandum	\$18,208.00
9	5	Recommendation of Flood Management Evaluations and Flood Management Strategies and Associated Flood Mitigation Projects	\$182,080.00
10	6A	Impacts of Regional Flood Plan	\$36,416.00
11	6B	Contributions to and Impacts on Water Supply Development and the State Water Plan	\$9,104.00
12	7	Flood Response Information and Activities	\$9,104.00
13	8	Administrative, Regulatory, and Legislative Recommendations	\$9,104.00
14	9	Flood Infrastructure Financing Analysis	\$18,208.00
15	10	Public Participation and Plan Adoption	\$209,392.00
		Total Committed Funds	\$910,400.00

2 Contractor Expense Budget

CATEGORY	AMOUNT
Other Expenses ¹	\$ 70,000.00
Subcontract Services #1	\$ 834,400.00
Subcontract Services #2	\$0
Subcontract Services #3	\$0
Voting Planning Member Travel ²	\$ 6,000.00
Total Committed Funds ³	\$ 910,400.00

¹Eligible Other Expenses as described in 31 TAC § 361.72(b) include the following administrative costs if the RFPG or its chairperson certifies, during a public meeting, that the expenses are eligible for reimbursement and are correct and necessary:

- a) Travel expenses as authorized by the General Appropriations Act are available only for attendance at a posted meeting of the RFPG, unless the travel is specifically authorized by the RFPG and EA;
- b) Costs associated with providing translators and accommodations for persons with disabilities for public meetings when required by law or deemed necessary by the RFPGs and certified by the chairperson;
- c) Direct costs, excluding personnel-related costs of the Planning Group Sponsor, for placing public notices for the legally required public meetings and of providing copies of information for the public and for members of the RFPGs as needed for the efficient performance of planning work such as:
 -
 - 1. expendable supplies actually consumed in direct support of the planning process;
 - 2. direct communication charges;
 - 3. limited direct costs/fees of maintaining RFPG website domain, website hosting, and/or website;
 - 4. reproduction of materials directly associated with notification or planning activities (the actual non-labor direct costs as documented by the Contractor);
 - 5. direct postage (e.g., postage for mailed notification of funding applications or meetings); and
 - 6. other direct costs of public meetings, all of which must be directly related to planning (e.g., newspaper and other public notice posting costs).
 -
- d) The cost of public notice postings including a website and for postage for mailing notices of public meetings; and
- e) The Planning Group Sponsor's personnel costs for the staff hours that are directly spent providing, preparing for, and posting public notice for RFPG meetings, including labor, fringe, overhead, and other expenses for their support of and attendance at such RFPG meetings, in accordance with, and as specifically limited by, the flood

planning grant contract with the Board. This may not exceed: \$5,000 per regular RFPG meeting nor a total of \$60,000 over the first planning cycle.

² Voting Planning Member Travel Expenses is defined as eligible mileage expenses incurred by regional flood planning members that cannot be reimbursed by any other entity, planning group sponsor, etc. as certified by the voting member. Travel expenses are available only for attendance at a posted meeting of the RFPG unless the travel is specifically authorized by the RFPG and EA. The reimbursed amount is limited to the maximum amounts authorized for state employees by the General Appropriations Act, Tex. Leg. Regular Session, 2019, Article IX, Part 5, as amended or superseded.

³ Ineligible Expenses as described in 31 TAC § 361.72(a) include, but are not limited to:

- a) Activities for which the Board determines existing information, data, or analyses are sufficient for the planning effort
- b) Activities directly related to the preparation of applications for state or federal permits or other approvals, activities associated with administrative or legal proceedings by regulatory agencies, and preparation of engineering plans and specifications;
- c) Compensation for the time or expenses of RFPGs members' service on or for the RFPG
- d) Costs of administering the RFPG, other than those explicitly allowed under 31 TAC § 361.72(b)
- e) Staff or overhead costs for time spent providing public notice and meetings, including time and expenses for attendance at such meetings;
- f) Costs for training;
- g) Costs of developing an application for funding or reviewing materials developed due to this grant;
- h) Costs of administering the regional flood planning grant and associated contracts;
- i) Analysis or other activities related to planning for disaster response or recovery activities; and
- j) Analyses of benefits and costs of FMSs beyond the scope of such analyses that is specifically allowed or required by regional flood planning guidance to be provided by the EA unless the RFPG demonstrates to the satisfaction of the EA that these analyses are needed to determine the selection of the FMS or FMP.
- k) Labor, reproduction, or distribution of newsletters;
- l) Food, drink, or lodging for Regional Flood Planning Group members (including tips and alcoholic beverages);
- m) Purchase, rental, or depreciation of equipment (e.g., computers, copiers, fax machines);
- n) General purchases of office supplies not documented as consumed directly for the planning process; and
- o) Costs associated with social events or tours.

Exhibit C

Technical Guidelines for Regional Flood Planning

When available, the document will be posted at
<https://www.twdb.texas.gov/flood/planning/planningdocu/2023/index.asp>

First Cycle of Regional Flood Plan Development (2020–2023)

TWDB Contract No. 2101792501

Placeholder

EXHIBIT C, 1 of 2

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Exhibit D

Data Submittal Guidelines for Regional Flood Planning

When available, the document will be posted at
<https://www.twdb.texas.gov/flood/planning/planningdocu/2023/index.asp>

**First Cycle of Regional Flood Plan Development
(2020–2023)**

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Exhibit E

Cover Page

(Original application in contract file)

First Cycle of Regional Flood Plan Development(2020–2023)

Exhibit F

Certification of Procurement of Professional Services

First Cycle of Regional Flood Plan Development (2020–2023)

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Certification of Procurement of Professional Services – 2023 Regional Flood Plan

Each of the following subcontractor(s) was procured through a Request for Qualifications in accordance with the procurement requirements applicable to Panhandle Regional Planning Commission, as required in 31 TAC 361.12 (a)(2) and 361.72 (c).

Subcontractor Name	Date Procured
Subcontractor Name	Date Procured
Subcontractor Name	Date Procured
Subcontractor Name	Date Procured
Subcontractor Name	Date Procured
Subcontractor Name	Date Procured
Subcontractor Name	Date Procured
Subcontractor Name	Date Procured

Certification:

I, _____ the authorized representative for Region ____, do hereby certify that each of the subcontractor(s) listed above were procured through a Request for Qualifications which was either published or sent to more than one professional inviting their response, and that the subcontractor(s) listed above were selected from such responses based on their demonstrated competence and qualifications.

Signature of Authorized Representative

Date

31 TAC 361.12 (a)(2). General Regional Flood Planning Group Responsibilities and Procedures. The following activities are required of each RFPG every planning cycle: Select a technical consultant(s) to be procured by the Planning Group Sponsor in accordance with the procurement requirements that apply to that political subdivision and Texas Government Code Chapter 2254.

31 TAC 361.72(c). A RFPG through the Planning Group Sponsor's contractor or subcontractor may obtain professional services, including the services of a planner, land surveyor, licensed engineer, or attorney, for development or revision of a regional flood plan only if such services are procured on the basis of demonstrated competence and qualifications through a request for qualifications process in accordance with Texas government Code Chapter 2254 including Qualifications Based Selection of an Architect, Engineer, or Land Surveyor.

Exhibit B

Scope of Basic Services

Region 2 Lower Red – Sulphur – Cypress First Cycle of Regional Flood Plan Development (2020–2023)

Scope of Basic Services, Halff-ATCOG Agreement
EXHIBIT B Page 1 of 2

Engineer will perform the TWDB Scope of Work (Exhibit A in Contract) for the R2RFPG, except the following tasks which are to be performed by Client:

1. All sponsoring organization activities required by TWDB and or R2RFPG, including those in Administrative Guidance for Regional Flood Planning Group Sponsors
2. TWDB coordination, paperwork, and invoicing
3. Regional Flood Planning Group coordination, including formal communications, publishing meeting announcements, public notices, and expense reimbursement coordination
4. Website hosting and maintenance
 - a. Engineer to provide content required for technical scope of work.
5. Stakeholder distribution list hosting and maintenance
 - a. Engineer to provide additional stakeholders identified during the technical scope of work

All work performed by Engineer will be in general conformance with the TWDB Technical Guidelines for Regional Flood Planning and the TWDB Data Submittal Guidelines for Regional Flood Planning, as feasible within the project budget.

Exhibit C

Task and Expense Budgets

Region 2 Lower Red – Sulphur – Cypress First Cycle of Regional Flood Plan Development (2020–2023)

Compensation for the Scope of Work will be on a cost-plus-max basis using the rate table in Exhibit D. Compensation for a specific task will not exceed the TWDB budget, as shown in the table below. The Client (ATCOG) and R2RFPG portions of the expenses are shown based on the Contract in Exhibit A, with the remaining budget left for the technical services to be performed in this Agreement (Halff Portion). If adjustments to the budget are needed to shift budget from one task to another, consistent with Contract (Exhibit A), then a written request will be submitted.

Region 2: Lower Red-Sulphur-Cypress Flood Planning Group Task Budgets						
CAS	Task	Task Description	Total Budget	ATCOG Expenses	RFPG Expenses	Halff Portion
1	1	Planning Area Description	\$45,520	\$0	\$0	\$45,520
2	2A	Existing Condition Flood Risk Analyses	\$91,040	\$0	\$0	\$91,040
3	2B	Future Condition Flood Risk Analyses	\$91,040	\$0	\$0	\$91,040
4	3A	Evaluation and Recommendations on Floodplain Management Practices	\$18,208	\$0	\$0	\$18,208
5	3B	Flood Mitigation and Floodplain Management Goals	\$9,104	\$0	\$0	\$9,104
6	4A	Flood Mitigation Needs Analysis	\$27,312	\$0	\$0	\$27,312
7	4B	Identification of Potential Flood Management Evaluations and Potentially Feasible Flood Management Strategies and Flood Mitigation Projects	\$136,560	\$0	\$0	\$136,560
8	4C	Prepare and Submit Technical Memorandum	\$18,208	\$0	\$0	\$18,208
9	5	Recommendation of Flood Management Evaluations and Flood Management Strategies and Associated Flood Mitigation Projects	\$182,080	\$0	\$0	\$182,080
10	6A	Impacts of Regional Flood Plan	\$36,416	\$0	\$0	\$36,416
11	6B	Contributions to and Impacts on Water Supply Development and the State Water Plan	\$9,104	\$0	\$0	\$9,104
12	7	Flood Response Information and Activities	\$9,104	\$0	\$0	\$9,104
13	8	Administrative, Regulatory and Legislative Recommendations	\$9,104	\$0	\$0	\$9,104
14	9	Flood Infrastructure Financing Analysis	\$18,208	\$0	\$0	\$18,208
15	10	Adoption of Plan and Public Participation	\$209,392	\$70,000	\$6,000	\$133,392
		Total	\$910,400	\$70,000	\$6,000	\$834,400

Exhibit D

Hourly Billing Rates of Consultant

Region 2 Lower Red – Sulphur – Cypress First Cycle of Regional Flood Plan Development (2020–2023)

Halff Associates, Inc
Hourly Billing Rates
April 2021

Classification	Hourly Range	
	Low End	High End
Engineering Intern	\$62.00	\$69.00
Engineer in Training I	\$78.00	\$115.00
Professional Engineer II	\$115.00	\$145.00
Professional Engineer III	\$148.00	\$207.00
Professional Engineer IV	\$194.00	\$243.00
Professional Engineer V	\$246.00	\$350.00
Planner I	\$78.00	\$88.00
Planner II	\$90.00	\$123.00
Planner III	\$124.00	\$147.00
Planner IV	\$162.00	\$203.00
Planner V	\$211.00	\$350.00
GIS Analyst I	\$66.00	\$95.00
GIS Analyst II	\$97.00	\$129.00
GIS Analyst III	\$132.00	\$175.00
GIS Analyst IV	\$184.00	\$223.00
GIS Analyst V	\$226.00	\$345.00
Administrative Assistant	\$31.00	\$69.00
Administrative II	\$70.00	\$88.00