



**CONCHO VALLEY**  
COUNCIL OF GOVERNMENTS

**SOLID WASTE ADVISORY COMMITTEE**

**NOTICE OF PUBLIC MEETING**

Wednesday, August 9, 2023 at 1:30 p.m.

Concho Valley Council of Governments  
5430 Link Rd, San Angelo, Texas 76904 and via Teleconference

*The meeting place is accessible to persons with disabilities. If assistance is needed to observe or comment, please call the CVCOG office at 325-944-9666 at least 24 hours prior to the meeting.*

Join By Zoom Teleconference - <https://us06web.zoom.us/j/87064039429>  
\*Meeting ID: 870 6403 9429 \*Passcode: 069755

833 548 0282 US Toll-free  
888 788 0099 US Toll-free

877 853 5247 US Toll-free  
833 548 0276 US Toll-free

**Agenda**

1. DETERMINATION OF QUORUM AND CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. PUBLIC COMMENT
4. CONSIDER AND TAKE APPROPRIATE ACTION CONCERNING THE APPROVAL OF MINUTES FROM VIRTUAL COMMUNICATIONS –
  - a. FEBRUARY 8, 2023
5. CONSIDER AND TAKE APPROPRIATE ACTION CONCERNING THE APPROVAL OF A NEW SOLID WASTE COMMITTEE MEMBER
6. CONSIDER AND TAKE APPROPRIATE ACTION CONCERNING THE CVCOG REGIONAL SOLID WASTE GRANT APPLICATION FOR FY 2024 & FY 2025
7. CONSIDER AND TAKE APPROPRIATE ACTION CONCERNING RESOLUTION 23-0809, TEXAS COMMISSION ON ENVIRONMENTAL QUALITY – REGIONAL SOLID WASTE CONTRACT FOR FY 2024 & FY 2025.
8. ADJOURNMENT

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*Posted in accordance with the Texas Government Code, Title V, Chapter 551, Section .053 this, 4<sup>th</sup> day of August 2023.*

**Erin M. Hernandez, Assistant Executive Director**



**CONCHO VALLEY**  
COUNCIL OF GOVERNMENTS

## **SOLID WASTE ADVISORY COMMITTEE**

### **MINUTES FROM ELECTRONIC COMMUNICATIONS**

**February 7-8, 2023**

On December 20, 2022, and January 6, 2023, a Notice of Funding Opportunity for 2<sup>nd</sup> biennium projects was sent to City Officials, County Officials, and Independent School District officials via email. This packet included the project descriptions, application instructions, and deadline for submission.

On February 1, 2023, it was noted and logged that we received applications from the City of Eldorado, Tom Green County, and the City of Bronte by the deadline. The City of Bronte withdrew its application on February 3, 2023.

On February 7, 2023, it was determined that there were several schedule conflicts that would have prevented us from having a meeting on February 8<sup>th</sup>. In turn, I submitted both applications from Tom Green County and the City of Eldorado, along with the budget of funds available to the committee for review and approval. Since the amount of requests was less than the amount of funds available, there was no need to score the applications. Molly Criner, Barbara Hooten, Shane Kelton, Charlie Bradley voted in favor of approving these applications. Rick Bacon, abstained from voting in favor of Tom Green County but voted in favor of the City of Eldorado's application. George Arispe, abstained from voting in favor of the City of Eldorado's application but voted in favor of Tom Green County's application.

The Tom Green County Application in the amount of \$60,000 for a Household Hazardous Waste Event and the City of Eldorado Application in the amount of \$30,000 for the purchase of a vertical baler were approved by the committee. These projects are slated to begin in March 2023 pending the completion of an interlocal agreement and are said to be completed by July 31, 2023.

These items were taken to the Executive Committee for final approval on February 8, 2023.

There was no other business discussed.

Approved on this 9<sup>th</sup> day of August 2023.

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Molly Criner, Chair  
Irion County Judge

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Erin Hernandez, Solid Waste Coordinator  
CVCOG – Assistant Executive Director

# Memo

**To:** Solid Waste Advisory Committee

**From:** Erin Hernandez – Solid Waste Coordinator, CVCOG - Assistant Executive Director

**Date:** 8/9/2023

**Re:** CONSIDER AND TAKE APPROPRIATE ACTION – ITEM 5

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## ITEM 5

Erin Hernandez, Solid Waste Coordinator & CVCOG Assistant Executive Director, is seeking consideration and approval of a new Solid Waste Committee Member.

*Approved at the Solid Waste Advisory Committee Meeting on August 9, 2023.*

**Form 1. Cover Page**

CONCHO VALLEY COUNCIL OF GOVERNMENTS - #10

FY 24/25

Performing Party FEI#:			
<b>Funding Amount For 1st Year:</b>	Select 1st FY From the Drop Down Menu By Clicking In This Box	\$	<b>115,000.00</b>
<b>Funding Amount For 2nd Year:</b>	Select 2nd FY From the Drop Down Menu By Clicking In This Box	\$	<b>115,000.00</b>
<b>Total Biennium Amount:</b>	FY 24/25	\$	<b>230,000.00</b>

**Required Attachments to the Application**

\* A copy of the latest membership list for the COG's Solid Waste Advisory Committee.

\* State Coordinating Agency Letter/Federal Cognizant Agency Letter indicating indirect/fringe benefits cost rates, and/or a letter of proposed rates.

**Certifications**

***The person signing this Application hereby certifies that:***

1. He/she has authority from the COG to sign the Application;
2. The information contained in this application is, to the best of his/her knowledge and understanding, complete and accurate;
3. This Application, along with any changes or addenda, shall become a binding part of the contract terms upon approval by TCEQ; and
4. This Application has no false statements and that signing this Application with a false statement is a material breach and TCEQ may terminate the grant;

**Signature/Title Certification**

<b>Title:</b>	<b>Assistant Executive Director</b>
<b>Typed/Printed Name:</b>	<b>Erin M. Hernandez</b>
<b>Signature:</b>	
<b>Date:</b>	

**Form 3. Current Information**

CONCHO VALLEY COUNCIL OF GOVERNMENTS - #10

FY 24/25

Executive Director: **John Austin Stokes**

**Solid Waste Coordinator : Erin Hernandez**

Phone #: 325-944-9666 x270

Email Address: [erinm@cvcog.org](mailto:erinm@cvcog.org)

**Financial Contact: Brandon Sanders**

Phone #: 325-944-9666 x264

Email Address: [brandon.sanders@cvcog.org](mailto:brandon.sanders@cvcog.org)

**Mailing Address**

The COG designates the following address for official notice and correspondence under the grant contract:

**Concho Valley Council of Governments**

**5430 Link Rd.**

**San Angelo, Texas 76904**

**Physical Address**

The COG designates the following location for record access and review under the grant contract and for special delivery of official notice and correspondence:

**Concho Valley Council of Governments**

**5430 Link Rd.**

**San Angelo, Texas 76904**

Date: **8/9/2023**

**Form 4. Authorized Representatives**

CONCHO VALLEY COUNCIL OF GOVERNMENTS - #10

FY 24/25

The COG Executive Director signing this form hereby certifies that these individuals named below as the person or persons authorized to receive direction from the TCEQ, to manage the work being performed, and to act on behalf of the COG for the purposes shown:

Typed/Printed Name: John Austin Stokes

Executive Director's Signature:

**Authorized Project Representative.**

The following person(s) is authorized, by the COG's Executive Director to receive direction, manage work performed, sign required reports, and otherwise act on behalf of the COG.  
*You may add more than one person, if needed.*

Title: Assistant Executive Director/Solid Waste Coordinator

Typed/Printed Name: Erin Hernandez

Authorized Project Representative's Signature:

**Authorized Financial Representative.**

The following person(s) is authorized by the COG's Executive Director, to act on behalf of the COG in all financial and fiscal matters, including signing financial reports.  
*You may add more than one person, if needed.*

Title: Director of Finance                      Assistant Director of Finance

Typed/Printed Name                      Brandon Sanders                      Michael Meek

Authorized Financial Representative's Signature:

**Date:**







**Form 5-B. Authorized Non-Routine Travel Expenses**

CONCHO VALLEY COUNCIL OF GOVERNMENTS - #10

FY 24/25

*Use the FSR for Any Updates to the Initial Approved Application*

Authorized Routine Travel Expenses.	Proposed Budget	Proposed Budget
	FY 24	FY 25
Site visits, outreach, and educational opportunity events throughout the 13 county region.	\$ 1,250.00	\$ 1,250.00
Attend TARC meetings in Austin about Solid Waste Program - 2 meetings per biennium	\$ 1,614.49	\$ 1,614.49
	\$ -	\$ -
	\$ -	
	\$ -	\$ -
	\$ -	\$ -
<b>TOTAL ROUTINE TRAVEL</b>	\$ 2,864.49	\$ 2,864.49
Authorized Non-Routine Travel Expenses	Proposed Budget	Proposed Budget
	FY 24	FY 25
	\$ -	\$ -
	\$ -	\$ -
	\$ -	\$ -
	\$ -	\$ -
<b>TOTAL NON-ROUTINE TRAVEL</b>	\$ -	\$ -
<b>Combined Total for Both Routine and Non-Routine Travel</b>	\$ 2,864.49	\$ 2,864.49
Authorized Signature: <i>(only needed for revisions and must be an authorized representative listed on Form 4)</i>		
Date:		

**Form 5-E. Authorized Additional Other Expenses**

CONCHO VALLEY COUNCIL OF GOVERNMENTS - #10

FY 24/25

*Use the FSR for Any Updates to the Initial Approved Application*

**Authorized Additional Other Expenses**

<i>All expenses must be itemized below, including items associated with the Cost Allocation Plan</i>				<b>Proposed Budget</b>	<b>Proposed Budget</b>	<b>Biennium Total</b>
<b>Itemize List of Expense</b>	<b>Unit Cost</b>	<b>No. of Units</b>	<b>Total Cost</b>	<b>FY 24</b>	<b>FY 25</b>	<b>FY 24/25</b>
Rent/Office Space Allocation	\$ 3,849.00	2	\$ 7,698.00	\$ 3,849.00	\$ 3,849.00	\$ 7,698.00
Storage Space Rent Allocation	\$ -	0	\$ -	\$ -	\$ -	\$ -
Communication (telephone/cell phone/internet) Allocation	\$ -	0	\$ -	\$ -	\$ -	\$ -
Postage Allocation	\$ 100.00	2	\$ 200.00	\$ 100.00	\$ 100.00	\$ 200.00
Printing Allocation	\$ 150.00	2	\$ 300.00	\$ 150.00	\$ 150.00	\$ 300.00
Copy/Fax Allocation	\$ 150.00	2	\$ 300.00	\$ 150.00	\$ 150.00	\$ 300.00
Accounting & Payroll Services Allocation	\$ 1,849.00	2	\$ 3,698.00	\$ 1,849.00	\$ 1,849.00	\$ 3,698.00
IT/Data Services (Network) Allocation	\$ 2,396.00	2	\$ 4,792.00	\$ 2,396.00	\$ 2,396.00	\$ 4,792.00
Purchasing Allocation	\$ 2,103.00	2	\$ 4,206.00	\$ 2,103.00	\$ 2,103.00	\$ 4,206.00
Personnel Allocation	\$ -	0	\$ -	\$ -	\$ -	\$ -
GIS Allocation	\$ -	0	\$ -	\$ -	\$ -	\$ -
Audit Fees	\$ -	0	\$ -	\$ -	\$ -	\$ -
Insurance and bonding (disability, retirement, unemployment, etc.)	\$ -	0	\$ -	\$ -	\$ -	\$ -
Research and Information (Demographics)	\$ -	0	\$ -	\$ -	\$ -	\$ -
Research and Information Services (Geographics)	\$ -	0	\$ -	\$ -	\$ -	\$ -
Research and Information Services - Network Support	\$ -	0	\$ -	\$ -	\$ -	\$ -

Maintenance & Repairs (be specific what this line item expense would cover)	\$ -	0	\$ -	\$ -	\$ -	\$ -
Utilities (include what type of utility)	\$ -	0	\$ -	\$ -	\$ -	\$ -
Advertising/Public/Legal Notices (the detail of this line item should be included in the FSR when the expense occurs)	\$ 150.00	4	\$ 600.00	\$ 300.00	\$ 300.00	\$ 600.00
Dues/Memberships (include name of membership and the recipient (s) this could include the position title and not a name)	\$ 500.00	2	\$ 1,000.00	\$ 500.00	\$ 500.00	\$ 1,000.00
Subscriptions/Publications (include name of subscription and the recipient (s) this could include the position title and not a name)	\$ 125.00	2	\$ 250.00	\$ 125.00	\$ 125.00	\$ 250.00
Training/Registration (Professional Development) The detail of this line item should be included in the FSR when the expense occurs.	\$ -	0	\$ -	\$ -	\$ -	\$ -
Education/Outreach (when specific items are to be purchased a list must be submitted for a separate approval. A separate tab is included for your use when requesting outreach items)	\$ -	0	\$ -	\$ -	\$ -	\$ -
See Separate tab form 5-E for Software request The budget cells will auto populate from the software tab	\$ -	0	\$ -	\$ -	\$ -	\$ -
See Separate tab form 5-E for hardware request The budget cells will auto poplutate from the hardware tab	\$ -	0	\$ -	\$ -	\$ -	\$ -
Other expenditures (be specific when adding another line item here)	\$ -	0	\$ -	\$ -	\$ -	\$ -
<b>Total Other</b>			<b>\$ 23,044.00</b>	<b>\$ 11,522.00</b>	<b>\$ 11,522.00</b>	<b>\$ 23,044.00</b>
Authorized Signature: (only needed for revisions and must be an authorized representative listed on Form 4)						
Date:						

**Form 5-F. Implementation And COG-Managed Project Budget**

CONCHO VALLEY COUNCIL OF GOVERNMENTS - #10

FY 24/25

**Use the FSR for Any Updates to the Initial Approved Application**

Types of Projects Planned	Estimated Cost	Proposed Budget	Proposed Budget	Biennium Total
		FY 24	FY 25	FY 24/25
Pass-Thru Funds	\$ 130,000.00	\$ 65,000.00	\$ 65,000.00	\$ 130,000.00
COG Managed	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -

**Allocation and Priorities**

List any priorities assigned by the COG to the project Categories. Describe the planned use of any funding allocations to the specific categories, category funding limits, grant award funding caps, or similar special restrictions.

Start typing here:

<b>TOTAL</b>	\$ 65,000.00	\$ 65,000.00	\$ 130,000.00
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Authorized Signature:  
*(only needed for revisions and must be an authorized representative listed on Form 4)*

Date:

**Form 5-G. Supply Budget**

CONCHO VALLEY COUNCIL OF GOVERNMENTS - #10

FY 24/25

Proposed Budget		Proposed Budget		Biennium Total	
FY 24		FY 25		FY 24/25	
\$	500.00	\$	500.00	\$	1,000.00
\$	<b>500.00</b>	\$	<b>500.00</b>	\$	<b>1,000.00</b>
Authorized Signature: <i>(only needed for revisions and must be an authorized representative listed on Form 4)</i>					
Date:					

## Form 5-H. Indirect Cost Rate Information

CONCHO VALLEY COUNCIL OF GOVERNMENTS - #10

FY 24/25

Identify, in detail, each budget category to which your indirect cost rate applies and explain any special conditions under which the rate will be applied:

Use the space below for the indirect cost rate detail (this is mandatory to complete).

HHS approves our Indirect Rate as a fixed rate.

Approved Fixed Rate 10/1/2022 through 09/30/2023 is 6.2%

Approved Fixed Rate 10/1/2023 through 09/30/2024 is 7.2%

Approved Provisional Rate 10/1/2024 through 09/30/2027 is 7.2%

## **FRINGE RATE INFORMATION**

CONCHO VALLEY COUNCIL OF GOVERNMENTS - #10

FY 24/25

Use the space below for the fringe rate calculation.

Fringe Benefits are specifically identified to each employee and are charged individually as direct costs that are made up of:

- Annual Health Insurance Benefit of \$12,177.12
- Annual Dental Insurance Benefit of \$407.52
- Annual Life Insurance Benefit of rate based on 2 times the employee salary rate.
- State Unemployment Tax at a rate of 0.001 of the first \$9,000
- Medicare at a rate of 1.45%
- Workers Compensation at a rate of 0.002133
- TCDRS Pension, in lieu of Social Security, required rate in is 11%

Gross Pay and Fringe Benefits are allocated based on percentage of time worked under each program by specific employee.

The Fringe Rate calculated on Form 5H is done by taking the estimated fringe costs associated with each employee and dividing it by the estimated gross pay of that employee. Since fringe benefits are direct billed, there is no actual fringe rate used for allocating costs.

### Form 5. Budget

CONCHO VALLEY COUNCIL OF GOVERNMENTS - #10

FY 24/25

Budget Category	Proposed Budget	Proposed Budget	Biennium Total Budget
	Select 1st FY From the Drop Down Menu By Clicking In This Box	Select 2nd FY From the Drop Down Menu By Clicking In This Box	FY 24/25
1. Personnel/Salary ( Form 5 A)	\$ 25,369.20	\$ 25,369.20	\$ 50,738.40
2. Travel (Form 5 B)	\$ 2,864.49	\$ 2,864.49	\$ 5,728.98
3. Equipment (Form 5 C)	\$ -	\$ -	\$ -
4. Contractual (Form 5 D)	\$ -	\$ -	\$ -
5. Other (Form 5 E)	\$ 11,522.00	\$ 11,522.00	\$ 23,044.00
6. Implementation Projects (Form 5 F)	\$ 65,000.00	\$ 65,000.00	\$ 130,000.00
7. Supplies (Form 5 G)	\$ 500.00	\$ 500.00	\$ 1,000.00
8. Fringe Benefits (Form 5 H)	\$ 7,387.51	\$ 7,387.51	\$ 14,775.02
<b>9. Total Direct Costs (sum of 1-8)</b>	<b>\$ 112,643.20</b>	<b>\$ 112,643.20</b>	<b>\$ 225,286.40</b>
10. Indirect Costs (Form 5 H)	\$ 2,356.80	\$ 2,356.80	\$ 4,713.60
<b>11. Total Costs (sum of 9-10)</b>	<b>\$ 115,000.00</b>	<b>\$ 115,000.00</b>	<b>\$ 230,000.00</b>
<b>12. Fringe Benefit Rate:</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>
<b>13. Indirect Cost Rate:</b>	<b>0.000%</b>	<b>0.000%</b>	<b>0.000%</b>
Authorized Signature: <i>(only needed for revisions and must be an authorized representative listed on Form 4)</i>			
Date:			

# Memo

**To:** Solid Waste Advisory Committee

**From:** Solid Waste Coordinator, CVCOG - Assistant Executive Director

**Date:** 8/9/2023

**Re:** CONSIDER AND TAKE APPROPRIATE ACTION – ITEM 6

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## ITEM 6

Erin Hernandez, Solid Waste Coordinator & CVCOG Assistant Executive Director, is seeking consideration and approval of the CVCOG Regional Solid Waste Grant Application for FY 2024 and FY 2025.

*Approved at the Solid Waste Advisory Committee Meeting on August 9, 2023.*

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Molly Criner, Chair  
Irion County Judge

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Erin Hernandez, Solid Waste Coordinator  
CVCOG – Assistant Executive Director



**CONCHO VALLEY  
COUNCIL OF GOVERNMENTS  
RESOLUTION 23-0809**

**BOARD RESOLUTION – TCEQ REGIONAL SOLID WASTE GRANT APPLICATION & CONTRACT**

**WHEREAS**, the Executive Committee of the Concho Valley Council of Governments (CVCOG) met on August 9, 2023 at 5430 Link Road in San Angelo, Texas and;

**WHEREAS**, Concho Valley Council of Governments is a voluntary organization of local governments to foster a cooperative effort in resolving problems, policies, and plans that are common and regional throughout the Concho Valley;

**WHEREAS**, the Concho Valley Council of Governments has reviewed the application and authorizes its submittal to the TCEQ;

**WHEREAS**, the Concho Valley Council of Governments finds that all activities and related expenses included in this application will serve to implement the goals, objectives, and recommendations of the Regional Solid Waste Management Plan

**WHEREAS**, the Concho Valley Council of Governments will comply with all applicable state and local laws and regulations pertaining to the use of state funds, including laws concerning the procurement of goods and services, competitive purchasing requirements, and financial and program reporting requirements; and

**WHEREAS**, the Concho Valley Council of Governments will ensure that grant funds will be used only for the purposes for which they are provided.

**NOW, THEREFORE, BE IT RESOLVED**, that the Executive Committee approves the CVCOG Executive Director, John Austin Stokes, to enter in to a contract with the Texas Commission on Environmental Quality for the Regional Solid Waste Grant for FY 2024 & FY 2025 in the amount of \$230,000.

DULY ADOPTED at a meeting of the Executive Committee of the Concho Valley Council of Governments this 9<sup>th</sup> day of August 2023.

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Judge Jim O’Bryan, Board Chair

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Judge Brandon Corbin, Vice-Chair

# Texas Commission on Environmental Quality



## CONTRACT SIGNATURE PAGE

Contract Name: Regional Solid Waste Grant  
 Contract Number: 582-24-50084  
 Performing Party: **Concho Valley Council of Governments**  
 Performing Party Identification Number: 1-7512795372  
**Maximum Authorized Reimbursement: \$230,000.00 [FY24-\$115,000.00 / FY25-\$115,000.00]**

Effective Date:  09/01/2023  Date of last signature  
 Expiration Date:  08/31/2025  Last day of Fiscal Year in which the Contract was signed

If checked, this Contract requires matching funds. Match Requirement:  
 If checked, this Contract is funded with federal funds.

CFDA Number: Not Applicable  
 Federal Grant Number: Not Applicable

This Contract is entered under:  Gov't Code ch. 771  Gov't Code ch. 791  Water Code § 5.124

The Texas Commission on Environmental Quality (TCEQ), an agency of the State of Texas, and the named Performing Party, a state agency or local government of the State of Texas, enter this agreement (Contract) to cooperatively conduct authorized governmental functions and activities under the laws of the State of Texas.

The Parties agree as follows: (a) to be effective, the Contract must be signed by an authorized official of the TCEQ and the Performing Party; (b) this Contract consists of all documents specified in the list of Contract Documents following this page; and (c) as authorized by TCEQ, Performing Party will conduct Contract Activities as part of its own authorized governmental functions and TCEQ will reimburse Allowable Costs subject to the Texas Uniform Grant Management Standards (UGMS) and this Contract.

**Texas Commission on  
Environmental Quality (TCEQ)**

**Concho Valley Council of Governments  
(Performing Party)**

\_\_\_\_\_  
Authorized Signature

Charly Fritz  
\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Deputy Director  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Procurements & Contracts Representative

Aaron Stoke - CTCD, CTCM  
\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signature

John Austin Stokes  
\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Executive Director  
Title

\_\_\_\_\_  
Date

## CONTRACT DOCUMENTS LIST

This Contract between TCEQ and Performing Party consists of the Contract Documents listed on this page. Documents on this list include all amendments. In the event of a conflict of terms, the Contract Documents as amended control in the descending order of the list, subject to provisions in the Special Terms and Conditions, if any. All Contract provisions, however, are subject to control by the latest amendment, or update as allowed by the Contract, and most specific provision and by the applicable state and federal laws, rules, and regulations.

- Contract Signature Page
- Contract Documents List
- Special Terms and Conditions
- Scope of Work
- General Terms and Conditions
- Cost Budget  
(see Attachment 1 - approved Application documents Form 5, incorporated by reference)
- Notices, Project Representatives, and Records Locations
- Attachment 1 - TCEQ approved Regional Council of Governments Application and any changes approved during the Contract Period  
(separate Excel document, incorporated by reference)
- Attachment 2 - Regional Council of Governments Application Template  
(separate Excel document, incorporated by reference)
- Attachment 3 - TCEQ - Regional Solid Waste Grant Program Administrative Procedures  
(separate PDF document, incorporated by reference)

## SPECIAL TERMS AND CONDITIONS

These Special Terms and Conditions add to, or in the case of conflicts, supersede and take precedence over all other Contract Documents.

1. **Statutory Authority.** The Statutory Authority for this Contract is the General Appropriations Act for the 2024-25 Biennium (88th Legislature Regular Session), Method of Financing, General Revenue Fund - Dedicated, Solid Waste Disposal Account No. 5000, and Texas Health and Safety Code § 361.014(b).
2. **Availability of Funds.** The source of the funds provided by the TCEQ under this Contract is the Solid Waste Disposal and Transportation Fees, as stated in Texas Health and Safety Code § 361.013, and the Municipal Solid Waste Disposal Account, as set forth in Texas Health and Safety Code § 361.014(d). The parties agree that TCEQ's obligations under this Contract are contingent upon the continued availability of sufficient funds in the Municipal Solid Waste Disposal Account. TCEQ may terminate this Contract if funds become unavailable due to lack of fees collected, legislative changes, or demands upon the funds described above that are necessary to protect the health and safety of the public. The Performing Party shall place this notice in all subgrants and contracts.
3. Performing Party agrees to perform activities described in this Contract, which may be a modification of the Application submitted to TCEQ.
4. Local and regional political subdivisions that are subject to the payment of state solid waste disposal fees and are in arrears in their fee payments, as determined by the TCEQ, are not eligible to receive subgrant or contract funding from the Performing Party. The Performing Party shall allow a potential subgrant or contract applicant that is listed as being in arrears in its fee payments the opportunity to provide documentation of payment of the fees owed the state. If the potential applicant provides the Performing Party with documentation of payment of the fees, such as a canceled check or receipt from the state, the Performing Party may consider that applicant to be eligible to receive subgrant or contract funding under this Contract.
5. The Performing Party is responsible for ensuring that subrecipients and contractors have all necessary permits, meet all other legal requirements to perform the activities, are qualified to perform the activities, and are not in arrears on any penalties owed to TCEQ.
6. Local and regional political subdivisions that are barred from participating in state contracts by the Texas Comptroller of Public Accounts (CPA) under the provisions of § 2155.077, Texas Government Code, and Title 34 Texas Administrative Code (TAC) § 20.585, CPA Regulations, are not eligible to receive subgrants or contracts from the Performing Party.
7. The activities funded under this Contract, both projects conducted by the Performing Party or as a part of a subgrant, shall be in accordance with all provisions of this Contract, all applicable federal, state and local laws, rules, regulations, and guidelines. The main governing requirements include, but are not limited to, the following standards.
  - 7.1 Texas Health and Safety Code Chapters 361, 363, and 364.
  - 7.2 TCEQ rules Title 30 TAC Chapter 330, Subchapter O.
  - 7.3 TCEQ rules Title 30 TAC Chapter 14.
  - 7.4 The Uniform Grant and Contract Management Act, Texas Government Code, § 783.001 et seq., the Uniform Grant and Contract Standards, 34 TAC §§ 20.456 - 20.467 (although the rules were repealed by the Texas Comptroller of Public Accounts effective March 14, 2021, the rules are applicable by agreement under this grant), and the Texas Grant Management Standards (TXGMS) issued by CPA and formerly by the Texas Office of the Governor.
  - 7.5 Texas General Appropriations Act, 88th Legislature Regular Session, including Article IX, Part 4.

- 7.6 Texas Chapter 391 of the Local Government Code and related rules.
8. **Administrative Procedures.** The Performing Party agrees to follow those administrative procedures identified in this Contract, including the Regional Solid Waste Grants Program (RSWGP) Administrative Procedures (Attachment 3), in performance of the deliverables identified within this Contract.
  9. **Electronic Signature.** Electronic signatures may be used on the Performing Party's Grant Application (**Attachment 1**), budget amendments, reports, and correspondence provided that the owner of the electronic signature approves the use of their signature for that purpose. A scan of an original signature is also acceptable. Signatures must be dated.
  10. **Distribution of Funds.** The TCEQ shall disburse payments to the Performing Party throughout the biennium. Distribution amounts shall be apportioned among the twenty-four (24) Councils of Governments (COGs) in accordance with the allocation formula established by the TCEQ, and shall not exceed the total budget for each fiscal year. The Application must be submitted by January 31st of the first year of the biennium. Except for the potential pre-payment, TCEQ will not release funding to the Performing Party until the Application is approved by TCEQ. If after approval of the Application, the Performing Party does not work in good faith, including in a timely manner, TCEQ may suspend payments.
    - 10.1 **Pre-payment Option.** Within the first quarter of this Contract, TCEQ may make a one-time pre-payment of funds up to twelve and a half percent (12.5%) of the Maximum Authorized Reimbursement amount for the first year of the Contract (total annual budget).
    - 10.2 **Costs Prior to TCEQ Approval of Application.** The Performing Party may incur costs for preparing the Application prior to TCEQ providing the Performing Party a Notice to Commence. The actual costs of preparing the Application may not exceed 12.5% of the Maximum Authorized Reimbursement amount for the first year of the Contract (total annual budget). Prior to TCEQ approval of the Application, the Performing Party must obtain prior, written approval from TCEQ to incur costs for activities other than the development of the Application.
    - 10.3 **Reimbursement Payment Method.** TCEQ, at its discretion and at any time during the term of this Contract, may convert to a reimbursement-only payment method for this Contract, in accordance with the General Terms and Conditions of this Contract.
  11. **Federally-Insured, Interest-Bearing Account; Specific Local Government Investment Pools; and Earned Interest.** All funds received by the Performing Party, including interest earned, shall be placed in a federally-insured, interest-bearing account or TexPool or TexPool Prime as authorized under Texas Government Code Chapter 2556. Interest earned by the Performing Party under this Contract may be utilized in any other budget category including implementation projects. The Performing Party must report earned interest expenses in the worksheet of the Financial Status Reports (FSRs). Performing Party must notify TCEQ when moving earned interest into the next biennium. Expenditures of earned interest must be tracked as a separate budget from the regular approved budget.
  12. **End of Biennium Unexpended Funds.** The Performing Party must submit a plan to the TCEQ to seek direction on expense of any remaining funds. Such plan shall consist of a letter of request which clearly delineates intended use of all remaining funds, as well as explaining why the funds were not spent. The letter must be submitted by December 31st occurring after the end of the biennium, along with or before the final FSR and Release of Claims.
  13. **Application.**
    - 13.1 **General.** The Performing Party's Application provides information to the TCEQ and the general public on how funds will be spent over the term of this Contract. The Application is compared to each FSR after they are submitted to ensure funds are spent in accordance with the approved Application.
    - 13.2 **Submission.** The Performing Party must complete and submit the Application in electronic format using templates provided by TCEQ. The documents shall be signed by an authorized signatory of the Performing Party and must be submitted no later than **January 31, 2024**. If the documents are not submitted by the required due date,

the Performing Party must submit a letter, by **January 31, 2024**, from the Performing Party's Executive Director addressed to the TCEQ Grant Manager requesting a delay, providing a reason for the delay, and proposing an extended due date. TCEQ may approve the extended due date or request additional information by email.

If the Contract is extended by amendment for an additional biennium, the Application shall be submitted no later January 31st of the first year of the added biennium. If these documents are not submitted by the required due date, a letter must be submitted as required above for the first biennium of the Contract. The Performing Party is encouraged to provide the documents earlier than the due date(s).

Even if an extended due date for the Application is approved, TCEQ may suspend payments of funding under the Contract until the Application is submitted. Failure to provide the Application is considered nonconforming performance and the remedies applicable to nonconforming performance included in the article of the General Terms and Conditions titled, *Disputes, Claims and Remedies*, may be applied by TCEQ.

### 13.3 Initial Review of the Application and Implementation Projects.

13.3.1 **Application.** TCEQ will review the Application and upon TCEQ approval of the Application, TCEQ shall provide the Performing Party a Notice to Commence, with the activities in the Application except implementation projects. The Application becomes **Attachment 1** to this Contract.

13.3.2 **Implementation Projects.** To request approval of each implementation project, the Performing Party must provide the information required in the RSWG Administrative Procedures to TCEQ. TCEQ will review each project and provide a Notice to Commence with the approved Implementation Projects.

13.3.3 **Blanket delegated approval for Projects option.** The Performing Party's governing body or designee may approve a blanket approval for specific project types. The approval must be submitted to TCEQ for review for approval. If TCEQ also approves, the Performing Party may use the blanket approval for the specific project type, instead of requesting approval by TCEQ of each project. The projects must meet the criteria in the Attachment 3.

## 14. Budget and Budget Adjustments.

14.1. The initial budget for this Contract is contained in the approved version of the Performing Party's Application (**Attachment 1**). The Performing Party will not be reimbursed for activities that are not included in the Performing Party's approved Application. The Performing Party will not be reimbursed for expenses in excess of the budget category amounts shown in each fiscal year's budget column, unless changes are made to the budget categories in accordance with the requirements in this Contract.

### 14.2. Budget Adjustments.

14.2.1 **Cumulative transfer of funds equal to or less than ten percent (10%) of the Total Annual Budget.** Performing Party may transfer amounts between the approved direct cost budget categories that do not cumulatively exceed 10% of the total annual budget, with the exception of moving funds out of the Implementation Project category in the Budget. Budget adjustments are submitted in the FSR and can be submitted prior to the deadline for submission of the FSR. The Performing Party does not have to wait for approval for these budget revisions prior to incurring costs with the exception of items that have not been pre-approved in the Application. Performing Party may submit pre-approval request through email. The 10% limit does not reset with the acceptance of each FSR. It resets when TCEQ provides prior approval for a cumulative change greater than 10% of the annual budget.

- 14.2.2 **Cumulative transfer of funds greater than 10% of the Total Annual Budget.** The Performing Party must request prior, written approval from TCEQ for all budget revisions that result in the cumulative transfer of greater than 10% of the total annual budget between direct cost budget categories. The Performing Party must submit a written justification and show the budget adjustments in a draft FSR.
- 14.2.3 **Transfers Funds from Implementation Project Budget.** The Performing Party must seek written, prior approval from TCEQ prior to transferring funds out of the Implementation Project category in the Budget. The Performing Party must submit a written justification and show the budget adjustments using the FSR form.
- 14.2.4 The Performing Party may not transfer funds to budget categories containing zero dollars without TCEQ pre-approval in writing, including email.
- 14.3. All negative budget categories shall be adjusted prior to submitting the quarterly FSRs.
- 15. **Budget Category Expense Records and Documentation.** The Performing Party shall maintain expenditure documentation to show the work was performed and that the expense was incurred and paid. Expense documentation shall be in accordance with this Contract and TXGMS, including supporting reasonable expenditures necessary to this Contract, and shall be maintained at the COG and not provided with each FSR unless directed by the TCEQ to do so. Expense record documentation shall be conducted per TXGMS. Budget category expenses not addressed in the following will be administered per the Contract requirements, including the Special Terms and Conditions and TXGMS. The Performing Party must follow all applicable laws, regulations, and TxGMS procurement standards, including requirements regarding competitive bidding and competitive proposals.
  - 15.1 **Personnel/Salary.** The Performing Party's employee positions covered in this Contract are set forth in **Attachment 1**.
    - 15.1.1 The Performing Party shall maintain time sheets that have been signed by the employee and approved by the supervisory official having firsthand knowledge of the work performed by the employee.
    - 15.1.2 Any changes to the Personnel/Salary positions covered in **Attachment 1** of the Contract, must be submitted to the TCEQ immediately when a change occurs, if there is an impact to the budget, or quarterly. The changes include monthly salary, percentage of time allocated to a position, budget by position and by either adding or deleting positions.
  - 15.2 **Travel.** Travel expenses are allowed as set forth in **Attachment 1**.
    - 15.2.1. Additional non-routine travel expenses may be authorized as follows:
      - 15.2.1.1 Any travel outside of the State of Texas by employees of the Performing Party to be reimbursed under this Contract must be authorized, in writing, including email, by the TCEQ prior to the travel expenses being incurred and documented in the appropriate quarterly FSR.
      - 15.2.1.2 Any travel expenses for an employee not included in the Authorized Personnel list in **Attachment 1** or for persons not employed by the Performing Party, except in the case of a Solid Waste Advisory Committee (SWAC) member's travel to attend SWAC meetings, must be authorized, in writing, including email, by the TCEQ, prior to the travel expenses being incurred.
    - 15.2.2. The Performing Party shall maintain travel documentation, which, at a minimum, is consistent with TXGMS and this Contract, identifies the purpose of the travel, and is supported with actual receipts for hotel accommodations, public transportation, airfare, and other travel expenses. Such travel documentation shall be submitted to TCEQ upon request.

- 15.3 **Supplies.** Expenses included under the Supplies expense category of the budget set forth in **Attachment 1** shall be for non-construction related costs for goods and materials having a unit acquisition cost of less than \$5,000, excluding shipping, handling, freight, tax, and similar costs. Such expenditures shall generally relate to the routine purchase of office supplies (paper, pencils, and staplers) or other goods which are consumed by the Performing Party in a relatively short period of time, in the regular performance of the activities funded under this Contract. TCEQ may request that certain supplies be listed under the “Other” category.
- 15.3.1 Supplies expenditure documentation to be maintained by the Performing Party includes receipts, purchase orders (if issued) or invoices marked paid, and canceled checks.
- 15.4 **Equipment.** Expenses included under the Equipment expense category of the budget set forth in **Attachment 1**, including vehicles, shall be for non-construction related, tangible, personal property having a unit acquisition cost of \$5,000 or more with an estimated useful life of over one year.
- 15.4.1 The Performing Party must seek TCEQ prior approval for purchase of additional equipment, and such equipment must be placed on the Authorized Equipment Expenses list in the appropriate quarterly FSR
- 15.4.2 Equipment expenditure documentation to be maintained by the Performing Party includes receipts, purchase orders (if issued) or invoices marked paid, and canceled checks.
- 15.4.3 Subject to the obligations and conditions set forth in state law and TxGMS, title to equipment acquired under this Contract will vest upon acquisition in the Performing Party or if acquiring under a subgrant, title vests in the subrecipient, if the subrecipient is a local government. Vehicles and other equipment purchased through this Contract shall be used exclusively for the activities authorized by this Contract or a subsequent, similar grant from TCEQ for the useful life of the vehicles and other equipment purchased.
- 15.5 **Contractual.** Expenses included under the Contractual expense category of the budget set forth in **Attachment 1** shall be for costs for services or tasks provided by a firm or individual who is not employed by the Performing Party.
- 15.5.1 No expenses included under the Contractual expense category of the budget set forth in **Attachment 1** shall be allowed under this Contract unless the contractor, contract amount, and scope of work are approved ahead-of-time by the TCEQ, in writing, including emails, and included on the list of authorized Contractual expenses or in the appropriate quarterly FSR.
- 15.5.2 The Performing Party shall maintain evidence that the contract price is reasonable, necessary, and allocable to this Contract. The evidence of reasonability may take the form of bid tab sheets or other form of evaluation of competitive price offers or competitive proposals, and/or a cost analysis or price analysis under the TXGMS, which must be in compliance with applicable state law and regulations for the activity or service for which the Performing Party is contracting. Expenditure documentation to be maintained by the Performing Party includes receipts, purchase orders (if issued) or invoices marked paid, and canceled checks. The Performing Party shall maintain monitoring plans, monitoring desk reviews, liability insurance documents, and site visit reports, to document oversight and review of the subrecipients’ expenses.
- 15.5.3 Any amendment to a Performing Party contract authorized for reimbursement under this Contract, which will result in or require substantive changes to any of the tasks required to be performed under this Contract, must be approved in writing, including email by the TCEQ prior to the Performing Party incurring costs.



- 15.6.1 **Implementation Projects.** Expenses included under the Implementation Project expense categories of the budget set forth in **Attachment 1** shall be for approved subgrant and COG-Managed projects, as authorized under this Contract. If the Performing Party performs the implementation project using a contractor, instead of a subrecipient, the performing party shall maintain the same documentation as required for the contractual budget category.
- 15.6.2 The Performing Party shall maintain documentation of subrecipients' expenses, copies of all risk assessment documents, monitoring plans, monitoring desk reviews, liability insurance documents, and site visit reports prepared under the Performing Party's fiscal monitoring program, to document oversight and review of the subrecipients' expenses.
- 15.6.3 For each authorized implementation project, the Performing Party shall indicate on the appropriate FSR the TCEQ assigned project number, the authorized funding for that project, the outlays for the report period, the cumulative (total to date) outlays for that project, and the remaining balance for each project. In addition, for each subgrant for which an outlay is listed for the reporting period, the Performing Party shall maintain, for each reimbursable cost listed on the supplemental form, legible documentation that (1) clearly identifies the subrecipient, and (2) confirms the reimbursable amount shown on the form. This documentation shall be a signed request for reimbursement form from the subrecipient marked "paid", or a similar document used by the Performing Party to receive and process reimbursement requests from subgrant recipients. The requirements in this Subarticle do not change the requirements in TXGMS regarding the Performing Party and subrecipients' review and retention of backup documentation for project costs.
- 15.7 Other Expenses.** All expenses under the "Other" expense categories of the budget set forth in **Attachment 1** shall be in connection with the tasks and activities to be performed under this Contract. Expenses not falling under the main expense categories may be included under the "Other" expense category if appropriate for the proposed project as set forth in this Article.
- 15.7.1. The Performing Party must seek TCEQ prior approval for any expense that are not included in Attachment I to ensure that expenditures charged under the "Other" budget category are allowable. All expenses must be itemized in the appropriate quarterly FSR. .
- 15.8 Indirect Cost Rate.** Indirect and Fringe Benefit Cost Rates will be described in the Approved Application documents and shall be calculated per TXGMS or 2 Code of Federal Regulations Part 200. If the Performing Party has a pre-determined rate from its Federal Cognizant Agency or the State Coordinating Agency (source will depend on source of grant funding and amount), send TCEQ the approved letter and any subsequently-updated letters. If the Performing Party does not have a predetermined rate, but are in the process of getting one, provide TCEQ the indirect cost proposal that the Performing Party will submit to the Federal Cognizant Agency or State Coordinating Agency. If you do not plan to get a rate, you may use the default rate, which is a standard rate of ten percent of salary/wages that is used in lieu of determining the actual indirect costs of the activities.
- 15.9 Additional Expense Records.** If requested by the TCEQ, the Performing Party agrees to provide to the TCEQ the additional expense records and documentation materials, appropriate for the expense, for the time period requested by the TCEQ. The TCEQ will provide reasonable time for the Performing Party to comply with a request for additional records. The TCEQ will allow the Performing Party reasonable time to respond to any findings of noncompliance or other problems identified by the records review.
16. Subarticle 1.2.1 of the General Terms and Conditions is replaced with the following:
- 1.2.1. **Material Changes.** Material changes to the contract require a written amendment signed by both parties. These Amendments take effect when signed by the Performing

Party and TCEQ, unless otherwise designated in the Amendment. Material changes include:

- 1.2.1.1. Changes in the total amount of funds in the Budget or Contract;
- 1.2.1.2. Changes to the Contract's Expiration Date;
- 1.2.1.3. Changes to the Scope of Work that affect TCEQ's obligations to the entity providing funding, such as the United States Environmental Protection Agency (EPA), another state or federal agency, or the Texas Legislature;
- 1.2.1.4. Changes that affect the material obligations of the Performing Party in this Contract; and
- 1.2.1.5. Transfers between the authorized amounts of expenditures in the Budget Categories if the cumulative changes are greater than 10% of the yearly budget.

17. Subarticle 1.2.3. of the General Terms and Conditions is replaced with the following:

1.2.3 Minor Changes. The TCEQ Contract Manager and/or the TCEQ Project Manager has the authority, without a written Amendment, to correct typographical errors; make written Contract interpretations; and make minor, non-material changes to the requirements in the Scope of Work, Application (**Attachment 1**), or implementation projects, or as agreed to elsewhere in the Contract. Performing Party must provide TCEQ with a written objection to any Minor Change no later than five (5) business days from the effective date of the Minor Change (date of issuance). A copy of the agreed change must be retained in the appropriate file by both the Performing Party and TCEQ.

1.2.3.1. Minor, non-material changes include:

- 1.2.3.1.1. Changes to the schedule in the Scope of Work, Application (**Attachment 1**), or implementation projects, including an extension of a deliverable due date, not to exceed the expiration date of the Contract;
- 1.2.3.1.2. Changes to the individual tasks in the Application (**Attachment 1**), or implementation projects that do not substantially change the obligations of the Parties relative to those tasks; and
- 1.2.3.1.3. Transfers between the authorized amounts of expenditures in the Budget Categories if the cumulative changes are equal to or less than 10% of the yearly budget.

18. **Level-of-Effort Certification.** Subarticle 4.3 *Reimbursement* of the General Terms and Conditions is replaced to include the following:

**4.3 Level-of-Effort Certification.** Performing Party must submit records to support reimbursement requests for exempt employee salaries, where costs are determined based on percentage of the employee's time performing activities. These records must meet the Standards for Documentation of Personnel Expenses in TxGMS or 2 CFR § 200.430, as applicable based on whether state or federal money is used by TCEQ to fund the grant activities.

If TCEQ determines that the records do not comply with the requirements of TxGMS or 2 CFR § 200.430, the Performing Party will work with TCEQ to bring the level of certification into compliance. TCEQ may require the Performing Party to complete the attached Level-of Effort Certification form The LEC form must be completed and submitted with each invoice, unless otherwise approved by TCEQ in writing.

19. Subarticle 4.6 *Release of Claims* of the General Terms and Conditions is replaced with the following:

**4.6 Release of Claims.** As a condition to final payment or settlement, or both, the Performing Party shall execute and deliver to the TCEQ a release of all claims against the TCEQ for payment under this Contract with its final FSR for FY 24/25 funding. The Release of Claims Form is found in the FSR workbook. If the Contract is extended by

amendment for an additional biennium, the Performing Party also shall execute and deliver to the TCEQ a release of all claims against the TCEQ for payment under this Contract with its final FSR for the added biennium.

- 20. **Auditing.** If the Performing Party is required by TXGMS to obtain a Single Audit or program-specific audit and the audit is not posted on the Federal Audit Clearinghouse website, the Performing Party shall provide the audit to TCEQ immediately upon the completion of the audit and provide the Performing Party’s management decisions.
- 21. **Material Reliance.** TCEQ materially relies on all certifications and information provided by the Performing Party.
- 22. **Reimbursed Items and Data.** In addition to the licenses granted in the General Terms and Conditions Subarticles titled Third Party Intellectual Property and Grant of License of the General Terms and Conditions, TCEQ may, or may authorize a TCEQ grantee to, do the following: use, reproduce, publish, or modify intellectual property or other items or data developed with TCEQ funds, which were provided/reimbursed under this agreement, to perform actions on any grant that is fully- or partially-funded by TCEQ or for a non-commercial-TCEQ or State-of-Texas purpose when such use promotes efficient and effective use of TCEQ grant funds. Performing Party is responsible for obtaining all intellectual property licenses necessary to fulfill this requirement and providing documentation to TCEQ on the use of any intellectual property.

23. Subarticle 6.1 *Performing Party’s Responsibility for the Scope of Work* of the General Terms and Conditions is replaced with the following:

**6.1 Performing Party’s Responsibility for the Scope of Work.** Although TCEQ approves Performing Party projects for funding under this Contract, the Performing Party undertakes performance of the Scope of Work as its own project and does not act in any capacity on behalf of the TCEQ nor as a TCEQ agent or employee. Performing Party agrees that the Scope of Work is performed at Performing Party’s sole risk as to the means, methods, design, processes, procedures, and performance. As part of being responsible for the Scope of Work as its own project, for potentially hazardous activities or loaning of equipment that could cause injury, the Performing Party agrees to undertake the following or to require its subrecipients or contractors to do the following: undertake full responsibility for obtaining necessary releases of liability and having a safety plan, including from volunteers, and borrowing agreements, regarding equipment; and requiring control, care, and maintenance of equipment and any necessary safety training. The Performing Party shall not allow the subrecipient or contractor to lend equipment.

\*\*\*\*\*END OF SPECIAL TERMS AND CONDITIONS\*\*\*\*\*

## **SCOPE OF WORK**

### **I. INTRODUCTION AND DESCRIPTION OF ACTIVITIES**

The purpose of this grant is for the Performing Party to implement the activities set forth in Texas Health and Safety Code § 361.014(b). This Scope of Work is a general description of Performing Party grant activities for implementation of the Regional Solid Waste Management Plan (RSWMP) goals and objectives, including updating and maintaining the RSWMP. The obligations identified within this document apply to each subrecipient (also known as a subgrantee) as well as the Performing Party.

### **II. ELIGIBILITY**

Only those local and regional political subdivisions located within the State of Texas, as set forth in this Article, are eligible to receive funding from the Performing Party for an implementation project. Federal entities are not eligible to receive funds under this Contract. Eligible entities include the following:

1. Cities;
2. Counties;
3. Public schools and school districts (does not include Universities or post-secondary educational institutions);
4. Other general and special law districts created in accordance with state law, and with the authority and responsibility for water quality protection or municipal solid waste management, to include river authorities; and
5. Regional Planning Commissions, Regional Councils of Governments, Regional Area Councils, Regional Development Councils, or Regional Associations of Governments.

### **III. FINANCIAL ADMINISTRATION OF SUBGRANTS**

1. The Performing Party agrees to establish and administer a financial management program to make reimbursements to subrecipients for authorized expenditures and to ensure that the expenditures by the subrecipients were incurred, reasonable, necessary, and allocable to the project. In administering a financial management system, the Performing Party shall adhere to the specific standards and requirements set forth in this Contract, the Texas Grant Management Standards (TxGMS), and all applicable laws and regulations. The Performing Party may institute more stringent standards and requirements than are set forth in this Article unless more stringent standards or requirements are disallowed by law or regulation.
  - 1.1. The subgrant agreements shall include a budget, broken down into individual categories consistent with the budget categories used in this Contract.
  - 1.2. The Performing Party shall include the applicable minimum financial standards and controls as set forth in this Contract in all agreements with subrecipients;
  - 1.3. Payments by the Performing Party to subrecipients shall be solely for reimbursement of actual allowable costs, with no payments in advance. No subgrant may be made on a fixed-amount of cost reimbursement unless this method is specifically approved by the TCEQ based on supporting evidence of the proposed subrecipient's actual costs;

- 1.4. The Performing Party may allow a subrecipient to account for expenses incurred and request reimbursement of outlays under either a cash or accrual basis, as defined and authorized under the TxGMS. To be eligible for reimbursement by the Performing Party, a cost must have been incurred and either paid by the subrecipient prior to claiming reimbursement from the Performing Party or incurred by the last day of the time period indicated on the subrecipient's request for reimbursement form and paid no later than 30 (thirty) days after the end of that time period. If any requirement in law, regulation, or TxGMS contains other requirements regarding reimbursement or payment, the subrecipient must reimburse or pay in accordance with the applicable requirement;
  - 1.5. The Performing Party shall also require the subrecipients to submit a request for reimbursement that itemizes expenditures by budget category. The forms shall be submitted by subrecipients at least quarterly or with each request for reimbursement, if reimbursement is requested more frequently than quarterly;
  - 1.6. The Performing Party shall assess the financial risks associated with each subgrant, and shall require a subrecipient to submit expense documentation records and, as necessary, shall conduct on-site monitoring to address those risks;
  - 1.7. The Performing Party shall review all materials accompanying a subrecipient's request for reimbursement and shall not make a reimbursement payment unless all necessary documentation has been provided, is accurate, and complies with the TxGMS;
  - 1.8. The Performing Party shall reimburse or otherwise make payment to a subrecipient only for expenses incurred during the term of the subgrant agreement between the Performing Party and the subrecipient, which term may not be outside of the term of this Contract;
  - 1.9. The Performing Party shall not reimburse or otherwise make payment to a subrecipient for an expenditure that is not authorized under this Contract. If it is determined, by either the Performing Party or the TCEQ that an expenditure that was reimbursed is not an authorized expense, the Performing Party shall request return and reimbursement of those funds from the subrecipient or allow the subrecipient to move the funds within the budget. Performing Party shall not provide additional reimbursements to the subrecipient until the funds have either been returned or applied towards other authorized expenses; and
  - 1.10. The subgrant agreements shall include a budget, broken down into individual categories consistent with the budget categories used in this Contract.
2. In addition to the disposition instructions for equipment that are in the Administrative Procedures, the Performing Party must obtain approval from TCEQ prior to disposing of an item that was purchased with Contract funds and that is worth equal to or greater than \$1,000 and equal to or less than \$4,999.99.

#### IV. ACTIVITIES AND DELIVERABLES

1. The activities identified herein are subject to the guidelines as set forth in the RSWGPA Administrative Procedures (**Attachment 3**), and these guidelines may be updated and or amended throughout the term of this Contract as deemed necessary by the TCEQ.

2. A project or service funded under this Contract must promote cooperation between public and private entities and may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services. The Performing Party agrees to perform the following administrative activities, as approved in the Application (**Attachment 1**), including revising, updating, or developing a new regional plan:
  - 2.1. Develop, revise, maintain and facilitate the RSWMP. Volume I of this plan contains the general description of the region's solid waste management goals and Volume II contains the details of the plans, including the implementation plan and the Closed Landfill Inventory (CLI).
  - 2.2. Prepare and submit Application within requested time frames and respond to any requests by the TCEQ for changes or amendments to the information provided in the Application;
  - 2.3. Establish and maintain a Solid Waste Advisory Committee (SWAC);
  - 2.4. Conduct regional outreach, education, technical assistance, informational programs, and training activities and serve as central point of contact for regional solid waste management planning within the region of responsibility;
  - 2.5. Maintain and promote a regional Municipal Solid Waste (MSW) information resource center of education and prepare and/or distribute outreach materials;
  - 2.6. Conduct Municipal Solid Waste Facility Pre-application conformance reviews, as appropriate. The Performing Party shall identify to the TCEQ the process that will be used to evaluate whether a proposed municipal solid waste facility application will be in conformance with the regional plan as required by 30 TAC § 330.643(a)(3)(O), relating to Plan Content. Conformance reviews shall be completed within 100-days after the Performing Party receipt of the permit application from applicant. Documentation determining conformance or nonconformance shall be delivered to the TCEQ within this 100-day time period. The Performing Party may request an extension of the due date if an applicant makes changes to its application;
  - 2.7. Conduct Municipal Solid Waste Facility Registration and/or Permit Application conformance reviews, as appropriate. The Performing Party shall identify to the TCEQ the process that will be used to evaluate whether a proposed municipal solid waste facility application will be in conformance with the regional plan as required by 30 TAC § 330.643(a)(3)(O), relating to Plan Content. Conformance reviews shall be completed within 100-days after the Performing Party receives the permit application from the applicant. Documentation determining conformance or nonconformance shall be delivered to the TCEQ within this 100-day time period. The Performing Party may request an extension of the due date if an applicant makes changes to its application;
  - 2.8. Conduct data collection, data analysis, and data maintenance and upkeep, as appropriate;
  - 2.9. Conduct the implementation project selection process, including providing each implementation project to TCEQ for review and approval;
  - 2.10. Conduct and administer the subgrant award and administration process;

- 2.11. Maintain program records and conduct program reporting on forms provided by the TCEQ;
- 2.12. Maintain program budget and conduct financial reporting on forms provided by the TCEQ;
- 2.13 TCEQ and its affiliated entities, including, but not limited to, grantees or contractors, may use, reproduce, publish, or modify intellectual property or other items or data that are developed under this Contract with TCEQ funds, whether fully or partially-funded with TCEQ funds. Additional information is provided in the Subarticle titled Reimbursed Items and Data in the Special Terms and Conditions, including that the Performing Party must obtain the necessary licenses. Examples of intellectual property or other items or data include, but are not limited to, logos, mottos, surveys, graphics, and reports; and
- 2.14. Conduct additional requirements as requested by the TCEQ.

## V. REPORTING

1. **Progress Reports.** For any changes to the reporting due dates, the Performing Party must obtain written prior approval for an extension from TCEQ. Progress reports shall be submitted using the most-recently-approved forms.
  - 1.1 **Semi-Annual Report.** Using the format for Semi-Annual Reports identified in RSWG Administrative Procedures, the Performing Party shall provide a minimum of four reports. The Semi-Annual Report shall document the Performing Party's performance under this Contract, including the accomplishments and slippage of any task and activities compared to the outcomes specified for the period. The Semi-Annual Report shall also include the number and names of proposed municipal solid waste facility applications reviewed for conformance with the Performing Party's RSWMP, determination of conformance or nonconformance, and dates documentation of determination were submitted to the TCEQ.

The Semi-Annual Report to the TCEQ shall be due on March 30, 2024; September 30, 2024; March 30, 2025; and December 31, 2025.

Upon written notification to the Performing Party, the TCEQ may require that Semi-Annual Reports be provided on a more frequent basis, but no more frequently than quarterly.
  - 1.2 **Results Report and Follow-Up Results Report.** Using the format for Results Reports identified in the RSWG Administrative Procedures, the Performing Party shall report on data compiled from the individual implementation projects funded during the Contract. The biennial reports required under this Article shall include a report on the progress of the local municipal solid waste management program and recycling activities.

The Results Report to the TCEQ shall be due on December 31, 2023, for results from the FY 22/23 biennium.

The Follow-Up Results Report shall be due on October 15, 2024, for results from the FY 22/23 biennium. In addition, to meet the reporting requirement in THSC § 363.062(d), the Performing Party shall report to TCEQ on the progress of the region's municipal solid waste management program and recycling activities developed under THSC § 363.062. TCEQ will not require the Performing Party to submit to TCEQ information previously submitted to TCEQ by the Performing Party in an earlier plan or report.

- 1.3 **Financial Status Reports (FSRs).** The Performing Party shall submit to the TCEQ a completed FSR workbook, as specified by the TCEQ, containing as its "reporting period" the latest State Fiscal Year (FY) quarter within 30 (thirty) days following the end of each of the first seven (7) FY quarters contained within the biennium. Such reports shall be required even if no expenses or encumbrances have been incurred during the report period. A Final FSR workbook, indicating in the appropriate box that it is the final report, shall be submitted by the Performing Party not later than December 31st following the expiration date of this Contract.
- 1.4 **Spending Plan.** The Performing Party shall submit to the TCEQ a completed Spending Plan by May 1, 2025.
- 1.5 **Implementation Projects.** The Performing Party shall submit to the TCEQ the Implementation Project Summary with final project expenses by December 31st, following the expiration date of this Contract.
- 1.6 **Inventories of Purchased Items.**
- 1.6.1 **Inventory System.** As set forth in the Administrative Procedures, the Performing Party and its subrecipients must have an inventory system that maintains track of equipment, controlled assets, and also, all single unit acquisitions equal to or greater than \$1,000 and equal to or less than \$4,999.99 (aggregated for the same types of items, for example, roll-off bins, recycling bins/carts). The inventories shall include purchases from the beginning of the program (State of Texas Fiscal Years 1996-1997). If the Performing Party does not have the inventory information for the entire period from the beginning of the program, the Performing Party shall provide an explanation to TCEQ detailing why it does not have the information.
- 1.6.1.1 Controlled assets are the following items for which the acquisition cost is \$500.00 to \$4,999.99: sound systems and other audio equipment, camera - portable - digital, SLR; televisions, video players/recorders, computer (desktop and laptop); data projectors; smartphones, tablets & other hand-held devices; and unmanned aerial vehicle (UAV) drones. The inclusion of an item in this list does not indicate that it will be approved for reimbursement under the Contract.
- 1.6.2 **Submission of Inventories to TCEQ.** By December 31st following the expiration date of this Contract, the Performing Party shall submit to TCEQ the following complete and cumulative inventory lists of purchases from the beginning of the program (State of Texas Fiscal Years 1996-1997). All inventories must meet the requirements set out in TxGMS for inventories of equipment. Inventories:
- 1.6.2.1 Equipment, controlled assets, and all single unit acquisitions equal to or greater than \$1,000 and equal to or less than \$4,999.99 (aggregated, if applicable) purchased by the Performing Party;
- 1.6.2.2 Equipment, controlled assets, and all single unit acquisitions equal to or greater than \$1,000 and equal to or less than \$4,999.99 (aggregated, if applicable) purchased by



subrecipients;

1.6.2.3 Trailers with a purchase price equal to or greater than \$1,000 purchased by the Performing Party or subrecipients. This list will contain some of the same items as the first two inventories. "Trailer" is defined as a manufactured, unpowered platform or box with wheels that is towed behind a vehicle on public highways and used to transport things. For the purposes of this Contract, a trailer does not include a farm utility trailer.

1.6.2.4 This inventory shall list all trailers purchased from the beginning of the State of Texas Fiscal Year 2020. The trailers must be included on the inventory list until they are disposed of by the Performing Party or a subrecipient, as applicable, or are worth less than \$1,000.00. When the trailer is disposed of or the value of the trailer falls below \$1,000, the trailer must be included on the inventory one final time, noting the disposition information or that the value is now below \$1,000 and that it will be removed from any subsequent inventory of trailers. The trailer will remain on the two inventories listed above, as applicable.

1.7 **Submission of Reports – General.** All Reports listed above shall be submitted in electronic format and signed by an authorized signatory of the Performing Party, as identified in the Application (**Attachment 1**) to this Contract and shall be addressed to the TCEQ Grant Manager.

## GENERAL TERMS AND CONDITIONS

Revised April 6, 2022

### 1. CONTRACT PERIOD

- 1.1. **Contract Period.** The Contract begins on the Effective Date and ends on the Expiration Date as provided on the Contract Signature Page. If no Effective Date is provided, the Effective Date of the Contract is the date of last signature. If no Expiration Date is provided, the Expiration Date is August 31 of the same Fiscal Year in which the Contract is signed.
- 1.2. **Amendments.** This Contract is not subject to competitive selection requirements and may be amended by mutual agreement. Except as specifically allowed by the Contract, all changes to the Contract require a written amendment that is signed by both parties.
  - 1.2.1. **Material Changes.** Material changes to the Contract require a written amendment signed by both parties. These amendments take effect when signed by the Performing Party and TCEQ, unless otherwise designated in the amendment. Material changes include the following:
    - 1.2.1.1. Changes in the total amount of funds in the Budget or the Contract;
    - 1.2.1.2. Changes to the Contract's Expiration Date;
    - 1.2.1.3. Changes to the Scope of Work that affect TCEQ's obligations to the entity providing funding, such as the United States Environmental Protection Agency (EPA), another state or federal agency, or the Texas Legislature; and
    - 1.2.1.4. Changes that affect the material obligations of the Performing Party in this Contract.
  - 1.2.2. **Unilateral Amendments.** As specifically allowed by the Contract, TCEQ may issue unilateral amendments. Unilateral amendments take effect when issued by TCEQ.
  - 1.2.3. **Minor Changes.** The TCEQ Contract Manager and/or the TCEQ Project Manager has the authority, without a written amendment, to correct typographical errors; make written Contract interpretations; and make minor, non-material changes to the requirements in the Scope of Work, the Procedures for Work Orders, or the Work Orders ( including Proposals for Grant Activities); or as agreed to elsewhere in the Contract. Performing Party must provide TCEQ with a written objection to any Minor Change no later than five (5) business days from the effective date of the Minor Change. A copy of the agreed change shall be retained in the appropriate file by both the Performing Party and TCEQ.
    - 1.2.3.1. **Minor, non-material changes include:**
      - 1.2.3.1.1. Changes to the schedule in the Scope of Work including an extension of a deliverable due date, not to exceed the expiration date of the Contract;
      - 1.2.3.1.2. Changes to the schedule in the Work Order including an extension of a deliverable due date, not to exceed the expiration date of the Work Order;
      - 1.2.3.1.3. Changes to the individual tasks/activities in the Scope of Work or Work Order, if applicable, that do not substantially

change the obligations of the Parties relative to those tasks/activities;

1.2.4. It is the Performing Party's responsibility to request extensions to the deliverable schedule and other changes that are within the authority of TCEQ.

1.3. **Extensions.** TCEQ may by unilateral written amendment extend the Expiration Date for a period of up to 90 days. Unless otherwise indicated in the applicable contract amendment, an extension does not extend any other deadlines or due dates other than the expiration of the Contract Period.

## 2. FUNDS

2.1 **Availability of Funds.** This Contract and all claims, suits or obligations arising under or related to this Contract are subject to the receipt and availability of funds appropriated by the Texas Legislature for the purposes of this Contract or the respective claim, suit or obligation, as applicable. Performing Party will ensure that this article is included in any subcontract it awards.

2.2 **Maximum Authorized Reimbursement.** The total amount of funds provided by TCEQ for the Contract will not exceed the amount of the Maximum Authorized Reimbursement, as amended.

2.3 **Fiscal Year Restrictions.** In order to be reimbursed under this Contract, costs must be incurred during the Contract Period and within the time limits applicable to the funds from which the Contract is being paid. TCEQ is not obligated to extend deadlines to match the maximum period of the funding.

2.4 **Grants.** If this Contract was entered under the TCEQ's authority to award grants, TCEQ is providing financial assistance to the recipient to undertake its own project.

2.5 **No Debt against the State.** This Contract is contingent on the continuing appropriation of funds. This Contract shall not be construed to create debt against the State of Texas.

2.6 **Abortion Funding Limitation.** Performing Party represents and warrants that payments made by TCEQ to Performing Party and Performing Party's receipt of appropriated funds under the Contract are not prohibited by Article IX, Section 6 of the General Appropriations Act, nor by Texas Government Code Chapter 2273 *Prohibited Transactions*.

2.7 **Excluded Parties.** Performing Party represents and warrants that it is not listed in the prohibited vendors lists authorized by Executive Order No. 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism," published by the United States Department of the Treasury, Office of Foreign Assets Control. Performing Party will notify TCEQ if it can no longer make this representation.

2.8 **COVID-19 Vaccine Passport Prohibition.** Under § 161.0085 of the Texas Health and Safety Code, Performing Party certifies that it is not ineligible to receive the Contract and will maintain this certification throughout the term of the Contract.

## 3. ALLOWABLE COSTS

3.1 **Conforming Activities.** TCEQ will reimburse the Performing Party for necessary and reasonable Allowable Costs that are incurred and paid by the Performing Party in performance of the Scope of Work as authorized by this Contract in the Cost Budget or Fixed Payment Amounts.

- 3.2 **TxGMS.** Allowable Costs are restricted to costs that comply with the Texas Grant Management Standards (TxGMS) and applicable state and federal rules and law. The parties agree that all the requirements of TxGMS apply to this Contract, including the criteria for Allowable Costs. Additional federal requirements apply if this Contract is funded, in whole or in part, with federal funds.

#### 4. REIMBURSEMENT

- 4.1. **Reimbursement Requests.** Performing Party shall invoice TCEQ to request reimbursement for its Allowable Costs incurred in performing the Scope of Work. Performing Party's invoice shall conform to all reimbursement requirements specified by TCEQ.
- 4.2. **Personnel Eligibility List (PEL).** If TCEQ will be reimbursing salary or wages, Performing Party must submit a completed Personnel Eligibility List (PEL) prior to starting activities under this Contract and an updated PEL with any invoice following changes to the information provided in the most recent PEL. If a Contract amendment is necessary due to changes reflected on the PEL, Performing Party must immediately submit an updated PEL with a request to amend the Contract.
- 4.3. **Level-of-Effort Reporting.** Performing Party shall submit records to support reimbursement requests for exempt employee salaries, where costs are determined based on percentage of the employee's time performing activities. These records must meet the *Standards for Documentation of Personnel Expenses* in TxGMS or 2 CFR § 200.430, as applicable based on whether state or federal money is used by TCEQ to fund the grant activities.

If the records do not comply with the *Standards for Documentation of Personnel Expenses*, TCEQ may approve the use of an alternative system in writing or require that the Performing Party submit the attached Level-of-Effort Certification (LEC) form. The LEC form shall be completed monthly and submitted with each invoice.

The Performing Party must submit time sheets that are signed or electronically approved by the employee and supervisor with reimbursement requests for nonexempt employees.

- 4.4. **Conditional Payments.** Reimbursements are conditioned on the Scope of Work being performed in compliance with the Contract. Performing Party shall return payment to TCEQ for either overpayment or activities undertaken that are not compliant with the Scope of Work. This does not limit or waive any other TCEQ remedy.
- 4.5. **No Interest for Delayed Payment.** Since the Performing Party is not a vendor of goods and services within the meaning of Texas Government Code Chapter 2251, no interest is applicable for any late payments.
- 4.6. **Release of Claims.** As a condition to final payment or settlement, or both, the Performing Party shall execute and deliver to the TCEQ a release of all claims against the TCEQ for payment under this Contract.
- 4.7. **State Agencies/Institutions of Higher Education.** If the Performing Party is a state agency or institution of higher education, payments must be made via interagency transaction voucher (ITV); please provide a Recurring Transaction Index (RTI) number on the face of the invoice. For payments that are to be deposited into a local bank account, the following statement must be placed on the face of the invoice: "Funds to be deposited into local bank account." For

additional information, please refer to the Texas Comptroller's Accounting Policy Statement (APS) 014.

## 5. FINANCIAL RECORDS, ACCESS, AND AUDITS

- 5.1 **Audit of Funds.** The Performing Party understands that acceptance of funds under this Contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Performing Party further agrees to fully cooperate with the State Auditor's Office or its successor during any audit or investigation, including providing all records requested. Performing Party shall ensure that this clause concerning the audit of funds accepted under this Contract is included in any subcontract it awards.
- 5.2 **Financial Records.** Performing Party shall establish and maintain financial records including records of costs of the Scope of Work in accordance with generally accepted accounting practices. Upon request Performing Party shall submit records in support of reimbursement requests. Performing Party shall allow access during business hours to its financial records by TCEQ and other state agencies for the purpose of inspection and audit. Financial records regarding this contract shall be retained for a period of three (3) years after date of submission of the final reimbursement request.

## 6. PERFORMING PARTY'S RESPONSIBILITIES

- 6.1 **Performing Party's Responsibility for the Scope of Work.** Performing Party undertakes performance of the Scope of Work as its own project and does not act in any capacity on behalf of the TCEQ nor as a TCEQ agent or employee. Performing Party agrees that the Scope of Work is performed at Performing Party's sole risk as to the means, methods, design, processes, procedures, and performance.
- 6.2 **Identification and Flow Down Requirements.** Any subaward from this Contract by the Performing Party to a subgrantee must be clearly identified as a subaward. The Performing Party must flow down applicable Contract requirements to subgrantees and subcontractors.
- 6.3 **Independent Contractor.** The parties agree that the Performing Party is an independent contractor. Nothing in this Contract shall create an employee-employer relationship between Performing Party and TCEQ. Nothing in this Contract shall create a joint venture between TCEQ and the Performing Party.
- 6.4 **Performing Party's Responsibilities for Subcontractors.** All acts and omissions of subcontractors, suppliers, and other persons and organizations performing or furnishing any of the Scope of Work under a direct or indirect contract with Performing Party shall be considered to be the acts and omissions of Performing Party.
- 6.5 **No Third Party Beneficiary.** TCEQ does not exercise any of its rights and powers under the Contract for the benefit of third parties. Nothing in this Contract shall create a contractual relationship between TCEQ and any of the Performing Party's subcontractors, suppliers, or other persons or organizations with a contractual relationship with the Performing Party.
- 6.6 **Security Requirements.** If Performing Party accesses, transmits, uses, or stores TCEQ data:
- 1) Performing Party shall meet the security controls specified by TCEQ; and
  - 2) Performing Party must annually provide TCEQ documentation demonstrating that it meets the specified TCEQ security requirements.

- 6.7 **Cybersecurity Training.** Performing Party shall ensure that any Performing Party representative (employee, officer, or subcontractor personnel) who has Access to a TCEQ Computer System or Database completes a cybersecurity training program certified by the Texas Department of Information Resources (DIR) under § 2054.519 of the Texas Government Code, during the term of the Contract and each renewal.
- 6.7.1 “Access to TCEQ Computer System or Database” means having a TCEQ network user account or the authorization to maintain, modify, or allow access control to any TCEQ web page, TCEQ computer system or TCEQ database.
- 6.7.2 Within seven (7) days after the execution of the Contract and any renewals, Performing Party shall provide a list of persons requiring training to the TCEQ Contract Manager, and thereafter provide an updated list by the first workday of any additional person who becomes subject to the training requirements. For applicable umbrella contracts, Performing Party shall provide a list of any persons requiring training within seven (7) days of issuance of Notice to Proceed/Commence for any Work Order/Proposal for Grant Activities that requires Access to a TCEQ Computer System or Database.
- 6.7.3 If a Performing Party representative has previously completed a DIR-certified cybersecurity training during the term of the Contract or renewal, Performing Party shall provide evidence that the Performing Party representative completed the required training to the TCEQ Contract Manager within seven (7) days after the execution of the Contract, or as applicable, the issuance of Notice to Proceed/Commence for any Work Order/Proposal for Grant Activities that requires Access to a TCEQ Computer System or Database.
- 6.7.4 For the term of the Contract and each renewal, all Performing Party representatives subject to the training requirement must complete DIR-certified training within seven (7) calendar days after TCEQ provides access to the training, unless the Performing Party provides evidence to TCEQ that the Performing Party representative previously completed the required training. Performing Party shall retain in their records, and upon request, provide the TCEQ Contract Manager evidence that the training was successfully completed.
- 6.7.5 Performing Party shall notify the TCEQ Contract Manager within two (2) business days when a person with Access to a TCEQ Computer System or Database no longer needs Access to such Computer System or Database.
- 6.7.6 TCEQ may terminate the Contract for Cause if Performing Party fails to adhere to any of the above terms, including completing the required certified cybersecurity training or notifying the TCEQ Contract Manager when access is no longer needed.
- 6.7.7 TCEQ may terminate the Contract for Cause if a Performing Party’s representative misuses a TCEQ Computer System or Database, including allowing multiple individuals to utilize a single individual’s TCEQ network user account.

## 7. TIME AND FORCE MAJEURE

- 7.1 **Time is of the Essence.** Performing Party’s timely performance is a material term of this Contract.

7.2 **Delays.** Where Performing Party's performance is delayed, except by Force Majeure or act of the TCEQ, TCEQ may withhold or suspend reimbursement, terminate the Contract for cause, or enforce any of its other rights (termination for convenience may be effected even in case of Force Majeure or act of TCEQ).

7.3 **Force Majeure.** Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, or other causes that are beyond the reasonable control of either party, could not reasonably be foreseen, and by the exercise of all reasonable due diligence, is unable to be overcome by either party. Neither party shall be liable to the other for any failure or delay of performance of any requirement included in the contract caused by force majeure. Upon timely notice by the non-performing party, the time for performance shall be extended for a reasonable period after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. The non-performing party must provide evidence of any failure resulting in impossibility to perform.

## 8. CONFLICT OF INTEREST

8.1 Performing Party shall have a policy governing disclosure of actual and potential conflicts of interests. Specifically, for work performed under this Contract by Performing Party or any related entity or individual, Performing Party shall promptly disclose in writing to TCEQ any actual, apparent, or potential conflicts of interest, including but not limited to disclosure of:

- a. Any consulting fees or other compensation paid to employees, officers, agents of Performing Party, or members of their immediate families, or paid by subcontractor or subrecipients; or
- b. Any organizational conflicts of interest between Performing Party and its subcontractors or subrecipients under a subaward.

8.2 No entity or individual with any actual, apparent, or potential conflict of interest will take part in the performance of any portion of the Scope of Work, nor have access to information regarding any portion of the Scope of Work, without TCEQ's written consent in the form of a unilateral amendment. Performing Party agrees that TCEQ has sole discretion to determine whether a conflict exists, and that a conflict of interest is grounds for termination of this Contract.

## 9. DATA AND QUALITY

- 9.1 **Quality and Acceptance.** All work performed under this Contract must be complete and satisfactory in the reasonable judgment of the TCEQ. All materials and equipment shall be handled in accordance with instructions of the applicable supplier, except as otherwise provided in the Contract.
- 9.2 **Quality Assurance.** All work performed under this Contract that involves the acquisition of environmental data will be performed in accordance with a TCEQ-approved Quality Assurance Project Plan (QAPP) meeting all applicable TCEQ and EPA requirements. Environmental data includes any measurements or information that describe environmental processes, location, or conditions, and ecological or health effects and consequences. Environmental data includes information collected directly from measurements, produced from models, and compiled from other sources such as databases or literature. No data collection or other work covered by this requirement will be implemented prior to Performing Party's receipt of the QAPP signed by TCEQ and, if necessary, the EPA. Without prejudice to any other remedies available to TCEQ, TCEQ may refuse reimbursement for any environmental data acquisition performed prior to approval of a QAPP by TCEQ and, if necessary, the EPA. Also, without prejudice to any other remedies available to TCEQ, Performing Party's failure to meet the terms of the QAPP may result in TCEQ's suspension of associated activities and non-reimbursement of expenses related to the associated activities.
- 9.3 **Laboratory Accreditation.** Any laboratory data or analyses provided under this Contract must be prepared by a laboratory that is accredited by TCEQ according to 30 Texas Administrative Code Chapter 25, subchapters A and B, unless TCEQ agrees in writing to allow one of the regulatory exceptions specified in 30 Texas Administrative Code § 25.6.

## 10. INTELLECTUAL PROPERTY

- 10.1. **Third Party Intellectual Property.** Unless specifically modified in an amendment or waived in a unilateral amendment, Performing Party must obtain all intellectual property licenses expressly required in the Scope of Work, or incident to the use or possession of any deliverable under the Contract. Performing Party shall obtain and furnish to TCEQ: documentation on the use of such intellectual property, and a perpetual, irrevocable, enterprise-wide license to reproduce, publish, otherwise use, or modify such intellectual property and associated user documentation, and to authorize others to reproduce, publish, otherwise use, or modify such intellectual property for TCEQ non-commercial purposes, and other purposes of the State of Texas.
- 10.2. **Grant of License.** Performing Party grants to TCEQ a nonexclusive, perpetual, irrevocable, enterprise-wide license to reproduce, publish, modify, or otherwise use for any non-commercial TCEQ purpose any preexisting intellectual property belonging to the Performing Party that is incorporated into any new works created as part of the Scope of Work, intellectual property created under this Contract, and associated user documentation.

## 11. INSURANCE AND INDEMNIFICATION

- 11.1 **Insurance.** Unless prohibited by law, the Performing Party shall require its contractors to obtain and maintain during the Contract Period adequate insurance coverage sufficient to protect the Performing Party and the TCEQ from all claims and liability for injury to persons and for damage to property arising from the Contract. Unless specifically waived by the TCEQ, sufficient coverage shall include Workers Compensation and Employer's Liability Insurance,



Commercial Automobile Liability Insurance, and Commercial General Liability Insurance. Before any Performing Party contractor performs any work at a TCEQ facility, Performing Party shall provide TCEQ a Certificate of Insurance for the Contractor's Workers Compensation and Employer's Liability Insurance.

- 11.2 **Indemnification.** TO THE EXTENT AUTHORIZED BY LAW, THE PERFORMING PARTY SHALL REQUIRE ALL CONTRACTORS PERFORMING CONTRACT ACTIVITIES ON BEHALF OF PERFORMING PARTY TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE TCEQ AND PERFORMING PARTY AND THEIR OFFICERS, AND EMPLOYEES, FROM AND AGAINST ALL LOSSES, LIABILITIES, DAMAGES, AND OTHER CLAIMS OF ANY TYPE ARISING FROM THE PERFORMANCE OF CONTRACT ACTIVITIES BY THE CONTRACTOR OR ITS SUBCONTRACTORS, SUPPLIERS AND AGENTS, INCLUDING THOSE ARISING FROM DEFECT IN DESIGN, WORKMANSHIP, MATERIALS, OR FROM INFRINGEMENT OF ANY PATENT, TRADEMARK, OR COPYRIGHT; OR FROM A BREACH OF APPLICABLE LAWS, REGULATIONS, SAFETY STANDARDS, OR DIRECTIVES. THE DEFENSE OF TCEQ SHALL BE SUBJECT TO THE AUTHORITY OF THE OFFICE OF THE ATTORNEY GENERAL OF TEXAS TO REPRESENT TCEQ. THIS COVENANT SURVIVES THE TERMINATION OF THE CONTRACT.

## 12. TERMINATION

- 12.1 **Termination for Cause.** TCEQ may, upon providing 10 days' written notice and the opportunity to cure to the Performing Party, terminate this Contract for cause if Performing Party materially fails to comply with the Contract including any one or more of the following acts or omissions: nonconforming work, or existence of a conflict of interest. Termination for cause does not prejudice TCEQ's other remedies authorized by this Contract or by law.
- 12.2 **Termination for Convenience.** TCEQ may, upon providing 10 days' written notice to the Performing Party, terminate this Contract for convenience. Termination shall not prejudice any other right or remedy of TCEQ or the Performing Party. Performing Party may request reimbursement for: conforming work and timely, reasonable costs directly attributable to termination. Performing Party shall not be paid for: work not performed, loss of anticipated profits or revenue, consequential damages, or other economic loss arising out of or resulting from the termination.
- 12.3 If, after termination for cause by TCEQ, it is determined that the Performing Party had not materially failed to comply with the Contract, the termination shall be deemed to have been for the convenience of TCEQ.

## 13. DISPUTES, CLAIMS AND REMEDIES

- 13.1 **Payment as a Release.** Neither payment by TCEQ nor any other act or omission other than an explicit written release, in the form of a unilateral amendment, constitutes a release of Performing Party from liability under this Contract.
- 13.2 **Schedule of Remedies available to the TCEQ.** In accordance with Texas Government Code Chapter 2261 the following Schedule of Remedies applies to this Contract. In the event of Performing Party's nonconformance, TCEQ may do one or more of the following:
- 13.2.1. Issue notice of nonconforming performance;
  - 13.2.2. Reject nonconforming performance and request corrections without charge to the TCEQ;
  - 13.2.3. Reject a reimbursement request or suspend further payments, or both, pending accepted revision of the nonconformity;

- 13.2.4. Suspend all or part of the Contract Activities or payments, or both, pending accepted revision of the nonconformity;
- 13.2.5. Demand restitution and recover previous payments where performance is subsequently determined nonconforming;
- 13.2.6. Terminate the contract without further obligation for pending or further payment by the TCEQ and receive restitution of previous payments.
- 13.3 Opportunity to Cure. The Performing Party will have a reasonable opportunity to cure its nonconforming performance, if possible under the circumstances.
- 13.4 Cumulative Remedies. Remedies are cumulative; the exercise of any remedy under this Contract or applicable law does not preclude or limit the exercise of any other remedy available under this Contract or applicable law.

#### 14. SOVEREIGN IMMUNITY

The parties agree that this Contract does not waive any sovereign immunity to which either party is entitled by law.

#### 15. SURVIVAL OF OBLIGATIONS

Except where a different period is specified in this Contract or applicable law, all representations, indemnifications, and warranties made in, required by or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, survive for four (4) years beyond the termination or completion of the Contract, or until four (4) years after the end of a related proceeding. A related proceeding includes any litigation, legal proceeding, permit application, or State Office of Administrative Hearings proceeding, which is brought in relation to the Contract or which in TCEQ's opinion is related to the subject matter of the Contract. Either party shall notify the other of any related proceeding if notice of the proceeding has not been provided directly to that other party.

#### 16. UNIFORM ASSURANCES

- 16.1 **Uniform Assurances.** Performing Party assures compliance with the following uniform assurances from TxGMS, as applicable to this Contract. Other assurances from TxGMS may be included elsewhere in this Contract.
  - 16.1.1 Performing Party represents and warrants its compliance with Texas Government Code Section 2054.5191 relating to the cybersecurity training program for local government employees who have access to a local government computer system or database.
  - 16.1.2 Performing Party 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.
  - 16.1.3 Performing Party agrees that any payments due under the Contract shall be applied towards any debt or delinquency that is owed to the State of Texas.
  - 16.1.4 Performing Party represents and warrants that it will comply with Texas Government Code Section 2252.906 relating to disclosure protections for certain charitable organizations, charitable trusts, and private foundations.
  - 16.1.5 In accordance with Texas Government Code Section 669.003, relating to contracting with the executive head of a state agency, Performing Party certifies that it is not (1) the executive head of the TCEQ, (2) a person who at any time during the four years before the date of the Contract was the

executive head of the TCEQ, or (3) a person who employs a current or former executive head of the TCEQ affected by this section.

- 16.1.6 Performing Party acknowledges and agrees that appropriated funds may not be expended in the form of a grant to, or contract with, a unit of local government unless the terms of the grant or contract require that the funds received under the grant or contract will be expended subject to the limitations and reporting requirements similar to those provided by the following:
- Parts 2 and 3 of the Texas General Appropriations Act, Art. IX, except there is no requirement for increased salaries for local government employees;
  - Sections 556.004, 556.005, and 556.006 of the Texas Government Code; and
  - Sections 2113.012 and 2113.101 of the Texas Government Code.
- 16.1.7 Performing Party represents and warrants that TCEQ's payments to Performing Party and Performing Party's receipt of appropriated or other funds under the Contract are not prohibited by Texas Government Code Section 556.0055 which restricts lobbying expenditures.
- 16.1.8 Performing Party represents and warrants that in the administration of the Contract, it will comply with all conflict of interest prohibitions and disclosure requirements required by applicable law, rules, and policies, including Texas Local Government Code Chapter 176. If circumstances change during the course of the contract or grant, Performing Party shall promptly notify TCEQ.
- 16.1.9 Performing Party represents and warrants its compliance with Chapter 551 of the Texas Government Code which requires all regular, special or called meeting of a governmental body to be open to the public, except as otherwise provided by law.
- 16.1.10 Performing Party represents and warrants that it does not perform political polling and acknowledges that appropriated funds may not be granted to, or expended by, any entity which performs political polling.
- 16.1.11 Performing Party certifies that it has not received a final judicial determination finding it intentionally adopted or enforced a policy that prohibited or discouraged the enforcement of a public camping ban in an action brought by the Attorney General under Local Government Code §364.003. If Performing Party is currently being sued under the provisions of Local Government Code §364.003, or is sued under this section at any point during the duration of this grant, Performing Party must immediately disclose the lawsuit and its current posture to the TCEQ.
- 16.1.12 Performing Party represents and warrants that it will comply with Texas Government Code Section 321.022, which requires that suspected fraud and unlawful conduct be reported to the State Auditor's Office.

## 17. CONTRACT INTERPRETATION

- 17.1 **Definitions.** The word "include" and all forms such as "including" mean "including but not limited to" in the Contract and in documents issued in accordance with the Contract, such as Work Orders or Proposals for Grant Activities (PGAs).

- 17.2 **Headings.** The headings of the sections contained in this Contract are for convenience only and do not control or affect the meaning or construction of any provision of this Contract.
- 17.3 **Delivery of Notice.** Notices are deemed to be delivered three (3) working days after postmarked if sent by U.S. Postal Service certified or registered mail, return receipt requested. Notices delivered by other means are deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, email, or other commercially accepted means.
- 17.4 **Interpretation of Time.** All days are calendar days unless stated otherwise. Days are counted to exclude the first and include the last day of a period. If the last day of the period is a Saturday or Sunday or a state or federal holiday, it is omitted from the computation.
- 17.5 **State, Federal Law.** This Contract is governed by, and interpreted under the laws of the State of Texas, as well as applicable federal law.
- 17.6 **Severability.** If any provision of this Contract is found by any court, tribunal, or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void or unenforceable, it shall be deemed severable (to the extent of such illegality, invalidity, or unenforceability) and the remaining part of the provision and the rest of the provisions of this Contract shall continue in full force and effect. If possible, the severed provision shall be deemed to have been replaced by a valid provision having as near an effect to that intended by the severed provision as will be legal and enforceable.
- 17.7 **Assignment.** No delegation of the obligations, rights, or interests in the Contract, and no assignment of payments by Performing Party will be binding on TCEQ without its written consent, except as restricted by law. No assignment will release or discharge the Performing Party from any duty or responsibility under the Contract.
- 17.8 **Venue.** Performing Party agrees that the Contract is being performed in Travis County, Texas, because this Contract has been performed or administered, or both, in Travis County, Texas. The Performing Party agrees that any cause of action involving this Contract arises solely in Travis County, Texas.
- 17.9 **Publication.** Performing Party agrees to notify TCEQ five (5) days prior to the publication or advertisement of information related to this Contract. Performing Party agrees not to use the TCEQ logo or the TCEQ graphic as an advertisement or endorsement without written permission signed by the appropriate TCEQ authority.
- 17.10 **Waiver.** With the exception of an express, written waiver in the form of a unilateral amendment signed by TCEQ, no act or omission will constitute a waiver or release of Performing Party's obligation to perform conforming Contract Activities. No waiver on one occasion, whether expressed or implied, shall be construed as a waiver on any other occasion.
- 17.11 **Compliance with Laws.** TCEQ relies on Performing Party to perform all Contract Activities in conformity with all applicable laws, regulations, and rules and obtain all necessary permits and licenses.
- 17.12 **Counterparts.** This Contract may be signed in any number of copies. Each copy when signed is deemed an original and each copy constitutes one and the same Contract.
- 17.13 **Accessibility.** All electronic content and documents created as deliverables under this Contract must meet the accessibility standards prescribed in 1 Texas

Administrative Code §§ 206.50 and 213 for state agency web pages, web content, software, and hardware, unless TCEQ agrees that exceptions or exemptions apply.

## **Cost Budget**

**(See Attachment 1 – Application Document 5,  
Incorporated by Reference)**

## NOTICES, PROJECT REPRESENTATIVES, AND RECORDS LOCATION

### CONTRACT NUMBER 582-24-50084 CONTRACT NAME: REGIONAL SOLID WASTE GRANT

1. **Representatives.** The individual(s) named below are the representatives of TCEQ. The Performing Party’s representatives are listed on Form 4 of the approved Application. The TCEQ and Performing Party representatives are authorized to give and receive communications and directions on behalf of the TCEQ and Performing Party for contractual and technical matters. All communications including official contract notices must be addressed to the appropriate representative or his or her designee.
2. **Changes in Representatives.** TCEQ may change its representative by email notice to the Performing Party’s Financial Representative. The Performing Party may change its representative by providing, by email, via an updated Form 4 from the Application to the TCEQ Project Manager.
3. **TCEQ Representatives**

**TCEQ CONTRACT MANAGER  
(for Contractual Matters)**

**TCEQ PROJECT MANAGER  
(for Technical Matters)**

Santos Olivarez

Jessica Uramkin

Section Manager  
Title

Grant Manager  
Title

Texas Commission on  
Environmental Quality  
P.O. Box 13087  
MC-126  
Austin, Texas 78711-3087  
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Austin, Texas 78711-3087  
Telephone No. (512) 239-6685  
[Jessica.Uramkin@tceq.texas.gov](mailto:Jessica.Uramkin@tceq.texas.gov)

4. **Invoice Submittal.** Invoices must be submitted to the TCEQ Project Manager [Grant Manager].

**Attachment 1:**  
**TCEQ – Approved Regional Council of Governments Application  
and any changes approved during the Contract Period**

**Excel document provided as a separate file by  
TCEQ – Waste Permits Division**



**Attachment 2:  
Regional Council of Governments Application Template**

**Excel document provided as a separate file by  
TCEQ – Waste Permits Division**

**Attachment 3:  
TCEQ - Regional Solid Waste Grant Program  
Administrative Procedures**

**PDF document provided as a separate file by  
TCEQ – Waste Permits Division**

# Memo

**To:** Solid Waste Advisory Committee

**From:** Erin Hernandez – Solid Waste Coordinator, CVCOG - Assistant Executive Director

**Date:** 8/9/2023

**Re:** CONSIDER AND TAKE APPROPRIATE ACTION – ITEM 7

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## ITEM 7

Erin Hernandez, Solid Waste Coordinator & CVCOG Assistant Executive Director, is seeking consideration and approval of Resolution 23-0809, Texas Commission on Environmental Quality - Regional Solid Waste Contract for FY 2024 and FY 2025.

*Approved at the Solid Waste Advisory Committee Meeting on August 9, 2023.*

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Molly Criner, Chair  
Irion County Judge

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Erin Hernandez, Solid Waste Coordinator  
CVCOG – Assistant Executive Director