



# **GUIDELINES FOR THE PROCUREMENT OF GOODS AND SERVICES AND CASH DISBURSEMENTS**

**ADOPTED BY THE BOARD OF DIRECTORS**

**RESOLUTION NO. 2018-1252**

**JUNE 20, 2018**

## **RESOLUTION NO. 2018-1252**

### **RESOLUTION OF THE BOARD OF DIRECTORS OF THE TRABUCO CANYON WATER DISTRICT ADOPTING GUIDELINES FOR THE PROCUREMENT OF GOODS AND SERVICES AND CASH DISBURSEMENTS**

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**WHEREAS**, the Trabuco Canyon Water District ("District" or "TCWD") is a county water district which provides potable water and water service to its customers; and

**WHEREAS**, as a county water district, TCWD is not obligated to solicit competitive bids on its contracts for goods or services for its construction projects or for contracts for purchase of various goods and services; and

**WHEREAS**, TCWD's goal is to acquire needed goods and services for fair and competitive prices from reliable vendors or providers, as applicable; and

**WHEREAS**, in certain cases, where funds from the United States government are involved, various conditions and requirements are imposed on TCWD for projects and purchase of goods/services and TCWD desires to provide for compliance with such requirements; and

**WHEREAS**, the Board of Directors of the District desires to adopt a policy concerning the procurement of goods and services, including, but not limited to certain matters relating to public works contracts and concerning funds leaving TCWD's control.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE TRABUCO CANYON WATER DISTRICT DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:**

**Section 1.** The guidelines for the procurement of goods and services for TCWD, as set forth in Attachment A, attached hereto and incorporated herein by this reference, are hereby adopted.

**Section 2.** The District's General Manager, Treasurer/Chief Financial Officer, and District staff and consultants, are authorized to take such other and further actions as are necessary or desirable to carry out the directives set out in this Resolution.

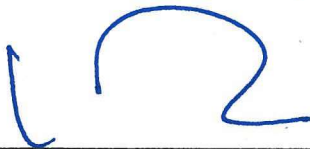
**Section 2.** This Resolution shall take effect upon adoption.

*(Remainder of this page left intentionally blank)*

**ADOPTED, SIGNED AND APPROVED** this 20<sup>th</sup> day of June, 2018.

TRABUCO CANYON WATER DISTRICT

By:   
President/Vice President

By:   
District Secretary

STATE OF CALIFORNIA)

) ss.

COUNTY OF ORANGE

)

I, Michael Perea, District Secretary of the Trabuco Canyon Water District, do hereby certify that the foregoing resolution was duly adopted by the Board of said District at a regular meeting of such Board held on the 20<sup>th</sup> day of June 2018, of which meeting all of the members of the Board had due notice and at which a quorum thereof were present and acting throughout and for which notice and an agenda was prepared and posted as required by law and that at said meeting such resolution was adopted by the following vote:

AYES: Safranski, Chadd, Dopudja, Mandich

NOES: None

ABSTAIN: None

ABSENT: Acosta




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District Secretary,  
Trabuco Canyon Water District

STATE OF CALIFORNIA       )  
  ) ss.  
COUNTY OF ORANGE       )

I, Michael Perea, District Secretary of the Trabuco Canyon Water District, do hereby certify that the foregoing is a full, true and correct copy of Resolution No. 2018-1252 of such Board and that the same has not been amended, rescinded or repealed.

Dated this 20<sup>th</sup> day of June, 2018.

A handwritten signature in blue ink, consisting of a stylized 'M' followed by a horizontal line and a '2'.

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District Secretary,  
Trabuco Canyon Water District

**ATTACHMENT "A"**

**PROCUREMENT GUIDELINES**

# **TRABUCO CANYON WATER DISTRICT**

## **PROCUREMENT POLICY**

### **Goals/Objectives**

Trabuco Canyon Water District's ("TCWD" or "District") procurement guidelines shall be to obtain the best quality materials, supplies and services in the optimum time frame for a responsible price. Quality of performance, as well as cost, will be considered in the procurement process.

It shall be TCWD's goal to utilize a competitive procurement process, which includes obtaining a minimum of three quotes, bids or proposals, as applicable, prior to the procurement of goods and/or services. The receipt of less than three quotes, bids or proposals shall not invalidate the solicitation process or require the solicitation of additional quotes, bids or proposals. Some goods and services may only be available from fewer than three vendors/providers. Where this is the case, the goal shall be to obtain more than one quote, bid or proposal where possible; subject to the following paragraph.

Notwithstanding anything to the contrary in this Policy, it is expressly acknowledged that the District is a county water district, organized and operating in accordance with Water Code Sections 30000 and following, that is not mandated by State law to bid competitively and that, to the extent the District determines that competitive bidding is unavailing or not in the best interest of the District, the District may choose not to utilize competitive bidding for construction projects, contract for design-build work, enter into cooperative agreements with private entities for the design, construction and maintenance of public works, utilize job-order contracting, or undertake any other form of contracting determined to be in the District's best interest, except as otherwise expressly restricted by law. Sole source procurement must be deemed appropriate by the General Manager. In the event it is necessary for a good or service to be sole sourced, a written memo shall be provided by, or written to, the General Manager for approval. The memo must include a complete and specific justification of the sole source procurement for the referenced project(s). The TCWD Board of Directors (Board) will be notified annually of all sole sourced contracts entered into by TCWD.

### **Authority**

The General Manager is authorized to operate TCWD in accordance with the budget approved by the District's Board of Directors.

### **Written Agreements**

Competitive procurement and written agreements will be required for the acquisition of all goods and services that will cost \$3,500 or more per year. Written agreements for purposes of these Procurement Guidelines include contracts (TCWD Contracts) and purchase orders. The General Manager is authorized to approve and execute all agreements for the acquisition of goods and services in accordance with the approved annual budget. Written agreements, within the limits set by the annual budget, may be for one-year, or multi-year with annual renewals. It is TCWD's policy that contracts shall not normally include

terms for automatic renewal(s).

### **Public Works Contractor Registration Certification Requirements**

Pursuant to Labor Code Sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the California Department of Industrial Relations (DIR) if the small project exemption is not met. The small project exemption applies for all public works projects that do not exceed twenty-five thousand dollars (\$25,000) for new construction, alteration, installation, demolition or repair and fifteen thousand dollars (\$15,000) for maintenance. See <http://www.dir.ca.gov/Public-Works/PublicWorks.html> for additional information. All parties involved should be aware that for federally funded projects, contractors and subcontractors must be registered to perform public work pursuant to Labor Code section 1725.5 at the time the contract is awarded.

As defined by California Labor Code Sections 1720 et seq., “public works” includes construction, alteration, demolition, installation or repair work done under contract and paid for in whole or in part out of public funds. Maintenance work is also included in this definition as a public work. A public works project greater than one thousand dollars (\$1,000) triggers the registration requirement and further requires that not less than the general prevailing rate of per diem wages be paid to all workers employed on the public work, but does not require registration with the DIR. A public works project that exceeds (\$25,000) for new construction, alteration, installation, demolition or repair and fifteen thousand dollars (\$15,000) for maintenance triggers the registration requirement with the DIR.

No bid or proposal will be accepted nor any contract entered into without proof of the contractor’s and subcontractor’s current registration with the DIR to perform public work unless the small project exemption shall apply; provided however, for federally funded projects, contractors and subcontractors must be registered to perform public work pursuant to Labor Code Section 1725.5 at the time of contract award.

### **Prequalification of Contractors/Vendors**

The District may periodically establish a list of contractors for various types of work by requiring each prospective contractor to complete and submit to the District a standardized questionnaire and financial statement including a complete statement of the prospective contractor’s experience in performing public works or specific types of public works projects. The District shall determine, using standard criteria, whether a contractor/vendor is qualified for the performance of such work for the District. If the District has prequalified contractors and/or vendors, the District shall update each list of qualified vendors for various types of work periodically as necessary, but not less than every five (5) years. For federally funded contracts, vendors shall be permitted, to the extent required by applicable federal law and/or regulations, to be qualified up until the date and time set for receipt of bids/proposals and have provided proof of registration certification with the DIR (as described herein) if the project does not meet the small project exemption.

For federally funded contracts, vendors shall be permitted, to the extent required by applicable federal law and/ or regulations, to be qualified up until the date and time set for receipt of bids/proposals and have provided proof of registration certification with the DIR if the project does not meet the small project exemption.

### **CAPITAL CONSTRUCTION PROJECTS**

For capital construction projects, the following procedures will apply:

1. **Bid and Award**

The Engineering/Operational Committee will review all bids on a project when TCWD staff proposes to recommend approval of a bid for a project that is greater than \$ 32,000\_, or the General Manager's signing authority. The Board may award the bid and authorize an amount for the project/construction that may include a contingency. Unless otherwise directed by the Board, the General Manager shall execute approved construction contracts.

2. **Change Orders**

- a. The General Manager is authorized to approve change orders until the cumulative amount of those change orders is anticipated to exceed the amount authorized by the Board for construction by ten (10) percent or \$32,000, whichever is less.
- b. If the cumulative change orders are anticipated to exceed the amount authorized for construction by ten (10) percent or \$32,000, whichever is lower, there will be no further change orders until the Board authorizes additional funds for the project under the terms of the agreement (subject to change order terms). The Engineering/Operational Committee shall review all requests for additional construction funds.
- c. The General Manager is authorized to approve an emergency field change order when failure to authorize the change order will cause TCWD to incur significant additional costs and/or significant delays, even if the change order will exceed the General Manager's delegated authority. The General Manager will promptly inform the Board of such action(s). The Engineering/Operational Committee will review the change order and the Board will consider ratification of the General Manager's decision(s).
- d. All change orders shall be in written form and executed by the General Manager or the General Manager's designee(s).

## **PROFESSIONAL SERVICES**

When professional services are required, the following procedures will apply:

- a. Professional service providers are defined as attorneys, engineering consultants, water quality consultants, architects, auditors, actuarial consultants, financial advisors, human resource consultants, information systems/technology consultants, meeting facilitators and firms hired to perform construction inspection, construction management and/or engineering surveying.
- b. If the work of a professional service provider is anticipated to cost more than \$32,000 per year, the selection of the professional service provider will be reviewed by the appropriate Board Committee and will be subject to approval by the Board. The Board will authorize a budgeted amount for the specified work. Unless otherwise specified by the Board, the General Manager is authorized to approve and execute the agreement between TCWD and the approved professional service provider.
- c. If the cost of the work is anticipated to exceed the amount authorized by the Board there will be no further work until the Board authorizes additional funds. The appropriate Board Committee will review all requests for additional funds.

In the event of an emergency, the General Manager has full authority to commit TCWD funds in excess of the approved budget limits, or reallocation of funds within those limits, in accordance with, and subject to the limitations set out in Resolution No. 2018-1252.

## **FEDERAL PROCUREMENT ADDENDUM FOR SUPPLIES, EQUIPMENT, AND MATERIALS PURCHASE ORDERS, OR SERVICES CONTRACTS**

In the event a contract for goods and/or services includes federal funding, TCWD shall require the proposed vendor to complete, execute and submit "Addendum No. 1," attached hereto, in addition to fulfilling any procurement requirements of non-federally funded purchase orders or service contracts.

## **GUIDELINES FOR DISBURSEMENTS**

**The use and expenditure of all TCWD funds is subject to Resolution No. 2018-1252: Delegation of Authority to the General Manager.**

All checks, wires, electronic funds transfer authorizations and other documents (except petty cash requests) containing instructions that cause funds to leave TCWD's control shall have two authorized signatures. Authorized signers are:

Members of the Board of Directors  
General Manager

District Secretary  
Treasurer/Chief Financial Officer  
Assistant Treasurer

Electronic or facsimile signatures may be used on routine payments provided adequate safeguards are used to protect the signature plates, chip, or other source. Such safeguards shall be set out in writing.

An authorized manager or supervisor can approve petty cash requests subject to the limits of TCWD's current petty cash policy.

The General Manager, or his/her designee, District Treasurer, and Senior Accountant may authorize inter-bank transfers for purposes of satisfying payroll requirements.

The Finance/Audit Committee shall review and sign, or approve, as applicable, checks, wires and electronic fund transfer authorizations that meet the following criteria:

1. \$32,000 or more will leave TCWD's control except when paying for:
  - a. Payroll or payroll related expenses, including employee benefits;
  - b. Utilities;
  - c. Chemicals used in water treatment; and/or
  - d. Water and water related costs to the Municipal Water District of Orange County or other agencies from which the District may purchase water or water related services.
2. \$1,000 or more payable to employees or members of the Board for any purpose other than payroll, except when the reimbursement request has been previously approved through the Finance/Audit Committee process. All reimbursements to Board members shall be subject to TCWD's current Board Reimbursement Policies.

**TRABUCO CANYON WATER DISTRICT  
FEDERAL PROCUREMENT ADDENDUM  
SUPPLIES, EQUIPMENT, AND MATERIALS PURCHASE ORDERS,  
OR SERVICES CONTRACTS**

**ADDENDUM NO. 1**

Date: \_\_\_\_\_  
Project Title: \_\_\_\_\_  
Project No.: \_\_\_\_\_  
Vendor: \_\_\_\_\_ (“Vendor”)

Change in Scope of Services:

The following change to the goods or services contract (“Contract”) dated \_\_\_\_\_ between the Trabuco Canyon Water District (“TCWD”) and Vendor is applicable:

Vendor has agreed to provide services, materials, supplies, or equipment (“Services or Goods”) to TCWD for the Project in accordance with the Contract, with the understanding that TCWD will be reimbursed for the cost, or portion of the cost, of such Services or Goods through a grant from the Federal Emergency Management Agency (“FEMA”), which may be administered by the California Governor’s Office of Emergency Services (“CalOES”). As such, Vendor’s contract with TCWD is formally modified by this Addendum to formally adopt and include certain federal provisions in the Contract, as required by Section 200, Appendix II, of Title 2 of the Code of Federal Regulations (“CFR”) (“Federal Provisions”), and, upon delivery of said Services or Goods, certify that Vendor has complied with the same.

The attached Attachment A contained the Federal Provisions and is hereby added to the Contract effective for the duration of the Contract. By way of execution of this Addendum, Vendor agrees that it will comply with such Federal Provisions in connection with the delivery of the Services or Goods pursuant to the Contract.

Attachment(s): Attachment A – Federal Provisions

Payment Terms: In accordance with the Contract.

**ADDENDUM ACKNOWLEDGED BY:**

VENDOR

TCWD

Approved By: \_\_\_\_\_

Approved By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_ General Manager

## ATTACHMENT A

### FEDERAL PROVISIONS

#### Federal Procurement Addendum Supplies, Equipment, and Materials Purchase Orders

The following federal provisions, (in their current or previous iterations, as applicable), as required by Section 200, Appendix II, of Title 2 of the Code of Federal Regulations ("CFR"), are incorporated into the Contract and shall be binding and enforceable on Vendor:

1. Administrative, Contractual and Legal Remedies for Breach of Contract. Vendor agrees to fully comply with and be subject to the provisions of the Contract addressing administrative, contractual, or legal remedies including all sanctions and penalties set forth therein, in instances where Vendor breaches the terms of the Contract.

2. Termination for Cause/Termination for Convenience. Vendor agrees to fully comply with and be subject to provisions related to termination for cause and termination for convenience set forth in the Contract, which would include TCWD's right to terminate the Contract at any time utilizing the procedures set forth in Section 8.2 of the Contract.

3. Equal Employment Opportunity. Vendor must comply with Executive Order 11246 (3 CFR, 1964-1965 Comp., p. 339), "Equal Employment Opportunity," as amended by Executive Order 11375 (3 CFR, 1966-1970 Comp., p. 684), "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

In accordance with such requirements, during the performance of this Contract, Vendor agrees as follows:

- a. The Vendor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Vendor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- b. The Vendor will, in all solicitations or advertisements for employees placed by or on behalf of the Vendor, state that all qualified applicants will receive

consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

- c. The Vendor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Vendor's legal duty to furnish information.
- d. The Vendor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Vendor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Vendor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Vendor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Vendor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Vendor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The Vendor will include the provisions of subparagraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of

September 24, 1965, so that such provisions will be binding upon each subVendor or vendor. The Vendor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Vendor becomes involved in, or is threatened with, litigation with a subVendor or vendor as a result of such direction, the Vendor may request the United States to enter into such litigation to protect the interests of the United States.

4. Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 3145). Vendor must comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each Vendor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. TCWD shall report all suspected or reported violations to the responsible federal contracting officer.

5. Davis-Bacon Act (40 U.S.C. 276a). As applicable, Vendor and each subVendor shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5).

6. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Vendor and each subVendor must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Vendor and each subVendor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

Consistent with the foregoing requirements, Vendor shall, as applicable, comply with the following:

- (a) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor

and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (6)(a) of this Section.

- (c) Withholding for unpaid wages and liquidated damages. TCWD shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (6)(b) of this Section.
- (d) Subcontracts. Vendor, and any of its subVendors, shall insert in any subcontracts the clauses set forth in paragraph 6(a) through (d) of this Section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Vendor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (6)(a) through (d) of this Section

7. Reporting Obligations. Vendor must comply with all requirements of the California Governor's Office of Emergency Services ("CalOES") and the Department of Homeland Security ("DHS") Federal Emergency Management Agency ("FEMA") requirements and regulations pertaining to reporting applicable to Vendor's performance of its contract with TCWD. *[include only if applicable to the Contract]*

8. Rights to Inventions Made Under a Contract. Vendor and each of its subVendors shall comply with the requirements of Part 401 of Title 37 of the Code of Federal Regulations ("CFR"), relative to "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements," and any implementing regulations issued by the federal funding agency. TCWD and Vendor acknowledge the existing scope of the Contract does not involve the performance of any experimental, developmental, or research work, but acknowledge that, to the extent it did, or is later modified to provide for such, these provisions would apply.

9. Copyright and Data. Vendor must comply with all requirements and regulations of CalOES, DHS, and FEMA pertaining to copyrights and rights in data. *[include only if applicable to the Contract]*

10. Access to Documents. Vendor shall grant TCWD, CalOES, DHS, FEMA, and the Comptroller General of the United States, as well as their duly authorized representatives, access to any books, documents, papers, and records of the Vendor that are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

11. Retention of Records. Vendor shall retain all required records for at least three years after TCWD makes final payment and all other pending matters are closed.

12. Clean Air Act (42 U.S.C. 7401-7671q.) and Federal Water Pollution Control Act (33 U.S.C. 1251-1387)—as amended. Vendor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (41 U.S.C. 7401-7691q.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency (“EPA”).

13. Debarment and Suspension (Executive Orders 12549 and 12689). Contract awards shall not be made to parties listed on the governmentwide exclusions in the System for Award Management (“SAM”), in accordance with the Office of Management and Budget (“OMB”) guidelines at 2 CFR 180 that implement Executive Orders 12549 and 12689, “Debarment and Suspension.” SAM Exclusions contain the names of parties debarred, suspended, or other excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Vendor shall complete the “Certification Regarding Debarment, Suspension, and Other Responsibility Matters,” attached hereto as Attachment A-1.

14. Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352). To the extent applicable at the time services are performed or goods are delivered by Vendor, Vendor shall comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352) (“Byrd Amendment”). Vendor shall file the required certification. Under the Byrd Amendment, each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to TCWD.

Vendor shall complete the “Certification Regarding Lobbying,” attached hereto as Attachment A-2.

15. Procurement of Recovered Materials. To the extent applicable at the time Services are performed or Goods are delivered by Vendor, Vendor and each subVendor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and

Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

16. DHS Seal, Logo, and Flags. Vendor shall not use the DHS or FEMA seals, logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

17. Changes. To be eligible for FEMA assistance under TCWD's grant, the cost of any change, modification, change order, or construction change must be allowable, allocable, within the scope of such grant, and reasonable for the completion of the project scope.

18. Compliance with Federal Law, Regulations, and Executive Orders. Vendor acknowledges that FEMA financial assistance shall be used to fund the Contract, and, as such, Vendor acknowledges its obligations to comply with all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives.

19. No Obligation of Federal Government. The United States Federal Government is not a party to the Contract, and is not subject to any obligations or liabilities to TCWD, Vendor, or any other party pertaining to any matter resulting from the Contract.

20. Program Fraud and False or Fraudulent Statements or Related Acts. Vendor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to Vendor's actions pertaining to the Contract.

IN WITNESS WHEREOF, the Vendor has executed this Attachment A (FEDERAL PROVISIONS) by way of its authorized representatives as indicated below.

Dated: \_\_\_\_\_, 20\_\_

**VENDOR**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

## ATTACHMENT A-1

### **Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

Vendor certifies, to the best of its knowledge and belief, that it and its principals:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions under federal nonprocurement programs by any federal department or agency;
- (2) Have not, within the three year period preceding the proposal, had one or more public transactions (federal, state, or local) terminated for cause or default; and
- (3) Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) and have not, within the three year period preceding the proposal, been convicted of or had a civil judgment rendered against it:
  - (a) For the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction (federal, state, or local) or a procurement contract under such a public transaction;
  - (b) For the violation of federal or state antitrust statutes, including those proscribing price fixing between competitors, the allocation of customers between competitors, or bid rigging; or
  - (c) For the commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

I understand that a false statement on this certification may be grounds for the rejection of this proposal or the termination of the award. In addition, under 18 U.S.C. §1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to five years, or both.

Name and Title of Authorized Representative

Name of Vendor

Signature of Authorized Representative

Date

☐ I am unable to certify to the above statement. Attached is my explanation.

## ATTACHMENT A-2

### CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents of all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub- recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, United States Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Organization: \_\_\_\_\_

Street address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

\_\_\_\_\_  
(type or print)

CERTIFIED BY:

TITLE:

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

**Disclosure of Lobbying Activities**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(See reverse for public burden disclosure)

<b>1. Type of Federal Action:</b> a. contract _____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	<b>2. Status of Federal Action:</b> a. bid/offer/application _____ b. initial award c. post-award	<b>3. Report Type:</b> a. initial filing _____ b. material change  <b>For material change only:</b> Year _____ quarter _____ Date of last report _____
<b>4. Name and Address of Reporting Entity:</b> _____ Prime _____ Subawardee Tier _____, if Known:   <b>Congressional District, if known:</b>	<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>    <b>Congressional District, if known:</b>	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>   CFDA Number, <i>if applicable</i> : _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b>  \$	
<b>10. a. Name and Address of Lobbying Registrant</b> <i>(if individual, last name, first name, MI):</i>	<b>b. Individuals Performing Services</b> <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
<b>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b>	<b>Signature:</b> _____ <b>Print Name:</b> _____ <b>Title:</b> _____ <b>Telephone No.:</b> _____ <b>Date:</b> _____	
<b>Federal Use Only</b>	<b>Authorized for Local Reproduction</b> <b>Standard Form - LLL (Rev. 7-97)</b>	

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to Title 31, U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

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According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget,

Paperwork Reduction Project (0348-0046), Washington, DC 20503