

# **North Central Texas Council of Governments**

**NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS  
METROPOLITAN PLANNING ORGANIZATION**

**REQUEST FOR PROPOSALS  
FOR TRANSPORTATION AND STORMWATER INFRASTRUCTURE (TSI)  
ENVIRONMENTAL ECONOMICS SERVICES**

**June 13, 2025**

**REQUEST FOR PROPOSALS**  
**FOR TRANSPORTATION AND STORMWATER INFRASTRUCTURE (TSI)**  
**ENVIRONMENTAL ECONOMICS SERVICES**

**INTRODUCTION**

The North Central Texas Council of Governments (NCTCOG) is requesting written proposals from qualified firms(s) to provide Environmental Economics services to support the NCTCOG Transportation and Stormwater Infrastructure (TSI) planning study.

**NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS**

The NCTCOG is a voluntary association of, by, and for local governments, and was established to assist local governments in planning for common needs, cooperating for mutual benefit, and coordinating for sound regional development. NCTCOG's purpose is to strengthen both the individual and collective power of local governments and to help them recognize regional opportunities, eliminate unnecessary duplication, and make joint decisions.

Since 1974, NCTCOG has served as the Metropolitan Planning Organization (MPO) for transportation in the Dallas-Fort Worth (DFW) Metropolitan Area. NCTCOG's Transportation Department is responsible for regional transportation planning for all modes of transportation. The Department provides technical support and staff assistance to the Regional Transportation Council (RTC) and its technical committees, which compose the MPO policy-making structure. In addition, the Department provides technical assistance to the local transit providers of North Central Texas in planning, programming, coordinating, and implementing transportation decisions.

**PURPOSE AND NEED**

NCTCOG is seeking an individual or firm to complete an Environmental Economics study of the TSI West Study Area, including parts of two eight-digit hydrologic unit code (HUC8) subbasins, the Upper West Fork Trinity and Lower West Fork Trinity, to increase flood risk awareness and resiliency. The study will integrate planning for transportation, stormwater, and environmental infrastructure to reduce flood risk. The study is needed because recent flood events in Texas have highlighted the flood risk challenges generated by significant population growth and

increased impervious cover. Economic analyses will be conducted to identify the cost-benefit of proposed flood mitigation alternatives.

## **PROJECT SUPPORT**

The project will be conducted under the guidance and supervision of a Project Review Committee. The responsibilities of the Project Review Committee will be to serve as the principal technical review committee for this project. NCTCOG shall serve as project manager to implement a mutually agreed upon scope of work, monitor the progress of consultant activities; and serve as a liaison between the consultant and other partners. The selected consultant will enter into a contract with NCTCOG for the agreed upon scope and budget. NCTCOG shall also serve as the contract manager and procurement administrator for the project.

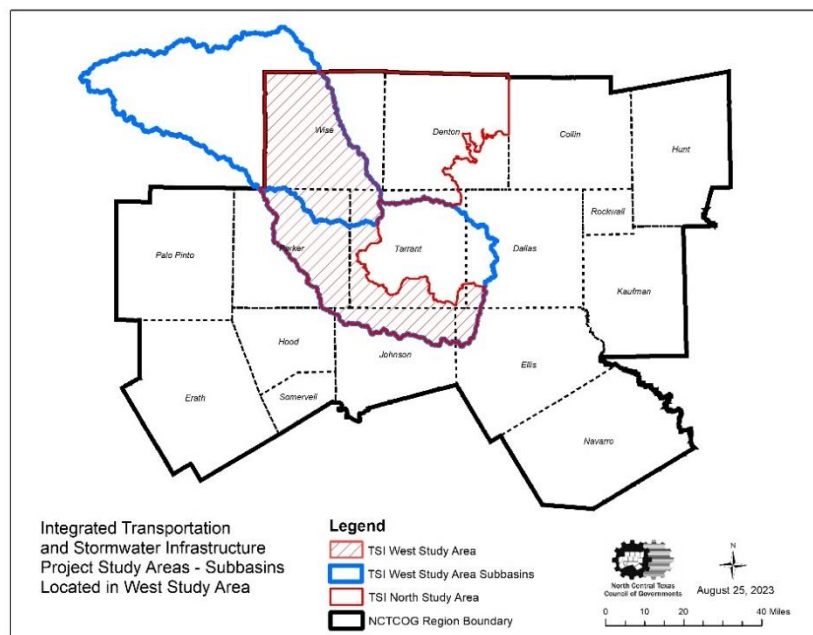
## **SCOPE OF WORK**

The scope of work is summarized by the tasks outlined below. Proposers are encouraged to exercise creativity in responding to the project needs. Modifications to the tasks and task sequencing which will improve the effectiveness of the project effort, while containing costs, are encouraged.

Recent flood events in Texas garnered the attention of the State for the need for comprehensive planning in urban areas. This is particularly important in the Upper Trinity River Basin, where significant population growth and increased impervious cover will lead to a number of challenges in the TSI West Study Area (see Figure 1) and the downstream DFW metroplex, including increased runoff and flooding, long-term transportation infrastructure maintenance, increased stream erosion, water quality degradation, increased sediment deposition in downstream reservoirs, and loss of open space. While comprehensive regional transportation planning is performed on a regular cycle, stormwater and environmental infrastructure improvements are generally not part of the planning focus.

The purpose of the TSI planning study is to increase flood risk awareness and resiliency in the TSI West Study Area, which includes parts of two HUC8 subbasins, the Upper West Fork Trinity and Lower West Fork Trinity. Increased awareness and resiliency will be accomplished through innovative planning-level analysis and integration (where appropriate) of transportation, environmental, and stormwater planning. Tasks for the overall TSI study include data collection and analysis, stakeholder engagement, hydrologic and hydraulic (H&H) assessment and scenarios, assessment of transportation infrastructure and decision-making tools, environmental planning and economic considerations, flood warning system analysis, tools for managing land through strategic planning and development, project management, and project replication

**Figure 1: Subbasins located in the TSI West Study Area**



documentation that can help communities understand and take action to increase resiliency against future flooding events.

More information on the study can be found at [www.nctcog.org/tsi](http://www.nctcog.org/tsi).

Tasks specific to environmental economics are intended to demonstrate the feasibility and return-on-investment of integrating transportation, environmental, and stormwater infrastructure planning to mitigate flood risk. These tasks include conducting a literature review of environmental and economic conditions in the TSI West Study Area; providing environmental economics information for public outreach documents and presentations; developing cost-benefit and return-on-investment analyses for green stormwater infrastructure and other flood mitigation

alternatives; gathering information on land availability and property statistics; conducting statistical analyses; providing content for a Replication Report and Final Plan; and project management.

## **1.1 PURPOSE**

The purpose of this Request for Proposals (“RFP”) is to solicit responses that result in a contract with a qualified Respondent who can demonstrate that they have the resources, experience, and qualifications to provide environmental economics services.

Qualified respondents must be able to conduct environmental economics analyses to support flood risk reduction and environmental planning activities. Qualified firms are invited to submit proposals based on the information provided in this RFP. Should the not-to-exceed amount be insufficient to complete the tasks described in Exhibit B of this document, the Respondent should propose modifications to the tasks.

A comprehensive description of the goals of this solicitation and the desired project deliverables can be found as Exhibit B of this document.

## **EXHIBIT B**

### **Description of Desired Services for Proposed Pricing**

Responses to this Exhibit should be addressed in Tab D: Technical Proposal.

The following scope of work outlines the essential elements of the desired services Environmental Economics Analyses.

#### **Scope: Environmental Economic Analyses**

The following tasks comprise the essential elements of the desired services:

- Data Collection and Analyses
- Stakeholder Engagement
- Environmental Planning and Economic Considerations
- Documentation
- Project Management

#### **Task #1: Data Collection and Analysis**

Respondents should detail their specific skill sets and/or range of capabilities for carrying out the following tasks in their proposal for Task #1:

1. Supplement existing literature review from North Study Area with information, data, and other resources specific to environmental and economic conditions in the West Study Area. Literature review and data collection shall cover the modeling and optimization of detention/retention ponds, green stormwater infrastructure (GSI), nature-based solutions (NBS), return on investment (ROI) for GSI and NBS, and integration techniques with transportation and stormwater management perspectives.

Deliverables for this task include:

1. Literature review content and references including environmental and economic data specific to conditions in the West Study Area.

#### **Task #2: Stakeholder Engagement**

Respondents should detail their specific skill sets and/or range of capabilities for carrying out the following tasks in their proposal for Task #2:

- 2.1. Provide environmental economic content for public information, public campaigns, frequently asked questions, or other documents designed to engage and inform stakeholders.
- 2.2. Provide environmental economic content for presentations to stakeholders or interested parties, such as engineering professional associations and conference attendees.

Deliverables for this task include:

- 2.1. Technical content provided in Microsoft Word format.
- 2.2. Technical content provided in Microsoft PowerPoint format.

### Task #3: Environmental Planning and Economic Considerations

Respondents should detail their specific skill sets and/or range of capabilities for carrying out the following tasks in their proposal for Task #3:

- 3.1. Specific to environmental and economic conditions in the West Study Area, develop cost-benefit calculations and return-on-investment (ROI) parameters on GSI and NBS practices, including preservation of floodplains, for use by local governments and developers, for later use in evaluating alternatives. Information may include the potential to reduce capital, operation, and maintenance expenses for transportation and other infrastructure through reduction of channel erosion and sediment transport.
- 3.2. Collaborate with Project Team and provide feedback during development of a web-based map (or component of a larger online tool or Story Map) that identifies flood prone areas and ideal locations for implementation of GSI and NBS in the West Study Area.
- 3.3. Assist in identifying the suitability of potential locations for stormwater infrastructure by:
  - a. Assisting Project Team in analyzing subbasin-scale projected land availability based on predicted land cover and land use change throughout the study area to identify feasibility of detention pond sizes;
  - b. Assisting in obtaining property statistics for subbasins within the study area. Property statistics shall include cost per acre (land value from parcel data divided by area) and percentages of land use types. With the exception of initial data, the property statistics shall be analyzed and reported at the watershed-level, not at a parcel level;

- c. Assisting with establishing criteria to determine suitable locations of detention/retention ponds considering economic and environmental conditions in the West Study Area;
  - d. Assisting the Project Team with displaying projected land availability and property statistics as well as stormwater infrastructure suitability on a web-based map.
- 3.4. Assist in evaluating stormwater infrastructure alternatives for their potential to reduce flooding by:
  - a. Leading statistical analysis of protection infrastructures from identified alternatives in the study area reduce flood losses;
  - b. Assisting with analysis of the benefits and potential costs of building the detention ponds or green infrastructure for identified optimization scenarios (alternatives) and to calculate Benefit-Cost Ratios (BCAs), using the information developed in Task #3-3.1;
  - c. Assisting with recommendation of alternatives that will reduce the downstream impacts from future conditions on the hydrology of the study area while remaining cost effective and achieving desired transportation and environmental benefits.
- 3.5 Attend task-related meetings, including the Environmental Small Group meeting and similar meetings, as time and budget allow.

Deliverables for this task include:

- 3.1. Environmental economic content to be included in three fact sheets developed by Project Team; the fact sheets will cover GSI and NBS applications, details on benefits, and cost of construction as appropriate for conditions in the West Study Area.
- 3.2. Cost-benefit calculations and ROI parameters for GSI and NBS practices and floodplain preservation in the West Study Area, to be utilized in Task #4.
- 3.3. Contributions to maps of detention/retention ponds, GSI, and/or NBS suitability for the study area, including intermediate maps of land cover/land use, and property statistics; including contributions that could be included in a tool, online map, or other mechanism to communicate the information to stakeholders.
- 3.4. Technical comments and feedback on the methodology and data used to establish criteria for determining suitable locations of detention/retention ponds.



- 3.5. Contribution to the calculations and analysis of benefit-cost ratios for identified alternatives.
- 3.6. Meeting attendance.

#### Task #4: Documentation

Respondents should detail their specific skill sets and/or range of capabilities for carrying out the following tasks in their proposal for Task #4:

- 4.1. Summarize applicable processes, methods, tools, and analysis for all tasks performed as contribution to the project Replication Report.
- 4.2. Draft Final Plan content on covering tasks completed in Task #3.
- 4.3. Revise Final Plan content as needed, including addressing any comments received from the project funder.

Deliverables for this task include:

- 4.1. Content for Replication Report and Draft and Final Plan; revisions that address comments or feedback received from funder.

#### Task #5: Project Management

Respondents should detail their specific skill sets and/or range of capabilities for carrying out the following tasks in their proposal for Task #5:

- 5.1. Attend project management-related team meetings as needed and budget allows.
- 5.2. Submit monthly progress reports and Request for Reimbursements, also referred to as invoices.

Deliverables for this task include:

- 5.1. Attendance at project team meetings as needed and budget allows.
- 5.2. Monthly progress reports and invoices.

### **PROJECT SCHEDULE**

Proposers shall develop a schedule of tasks with completion deadlines and methodologies for the project. NCTCOG will select all the identified tasks or a subset of the tasks to be completed. NCTCOG and the selected firm will jointly determine a schedule for progress meetings in accordance with the final schedule for the scope of work. The timetable for completion of this

project is December 2026, approximately **fifteen (15)** months from the date the consultant firm is authorized to proceed. NCTCOG anticipates the contract will begin October 2025.

A budget of approximately **one hundred seventy-five thousand dollars (\$175,000)** is allocated to conduct this project. Should **one hundred seventy-five thousand dollars (\$175,000)** not be sufficient to complete the tasks described in Exhibit B of this document, the Respondent should propose modifications to the tasks.

### **CONSULTANT SELECTION CRITERIA**

The Consultant Selection Committee (CSC) will review all proposals and select a consultant it considers qualified to undertake the project. The following criteria will be used to evaluate the proposals:

1. Project Understanding	25 percent
2. Scope of Services	25 percent
3. Project Manager/Staff Qualifications	20 percent
4. Project Cost	15 percent
5. Firm Qualifications/Consultant References	10 percent
6. Project Schedule	5 percent

If the CSC determines that interviews will be required before a final decision can be made, the interviews will take place **the week of July 28, 2025**. Proposers should be willing and able to attend these interviews in person or via web conference, if necessary. Consultants who are invited to an interview will be notified by the close of business on **Friday, July 25, 2025** that an interview has been scheduled. Costs for developing the proposal and costs attributed to interviews (and subsequent negotiations) are at the proposer's own expense and will not be reimbursed by NCTCOG.

### **CONTRACT AWARD**

Following final negotiations of the work plan and costs satisfactory to NCTCOG, the consultant will be asked to execute a contract with NCTCOG. If applicable, a Notice to Proceed will be issued upon execution of the contract. NCTCOG reserves the right to reject any and all proposals,

to contract for any or all portions of the project with the selected consultant, or to hire multiple firms.

The successful responder(s) to this Request for Proposals is expected to provide qualified personnel to accomplish each portion of the work in this study. NCTCOG will maintain the right to request the removal of any personnel found, in its opinion, during the course of work on this project, to be unqualified to perform the work.

### **DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION**

The Disadvantaged Business Enterprise participation must meet the **32%** percentage goal identified for this type of procurement. Failure on the part of the majority contractor to meet this goal or show meaningful good faith efforts may be grounds for finding the proposal nonresponsive.

### **QUESTIONS AND ANSWERS**

All questions regarding the RFP shall be directed in writing by e-mail to [TransRFPs@nctcog.org](mailto:TransRFPs@nctcog.org) by the close of business on **Friday, June 20, 2025**. All questions and responses will be posted on the NCTCOG website at [www.nctcog.org/rfp](http://www.nctcog.org/rfp) by the close of business on **Wednesday, June 25, 2025**. NCTCOG reserves the right to respond to inquiries as it deems necessary.

### **OVERALL PROCUREMENT SCHEDULE**

This RFP shall be used to accept, review, and score proposals based on the following schedule with the intent of awarding a cost-plus-fixed fee contract. The following represents the schedule of procurement activities leading to contract award:

Issue Request for Proposals	<a href="#">June 13, 2025</a>
Last Day to Submit Questions	<a href="#">June 20, 2025</a>
NCTCOG Q&A Posted to Website	<a href="#">June 25, 2025</a>
Proposals Due & Proposal Public Opening	<a href="#">July 11, 2025</a>
Consultant Selection Committee	week of <a href="#">July 21, 2025</a>
Interviews (if needed)	week of <a href="#">July 28, 2025</a>
NCTCOG Committee Approval	<a href="#">September 2025</a>
Execute Contracts	<a href="#">October 2025</a>

NCTCOG reserves the right to make changes to the above-mentioned schedule. All such changes shall be made by an amendment to the RFP and shall be posted on NCTCOG's website at [www.nctcog.org/rfp](http://www.nctcog.org/rfp). It is the responsibility of the consultant to frequently check this website for information concerning amendments to the RFP.

\*Public opening of the proposals will be done via Microsoft Teams on **July 11, 2025 at 5:35 p.m.** A link to the Microsoft Teams meeting is below. Microsoft Teams is integrated with audio so you will only need to use the conference call number (below) if you are unable to access the Microsoft Teams App. The Teams App is available for download [here](#)

### **Join the meeting now**

Meeting ID: 298 905 002 425 0

#### **Dial in by phone**

[+1 903-508-4574](#)

Phone conference ID: 382 597 892#

## INSTRUCTIONS FOR PROPOSALS

### PLANNING SERVICES

The Sample Contract provided with this Request for Proposals contains federal requirements which must be included with Proposals. The appendices contain compliance requirements and certification forms which must accompany the Proposals. **Failure to comply with the requirements may result in finding the proposal to be nonresponsive.**

Additional information is provided below:

1. Proposers may submit one hard copy or one flash drive of the proposal to **Kate Zielke, Environment & Development Program Manager**, North Central Texas Council of Governments, 616 Six Flags Drive, Arlington, Texas 76011. Flash drives should contain one file preferably with indexed sections. Flash drives that are unreadable or contain corrupted files will be considered non-responsive. **Proposals must be received by 5:00 p.m. Central Time, Friday, July 11, 2025.** Proposals received after that time will not be considered and will be returned to the proposer unopened. The in-hand submittal will count as the official submittal. In addition to the in-hand submittal, NCTCOG is requesting electronic submission of proposals to [TransRFPs@nctcog.org](mailto:TransRFPs@nctcog.org). The electronic submittal only will **not** be evaluated.
2. The proposal should address the criteria identified in the Request for Proposals that will be used for consultant selection. Proposals should include, at a minimum, the following information.
  - **Proposal Formatting** – Proposals should be printed double-sided and include a footer containing consultant firm name, page number, and total pages in the proposal. (e.g., Planning firm 1 of 20). Proposals should be no more than 24 pages, with the cover letter and compliance requirements/required forms not counting toward the page limit.
  - **Cover Letter** -- A brief summary of the key points of the proposal and approach to accomplishing the work. Name and address of the firm, as well as the contact person's name, phone number, and email address should also be included.
  - **Project Understanding** - A general description of the approach to be used in accomplishing the work, including the project organization and management plan. Senior personnel who will work on the project, including subcontractor personnel, should be identified by name and by role in the project; e.g., project manager, principal in charge, project advisor, etc. The project manager in particular must be specified and a clear indication given as to his/her involvement in the project. If more than one firm will be involved, the proposal should clearly delineate the work to be accomplished by each firm and how the work will be coordinated and managed. Any special requirements or coordination needs should be clearly identified.
  - **Scope of Services and Schedule** - This section should respond to the Request for Proposals task descriptions for the project by describing clearly in detail what and how work

in each task will be accomplished, the technical methodology to be used, and the planned work flow and schedule. A description should be included concerning quality control and how this will be maintained and accomplished during the course of this project.

- **Consultant Qualifications** - This section should identify the background and experience of the consulting firm(s) and individuals in similar types of work and the results of that experience, along with up-to-date references (name, current affiliation, and phone number), should be included. Knowledge of the Dallas-Fort Worth area should be specifically indicated.
  - **Compliance Requirements** - The Sample Contract contains compliance requirements and other certification forms which must accompany the Proposal.
3. The NCTCOG Transportation Department maintains a Disadvantaged Business Enterprise (DBE) participation goal on the part of socially and economically disadvantaged individuals in DOT-assisted projects. The specific DBE goal requirement for this procurement is identified in the RFP and is determined by the type of services being procured. **If a proposer is unable to meet the established DBE goal, documentation must be provided to support meaningful good faith efforts.** To facilitate this goal, a list of DBEs is attached for consideration. In the event the proposer is a majority firm and the above stated goal for DBE participation is not met, the prime contractor shall be required to provide justification and documentation for not reaching the goal with disadvantaged subcontractors.
- a. Joint ventures between majority and disadvantaged contractors are encouraged. Whenever a joint venture involves a disadvantaged firm(s), the proposer shall submit with the proposal the names, scope of work, and the anticipated percentage of work of each proposed DBE subcontractor and joint venture. The Affidavit of Intended Entrepreneurship, is intended for this purpose. NCTCOG shall reserve the right to approve all substitutions of subcontracts.
  - b. For the purposes of this policy, a Disadvantaged Business Enterprise is defined as: A business enterprise that is owned and controlled by one or more socially and/or economically disadvantaged persons. "Owned and controlled" is specified as a business which is (1) a sole proprietorship legitimately owned by an individual who is a disadvantaged person or (2) a partnership or joint venture controlled by disadvantaged persons and in which at least **fifty one (51%) percent** of the voting interest and **fifty one (51%) percent** of the beneficial ownership interests legitimately are held by disadvantaged persons. Such persons include individuals who are Women, Black, Hispanic, Native Americans, Asian-Pacific Americans, Asian-Indian Americans, or any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act. **DBE Certificates issued through the Texas Unified Certification Program are required.**
  - c. The contractor shall maintain for three years such records as are necessary to determine compliance with their DBE obligations and shall submit regular reports to enable the North Central Texas Council of Governments to monitor this compliance.

4. The NCTCOG Executive Board encourages the use of local firms. However, all proposals, regardless of firm locale, will be evaluated using the consultant selection criteria contained in the Request for Proposals.
5. A consultant selection committee will review the proposals and select a firm it considers qualified to undertake the project. The selection of the proposal will be based on the technical proposal and/or interviews but will be subject to negotiation of conditions of cost satisfactory to NCTCOG. NCTCOG reserves the right to reject any or all proposals and to contract for any or all portions of the project with the selected consultant.
6. As part of the proposal, consultants should summarize the budget for the project on the excel form provided. The overall project budget should include the cost of personnel, fringe benefits, overhead supplies, printing, and travel. The budget shall detail out separately the tasks by prime and sub-consultant, and profit. If needed, additional tabs should be added for sub-consultants working on the project.
7. The Texas Legislature has adopted House Bill 1295. In short, the law states a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties (Form 1295) to our agency at the time of a signed contract. As part of contract development, the consultant will be asked to complete the disclosure of interested parties electronically and submit through the Texas Ethics Commission website. NCTCOG will provide a specific contract number associated with the award for inclusion in the submittal. Once submitted, the consultant will be requested to return an e-mail confirmation of submittal to NCTCOG.
  - For more information about the process, please visit the following website for a Frequently Asked Questions:  
[https://www.ethics.state.tx.us/resources/FAQs/FAQ\\_Form1295.php](https://www.ethics.state.tx.us/resources/FAQs/FAQ_Form1295.php)
8. Procurement information shall be a public record to the extent provided by the Texas Open Records Act and the Freedom of Information Act and shall be available to the public as provided therein. If a proposal contains information that the proposer considers proprietary and does not want disclosed to the public or used for any purpose other than the evaluation of the offer, all such information must be indicated with the following suggested language:

*The information contained on pages \_\_\_\_\_ shall not be duplicated used in whole or in part, for any purpose other than to evaluate the proposal; provided that if a contract is awarded to this office as a result of or in connection with the submission of such information, NCTCOG has the right to duplicate, use or disclose this information to the extent provided in the contract.*

9. Conflict of Interest Disclosure Requirement  
Pursuant to Chapter 176 of the Local Government Code, any person or agent of a

person who contracts or seeks to contract for the sale or purchase of property, goods, or services with a local governmental entity (i.e. NCTCOG) must disclose in the Questionnaire Form CIQ ("Questionnaire") the person's affiliation or business relationship that might cause a conflict of interest with the local governmental entity. By law, the Questionnaire must be filed with NCTCOG no later than seven days after the date the person begins contract discussions or negotiations with the NCTCOG, or submits an application or response to a request for proposals or bids, correspondence or another writing related to a potential agreement with the NCTCOG.

Updated Questionnaires must be filed in conformance with Chapter 176.

A copy of the Questionnaire Form CIQ is enclosed with the submittal documents. The form is also available at <https://www.ethics.state.tx.us/data/forms/conflict/CIQ.pdf>

If you have any questions about compliance, please consult your own legal counsel.

Compliance is the individual responsibility of each person or agent of a person who is subject to the filing requirement. An offense under Chapter 176 is a Class C misdemeanor. If the consultant has no Conflict of Interest, please include the following statement: **[insert firm name]** has reviewed and confirmed there are no Conflicts of Interest for the prime or subconsultants with the North Central Texas Council of Governments or any associated local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A).



## CONTRACT

STATE OF TEXAS

COUNTY OF TARRANT

The **NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS**, acting through Todd Little, its duly authorized Executive Director, the foregoing party being hereinafter referred to as **NCTCOG**, and **<<insert legal name>>** the latter party being referred to hereinafter as **CONSULTANT**, hereby make and enter the following Contract.

### ARTICLE I

#### COVENANT

The **CONSULTANT** covenants and agrees to perform the technical and professional work for completion of the **<<insert project name>>** as a part of the Unified Planning Work Program for Regional Transportation Planning in North Central Texas. The work to be performed under this Contract is described in detail in the Scope of Services in Appendix A of this Contract. Such work shall be performed in accordance with the terms of this Contract and for the consideration stated herein. The **CONSULTANT** covenants and agrees to perform this work and assures that the work will be performed with the standard of care customary to the **CONSULTANT'S** profession and according to the schedule referenced in Article IV.

The **CONSULTANT** also agrees to submit the deliverables described in Appendix A. To conduct the work and prepare all of the various maps, reports, and data required as part of the work, the **CONSULTANT** agrees to furnish and supervise such personnel as are required to accomplish the work set forth in Appendix A.

## ARTICLE II

### SCOPE OF SERVICES

Pursuant to the professional standard of care set forth under Article I, the **CONSULTANT** shall perform and carry out in a manner satisfactory to **NCTCOG** all services necessary to accomplish the work and provide the products described in the Scope of Services in Appendix A. The Scope of Services shall be performed by the **CONSULTANT** within the schedule defined by **NCTCOG**. The **CONSULTANT** shall utilize the specific Disadvantaged Business Enterprises (DBEs) listed to perform the work for which each is listed unless the **CONSULTANT** obtains **NCTCOG'S** written prior approval. Unless the **CONSULTANT** has obtained **NCTCOG'S** prior written approval, the **CONSULTANT** shall not be entitled to payment for work unless it is performed or supplied by the listed DBE. This requirement applies to instances that include, but are not limited to, when **CONSULTANT** seeks to perform work originally designated for a DBE-subcontractor identified in Appendix D.2 with its own work force, or a reduction or underrun in work listed for a DBE not caused by a material change to the prime contract by **NCTCOG**. If the **CONSULTANT** needs to terminate a DBE subcontractor, consistent with this section, the **CONSULTANT** shall send notice to the DBE subcontractor, with a concurrent copy to **NCTCOG** at [TransRFPs@nctcog.org](mailto:TransRFPs@nctcog.org), of its intent to request termination and the reason for the request. This notice shall give the DBE subcontractor five (5) days to respond, identifying any objections to the proposed termination and why **NCTCOG** should not approve the **CONSULTANT'S** request.

## ARTICLE III

### ADDITIONAL PROVISIONS

All maps, data, reports, research documentation, graphic presentation materials, etc., prepared by the **CONSULTANT** as part of the work under this Contract shall become the property of

**NCTCOG** upon completion of this Contract or any phase thereof or, in the event of termination under Article X hereof, at the time of payment in accordance with Article X.

All reports published by the **CONSULTANT** shall contain a prominent credit reference and disclaimer:

“Prepared in cooperation with the Regional Transportation Council, **NCTCOG**, and the Texas Department of Transportation (TxDOT).”

“The contents of this report reflect the views of the authors who are responsible for the opinions, findings, and conclusions presented herein. The contents do not necessarily reflect the views or policies of the Regional Transportation Council, **NCTCOG**, and the Texas Department of Transportation (TxDOT).”

Upon completion or termination of this Contract, all deliverables prepared by the **CONSULTANT** shall be delivered to and become the property of **NCTCOG**. All such documents, photographs, calculations, programs, equipment, and other data prepared or used under this Contract shall be used by **NCTCOG** and **NCTCOG’S** funding partners without restriction or limitation of further use. Any modification or use of such documents for any other purpose than for which they were created under this Contract shall be at **NCTCOG’S** sole risk and without liability to the **CONSULTANT**.

The **CONSULTANT** shall not assign any interest in this Contract nor delegate the performance of any of its duties hereunder without the prior written consent of **NCTCOG**, and any attempted assignment or delegation without prior written consent of **NCTCOG** shall be void.

The **CONSULTANT** shall provide to **NCTCOG** a monthly invoice including a written progress report for the preceding calendar month’s work. Each Progress Report shall briefly describe the work accomplished, problems arising, proposed remedies for those problems, deliverables

completed, the status of the budget for each task, the percent of project completion for each task, and the status of the schedule for the project.

The parties hereto may, as necessary, change the scope of services, time of performance, **CONSULTANT'S** compensation, or any other provision of this Contract only by written amendment approved by **NCTCOG** and the **CONSULTANT**. The **CONSULTANT** shall notify **NCTCOG** verbally and in writing immediately when the **CONSULTANT** anticipates that **seventy-five percent (75%)** of the funds provided for this Contract have been expended.

A regular employee of the **CONSULTANT** shall be assigned the responsibility for the performance of work under this Contract and designated as the **CONSULTANT'S** project manager. **CONSULTANT** shall not change project managers or other key personnel without prior written consent of **NCTCOG**. Key personnel are to be defined solely within the discretion of **NCTCOG**.

#### **ARTICLE IV**

##### **TIME OF PERFORMANCE**

The **CONSULTANT** agrees to commence work on this project within **fifteen (15)** days of execution of the Contract. All work under the Contract shall be completed on or by **<<insert date>>**.

#### **ARTICLE V**

##### **ALLOWABLE COST**

The total cost to **NCTCOG** for performance of the work under this Contract shall not exceed **<<insert written amount (\$amount)>>** and the **CONSULTANT** agrees to perform the work

---

Agreement Number  
Project Name  
Consultant Legal Name

specified in Appendix A and all other obligations under this Contract for no more than this cost. **NCTCOG** shall not be obligated to pay the **CONSULTANT** any costs in excess of this amount and the **CONSULTANT** shall not be obligated to perform any services specified in Appendix A in excess of this amount except as amended in accordance with Article III. Budgets between tasks and line items can be modified without an amendment to the Contract, so long as the modifications do not revise the total Contract amount stated herein. The expenses and rates in Appendix B may be amended from time to time if approved in advance in writing by **NCTCOG**. Any compensation due to the **CONSULTANT** for performance of this Contract must be approved in accordance with Articles V and VI of this Contract. There shall be no obligation whatsoever to pay for performance of this Contract from the monies of **NCTCOG**, except funding specifically obligated for this Contract.

The **CONSULTANT** shall be paid allowable costs as outlined in the Contract Cost Estimate included in Appendix B, for the performance of work under this Contract. Allowable costs are the direct, indirect costs, and fixed fee/profit incurred in or allocable to the performance of the services under this Contract and are the type of charges that would be allowable under 2 Code of Federal Regulations (CFR) 200, "Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

1. Direct Costs

- a. Personnel. The **CONSULTANT** shall be reimbursed for the services of personnel working on this project for the time such personnel work on those projects. The reimbursement for personnel shall be the salary of record paid to said personnel by the **CONSULTANT** during the time of their performance on this Contract. Total reimbursement for personnel expenses may be limited to estimated direct labor budgets identified in Appendix B.

b. Travel Expenses and Subsistence. The **CONSULTANT** shall be paid the actual cost incurred by personnel working on this project for travel expenses and subsistence that are certified as being correct and necessary for and directly associated with performance of this Contract not to exceed travel and subsistence rates published by the United States General Service Administration (GSA). Transportation costs shall be reimbursed at the lowest reasonable available fare, but in no case more than coach class or comparable fare. Transportation by private automobile shall be reimbursed at the rate determined by the Internal Revenue Service regulations. The actual costs for meals and lodging shall be reimbursed at a rate not to exceed the maximum GSA per diem rates for a specified duty point. Gratuities and incidentals are not eligible for reimbursement. Rental car expenses shall be reimbursed at actual cost of compact car. Total reimbursement of travel expenses under this Contract may be limited to estimated travel budgets identified in Appendix B.

c. Other Direct Costs. The **CONSULTANT** shall be reimbursed for the actual amount of other costs or expenses incurred and certified as directly related to and necessary for performance of this Contract. Total reimbursement for direct costs may be limited to estimated direct cost budgets identified in Appendix B. The **CONSULTANT** shall notify **NCTCOG** in writing of any changes in auditable direct costs.

d. Subcontractors. The **CONSULTANT** shall be reimbursed for the costs and fees charged to the **CONSULTANT** by subcontractors for work on this project. Only costs for those subcontractors shown in Appendix B shall be eligible for reimbursement, and reimbursements for subcontractor costs shall not exceed the amounts shown in Appendix B. The subcontractors and associated costs in Appendix B may be amended if approved in

advance in writing by **NCTCOG**. Subcontractor costs to be reimbursed are limited by the provisions in this Contract applying to allowable costs incurred by the **CONSULTANT**.

2. Indirect Costs/Overhead

The **CONSULTANT** shall be reimbursed for indirect expenses, overhead, and personnel benefits at the rates shown in **Appendix B**.

3. Fixed Fee/Profit

The **CONSULTANT** shall be reimbursed for the fixed fee or profit negotiated for the **CONSULTANT** and subcontractors not to exceed **<<insert total profit amount (\$amount)>>**. This profit is included in the total cost detailed above.

## **ARTICLE VI**

### **PAYMENTS**

For the performance of this Contract, **NCTCOG** shall pay the **CONSULTANT** allowable costs in accordance with the terms and conditions set forth in Article V above and as certified by the **CONSULTANT** in monthly invoices. The **CONSULTANT** shall submit monthly invoices for all expenses incurred during the preceding month. Documentation for all claimed expenses shall accompany all invoices. Documentation includes, but is not limited to, labor summary reports, receipts, vendor invoices, expense reports, and other documentation deemed necessary by **NCTCOG**.

**NCTCOG** shall pay the **CONSULTANT** the amount of costs claimed and certified on each invoice, subject to approval of claimed costs by **NCTCOG** less **ten percent (10%)** retainage up to **<<insert written retainage amount (\$amount)>>**. The **CONSULTANT** shall return retainage payments to each subcontractor within **ten (10) days** after the subcontractor's work is satisfactorily

completed and **NCTCOG** has released that portion of retainage related to subcontractor's work to the **CONSULTANT**. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of **NCTCOG**. This clause applies to both DBE and non-DBE subcontracts. The **CONSULTANT** may request interim release of retainage to comply with the above provision. **NCTCOG** reserves the right to reduce any profit or other amounts owed commensurate with and to the extent of any failure on the part of the **CONSULTANT** to meet Disadvantaged Business Enterprise (DBE) commitments in Appendix D, without a Contract Amendment revising said commitments. For avoidance of doubt and by way of example, if DBE participation is **ten thousand dollars (\$10,000)** less than participation outlined in Appendix D, **NCTCOG** reserves the right to reduce the **CONSULTANT'S** profit or other amounts owed by **ten thousand dollars (\$10,000)**. Unless there is a bona fide dispute, payment shall be made within **forty-five (45)** days of receipt of a complete invoice provided all deliverables are received. The **CONSULTANT** shall pay subcontractors the appropriate share of the payment no later than **ten (10) days** after receiving payment from **NCTCOG**. When the project has been completed to the satisfaction of **NCTCOG**, the **CONSULTANT** shall submit an invoice clearly labeled "Final Invoice" and claiming any remaining allowable costs and the retainage amount specified above. Retainage shall be paid at the conclusion of the Contract and is subject to conduct and completion of the project to the satisfaction of **NCTCOG**. Payment of the retainage shall not be unreasonably withheld.

## **ARTICLE VII**

### **RECORDS**

The **CONSULTANT** and its subcontractors shall maintain complete and accurate records of allowable costs incurred under this Contract and shall make such materials available at its office during the period covered and for **seven (7)** years from the date of final payment under the Contract. Such materials shall be made available during the specified period for inspection by



**NCTCOG**, **NCTCOG'S** funding partners, and any of their authorized representatives for the purpose of making audits, examinations, excerpts, and transcriptions. All such records shall be maintained on a generally accepted accounting basis and shall be clearly identified and readily accessible. **NCTCOG** may request the **CONSULTANT** to maintain records for a period other than identified above.

## **ARTICLE VIII**

### **FUNDING AGENCY REQUIREMENTS**

- A. Audit and Inspection of Records. The **CONSULTANT** shall permit the authorized representatives of **NCTCOG**, **NCTCOG'S** funding partners, and their designees to inspect and audit all data records of the **CONSULTANT** and its subcontractors relating to work performed under the Contract until the expiration of **seven (7) years** after final payment and resolution of audit under this Contract. The **CONSULTANT** shall transmit this data to **NCTCOG** upon request. The **CONSULTANT** further agrees to include in all subcontracts hereunder a provision to the effect that the subcontractor agrees that **NCTCOG**, **NCTCOG'S** funding partners or any of their duly authorized representatives shall, until the expiration of **seven (7) years** after final payment and resolution of audit under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of subcontractor, involving transactions related to the subcontractor. The subcontractor shall transmit all data records to **NCTCOG** upon request. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding **ten thousand dollars (\$10,000)** and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

The **CONSULTANT** shall be responsible for any funds determined to be ineligible for reimbursement under this Contract and shall reimburse **NCTCOG** the amount of such funds previously provided to it by **NCTCOG**.

- B. Inspection of Work. **NCTCOG**, **NCTCOG'S** funding partners, and any authorized representative thereof, have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed.

If any inspection or evaluation is made on the premises of the **CONSULTANT** or its subcontractor, the **CONSULTANT** shall provide and require its subcontractor to provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

- C. Interest of Members of Congress. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Contract or to any benefit arising therefrom.
- D. Interest of Public Officials. No member, officer, or employee of the public body or of a local public body during their tenure or for one year thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof.
- E. Noncollusion. The **CONSULTANT** warrants that it has not employed or retained any company or person, other than a bona fide employee working for it, to solicit or secure this

Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. If the **CONSULTANT** breaches or violates this warranty, **NCTCOG** shall have the right to annul this Contract without liability or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover the full amount of such fee, commission, brokerage fee, gift, or contingent fee.

- F. Gratuities. Any person doing business with or who, reasonably speaking, may do business with **NCTCOG** under this Contract may not make any offer of benefits, gifts, or favors to employees of **NCTCOG**, **NCTCOG'S** funding partners or representatives of **NCTCOG'S** committees or Boards. Failure on the part of the **CONSULTANT** to adhere to this policy may result in termination of this Contract.
- G. Debarment/Suspension. **NCTCOG** is prohibited from making any award or permitting any award to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs. The **CONSULTANT** and its subcontractors shall comply with the special provision "Debarments and Suspension Certification," which is included as Appendix G.[insert Appendix reference]. of this Contract. The **CONSULTANT** is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 and 12689, Debarment and Suspension. The **CONSULTANT** must notify **NCTCOG** if the **CONSULTANT**, or any of its subcontractors, become debarred or suspended during the performance of this Contract.

- H. Restrictions on Lobbying. **CONSULTANT** agrees to comply with all applicable provisions of 2 CFR §200.450. **CONSULTANT** shall include a statement of compliance with the Lobbying Certification and Disclosure of Lobbying Activities in procurement solicitations exceeding **one hundred thousand dollars (\$100,000)**. Lobbying Certification and Disclosure of Lobbying Activities shall be completed by subcontractors and included in subcontractor contracts, as applicable. 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. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. See Appendix H.
- I. Environmental Protection and Energy Efficiency. The **CONSULTANT** agrees to comply with all applicable standards, orders or requirements issued under the Clean Air Act (42 USC 7401-7671); the Federal Water Pollution Control Act (33 USC 1251 et seq.); the Energy Policy Conservation Act (42 USC 6201, et. seq.); Executive Order 11738 and implementing regulations. The **CONSULTANT** further agrees to report violations to **NCTCOG**.
- J. Nondiscrimination on the Basis of Disability. The **CONSULTANT** agrees that no otherwise qualified disabled person shall, solely by reason of their disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under the project. The **CONSULTANT** shall insure that all fixed facility construction or alteration and all new equipment included in the project comply with applicable regulations regarding Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or

Benefiting from Federal Financial Assistance, set forth in 49 CFR Part 27 and any amendments thereto.

- K. Control of Drug Use. The **CONSULTANT** agrees to comply with the terms of the Federal Transit Administration regulation, "Prevention of Alcohol Misuse and Prohibiting Drug Use in Transit Operations" set forth in 49 CFR Part 655. The **CONSULTANT** agrees to maintain a drug-free workplace and ensure all subcontractors comply with the terms set forth in the previous regulation. At a minimum the drug-free workplace policy shall include notification of prohibited activities relating to drugs, notification of requirement to abide by policy as a condition of employment, and drug disclosure requirements.
- L. Equal Employment Opportunity. As required by 41 CFR Part 60, the **CONSULTANT** shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, or national origin. The **CONSULTANT** shall take affirmative actions to ensure that applicants are employed, and that employees are treated, during their employment, without regard to their race, religion, color, sex, sexual orientation, or national origin. Such actions 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 **CONSULTANT** agrees to comply with all applicable provisions of 41 CFR Part 60. The **CONSULTANT** further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

M. Disadvantaged Business Enterprise. It is the policy of the U.S. Department of Transportation (USDOT) that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 Subpart A, shall have the maximum opportunity to participate in the performance of Contracts financed in whole or part with federal funds. Consequently, the Disadvantaged Business Enterprises requirements of 49 CFR Part 26, exclusive of Subpart D, apply to this Contract. Under this Contract, **NCTCOG** and its subcontractors agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 Subpart A, have the maximum opportunity to participate in the performance of Contracts and subcontracts financed in whole or in part with federal funds. In this regard, **NCTCOG** and its subcontractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, exclusive of Subpart D, to ensure that Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. **NCTCOG** and its subcontractors shall not discriminate on the basis of race, creed, color, national origin, sex, or disability, in the award and performance of contracts funded in whole or in part with federal funds.

The **CONSULTANT** agrees to maintain a Disadvantaged Business Enterprise commitment throughout the term of this Contract, at a minimum as identified in Appendix D. These Disadvantaged Business Enterprise requirements shall be physically included in any subcontract entered into by the **CONSULTANT**. The **CONSULTANT** shall coordinate Disadvantaged Business Enterprise commitments and work with **NCTCOG** on an annual basis to determine if there are any necessary revisions. Failure to carry out the requirements set forth shall constitute a breach of Contract and may result in termination of the Contract by **NCTCOG** or other such remedy as **NCTCOG** deems appropriate. Profit or other amounts

owed under this Contract may be reduced for failure to meet DBE commitments consistent with Article VI.

- N. Davis-Bacon Act. The **CONSULTANT** agrees to comply with all applicable provisions of the Davis-Bacon Act, as amended (40 USC 3141, et. seq., the Copeland “Anti-Kickback” Act (40 USC 3145)) as supplemented by Department of Labor Regulations (29 CFR Part 3).
- O. Contract Work Hours and Safety Standards Act. The **CONSULTANT** agrees to comply with all applicable provisions of the Contract Work Hours and Safety Standards Act (40 USC 3701, et. seq.) for contracts in excess of one hundred thousand dollars (\$100,000) that involve the employment of laborers and mechanics.
- P. Rights to Inventions. The **CONSULTANT** agrees to comply with all applicable provisions of 37 CFR Part 401, “Rights to Inventions Made by Non-Profit Organizations and Small Business Firm Under Government Grants, Contracts, and Cooperative Agreements.”
- Q. Procurement of Recovered Materials. The **CONSULTANT** agrees to comply with all applicable provisions of 2 CFR 200.323 related to the procurement of recovered materials.
- R. Domestic Preference. As appropriate and to the extent consistent with law, the **CONSULTANT** should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). Consistent with §200.322, the following items shall be defined as: “Produced in the United States” means, for iron and steel products, that all manufacturing processes,

from the initial melting stage through the application of coatings, occurred in the United States. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

S. Compliance with Non-Discrimination Laws and Regulations. During the performance of this Contract, the **CONSULTANT**, for itself, its assignees, and successors agrees to comply with all applicable laws and regulations relative to nondiscrimination in federally assisted programs of the U.S. Department of Transportation, including, but not limited to the following: Title VI of the Civil Rights Act of 1964; 23 USC 140; Rehabilitation Act of 1973 (29 USC 794); Age Discrimination Act of 1975 (42 USC 6102); Americans with Disabilities Act of 1990 (42 USC 12132); 41 CFR Part 60; 49 CFR Parts 21, 26, and 27; and 23 Parts 200, 230, and 633. Compliance with these laws and regulations shall be accomplished in the manner more particularly set out hereinafter in Appendix C of this Contract.

T. Substitution of Subcontractors. **NCTCOG** must approve all substitutions of subcontracts and will determine if the Disadvantaged Business Enterprise percentage goal will be decreased by substituting a majority Contractor for a disadvantaged business contractor. Contractors added after the initial execution of this Contract shall be procured in a fair and competitive manner.

U. Disputes and Remedies. Should disputes arise concerning the Scope of Services or additional agreed upon work to be performed under this Contract, the **CONSULTANT** and **NCTCOG** shall negotiate in good faith toward resolving such disputes. **NCTCOG** shall be



responsible to its funding agencies for the settlement of all contractual and administrative issues arising out of procurement entered into in support of the Unified Planning Work Program. Violation or breach of Contract terms by the **CONSULTANT** may be grounds for termination and should **NCTCOG** terminate the Contract due to a breach by the **CONSULTANT**, any direct increased costs arising from the termination shall be paid by the **CONSULTANT**.

- V. Property Management and Procurement Procedures. The **CONSULTANT** shall comply with procurement standards for federal programs contained in 2 CFR 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" as may be revised or superseded.
- W. Copyrights. Except as otherwise provided in the terms and conditions of the Contract, **NCTCOG** is free to copyright any books, publications, or other copyrightable materials developed in the course of or under a federal Agreement. Except as otherwise provided in the terms and conditions of the Contract, the funding agency shall reserve a royalty-free nonexclusive and irrevocable right to produce, publish, or otherwise use, and to authorize others to use, the work for government purposes.
- X. Subcontracts. The **CONSULTANT** is required to perform all work except specialized services or other tasks specifically exempted in the Contract, except that governmental recipients of 23 U.S.C. 104(f) or 402 funds may subcontract as necessary to accomplish approved work program activities. All subcontracts exceeding ten thousand dollars (\$10,000) in cost shall contain all required provisions of the prime contract.

- Y. Additional Funding Agency or State Requirements. The **CONSULTANT** shall comply with provisions detailed in Appendix I. Where applicable, the **CONSULTANT** shall incorporate required provisions in any subcontract entered into as part of this Contract.
- Z. Internal Compliance Program. **NCTCOG** has adopted an Internal Compliance Program to prevent waste, fraud, or abuse. Contractors, agents, and volunteers can report suspected waste, fraud, or abuse at: <https://www.nctcog.org/agency-administration/compliance-portal>. Additional information regarding the Internal Compliance Program is available at the previous web address.
- AA. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. Pursuant to Public Law 115-232, Section 889, and 2 Code of Federal Regulations (CFR) Part 200, including §200.216 and §200.471, **NCTCOG** is prohibited from using federal funds to procure, Contract with entities who use, or extend Contracts with entities who use certain telecommunications and video surveillance equipment or services provided by certain Chinese controlled entities. The **CONSULTANT** agrees that it is not providing **NCTCOG** with or using telecommunications and video surveillance equipment and services as prohibited by 2 CFR §200.216 and §200.471. The **CONSULTANT** shall certify its compliance through execution of this Contract. The **CONSULTANT** shall pass these requirements down to any of its subcontractors funded under this Contract. The **CONSULTANT** shall notify **NCTCOG** if the **CONSULTANT** cannot comply with the prohibition during the performance of this Contract.
- AB. Trafficking In Persons. The **CONSULTANT** agrees to comply with all applicable provisions of 2 CFR §175.15. **NCTCOG**, the **CONSULTANT**, and its subcontractors are prohibited

from (i) engaging in severe forms of trafficking in persons during the period of time that the award is in effect; (ii) procure a commercial sex act during the period of time that the award is in effect; (iii) use forced labor in the performance of the award or subawards under the award. The Federal award agency may unilaterally terminate the award, without penalty, if the **CONSULTANT** (i) is determined to have violated an applicable prohibition; (ii) has an employee who is determined by the agency officially authorized to terminate the award to have violated an applicable prohibition of this award term. **NCTCOG** must notify the Federal award agency immediately if any information received from the **CONSULTANT** indicates a violation of the applicable prohibitions.

AC. Compliance with Texas Water Development Board (TWDB) Requirements. The

**CONSULTANT** agrees and acknowledges that it is subject to all applicable requirements of the master Contract between **NCTCOG** and the Texas Water Development Board.

**CONSULTANT** adopts by reference the requirements of Article VII of the TWDB master Contract for this Contract.

## ARTICLE IX

### INDEMNIFICATION

The **CONSULTANT** covenants and agrees to indemnify and hold harmless and does hereby indemnify and hold harmless **NCTCOG**, its officers and employees, from and against suits or claims for damages or injuries, including death, to persons or property, to the extent caused by a negligent act or omission on the part of the **CONSULTANT**, its officers, agents, servants, employees, or subcontractors, and the **CONSULTANT** does hereby assume all liability for injuries, claims or suits for damages to persons or property, occurring during or arising out of the performance of this Contract to the extent caused by a negligent act or omission on the part of the **CONSULTANT**, its officers, agents, servants, employees, or subcontractors to the extent permitted by law.

## ARTICLE X

### TERMINATION OF CONTRACT

**NCTCOG** may terminate this Contract, or any portion of it, by serving at least a thirty-day (30) notice of termination on the **CONSULTANT** which shall be effective on the date of the receipt of the notice of termination. The notice shall state whether the termination is for convenience of **NCTCOG** or for default of the **CONSULTANT**. If the termination is for default, the notice shall state the manner in which the **CONSULTANT** has failed to perform the requirements of the Contract. The **CONSULTANT** shall account for and return to **NCTCOG** any property in its possession paid for from funds received from **NCTCOG**, or property supplied to the **CONSULTANT** by **NCTCOG**. The **CONSULTANT** shall promptly submit its termination claim for reimbursement to **NCTCOG**, and the parties shall negotiate the termination settlement to be paid. If the termination is for the convenience of **NCTCOG**, the **CONSULTANT** shall be paid its costs up to the time of notice to stop work, reasonable contract close-out costs, and a pro rata portion of the fee which reasonably reflects the quantity and quality of work performed up to the time of termination. If, after serving a notice of termination for default, **NCTCOG** determines that the **CONSULTANT** has an excusable reason for not performing, such as a strike, fire, flood, events which are not the fault of and are beyond the control of the **CONSULTANT**, **NCTCOG**, after setting up a new work schedule, may allow the **CONSULTANT** to work, or treat the termination as a termination for convenience.

## ARTICLE XI

### LEGAL CONSTRUCTION

In case any one or more of the provisions contained in this Contract shall for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability

shall not affect any other provisions thereof, and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

## **ARTICLE XII**

### **VENUE**

Venue and jurisdiction of any suit, right, or cause of action arising under or in connection with this Contract shall lie exclusively in Tarrant County, Texas.

## **APPENDICES**

The following appendices are attached and made part of this Contract.

**Appendix A:** Scope of Services

**Appendix B:** Budget

**Appendix C:** Title VI Assurances

**Appendix D:** Disadvantaged Business Enterprise

**Appendix E:** Selection Criteria

**Appendix F:** Counting DBE Participation Towards Goal

**Appendix G:** Debarment and Suspension Certification

**Appendix H:** Restrictions on Lobbying

**Appendix I:** Flowdown Provisions from the Texas Department of Transportation

**Appendix J:** Required State Clauses Certification

**IN WITNESS WHEREOF**, the parties hereto have executed this Contract. This Contract becomes effective on the day the last Party signs.

**NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS**

\_\_\_\_\_  
Todd Little, Executive Director

\_\_\_\_\_  
Date

**<<insert consultant name>>**

\_\_\_\_\_  
**<<Signatory Authority, Title>>**

\_\_\_\_\_  
Date

## **APPENDIX A**

### **SCOPE OF SERVICES**

## **APPENDIX B**

### **BUDGET**



## **APPENDIX C**

### **TITLE VI ASSURANCES**

During the performance of this Contract, the consultant, for itself, its assignees, and successors in interest (hereinafter referred to as the "Consultant") agrees as follows:

1. Compliance with Regulations. The **CONSULTANT** shall comply with applicable laws and regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, including, but not limited to Title VI of the Civil Rights Act of 1964; 23 USC 140; Rehabilitation Act of 1973 (29 USC 794); Age Discrimination Act of 1975 (42 USC 6102); Americans with Disabilities Act of 1990 (42 USC 12132); 41 CFR Part 60; 49 CFR Parts 21, 26, and 27; and 23 Parts 200, 230, and 633 as they may be amended from time to time.
2. Nondiscrimination. The **CONSULTANT**, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, national origin, sex, age, religion, disability, or sexual orientation, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The **CONSULTANT** shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Part 21 and Title VI of the Civil Rights Act of 1964, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontractors, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the **CONSULTANT** for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the **CONSULTANT** of the **CONSULTANT'S** obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, religion, or disability.

4. Information and Reports. The **CONSULTANT** shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by **NCTCOG** or **NCTCOG'S** funding partners to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the **CONSULTANT** is in the exclusive possession of another who fails or refuses to furnish this information, the **CONSULTANT** shall so certify to **NCTCOG** or **NCTCOG'S** funding partners as appropriate and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance. In the event of the **CONSULTANT'S** noncompliance with the nondiscrimination provisions of this Contract, **NCTCOG** shall impose such Contract sanctions as it or **NCTCOG'S** funding partners may determine to be appropriate, including, but not limited to: (a) withholding of payments to the **CONSULTANT** under the Contract until the **CONSULTANT** complies; and/or (b) cancellation, termination, or suspension of the Contract, in whole or in part.

6. Incorporation of Provisions. The **CONSULTANT** shall include the provisions of the above paragraphs of this section in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The **CONSULTANT** shall take such action with respect to any subcontract or procurement as **NCTCOG** or **NCTCOG'S** funding partners may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a **CONSULTANT** becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the **CONSULTANT** may request **NCTCOG** to enter into such litigation to protect the interests of **NCTCOG**, and, in addition, the **CONSULTANT** may request the United States to enter into such litigation to protect the interests of the United States.

## **APPENDIX D**

### **INSTRUCTIONS TO PROPOSERS REGARDING THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS DISADVANTAGED BUSINESS ENTERPRISE PROGRAM**

The North Central Texas Council of Governments (NCTCOG) has established a Transportation Department-Wide overall Disadvantaged Business Enterprise (DBE) goal of seventeen (17%) percent of the final negotiated Contract amount for participation on the part of socially and economically disadvantaged individuals in USDOT-assisted projects, for procurements initiated by the NCTCOG Transportation Department. Specific DBE goals are established for each procurement, dependent upon the type of services being procured. The specific goal identified for this procurement is (number (%) percent) of the Contract amount. Failure to carry out the requirements set forth in this program shall constitute a breach of Contract and after notification of the Department of Transportation, may result in termination of the Agreement or Contract by **NCTCOG** or other such remedy as **NCTCOG** deems appropriate.

NCTCOG defines “socially and economically disadvantaged” as persons who are citizens or lawful permanent residents of the United States and who are:

1. Women
2. Black Americans (includes persons having origins in any of the Black racial groups of Africa);
3. Hispanic Americans (includes persons of Mexican, Puerto Rican, Cuban, Central, or South American, or other Spanish or Portuguese culture or origin, regardless of race);
4. Native Americans (includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians);
5. Asian-Pacific Americans (includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas);
6. Asian-Indian Americans (includes persons whose origins are from India, Pakistan, and Bangladesh); or
7. Any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act.

A “Disadvantaged Business” means a small business concern,

1. which is at least fifty-one (51%) percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51 percent of the stock of, which is owned by one or more socially and economically disadvantaged individuals; and
2. whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

A “Small Business Concern” means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. If a business is not a small business according to these standards, it is not eligible to participate as a disadvantaged business under 49 CFR Part 26.

In order to receive favorable consideration for this project, proposers are expected to provide assurances, in writing, that at least (number (%) percent) of the Contract amount will go to disadvantaged businesses. This can be done by completing Appendix D.1 of this Appendix and supplying whatever other supplemental information is necessary.

To comply with **NCTCOG'S** DBE requirements, it will be necessary to supply the following:

1. A copy of the DBE's certification from the Texas Unified Certification Program

and

2. Appendix D.2 - Affidavit of Intended Entrepreneurship

## **APPENDIX D.1**

### **COMPLIANCE ASSURANCE**

The undersigned proposer hereby assures that his/her firm is in compliance with the North Central Texas Council of Governments' Disadvantaged Business Enterprise Program and has a goal of (number (%) percent) of the dollar value of this project for disadvantaged business enterprises.

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**APPENDIX D.2**

**AFFIDAVIT OF INTENDED ENTREPRENEURSHIP**

State of \_\_\_\_\_

County of \_\_\_\_\_

Comes now \_\_\_\_\_ of lawful age and being duly sworn upon  
(Name of Individual)

his/her oath states as follows:

1. This affidavit is made for the purpose of complying with the part of the specifications of the North Central Texas Council of Governments' Affirmative Action Assurance Plan which requires that, (Name of Bidder), \_\_\_\_\_ as a Contractor/  
vendor bidding on the projects, sets forth the names of disadvantaged Contractors, subcontractors, and suppliers with whom it will Contract if awarded a Contract for this project, the area(s) and percent of anticipated work on each listed item; and that it provide a detailed narrative of efforts made to involve disadvantaged Contractors, subcontractors, and suppliers.
2. That the following list is true and accurate to the best of my knowledge:

Contractor	Area/Scope of Work	Percent of Work
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

3. I certify that \_\_\_\_\_ is\_\_\_\_ is not\_\_\_\_ a disadvantaged owned business as defined in 49 CFR § 26.5.

4. That I am authorized to make this affidavit in my capacity as \_\_\_\_\_ of this bidder.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 202\_\_\_\_.

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Affiant

\_\_\_\_\_  
Title

## APPENDIX E

### **SELECTION CRITERIA TO INSURE THAT PRIME CONTRACTS AWARDED TO COMPETITORS MEET DBE GOALS**

- A. If any competitor offering an acceptable work program meets the DBE Contract goal, **NCTCOG** shall presume conclusively that all competitors that failed to meet the goals have failed to exert sufficient reasonable efforts and consequently are ineligible to be awarded the Contract.
- B. To demonstrate sufficient reasonable efforts to meet the DBE Contract goal, the competitors shall document the steps it has taken to obtain DBE participation, including but not limited to, the following:
1. Attendance at a prebid conference, if any scheduled by **NCTCOG**, to inform DBEs of Contracting opportunities under a given solicitation.
  2. Advertisement in general circulation media, trade association publication, and minority-focus media for at least twenty-one (21) days before proposals are due. If 21 days are not available, publication for a shorter reasonable time is acceptable.
  3. Written notification to DBEs that their interest in the Contract is solicited.
  4. Efforts made to select portions of the work proposed to be performed by DBEs in order to increase the likelihood of achieving the stated goals.
  5. Efforts to negotiate with DBEs for specific subbids including at a minimum:
    - a. The names, addresses, and telephone numbers of DBEs that were contacted; and,
    - b. A description of the information provided to DBEs regarding the plans and specifications for portions of the work to be performed; and,
    - c. A statement of why additional contracts with DBEs were not reached.
  6. Concerning each DBE the competitor contacted but rejected as unqualified, the reasons for the competitor's conclusion;
  7. Effort made to assist the DBEs contacted that needed assistance in obtaining bonding or insurance required by the competitor or **NCTCOG**.
- C. Competitors that fail to meet DBE goals and fail to demonstrate sufficient reasonable efforts shall not be eligible to be awarded the Contract.
- D. To ensure that all obligations under Contracts awarded to DBEs are met, **NCTCOG** shall review the **CONSULTANT'S** DBE involvement during the performance of the Contract. The **CONSULTANT** shall bring to the attention of **NCTCOG** any situation in which regularly scheduled progress payments are not made to DBE subcontractors.

## APPENDIX F

### **COUNTING DBE PARTICIPATION TOWARD MEETING DBE GOALS**

DBE participation shall be counted toward meeting DBE goals as follows:

- A. Once a firm is determined to be an eligible DBE, the total dollar value of the contract awarded to the DBE is counted toward the applicable goals.
- B. The total dollar value of a contract to a DBE owned and controlled by both minority males and nonminority females is counted toward the goals for minorities and women, respectively, in proportion to the percentage of ownership and control of each group in the business. The total dollar value of a contract with a DBE owned and controlled by minority women is counted toward either the minority goal or the goal for women, but not to both. **NCTCOG** or the **CONSULTANT** employing the firm may choose the goal to which the contract value is applied.
- C. **NCTCOG** or the **CONSULTANT** may count toward its DBE goals a portion of the total dollar value of a contract with a joint venture eligible under the standards equal to the percentage of the ownership and controls of the DBE partner in the joint venture.
- D. **NCTCOG** or the **CONSULTANT** may count toward its DBE goals only expenditures to DBEs that perform a commercially useful function in the work of a contract. A DBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether a DBE is performing a commercially useful function, **NCTCOG** or the **CONSULTANT** shall evaluate the amount of work subcontracted, industry practices, and other relevant factors.
- E. Consistent with normal industry practices, a DBE may enter into subcontracts. If a DBE contractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the DBE shall be presumed not to be performing a commercially useful function. The DBE may present evidence to rebut this presumption to **NCTCOG**. **NCTCOG'S** decision on the rebuttal of this presumption is subject to review by the federal funding agency.
- F. **NCTCOG** or the **CONSULTANT** may count toward its DBE goals expenditures for materials and supplies obtained from DBE suppliers and manufacturers, provided that the DBEs assume the actual and contractual responsibility for the provision of materials and supplies.
  - 1. **NCTCOG** or the **CONSULTANT** may count its entire expenditure to a DBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale.)
  - 2. **NCTCOG** or the **CONSULTANT** may count **twenty percent (20%)** of its expenditures to DBE suppliers that are not manufacturers, provided that the DBE supplier performs a commercially useful function in the supply process. Exemptions from the twenty (20%) percent rule may be requested from USDOT'S office of Civil Rights.



## **APPENDIX G**

### **DEBARMENT AND SUSPENSION CERTIFICATION**

2 CFR Part 180 excludes entities and individuals that the federal government has either debarred or suspended from obtaining federal assistance funds through grants, cooperative Agreements, or third-party contracts. **NCTCOG** has elected to include the requirements of the 2 CFR Part 180 in all third-party contracts for federal funds. A certification process has been established as a means to ensure that debarred, suspended, or voluntarily excluded persons do not participate in a federally assisted project. The inability of a person to provide the required certification will not necessarily result in a denial of participation in a covered transaction. A person that is unable to provide a positive certification as set forth in the Circular may submit a complete explanation attached to the certification. **NCTCOG** will consider the certification and any accompanying explanation in determining whether or not to provide assistance for the project. **Failure to furnish a certification or any explanation may disqualify that person from participating in the project.**

Each potential third-party Contractor, subcontractor under a third-party contract, subgrantee, or subrecipient must provide to the grantee or recipient of a cooperative Agreement, as appropriate, a certification for a lower-tier participant. In general, lower-level employees or procurements of less than twenty-five thousand dollars (\$25,000) will not be covered by the certification process procedures, except in the case of procurements with individuals that would have a critical influence on or substantive control over the project; nevertheless, a participant is not authorized to involve a lower-level employee or enter into a contract of less than \$25,000 with a person actually known by the participant to be debarred, suspended or voluntarily excluded.

**NCTCOG requires each potential Contractor subgrantee, or subrecipient for a third-party Contract to complete the certification in Appendix G.1 for itself and its principals.**

If an applicant for a grant or cooperative agreement or a potential contractor for a third-party contract knowingly enters into a lower-tier covered transaction such as a third-party contract or subcontract under a major third-party contract or subgrant with a person that is suspended, debarred, ineligible, or voluntarily excluded from participation in the project, in addition to other remedies available to the Federal Government, **NCTCOG** may terminate the grant or subcontract, the underlying grant or cooperative agreement for cause or default.

## CERTIFICATION INFORMATION

This certification is to be used by contractors pursuant to 2 CFR Part 180 when any of the following occur:

- any transaction between the contractor and a person (other than a procurement contract for goods and services), regardless of type, under a primary covered transaction
- any procurement contract for goods or services when the estimated cost is \$25,000 or more
- any procurement contract for goods or services between the contractor and a person, regardless of the amount under which the person will have a critical influence on or substantive control over that covered transaction. Such persons include principal investigators and providers of federally required audit services.

A *procurement* transaction is the process of acquiring goods and services.

A *nonprocurement* transaction is the granting of financial assistance to entities to assist the grantor in meeting objectives that are mutually beneficial to the grantee and grantor.

**A COPY OF THIS CERTIFICATION IS TO BE FURNISHED TO AUTHORIZED FUNDING AGENCY REPRESENTATIVES UPON REQUEST.**

**APPENDIX G.1**

**LOWER TIER PARTICIPANT DEBARMENT CERTIFICATION  
(Negotiated Contracts)**

\_\_\_\_\_ being duly  
(Name of Certifying Official)

sworn or under penalty of perjury under the laws of the United States, certifies that neither

\_\_\_\_\_, nor its principals  
(Name of lower tier participant)  
are presently:

- debarred, suspended, proposed for debarment; and,
- declared ineligible; and,
- or voluntarily excluded from participation in this transaction by any federal department or agency

Where the above identified lower tier participant is unable to certify to any of the above statements in this certification, such prospective participant shall indicate below to whom the exception applies, the initiating agency, and dates of action.

**EXCEPTIONS:**

Exceptions will not necessarily result in denial of award but will be considered in determining contractor responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

\_\_\_\_\_  
Signature of Certifying Official

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date of Certification

Form 1734  
Rev.10-91  
TPFS

---

Agreement Number  
Project Name  
Consultant Legal Name

## **APPENDIX H**

### **RESTRICTIONS ON LOBBYING**

Section 319 of Public Law 101-121 prohibits recipients of federal contracts, grants, and loans exceeding one hundred thousand dollars (\$100,000) at any tier under a federal contract from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires each person who requests or receives a federal contract or grant in excess of \$100,000 to disclose lobbying.

No appropriated funds may be expended by the recipient of a federal contract, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any federal executive department or agency as well as any independent regulatory commission or government corporation, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract, the making 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.

As a recipient of a federal grant exceeding **one hundred thousand dollars (\$100,000)**, **NCTCOG** requires its subcontractors of that grant to file a certification, set forth in Appendix H.1 that neither the agency nor its employees have made, or will make, any payment prohibited by the preceding paragraph.

Subcontractors are also required to file with **NCTCOG** a disclosure form, set forth in Appendix H.2, if the subcontractor or its employees have made or have agreed to make any payment using nonappropriated funds (to include profits from any federal action), which would be prohibited if paid for with appropriated funds.

## APPENDIX H.1

### **LOBBYING CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

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 federal 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 contract, the making 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 Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients 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, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than **one hundred thousand dollars (\$100,000)** for each such failure.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Agency

\_\_\_\_\_  
Date

TxDOT  
1-91  
TPFS

---

Agreement Number  
Project Name  
Consultant Legal Name

## APPENDIX H.2

## DISCLOSURE OF LOBBYING ACTIVITIES

**Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352**

**(See instructions for public burden disclosure)**

1. Type of Federal Action: <ul style="list-style-type: none"><li>a. contract</li><li>b. grant</li><li>c. cooperative agreement</li><li>d. loan</li><li>e. loan guarantee</li><li>f. loan insurance</li></ul>		2. Status of Federal Action: <ul style="list-style-type: none"><li>a. bid/offer/application</li><li>b. initial award</li><li>c. post-award</li></ul>		3. Report Type: <ul style="list-style-type: none"><li>a. initial filing</li><li>b. material charge</li></ul> For Material Change Only: year_____ quarter_____ date of last report_____	
4. Name and Address of Reporting Entity: <ul style="list-style-type: none"><li>Prime</li><li>Tier _____ if known</li></ul> Congressional District, if known:			5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:  Congressional District, if known:		
6. Federal Department Agency:			7. Federal Program Name/Description:  CFDA Number if applicable:_____		
8. Federal Action Number, if known:			9. Award Amount, if known:  \$		
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):			b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):		
(attach Continuation Sheet(s) SF-LLL-A, if necessary)					
11. Amount of Payment (check all that apply):  \$_____ • actual • planned			13. Type of Payment (check all that apply): <ul style="list-style-type: none"><li>a. retainer</li><li>b. one-time fee</li><li>c. commission</li><li>d. contingent fee</li><li>e. deferred</li><li>f. other; specify:_____</li></ul>		
12. Form of payment (check all that apply): <ul style="list-style-type: none"><li>a. cash</li><li>b. in-kind specify: nature_____ value_____</li></ul>					
14. Brief Description of Services Performed or to be Performed and Date(s) of Service including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11:  (attach Continuation Sheet(s) SF-LLL-A, if necessary)					
15. Continuation sheet(s) SF-LLL-A attached:      • Yes      • No					
16. 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.			Signature:_____  Print Name:_____  Title:_____  Telephone:_____ Date:_____		
Federal Use Only:			Authorized for Local Reproduction Standard Form - LLL		

## 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. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. 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 follow-up 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 Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; invitation for Bid (B) number, grant announcement number; the Contract grant, or loan award number; the application/proposal control number assigned by the Federal agency.) Include 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 entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
(b) Enter the full names of the individuals(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate boxes(s). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual Contract with Federal officials. Identify the Federal official(s) or employee(s) Contracted or the officer(s), employees, or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and the telephone number.

Public reporting burden for this collection of information is estimated to average 30 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, D.C. 20503.

**DISCLOSURE OF LOBBYING ACTIVITIES  
CONTINUATION SHEET**

Reporting Entity: \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_

Authorized for Local Reproduction  
Standard Form - LLL-A

---

Agreement Number  
Project Name  
Consultant Legal Name



## APPENDIX I

### **FLOWDOWN PROVISIONS FROM THE TEXAS DEPARTMENT OF TRANSPORTATION (TxDOT)**

#### **1. Civil Rights Compliance**

- a. Compliance with Regulations: The **CONSULTANT** will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this Contract.
- b. Nondiscrimination: The **CONSULTANT**, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The **CONSULTANT** will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- c. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the **CONSULTANT** for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by the **CONSULTANT** of obligations under this contract and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, sex, or national origin.
- d. Information and Reports: The **CONSULTANT** will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of Provider is in the exclusive possession of another who fails or refuses to furnish this information, Provider will so certify to **NCTCOG**, the Texas Department of Transportation ("the State") or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- e. Sanctions for Noncompliance: In the event of the **CONSULTANT'S** noncompliance with the Nondiscrimination provisions of this contract, **NCTCOG** will impose such contract sanctions as it the State or the FHWA may determine to be appropriate, including, but not limited to:
  - i. withholding of payments to **CONSULTANT** under the contract until the Provider complies and/or
  - ii. cancelling, terminating, or suspending of the contract, in whole or in part.
- f. Incorporation of Provisions: **CONSULTANT** will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. **CONSULTANT** will take such action with respect to any subcontract or procurement as **NCTCOG**, the State, or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if **CONSULTANT** becomes involved in, or is

threatened with, litigation with a subcontractor or supplier because of such direction, **CONSULTANT** may request the State to enter into such litigation to protect the interests of the State. In addition, **CONSULTANT** may request the United States to enter into such litigation to protect the interests of the United States.

**2. Disadvantaged Business Enterprise Program Requirements**

- a. **CONSULTANT** shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (USDOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Provider shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of USDOT-assisted contracts.
- b. Each sub-award or sub-contract must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

**3. Pertinent Non-Discrimination Authorities**

During the performance of this Contract **CONSULTANT**, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- b. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).
- c. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- d. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- e. The Age Discrimination Act of 1975, as amended, (49 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- f. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- g. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the

programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not).

- h. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- i. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- j. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- k. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- l. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

#### **4. Ineligibility to Receive State Grants or Loans, or Receive Payment on State Contracts**

In accordance with Section 231.006 of the Texas Family Code, a child support obligor who is more than thirty (30) days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least twenty-five (25) percent is not eligible to:

- a. Receive payments from state funds under a contract to provide property, materials or services; or
- b. Receive a state-funded grant or loan.

By accepting this Contract the **CONSULTANT** certifies they comply with this provision.

## APPENDIX J

### REQUIRED STATE CLAUSES CERTIFICATION

The following provisions are mandated by State of Texas Law. Entities that are not able to comply with the following may be ineligible for consideration of Contract award.

This Contract is subject to the Public Law 115-232, Section 889, And Texas Government Code sections 2271-2276, for required stat clauses:

- a. If required to make a certification pursuant to Texas Government Code Section 2271.02, the **CONSULTANT** providing goods and services under this Contract confirms that it does not and will not boycott Israel during the term of this Contract.
- b. Pursuant to Chapter 2276, Government Code, as enacted by S.B. 13, 87th Legislature, **NCTCOG** is prohibited from using public funds to contract with entities who boycott energy companies.
- c. Pursuant to Chapter 2274, Government Code, as enacted by S.B. 19, 87th Legislature, **NCTCOG** is prohibited from using public funds to contract with entities who discriminate against firearm and ammunition industries.

The entity identified below, through its authorized representative, hereby certifies that no funds under this Contract will be obligated or expended for any of the activities included herein:

SIGNATURE OF AUTHORIZED PERSON: \_\_\_\_\_

NAME OF AUTHORIZED PERSON: \_\_\_\_\_

NAME OF COMPANY: \_\_\_\_\_

DATE: \_\_\_\_\_