

STATE OF TEXAS

TEXAS WATER DEVELOPMENT BOARD

TRAVIS COUNTY

and

RIO GRANDE COUNCIL OF GOVERNMENTS

AMENDMENT NO. 1

This Contract and Agreement made and entered on April 17, 2021, is hereby amended as follows:

1. SECTION I, ARTICLE I, ITEM C, COMMITTED FUNDS amount is increased by \$666,400.00 bringing the total COMMITTED FUNDS amount to \$1,748,200.00.
2. SECTION I, ARTICLE I, ITEMS O – Q, are replaced as follows:
  - O. FINAL REIMBURSEABLE EXPENSE DATE – The last day that work performed under this CONTRACT is eligible for reimbursement will be December 29, 2023.
  - P. CONTRACT EXPIRATION DATE – This CONTRACT expires on December 29, 2023. The last day that any budget amendment requests may be submitted under the CONTRACT will be November 1, 2023.
  - Q. FINAL PAYMENT REQUEST DEADLINE – The latest day that the final payment request may be submitted for reimbursement will be June 30, 2024.
3. SECTION I, ARTICLE I, ITEMS W and X are added as follows:
  - W. AMENDED REGIONAL FLOOD PLAN – an amended plan that has been adopted by the REGIONAL FLOOD PLANNING GROUP and that meets the requirements contained in Texas Water Code § 16.062 and 31 Texas Administrative Code Chapters 361 and 362 and is submitted to TWDB for approval.
  - X. AMENDED REGIONAL FLOOD PLAN DEADLINE – July 14, 2023
4. SECTION I, ARTICLE I, ITEM AA is added as follows:
  - AA. Summary of Deliverable Deadlines:

TECHNICAL MEMORANDUM DEADLINE	January 7, 2022
DRAFT REGIONAL FLOOD PLAN DEADLINE	August 1, 2022
FINAL REGIONAL FLOOD PLAN DEADLINE	January 10, 2023
AMENDED REGIONAL FLOOD PLAN DEADLINE	July 14, 2023

5. SECTION I, ARTICLE II, ITEM B is replaced as follows and ITEM C is added as follows:
  - B. CONTRACTOR must submit the AMENDED REGIONAL FLOOD PLAN on or before the AMENDED REGIONAL FLOOD PLAN DEADLINE. The AMENDED REGIONAL FLOOD

PLAN must be completed in accordance with the Scope of Work, Exhibit A, and in accordance with the document and data requirements herein for the FINAL REGIONAL FLOOD PLAN. The EXECUTIVE ADMINISTRATOR will either accept or reject the AMENDED REGIONAL FLOOD PLAN. To ensure that information can be incorporated into the first adopted state flood plan, CONTRACTOR must make any TWDB-requested corrections, updates, or modifications to the AMENDED REGIONAL FLOOD PLAN within 14 calendar days of receipt of TWDB's request for corrections, updates, or modifications.

- C. The last day that work performed under Tasks 1 – 11 in Exhibit A, Scope of Work, is eligible for reimbursement is the FINAL REGIONAL FLOOD PLAN DEADLINE, which is January 10, 2023. Work performed under Task 12 and 13 in Exhibit A, Scope of Work, is eligible for reimbursement until the FINAL REIMBURSEABLE EXPENSE DATE, which is December 29, 2023.
6. SECTION II, ARTICLE III, ITEMS I and J, are replaced as follows:
- I. TWDB acceptance of an AMENDED REGIONAL FLOOD PLAN that meets statutory and rule requirements as determined by the EXECUTIVE ADMINISTRATOR constitutes completion of the terms of this CONTRACT by CONTRACTOR.
  - J. After a 90-day review period, the EXECUTIVE ADMINISTRATOR will either accept or reject the REGIONAL FLOOD PLAN. If the final plan is rejected, the rejection letter sent to CONTRACTOR will state the reasons for rejection and the steps CONTRACTOR must take to have the REGIONAL FLOOD PLAN accepted.
7. SECTION II, ARTICLE IV, ITEM K is replaced as follows:
- K. TWDB will reimburse CONTRACTOR up to 95 percent of the COMMITTED FUNDS available for costs incurred and paid by CONTRACTOR pursuant to performance of this CONTRACT. Once 95 percent of the COMMITTED FUNDS have been dispersed, including the initial advance amount and subsequent reimbursements, CONTRACTOR may submit reimbursement requests that will apply to reconciling the initial advance amount. The five percent retainage will be withheld until TWDB accepts the AMENDED REGIONAL FLOOD PLAN. If the EXECUTIVE ADMINISTRATOR determines that CONTRACTOR has utilized its best efforts to have an AMENDED REGIONAL FLOOD PLAN adopted by the REGIONAL FLOOD PLANNING GROUP for submittal to TWDB, but has been unable, despite those best efforts, to do so, the EXECUTIVE ADMINISTRATOR may release the five percent retainage solely within the EXECUTIVE ADMINISTRATOR's discretion.
8. EXHIBIT A, SCOPE OF WORK, is revised to include Tasks 11 – 13 as follows:

**Task 11 – Outreach and Data Collection to Support Tasks 1 – 9**

The objective of this task is to conduct outreach and/or data collection necessary to enhance Chapters 1 – 9 of the draft and final Regional Flood Plan, due August 1, 2022, and January 10, 2023, respectively. RFPGs must conduct outreach to gather data, models, and other relevant technical information from stakeholders in the flood planning region to support the technical work required in Tasks 1 – 9. The data and

information gathered in this task must be incorporated into the deliverables and regional flood plan chapter documents required for Tasks 1 – 9 and must adhere to the requirements therein as well as applicable requirements in the TWDB Flood Planning guidance documents.

The RFPG may also request to use the funding under this task to enhance any of the outcomes of Tasks 1 - 9 unrelated to additional outreach and data collection upon email or written approval from TWDB.

### **Task 12 – Perform Identified Flood Management Evaluations, Identify, Evaluate, and Recommend Additional Flood Mitigation Projects**

The objective of this task is to perform identified potential FMEs to, for example, evaluate flood risks in areas with currently limited flood risk data, and to evaluate flood risk reduction solutions, including feasibility studies and preliminary engineering needed to identify, evaluate, and recommend additional potentially feasible FMPs. RFPGs must approve the list of FMEs to be performed and additional FMPs to be identified, evaluated, and recommended under this task.

RFPGs must adhere to the requirements for identification, evaluation, and recommendation of FMEs and FMPs in Tasks 4B and 5 as well as applicable requirements in the TWDB Flood Planning guidance documents.

RFPGs must revise and re-submit all data deliverables, related regional flood plan chapters, and related documents previously submitted for Tasks 4B and 5 in the FINAL REGIONAL FLOOD PLAN, including required GIS files, maps, and project details worksheet, to reflect additional work performed under this task for inclusion in the AMENDED REGIONAL FLOOD PLAN in accordance with the requirements in Tasks 4B and 5 and the TWDB Flood Planning guidance documents.

### **Task 13 – Preparation and Adoption of the Amended Regional Flood Plan**

RFPGs must submit an AMENDED REGIONAL FLOOD PLAN in accordance with the requirements in the CONTRACT which incorporates the data and information gathered and generated under Task 12, including but not limited to work to:

1. Revise planning area description, if applicable, to include new information from FMEs performed in accordance with the requirements in Task 1.
2. Revise existing and/or future condition flood risk analyses, if applicable, to include new information from FMEs performed in accordance with the requirements in Tasks 2A and 2B.
3. Revise flood mitigation and floodplain management goals, if applicable, in accordance with the requirements in Task 3B.
4. Revise the flood mitigation needs analysis, if applicable, based on new information from FMEs performed in accordance with the requirements in Task 4A.

5. Evaluate and include information relating to impacts of the additional recommended FMPs on the plan and on water supply in accordance with the requirements in Tasks 6A and 6B.
6. Evaluate and include information relating to the flood infrastructure financing of the additional recommended FMPs in accordance with the requirements in Task 9.
7. Hold additional RFPG meetings, conduct outreach and data collection to support Task 12, revise and adopt an AMENDED REGIONAL FLOOD PLAN, and other administrative activities in accordance with the requirements in Task 10.

The RFPG may also request to use the funding under this task to enhance the AMENDED REGIONAL FLOOD PLAN, primarily based on new information, unrelated to the data and information gathered and generated under Task 12, upon email or written approval from TWDB.

The AMENDED REGIONAL FLOOD PLAN must meet all requirements related to development of a regional flood plan herein and in the TWDB Flood Planning guidance documents.

RFPGs must revise and re-submit all data deliverables, related regional flood plan chapters, and related documents previously submitted for Tasks 1, 2A, 2B, 3B, 4A, 6A, 6B, 9, and 10, as applicable, in the FINAL REGIONAL FLOOD PLAN, including required GIS files, maps, etc., to reflect additional work performed under this task for inclusion in the AMENDED REGIONAL FLOOD PLAN in accordance with the requirements in Tasks 1, 2A, 2B, 3B, 4A, 6A, 6B, 9, and 10 and the TWDB Flood Planning guidance documents. Data must be organized and summarized in the Regional Flood Plan in accordance with TWDB Flood Planning guidance documents.

9. EXHIBIT B, TASK AND EXPENSE BUDGETS, are replaced as shown in Attachment 1 of this amendment and denoted as AMENDED TASK AND EXPENSE BUDGETS.
10. All other terms and conditions of TWDB Contract No. 2101792499 remain the same in full force.

IN WITNESS WHEREOF the parties hereto cause this Contract and Agreement to be duly executed.

TEXAS WATER DEVELOPMENT BOARD

RIO GRANDE COUNCIL OF GOVERNMENTS

By: \_\_\_\_\_  
Jeff Walker  
Executive Administrator

By: \_\_\_\_\_  
Annette Gutierrez  
Executive Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## Attachment 1: Task and Expense Budgets

### Contractor Task Budget

<b>TASK</b>	<b>TASK DESCRIPTION</b>	<b>ORIGINAL BUDGET</b>	<b>REVISED BUDGET</b>	<b>AMOUNT CHANGED</b>
1	Planning Area Description	\$52,335.00	\$54,090.00	\$0.00
2A	Existing Condition Flood Risk	\$85,160.00	\$108,180.00	\$0.00
2B	Future Condition Flood Risk	\$84,870.00	\$108,180.00	\$0.00
3A	Evaluation and Recommendations on Floodplain Management	\$24,660.00	\$21,636.00	\$0.00
3B	Flood Mitigation and Floodplain Management Goals	\$10,805.00	\$10,818.00	\$0.00
4A	Flood Mitigation Needs Analysis	\$31,640.00	\$32,454.00	\$0.00
4B	Identification and Evaluation of Potential Flood Management Evaluations and Potentially Feasible Flood Management Strategies and Flood Mitigations	\$213,260.00	\$162,270.00	\$0.00
4C	Prepare and Submit Technical Recommendation of Flood Management Evaluations and Flood Management Strategies and Associated Flood Mitigation	\$21,410.00	\$21,636.00	\$0.00
5	Impacts of Regional Flood Plan	\$157,380.00	\$216,360.00	\$0.00
6A	Contributions to and Impacts on Water Supply Development and the State Water Plan	\$44,040.00	\$43,272.00	\$0.00
6B		\$12,825.00	\$10,818.00	\$0.00
7	Flood Response Information and Activities	\$11,420.00	\$10,818.00	\$0.00
8	Administrative, Regulatory, and Legislative Recommendations	\$20,815.00	\$10,818.00	\$0.00
9	Flood Infrastructure Financing	\$11,420.00	\$21,636.00	\$0.00
10	Public Participation and Plan	\$239,760.00	\$248,814.00	\$0.00
11	Outreach and Data Collection to Support Tasks 1 – 9	\$0.00	\$116,400.00	\$116,400.00
12	Perform Identified Flood Management Evaluations, Identify, Evaluate, and Recommend Additional Flood Mitigation	\$0.00	\$353,192.00	\$353,192.00
13	Preparation and Adoption of the Amended Regional Flood Plan	\$0.00	\$196,808	\$196,808
<b>TOTAL:</b>		<b>\$1,081,800.00</b>	<b>\$1,748,200.00</b>	<b>\$666,400.00</b>

## Attachment 1: Task and Expense Budgets

### Contractor Expense Budget

EXPENSE BUDGET CATEGORY	ORIGINAL BUDGET	REVISED BUDGET	AMOUNT CHANGED
Contractor Other Expenses <sup>1</sup>	\$50,000.00	\$40,000.00	-\$10,000.00
Contractor Salaries and Wages <sup>2</sup>	<i>category did not previously</i>	\$60,000.00	\$60,000.00
Subcontract Services	1,021,800.00	\$614,400.00	\$614,4000.00
Voting Planning Member Travel <sup>3</sup>	\$10,000.00	\$12,000.00	\$12,000.00
<b>TOTAL</b>	<b>\$1,081,800.00</b>	<b>\$1,748,200.00</b>	<b>\$666,400.00</b>

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

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

<sup>2</sup>Contractor Salaries and Wages as described in 31 TAC § 361.72(b) include the following administrative costs if the RFPG or its chairperson certifies, during a public meeting, that the expenses are eligible for reimbursement and are correct and necessary: the Planning Group Sponsor’s personnel costs for the staff hours that are directly spent providing, preparing for, and posting public notice for RFPG meetings, including labor, fringe, overhead, and other expenses for their support of and attendance at such RFPG meetings, in accordance with, and as specifically

## Attachment 1: Task and Expense Budgets

limited by, the flood planning grant contract with the Board. This may not exceed: \$5,000 per regular RFPG meeting nor a total of \$85,000 over the first planning cycle.

<sup>3</sup>Voting Planning Member Travel Expenses is defined as eligible mileage expenses incurred by regional flood planning members that cannot be reimbursed by any other entity, planning group sponsor, etc. as certified by the voting member. Travel expenses are available only for attendance at a posted meeting of the RFPG unless the travel is specifically authorized by the RFPG and EA. The reimbursed amount is limited to the maximum amounts authorized for state employees by the General Appropriations Act, Tex. Leg. Regular Session, 2019, Article IX, Part 5, as amended or superseded.

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

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