

**COASTAL BEND COUNCIL OF GOVERNMENTS  
SOLID WASTE GRANT INTERLOCAL AGREEMENT  
Illegal Dumping Site Cleanups  
14-20-G01**

NUECES COUNTY  
PUBLIC WORKS  
REC-27 JAN 14 PM 1:03

The Coastal Bend Council of Governments (COG) has received a grant through a contract with the Texas Commission on Environmental Quality, which authorizes COG to redistribute solid waste fees to support local and regional solid waste projects that are consistent with the regional solid waste management plan. This interlocal agreement is a subcontract of the COG's contract with the TCEQ. Funds for this agreement come from Solid Waste Disposal and Transportation Fees.

The COG and the SUBCONTRACTOR certify that they have authority to perform the services contracted for by authority granted in The Interlocal Cooperation Act," Texas Government Code, Chapter 791.

This Interlocal Agreement is entered into by and between the parties named below. Neither TCEQ nor the State of Texas is a party to this Contract.

**I. CONTRACTING PARTIES:**

The Council of Governments: **Coastal Bend Council of Governments**

The SUBCONTRACTOR: **Nueces County**

**II. CONTRACT ADMINISTRATION PROVISIONS:**

See "Attachment A - General Contract Provisions" & "Attachment B - Special Contract Provisions"

**III. SERVICES TO BE PERFORMED:**

See "Attachment C - Work Program of SUBCONTRACTOR" & "Attachment D - Schedule of Deliverables from SUBCONTRACTOR"

**IV. BUDGET AND PAYMENT PROCEDURES:**

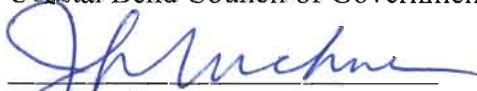
See "Attachment E - SUBCONTRACTOR Budget and Authorizations"

**COUNCIL OF GOVERNMENTS**

**SUBCONTRACTOR**

Coastal Bend Council of Governments

Nueces County

  
\_\_\_\_\_  
John Buckner  
Executive Director

\_\_\_\_\_  
Judge Samuel L. Neal, Jr.  
Nueces County

Date: 01/22/14

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

**Coastal Bend Council of Governments  
Solid Waste Grant Interlocal Agreement**

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**Coastal Bend Council of Governments  
Solid Waste Grant Interlocal Agreement**

**General Contract Provisions  
Attachment A**

Article 1      Legal Authority

The SUBCONTRACTOR and COG shall conduct the activities funded under this agreement in accordance with all provisions of this agreement, including all applicable state and local laws, rules, regulations, and guidelines. The main governing standards include, but may not be limited to the following:

- (1)    §361.014, TEX. HEALTH & SAFETY CODE;
- (2)    §330.569 of the TCEQ Municipal Solid Waste Regulations (30 TAC Chapter 330);  
and
- (3)    The Uniform Grant and Contract Management Act, TEX. GOVT CODE, §783.001 et. seq., and the Uniform Grant and Contract Management Standards, 1 Texas Administrative Code (TAC), §5.141 et. seq. (collectively, UGCMA).

Article 2      Scope of Services

The services to be performed by the SUBCONTRACTOR are outlined in the General Contract Provisions (Attachment A), Special Contract Provisions (Attachment B), Work Program of SUBCONTRACTOR (Attachment C), Schedule of Deliverables from SUBCONTRACTOR (Attachment D), SUBCONTRACTOR Budget and Authorizations (Attachment E), and any Change Orders, which are later incorporated into and made a part of this Agreement, as if set out word-for-word this Contract (Agreement).

Article 3      Purpose

(a) The purpose of this Agreement is to accomplish the goals of §361.014(b), TEX. HEALTH AND SAFETY CODE, as they relate to distributing solid waste fee revenue funds to support local and regional solid waste projects consistent with the regional solid waste management plans approved by the TCEQ and to update and maintain those plans.

(b) Under the overall goals of the funding program established under §361.014(b), TEX. HEALTH AND SAFETY CODE, the more specific purposes of this Agreement are:

1. To enable the COG to carry out or conduct various municipal solid waste management-related services and support activities within the COG's regional jurisdiction; and
2. To administer an efficient and effective, region-wide, pass-through (subgrantee) assistance grants program and/or, where authorized by the COG in accordance with Article 4 of this Attachment, to conduct various COG - managed projects.

## Article 4 Eligible Applicants/Recipients

### (a) Eligible Pass-Through Grant Recipients.

1. Only those local and regional political subdivisions located within the State of Texas as listed below are eligible to receive funding from the COG as a pass-through grant:

- (i) Cities;
- (ii) Counties;
- (iii) Public schools and school districts (does not include universities or post secondary educational institutions); and
- (iv) Other general and special law districts created in accordance with state law, and with the authority and responsibility for water quality protection or municipal solid waste management, to include river authorities.
- (v) Council of Governments

2. Local and regional political subdivisions that are subject to the payment of state solid waste disposal fees and whose fee payments are in arrears, as determined by the TCEQ, are not eligible to receive pass-through grant funding from the COG. The TCEQ shall provide, on a quarterly basis, the COG a list of entities for which fee payments are in arrears. The COG shall allow a potential pass-through grant applicant that is listed as being in arrears in its fee payments the opportunity to provide documentation of payment of the fees owed the state. If the potential applicant provides the COG with documentation of payment of the fees, such as a canceled check or receipt from the state, the COG may consider that applicant to be eligible to receive pass-through grant funding under this agreement. The COG shall notify the TCEQ of any applicants for which a determination of eligibility was made under this Subsection with the list of projects to be provided under the requirements set forth in Article 7.7.6 of TCEQ Contract No.582-14-40576.

## Article 5 Responsibility of the Subcontractor

(a) The SUBCONTRACTOR shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all services and other work furnished by the SUBCONTRACTOR under this Agreement, as set forth in Attachment C of this Agreement.

(b) The SUBCONTRACTOR shall perform such services as may be necessary to accomplish the work required to be performed under this Agreement, in accordance with the COG and contractual requirements and any and all applicable law.

(c) The COG may require the SUBCONTRACTOR to correct or revise any errors, omissions, or other deficiencies in any reports or services provided by the SUBCONTRACTOR to ensure that such reports and services fulfill the purposes of this Agreement. The SUBCONTRACTOR shall make the required corrections or revisions without additional cost to the COG.

(d) Neither the COG's review, approval or acceptance of, nor payment for any of the services shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action

arising out of the performance of this Agreement; and the SUBCONTRACTOR shall be, and remain, liable in accordance with applicable law for all damages to the COG including reasonable attorneys' fees and court costs caused by the SUBCONTRACTOR's negligent performance of any of the services furnished under this Agreement.

(e) The obligations of the SUBCONTRACTOR under this Article are in addition to the SUBCONTRACTOR's other express or implied assurances under this Agreement or applicable law.

(f) All contractual expenditures using funds provided under this Agreement shall meet all procurement laws and regulations applicable to the SUBCONTRACTOR and their subcontractors and the Uniform Grant and Contract Management Act and the Uniform Grant Management Standards. Note that competitive bidding will generally be required.

(g) The SUBCONTRACTOR shall be responsible for the management and fiscal monitoring of all of their subcontractors and subgrantees. The SUBCONTRACTOR shall monitor its subcontractors and subgrantees as necessary to ensure that their subcontractors and subgrantees are operating consistently with applicable laws and regulations, applicable contracting policies, and this Agreement. The SUBCONTRACTOR shall ensure that their subcontractors and subgrantees comply with all record keeping and access requirements set forth in this Agreement. The COG reserves the right to perform an independent audit of all SUBCONTRACTORS subcontractors and subgrantees. The SUBCONTRACTOR, SUBCONTRACTORS subcontractors and SUBCONTRACTORS subgrantees shall maintain detailed records.

#### Article 6 Licenses, Permits and Laws

The SUBCONTRACTOR shall, except as otherwise provided in this Agreement, be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal, State, and municipal laws, codes, ordinances, and regulations, in connection with the work required by this Agreement.

#### Article 7 Uniform Grant and Contract Management Act

The provisions of the Uniform Grant and Contract Management Act ("UGCMA") apply to this Agreement to the extent required by law.

#### Article 8 Release of Claims

Upon satisfactory completion of the work performed hereunder and prior to final payment under this Agreement for such work, or prior to settlement upon termination of this Agreement and as a condition to final payment/settlement, the SUBCONTRACTOR shall execute and deliver to the COG a release of all claims against the COG arising under or by virtue of this Agreement.

#### Article 9 Insurance and Liability

SUBCONTRACTOR shall maintain insurance coverage for work performed or services rendered under this contract as specified in the Special Provisions. SUBCONTRACTOR understands and agrees that it shall be liable to repay and shall repay upon demand to COG any amounts determined by COG, its independent auditors, or any agency of state or federal governments to have been paid in violation of the terms of this Agreement.

## Article 10 Accounting Systems

The SUBCONTRACTOR shall have an accounting system which accounts for costs in accordance with generally accepted accounting standards or principles and complies with applicable State law, regulations, and policies relating to accounting standards or principles. The SUBCONTRACTOR must account for costs in a manner consistent with such standards or principles.

## Article 11 Audit/Access to Records

(a) The SUBCONTRACTOR shall maintain and make available for review, inspection and/or audit books, records, documents, and other evidence reasonably pertinent to performance on all work under this Agreement, including negotiated changes or amendments thereto, in accordance with accepted professional practice, appropriate accounting procedures and practices at the SUBCONTRACTOR's office. The SUBCONTRACTOR shall also maintain and make available at its Texas office the financial information and data used by the SUBCONTRACTOR or its designee (including independent financial auditors) in the preparation or support of any cost submission or cost (direct and indirect), price or profit analysis for this Agreement or any negotiated subagreement or change order and a copy of the cost summary submitted to COG. The COG, Texas State Auditor's Office, or any of COG's duly authorized representatives, shall have access to such books, records, documents, and other evidence for the purpose of review, inspection and/or audit. During the conduct of any such review, audit or inspection, SUBCONTRACTOR's books, records, and other pertinent documents may, upon prior conference with the SUBCONTRACTOR, be copied by the COG or any of its duly authorized representatives. All such information shall be handled by the parties in accordance with good business ethics. The SUBCONTRACTOR shall provide proper facilities within the State of Texas for such access and inspection.

(b) Audits conducted under this provision shall be carried out in accordance with State law, regulations and policy, and generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).

(c) The SUBCONTRACTOR agrees to the disclosure of all information and reports resulting from access to records pursuant to Section (a) of this Article to COG. Where the audit concerns the SUBCONTRACTOR, the auditing agency will afford the SUBCONTRACTOR an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report.

(d) Records under Section (a) of this Article shall be maintained and made available during the entire period of performance of this Agreement and until three (3) years from date of final COG payment for the project. In addition, those records which relate to any dispute, litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken shall be maintained and made available until completion of such action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.

(e) Access to records is not limited to the required retention periods. The authorized representatives designated in Section (a) of this Article shall have access to records at any reasonable time for as long as the records are maintained.

(f) The right to audit and access to records Article applies to financial records pertaining to all subagreements and all subagreement change orders and amendments. In addition, this right of access applies to all records pertaining to all subagreements, subagreement change orders and subagreement amendments to the extent the records reasonably pertain to subagreement performance; if there is any indication that fraud, gross abuse or corrupt practices may be involved; or if the subagreement is terminated for default or for convenience.

(g) The COG reserves the right to require the reimbursement of any over-payments determined as a result of any audit or inspection of records kept by the SUBCONTRACTOR on work performed under this Agreement.

(h) The SUBCONTRACTOR shall include Sections (a) through (g) of this Article in all subagreements and all change orders directly related to project performance.

## Article 12 Independent Financial Audit

The SUBCONTRACTOR shall adhere to the Single Audit requirements of the UGCMA. The SUBCONTRACTOR shall deliver to the COG each audit report within thirty (30) days of completion of the audit report. The SUBCONTRACTOR is responsible for including the Single Audit requirements in all subagreements and shall be responsible for insuring adherence to those requirements by all subgrantees and subcontractors.

## Article 13 Changes

(a) A Major Change will include one or more of the following:

- (1) an increase or decrease in the amount of compensation to the SUBCONTRACTOR;
- (2) an extension or shortening of the term of the Agreement;
- (3) a significant change in the scope of the Agreement or the services to be performed; or
- (4) any action that is beyond the authority of the Executive Director or the Project Representative of the COG.

(b) Implementation of a Major Change must be preceded by a formal written amendment to the Agreement. The amendment must contain a description of the proposed change. The amendment must be signed by persons authorized to bind each party in contract. Any amendment that will exceed the contractual authority of the Executive Director of the COG also requires the consent, at Agenda, of a majority of the CBCOG Governing Board.

(c) Any proposed change that is not a Major Change may qualify as a Minor Change. In addition, a delay or change in the work resulting from inclement weather will be treated as a Minor Change. A Minor Change shall require the written agreement of both Project Representatives, but does not require a formal amendment to the contract. A copy of the authorization must be retained in the appropriate file of both the SUBCONTRACTOR and the COG.

(d) If the SUBCONTRACTOR requests a Minor Change and the Project Representative of the COG does not approve the request as a Minor Change, then the change shall be deemed a Major Change



and the SUBCONTRACTOR may only obtain authorization to proceed in accordance with Section (b) of this Article.

(e) If the SUBCONTRACTOR makes any changes in personnel whose salaries are funded by this grant, SUBCONTRACTOR must give COG prior notification and obtain prior approval from COG.

(f) Any alterations, additions, or deletions to the terms of this contract which are required by changes in Federal law or regulations are automatically incorporated into this Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulation, provided if the SUBCONTRACTOR may not legally comply with such change, SUBCONTRACTOR may terminate its participation herein as authorized by Article 14.

(g) COG may, from time to time, require changes in the Scope of the Services of the SUBCONTRACTOR to be performed under this Agreement. Such changes that are mutually agreed upon by and between COG and the SUBCONTRACTOR in writing shall be incorporated into this Agreement.

#### Article 14 Termination

(a) This Agreement terminates upon full performance of all requirements contained herein, unless extended in writing.

(b) This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligation under this Agreement through no fault of the terminating party. Failure on the part of the SUBCONTRACTOR to comply with the conditions set forth in the agreement shall be the basis for termination of the agreement and/or the revocation of any unexpended or inappropriately expended funds. Provided that no such termination may be effected unless the other party is given:

- (1) not less than ten (10) days written notice (delivered by certified mail, return receipt requested) of intent to terminate; and
- (2) an opportunity for consultation with the terminating party prior to termination.

(c) This Agreement may be terminated in whole or in part in writing by the COG for its convenience: Provided that the SUBCONTRACTOR is given not less than ten (10) days written notice (delivered by certified mail, return receipt requested) of intent to terminate.

(d) If termination for default under Section (b) of this Article or termination for convenience under Section (c) of this Article is effected by the COG, any payment due the SUBCONTRACTOR at the time of termination may be adjusted to the extent of any additional costs occasioned to the COG by reason of the SUBCONTRACTOR's default. The equitable adjustment for any termination shall provide for payment to the SUBCONTRACTOR for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the SUBCONTRACTOR relating to commitments which had become firm prior to the termination.

(e) Upon receipt of a termination action under Sections (b) or (c) of this Article, the SUBCONTRACTOR shall:

- (1) promptly discontinue all services affected (unless the notice directs otherwise); and
- (2) deliver or otherwise make available to the COG all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the SUBCONTRACTOR in performing this Agreement, whether completed or in the process.

(f) Upon termination under Sections (b) and (c) of this Article, the COG may take over the work and prosecute the same to completion by agreement with another party or otherwise.

(g) If, after termination for failure of the SUBCONTRACTOR to fulfill contractual obligations, it is determined that the SUBCONTRACTOR had not so failed, the termination shall be deemed to have been effected for the convenience of the COG. In such event, adjustment of the price provided for in this Agreement shall be made as provided in Section (d) of this Article.

(h) If any delay or failure of performance is caused by a FORCE MAJEURE event as described in the Article 27 of this Appendix, the COG may in its sole discretion terminate this Agreement in whole or part under this Article.

#### Article 15 Severability

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

#### Article 16 Intellectual Property

(a) For the purpose of this Article, "intellectual property" refers to 1) any discovery or invention for which patent rights may be acquired, and 2) any photographs, graphic designs, plans, drawings, specifications, computer programs, technical reports, operating manuals, or other copyrightable materials, and 3) any other materials in which intellectual property rights may be obtained.

(b) Royalties and Patent Fees. The SUBCONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use or possession in the performance of the work or the incorporation in the work of any Intellectual Property.

(c) Disclosure of Intellectual Property Produced during the work. The SUBCONTRACTOR shall promptly notify the COG of all Intellectual Property which the SUBCONTRACTOR, including its employees, subcontractors, or subcontractors employees may produce, either solely or jointly with others, during the course of this work. In addition, the SUBCONTRACTOR shall promptly notify the COG of all Intellectual Property to which the SUBCONTRACTOR may acquire rights in connection with the performance of the work. Any notification under this paragraph shall contain sufficient technical detail to convey a clear understanding of the Intellectual Property, and shall identify any publication, sale, public use, or impending publication. Promptly upon request, the SUBCONTRACTOR shall supply such additional information as the COG may request.

(d) In performing work under this Agreement, the SUBCONTRACTOR shall comply with all laws, rules, and regulations relating to intellectual property, and shall not infringe on any third-party's Intellectual Property rights. SUBCONTRACTOR further represents and warrants to COG that in the

course of performing the work it will not use or possess any Intellectual Property owned by a third party without paying any required royalty or patent fees. SUBCONTRACTOR warrants that it has full title in and ownership of the Intellectual Property and any enhancements, updates or other modifications, or that it has full power and authority to grant all licenses granted herein, and that such license use by the COG will in no way constitute an infringement or other violation of any Intellectual Property right of any third party. The SUBCONTRACTOR warrants that it shall have, throughout any applicable license term hereunder, free and clear title to, or the right to possess, use, sell, transfer, assign, license, or sublicense, products that are licensed or provided hereunder to the COG by the SUBCONTRACTOR. Except as permitted in the Agreement, SUBCONTRACTOR shall not create or permit the creation of any lien, encumbrance, or security interest in the work or any part thereof, or any product licensed or provided hereunder to COG for which title has not yet passed to COG, without the prior written consent of COG. SUBCONTRACTOR represents and warrants to COG that neither it nor any other company or individual performing the work is under any obligation to assign or give to any third party any Intellectual Property rights granted or assigned to COG, or reserved by COG, pursuant to the Agreement. It shall hold the COG harmless for, and to the extent permitted by the laws and Constitution of the State of Texas, defend, and indemnify the COG against, any claims for infringement related to its work under this Agreement.

(e) Grant and License. With respect to such Intellectual Property as is (i) incorporated in the work (other than Intellectual Property for which COG already possesses equal or greater Intellectual Property Rights by virtue of this Agreement or otherwise), (ii) produced by SUBCONTRACTOR or SUBCONTRACTORS employees, subcontractors, or subcontractor's employees during the course of performing the work, or (iii) specifically identified in the Supplemental Conditions as Intellectual Property to which Intellectual Property Rights are granted pursuant to this paragraph, SUBCONTRACTOR hereby grants to COG (i) a nonexclusive, perpetual, irrevocable, enterprise-wide license to reproduce, publish, or otherwise use such Intellectual Property and associated use documentation, and (ii) a nonexclusive, perpetual, irrevocable, enterprise-wide license to authorize others to reproduce, publish, or otherwise use such Intellectual Property for COGs purposes.

(f) Modification; Derivative Works. COG shall have the right, in its own discretion, to independently modify any Intellectual Property to which license is granted herein for COG's own purposes and use, through the services of its own employees or independent contractors. COG shall own all Intellectual Property to such modifications. SUBCONTRACTOR shall not incorporate any such modifications into its Intellectual Property for distribution to third parties unless it first obtains a license from COG.

(g) SUBCONTRACTOR expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements under section 2157.005 of the Government Code, relating to accessibility by persons with visual impairments. Accordingly, the SUBCONTRACTOR represents and warrants to COG that the technology provided to the COG for purchase is capable, either by virtue of feature included within the technology or because it is readily adaptable by use with other technology, of (1) providing equivalent access for effective use by both visual and nonvisual means; (2) presenting information, including prompts used for interactive communications, in formats intended for nonvisual use; and (3) being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this paragraph, the phrase equivalent access means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable

accommodation under the Americans with Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customized display appearance.

(h) SUBCONTRACTOR will include in all subcontracts a provision similar in effect to the following year 2006 Warranty as set forth in the Section.

(1) SUBCONTRACTOR also warrants that, with respect to work performed under this Agreement, that all work is Year 2006 Compliant when used in accordance with the applicable documentation, provided that all products used in combination with it (but not themselves included in or with or incorporated into the work) properly exchange date data with the work. SUBCONTRACTOR warrants that the work meets all applicable standards of the Texas Department of Information Resources relating to the Year 2006 Compliance. In the event any work performed under this Agreement is not Year 2006 Compliant, and the SUBCONTRACTOR is provided written notice thereof, SUBCONTRACTOR shall at its sole expense immediately cause such work to become Year 2006 Compliant in a manner that will minimize interruption to ongoing business processes, time being of the essence.

(i) The SUBCONTRACTOR shall include provisions to effectuate the purposes of this paragraph in all subcontracts and subgrants under this Agreement in the course of which Intellectual Property may be produced or acquired.

#### Article 17 Equal Opportunity and Affirmative Action

The SUBCONTRACTOR shall agree that in the performance of this Contract, it will not discriminate against any employee or applicant because of race, religion, color, sex, age, or national origin and it will comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (Title 41 CFR Part 60). The SUBCONTRACTOR assures that no person will, on the grounds of race, creed, color, handicap, national origin, sex, political affiliation or beliefs, be excluded from, be denied the benefit of, or be subject to discrimination under any program or activity funded in whole or part under this Contract.

#### Article 18 ADA Requirements

The SUBCONTRACTOR shall comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 - 12213.

#### Article 19 Utilization of Small, Minority, and Women's Business Enterprises

The SUBCONTRACTOR agrees that qualified Historically Underutilized Businesses (HUB's) shall have the maximum practicable opportunity to participate in the performance of this Agreement.

#### Article 20 Energy Efficiency Standards

The SUBCONTRACTOR shall follow standards and policies on energy efficiency, which are contained in the Texas State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

Article 21 Acknowledgment of Financial Support

The SUBCONTRACTOR shall acknowledge the financial support of the TCEQ and COG whenever work funded, in whole or part, by this Agreement is publicized or reported in news media or publications. All reports and other documents completed as a part of this Agreement, other than documents prepared exclusively for internal use within the COG, shall carry the following notation on the front cover or title page:

Example:

*PREPARED IN COOPERATION WITH THE  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY*

OR

*The preparation of this report was financed through grants from the State of Texas through the Texas Commission on Environmental Quality.*

Article 22 Data and Publicity

All data and other information developed under this Agreement shall be furnished to the COG and shall be public data and information, except to the extent that it is exempted from public access by the Texas Open Records/Public Information Act, TEX. GOV'T CODE 552. Upon termination of this Agreement, all copies of data and information shall be furnished, at no charge to the COG, upon request, to include data bases prepared using funds provided under this Agreement, and become the property of the COG. Except as otherwise provided by the Agreement or the Act, the SUBCONTRACTOR shall not provide data generated or otherwise obtained in the performance of its responsibilities under this Agreement to any party other than the COG, State of Texas, and its authorized agents.

Article 23 Hazardous Substances, Waste Disposal, and Manifests

The SUBCONTRACTOR and their subcontractors and subgrantees must comply with all applicable Laws and Regulations, including but not limited to those relating to hazardous substances, waste disposal, and manifests.

Article 24 Statutes Relating to Nondiscrimination

The SUBCONTRACTOR shall comply with all applicable state and federal statutes relating to nondiscrimination which include, but are not limited to, those listed in the Uniform Grant Management Standards.

Article 25 Oral and Written Agreements

All oral or written agreements between the parties hereto relating to the subject matter of this Contract which were developed and executed prior to the execution of this Contract have been reduced to writing and are contained in this Agreement.

## Article 26 Safety and Protection

Where applicable, the SUBCONTRACTOR shall be responsible for requiring its subcontractor and subgrantees to maintain and supervise all necessary safety precaution and programs in connection with the work. The SUBCONTRACTOR shall take all necessary safety precautions.

## Article 27 Force Majeure

To the extent that either party to this Agreement is wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through decrees of or restraints by a government instrumentality, acts of God (except that rain, wind, flood or other natural phenomena normally expected for the locality shall not be construed as an act of God), work stoppages due to labor disputes or strikes, fires, explosions, epidemics, riots, war, rebellion, and sabotage, in such event, the time for the performance of such obligation or duty shall be suspended until the disability to perform is removed. Determination of force majeure shall rest solely with the COG.

No time extension shall be granted under this Article unless the party seeking relief has notified the other in writing within a reasonable time after commencement of the event, of the anticipated length and cause of delay, the measures taken or to be taken to minimize the delay, and the timetable by which the SUBCONTRACTOR intends to implement these measures. The party seeking relief shall also give written notice of the ending of the event within a reasonable time after the event has ended.

## Article 28 Entire Contract

This Agreement, including Attachments A, B, C, D, and E, represents the entire Contract between the contracting parties and supersedes any and all prior contracts between the parties, whether written or oral.

**Coastal Bend Council of Governments  
Solid Waste Grant Interlocal Agreement**

**Special Contract Provisions  
Attachment B**

Article 1      Period of Performance

The period of performance of this agreement begins on September 1, 2013 and ends on August 31, 2014.

Article 2      Scope of Services

(a) All parties agree that the SUBCONTRACTOR, in consideration of compensation described in this Attachment and SUBCONTRACTOR Budget and Authorizations (Attachment E of this Agreement), shall provide the services with COG as specifically described in the Work Program of SUBCONTRACTOR (Attachment C of this Agreement) and Schedule of Deliverables from SUBCONTRACTOR (Attachment D of this Agreement).

(b) The SUBCONTRACTOR agrees to implement the Project according to the agreed upon budget shown in Attachment E of this agreement.

Article 3      COG Obligations

(a) Measure of Liability

In consideration of full and satisfactory performance hereunder, COG will be liable to SUBCONTRACTOR in an amount equal to the actual costs incurred by SUBCONTRACTOR in rendering such performance, subject to the following limitations:

1. COG is not liable for expenditures made in violation of "General Provisions for Texas Commission on Environmental Quality's Standards Applicable to Implementation Projects and Supplemental Funding Standards", as described in Articles 8 and 9 of this Agreement, which outline prohibited activities as defined by the Texas Commission on Environmental Quality (TCEQ).
2. COG is not liable for any costs incurred by SUBCONTRACTOR in the performance of this agreement, which have not been billed to COG within thirty (30) days following termination of this agreement.
3. COG is not liable to SUBCONTRACTOR for costs incurred or performance rendered by SUBCONTRACTOR for costs incurred by SUBCONTRACTOR before commencement of this agreement or after termination of this agreement.
4. Except as specifically authorized by COG in writing, COG is liable only for expenditures made in compliance with the cost principles and administrative requirements set forth in Federal OMB Circular A-87.

5. All representations, indemnifications, warranties, and guarantees made in, required by or given in accordance with the Agreement, as well as all continuing obligations indicated in the Agreement, will survive final payment, completion of the work and termination or completion of the Agreement.

(b) Method and Schedule of Payment

1. Payments: Payments to pass-through grant recipients may be made only on a reimbursement basis. Upon review and approval of each financial report, COG will make payment to SUBCONTRACTOR against COG liabilities to be accrued hereunder.

2. SUBCONTRACTOR may account for expenses incurred and request reimbursement of outlays under either a cash or an accrual basis, as defined and authorized under the UGCMA. To be eligible for reimbursement under this Agreement, a cost must have been incurred and either paid by the SUBCONTRACTOR prior to claiming reimbursement from the COG or incurred by the last day of the time period indicated on a request for reimbursement form and liquidated no later than forty-five (45) days after the end of that time period.

3. Financial reporting: The COG shall provide financial status report forms and supplemental forms to be submitted by SUBCONTRACTOR at least quarterly and/or with each request for reimbursement to itemize expenditures by budget category. Allowable expenditures are set forth in Articles 8 and 9 of this Agreement. The COG shall review all materials provided by the SUBCONTRACTOR with a request for reimbursement, and shall not make a reimbursement payment unless all required items have been provided and are deemed to be accurate.

4. In general, expenditure documentation to be maintained by the SUBCONTRACTOR (but not necessarily submitted to the COG with each Financial Status Report) should be whatever is necessary to show that the work was indeed performed and that the expense was, in fact, incurred. In addition, the documentation should also support the fact that the expenditure was reasonable and necessary to this Agreement.

5. Documents that should be maintained, as appropriate for the expense, include by category, the records listed below.

- |                 |   |
|-----------------|---|
| a. SALARY/WAGES | Time sheets that have been signed and approved.   |
| b. TRAVEL       | Documentation, which, at a minimum, is consistent with State Travel Regulations. The purpose of the travel should be documented and supported with actual receipts for hotel accommodations, public transportation receipts, airline receipts, etc. |
| c. EQUIPMENT    | Purchase orders, invoices, and canceled checks.   |
| d. SUPPLIES     | Purchase orders (if issued), invoices, receipts, and canceled checks.   |



- e. SUBCONTRACTS            Copy of subcontract, plus documentation that all costs incurred under the contract were reasonable and necessary. The subcontractor shall be required to maintain the documents for each category of expenses listed in this Subsection.
  
- f. CONSTRUCTION            All applicable documentation required for Equipment, Salary, Supplies and Subcontractors.
  
- g. OTHER                      Purchase orders, invoices, receipts, and canceled checks.

6. All expenditures under the equipment, construction, or subcontract budget categories must be approved in advance by the COG. Further, for any "other" category expenses not specifically spelled out in this interlocal contract, the contract shall require that the SUBCONTRACTOR obtain prior written approval from COG for that expense.

7. Travel Expenses. Reimbursement of travel expenses for out-of-state travel, except where such travel is specifically authorized in writing by the COG, is prohibited. Prior to authorizing any out-of-state travel by a pass-through grant recipient, the COG must obtain written approval from the TCEQ to provide such authorization.

8. If requested by the COG, the SUBCONTRACTOR agrees to provide to the COG the additional expense records and documentation materials, as listed in Subsection 5 of this Article, and appropriate for the expense, for the time period requested by the COG, except that the SUBCONTRACTOR will not be asked to submit records that have already been provided to the COG with a Financial Status Report. The COG will provide reasonable time for the SUBCONTRACTOR to comply with a request for additional records. If the COG requests to review additional records to be provided by the SUBCONTRACTOR under the COG's financial monitoring program, the COG will review those records and provide the SUBCONTRACTOR a written summary of the findings of that review. The COG will also allow the SUBCONTRACTOR reasonable time to respond to any findings of noncompliance or other problems identified by the records review.

9. The COG shall not reimburse or otherwise make payment to SUBCONTRACTOR for an expenditure that is not authorized under this Agreement. If it is determined, by either the COG or the TCEQ that an expenditure that was reimbursed is not an authorized expense, the COG shall request return and reimbursement of those funds from the grant recipient or, where appropriate, the application of those funds to other authorized expenses, and shall not provide any additional reimbursements to the pass-through grant recipient until the funds are returned or are applied to other authorized expenses.

10. The SUBCONTRACTORS contractual costs must comply with allowable costs requirements. SUBCONTRACTORS which are governmental entities must engage in contractor selection on a competitive basis in accordance with their established policies. If SUBCONTRACTOR has no competitive procurement policy or is a private entity, SUBCONTRACTOR must generally select contractors by evaluation and comparison of price, quality of goods or services and past performance. All subgrants awarded by the SUBCONTRACTOR under this Agreement shall be in accordance with Subpart C, Sec. 37,

Subsection (b) of the State Uniform Administrative Requirements for Grants and Cooperative Agreements as set forth in Part III of the Uniform Grant Management Standards adopted by the Governor's Office of Budget and Planning.

(c) SUBCONTRACTOR Close Out Report

No later than thirty (30) days following the termination of this agreement, SUBCONTRACTOR must submit a COG Contract Close Out Report according to written instructions from COG.

Article 4 Reporting Requirements

(a) The SUBCONTRACTOR shall prepare and submit to the COG, a **quarterly** written progress report concerning performance under this Contract. Such progress reports shall document accomplishments and units of work performed under Attachment D of this agreement including program results. All progress reports shall be submitted within 7 days after the end of each **quarterly** period so that COG may submit a consolidated report to TCEQ within 20 days. A final progress report shall be provided prior to the final request for payment under this Contract, but, in no case later than 30 days after the end of the Contract period. Payments (reimbursements) required under this contract may be withheld by the COG until such time as any past due progress reports are received.

(b) The SUBCONTRACTOR **quarterly** progress reports required under Section (a) of this Article contain descriptions of activities and costs for the COG to ensure that the provisions of this Contract are being complied with. The SUBCONTRACTOR shall comply with any reasonable request by the COG for additional information on activities conducted in order for the COG to adequately monitor the SUBCONTRACTOR's progress in completing the requirements of and adhering to the provisions of this Contract. The SUBCONTRACTOR shall certify in writing to the COG, through a final progress report, the satisfactory completion of all activities and deliverables required under the pass-through grant agreement.

(c) The SUBCONTRACTOR shall provide the COG with follow-up results information on a schedule established by the COG, to include a report or reports sufficient to allow the COG to provide the TCEQ a report in January 2014 on the continued results of the project funded under this Agreement. In addition, the SUBCONTRACTOR shall continue to document, as appropriate to the type of project, the results of the project activities for the life of the program or activity.

(d) **The SUBCONTRACTOR's failure to comply with the requirements of this Article constitutes a breach of this Contract.**

Article 5 Monitoring Requirements

(a) COG may periodically monitor SUBCONTRACTOR for:

1. The degree of compliance with the terms of this Contract, including compliance with applicable rules, regulations, and promulgations referenced herein; and
2. The administrative and operational effectiveness of the project.

(b) COG shall conduct periodic analysis of SUBCONTRACTOR'S performance under this Contract for the purpose of assessing the degree to which contractual objectives and performance standards, as identified in this Contract or as subsequently amended, are achieved by SUBCONTRACTOR.

#### Article 6 Title to and Management of Real Property and Equipment

Subject to the obligations and conditions set forth in this Agreement, title to real property and equipment (together hereafter referred to in this Article as property) acquired from funds provided under this Agreement by the SUBCONTRACTOR shall vest upon acquisition or construction in the SUBCONTRACTOR. All parties agree that upon full performance of this Contract, title shall remain with the SUBCONTRACTOR, provided however, that if this Contract is terminated, due to substantial failure by the SUBCONTRACTOR to fulfill its obligations under this Contract, title and physical possession of all equipment and constructed fixtures shall, upon written notification from COG, be transferred in good condition and within five (5) working days to COG.

(a) Subject to the provisions of this Agreement and as otherwise provided by state statutes, property acquired or replaced under this Agreement shall be used for the duration of its normally expected useful life to support the purposes of this Agreement whether or not the original projects or programs continue to be supported by COG funds.

(b) The SUBCONTRACTOR shall not grant or allow to a third party a security interest in any original or replacement property purchased or constructed with funds made available to the SUBCONTRACTOR under this Agreement.

(c) The use of property acquired under this Agreement, both during the term of this Agreement and for the useful life of the property, shall be in accordance with Section 361.014(b) of the TEX. HEALTH & SAFETY CODE, which directs that a project or service funded under this program must promote cooperation between public and private entities and may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services.

(d) The SUBCONTRACTOR may develop and use their own property management systems, which must conform with all applicable federal, state, and local laws, rules and regulations. If an adequate system for accounting is not in place or is not used properly, the Property Accounting System Manual issued by the State Comptroller of Public Accounts will be used as a guide for establishing such a system. The property management system used by the SUBCONTRACTOR must meet the requirements set forth in this Section.

(I) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of the property, who holds title, the acquisition date, and the cost of the property, percentage of state participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(II) A physical inventory of all equipment acquired or replaced under this Agreement shall be conducted no less frequently than once every two years and the results of such inventories reconciled with the appropriate property records. Property control procedures utilized by the SUBCONTRACTOR shall include adequate safeguards to prevent loss, damage, or theft of the acquired property. Any loss, damage, or theft shall be investigated. The

SUBCONTRACTOR shall develop and carry out a program of property maintenance as necessary to keep both originally acquired and any replaced property in good condition, and to utilize proper sales procedures to ensure the highest possible return, in the event such property is sold.

(III) Certain types of equipment are classified as controlled assets and are subject to annual revision. In accordance with the UGMS, the SUBCONTRACTOR should contact the Texas Comptroller of Public Accounts property accounting staff or review the Comptrollers State Property Accounting User Manual available on the Internet, for the most current listing. Firearms shall be maintained on the SUBCONTRACTORS inventory system irrespective of cost, and the following equipment with costs between \$500 and \$1,000 shall be maintained on the inventory system: (1) stereo systems, (2) still and video cameras, (3) facsimile machines, (4) VCRs and VCR/TV combinations and (5) cellular and portable telephones.

(e) The SUBCONTRACTOR may for the purpose of replacing property acquired under this Agreement, either trade in or sell the property and use the proceeds of such trade-in or sale to offset the cost of acquiring needed replacement property.

(f) The SUBCONTRACTOR agrees that if a determination is made that any property acquired with funds provided under this Agreement with a current per-unit fair market value of \$1,000 or more is no longer needed for the originally authorized purpose, the COG has the right to require disposition of the property by the SUBCONTRACTOR in accordance with the provisions of this Article.

(g) When, during the useful life of property acquired with grant funds under this Agreement by the SUBCONTRACTOR and with current per-unit fair market value of \$1,000 or more, the property is no longer needed for the originally authorized purpose, the SUBCONTRACTOR agrees to request disposition instruction form the COG or, if the COG is no longer administering a Regional Solid Waste Grants Program, the TCEQ. Disposition instructions shall solicit, at a minimum, information on the source and amount of funds used in acquiring the property, the date acquired, the fair market value and how the value was determined (e.g., by appraisal, bids, etc.), and the proposed use of the proceeds. The assessment of whether to authorize the proposed disposition of the property must include a determination that disposition will comply with the private industry provisions of §361.014(b) of the TEXAS HEALTH & SAFETY CODE ANN. In cases where the SUBCONTRACTOR fails to take appropriate disposition actions, the COG may direct the SUBCONTRACTOR to take excess and disposition actions. The dispositions may provide for one of the alternatives as set forth in this Section.

(I) Retain title, sell, or otherwise disposed of with no obligation to compensate the COG.

(II) Retain title after compensating the COG. If the COG is compensated by the SUBCONTRACTOR for property acquired using funds provided under this Agreement, the COG will in turn compensate the TCEQ or, upon authorization by the TCEQ, use those funds for other projects or activities that support this or similar future programs conducted by the COG. The amount due will be computed by applying the percentage of state-funded participation in the cost of the original purchase to the fair market value of the property.

(III) Sell the property and compensate COG. If the COG is compensated by the SUBCONTRACTOR for property acquired using funds provided under this Agreement, the COG will in turn compensate the TCEQ or, upon authorization by the TCEQ, use those

funds for other projects or activities that support this or similar future programs conducted by the COG. The amount due will be calculated by applying the COG's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active the net proceeds from sale may be offset against the original cost of the property. When the SUBCONTRACTOR is directed to sell the property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.

(IV) Transfer title to the COG or to a third-party designated/approved by the COG. If the SUBCONTRACTOR participated financially in the original purchase, the SUBCONTRACTOR may be authorized payment from the receiving party of an amount calculated by applying the percentage of the participation in the original purchase of the property to the current fair market of the property.

(h) Items of property with a current per-unit fair market of less than \$1,000 may be retained, sold or otherwise disposed of by the SUBCONTRACTOR with no further obligation to the COG. Methods used to determine per-unit fair market value must be documented, kept on file and made available to the COG upon request.

(i) The COG shall include provisions in its Interlocal Agreements to implement and enforce the provisions of this Article.

## Article 7 Compliance with Applicable Laws

The SUBCONTRACTOR shall give all notices and comply with all laws, ordinances, rules, regulations and order of any public authority bearing on the performance of this contract, including, but not limited to, the laws referred to in this Contract. If the SUBCONTRACTOR or COG observes that this Contract is at variance therewith in any respect, the observing party shall promptly notify the other party in writing, and any necessary changes shall be adjusted by appropriate Contract modification. On request, the SUBCONTRACTOR shall furnish COG modification. If the SUBCONTRACTOR performs any work knowing or having reason to know that it is contrary to Laws or Regulations, the SUBCONTRACTOR shall bear all claims, costs, losses and damages caused by arising out of or resulting therefor.

## Article 8 Types and Standards of Solid Waste Implementation Projects

### Local Enforcement

8.1. Funds may not be provided to any law enforcement agency regulated by Chapter 415, Texas Government Code, unless: (a) the law enforcement agency is in compliance with all rules developed by the Commission on Law Enforcement Standards and Education pursuant to Chapter 415, Texas Government Code; or (b) the Commission on Law Enforcement Officer Standards and Education certifies that the requesting agency is in the process of achieving compliance with such rules.

8.2 When funding is to be provided for salaries of local enforcement officers, the funds recipient must certify that at least one of the officers has attended or will attend within the term of the funding the TCEQ's Criminal Environmental Law Enforcement Training or equivalent training.

8.3 Local enforcement vehicles and related enforcement equipment purchased entirely with funds provided

under this Agreement may only be used for activities to enforce laws and regulations pertaining to littering and illegal dumping, and may not be used for other code enforcement or law enforcement activities. Vehicles and equipment that are only partially funded must be dedicated for use in local enforcement activities for a percentage of time equal to the proportion of the purchase expense funded.

8.4 Entities receiving funds for a local enforcement officer, enforcement vehicles, and/or related equipment for use by an enforcement officer, must investigate major illegal dumping problems, on both public and private property, in addition to investigating general litter problems on public property.

8.5 Entities receiving funds to conduct a local enforcement program must cooperate with the TCEQ's regional investigative staff in identifying and investigating illegal dumping problems. Lack of cooperation with the TCEQ staff may constitute a reason to withhold future funding to that entity for local enforcement activities.

8.6 Funds may not be used for investigation and enforcement activities related to the illegal dumping of industrial and/or hazardous waste. Instances where industrial or hazardous waste is discovered at a site do not preclude the investigation of that site, so long as the intent and focus of the investigation and enforcement activities are on the illegal dumping of municipal solid waste.

#### Litter and Illegal Dumping Cleanup

8.7 Lake and River Cleanup events must be coordinated with the TCEQ's cleanup program staff and/or the Keep Texas Beautiful organization, which is contracted by the TCEQ to administer the Lake and River Cleanup program.

8.8 Projects funded to clean up litter or illegal dumping on private property must be conducted through a local government sponsor or the PERFORMING PARTY. Funds may not be provided directly to a private landowner or other private responsible party for cleanup expenses. The local government sponsor or the PERFORMING PARTY must either contract for and oversee the cleanup work, or conduct the work with its own employees and equipment.

8.9 The costs for cleanup of hazardous waste that may be found at a municipal solid waste site must be funded from other sources, unless a waiver from this restriction is granted by the TCEQ to deal with immediate threats to human health or the environment.

8.10 The costs for cleanup of Class 1 nonhazardous industrial waste that may be found at a municipal solid waste site must be funded from other sources, unless a waiver from this restriction is granted by the TCEQ to deal with immediate threats to human health or the environment. The cleanup of Class 2 and 3 nonhazardous industrial waste that may be found at a municipal solid waste site may be funded in conjunction with the cleanup of the municipal solid waste found at a site.

8.11 All notification, assessment, and cleanup requirements pertaining to the release of wastes or other chemicals of concern, as required under federal, state, and local laws and regulations, including 30 TAC Chapter 330, TCEQ's MSW Rules, and 30 TAC Chapter 350, TCEQ's Risk Reduction Rules, must be complied with as part of any activities funded under this Agreement.

8.12 All materials cleaned up using funds provided under this Agreement must be properly disposed of or otherwise properly managed in accordance with all applicable laws and regulations. To the extent feasible, it is recommended that materials removed from a site be reused or recycled. For projects to clean up large amounts of materials, the PERFORMING PARTY should consider withholding at least ten (10%) percent of the reimbursements under a subgrant or subcontract, until documentation is provided that the cleanup work has been completed and the materials properly managed.

### Source Reduction and Recycling

8.13 Any program or project funded under this Agreement with the intent of demonstrating the use of products made from recycled and/or reused materials shall have as its primary purpose the education and training of residents, governmental officials, private entities, and others to encourage a market for using these materials.

### Local Solid Waste Management Plans

8.14 All local solid waste management plans funded under this Agreement must be consistent with the PERFORMING PARTY's regional solid waste management plan, and prepared in accordance with 30 TAC Subchapter O, Chapter 330, TCEQ Rules, and the Content and Format Guidelines provided by the TCEQ.

8.15 In selecting a local solid waste management plan project for funding, the PERFORMING PARTY shall ensure that at least one year is available for the completion and adoption of the local plan.

8.16 Local solid waste management plans may not be considered for funding by the PERFORMING PARTY until the PERFORMING PARTY's regional solid waste management plan has been amended.

### Citizens' Collection Stations, "Small" Registered Transfer Stations, and Community Collection Events

8.17 The design and construction of citizens' collection stations, as those facilities are defined under 30 TAC Chapter 330, TCEQ Rules, may be funded. The costs associated with operating a citizens' collection station once it is completed may not be funded.

8.18 The design and construction of small municipal solid waste and liquid waste transfer stations that qualify for registration under §330.4(d) or §330.4(r), TCEQ Rules, may be funded. Other permitted or registered transfer stations may not be funded. A municipal solid waste transfer facility may be eligible for a registration if it serves a municipality with a population of less than 50,000, or a county with a population of less than 85,000, or is used in the transfer of 125 tons or less of municipal solid waste per day. A liquid waste transfer station may qualify for a registration if it will receive less than 32,000 gallons or less per day. The costs associated with operating a transfer station once it is completed may not be funded.

8.19 Periodic community collection events, to provide for collection and proper disposal of non-recyclable residential waste materials for which there is not a readily-available collection alternative, may be funded. This type of project may not include regular solid waste collection activities, such as weekly waste collection. Funded collection events may be held no more frequently than four times per year, and must only be intended to provide residents an opportunity to dispose of hard-to-collect materials, such as large and bulky items that are not picked up under the regular collection system, and might otherwise be illegally dumped by residents.

### Household Hazardous Waste Management

8.20 All household hazardous waste collection, recycling, and/or disposal activities must be coordinated with the TCEQ's HHW program staff, and all applicable laws, regulations, guidelines, and reporting requirements must be followed.

8.21 All Texas Country Cleanup events must be coordinated with the TCEQ's Texas Country Cleanup program staff, and all applicable laws, regulations, guidelines, and reporting requirements must be followed.

## Technical Studies

8.22 All technical studies funded under this Agreement must be consistent with the PERFORMING PARTY's regional solid waste management plan, and prepared in accordance with Guidelines provided by the TCEQ.

## Educational and Training Projects

8.23 Educational and training programs and projects funded under this Agreement must be primarily related to the management of municipal solid waste, and funds applied to a broader education program may only be used for those portions of the program pertaining to municipal solid waste.

## Other Types of Projects

8.24 If the TCEQ authorizes the PERFORMING PARTY to fund additional types of projects, under the process set forth in Section 8.2.9., Program Conditions, of this Agreement, the authorization incorporated into this Agreement may include additional standards and restrictions that shall apply to use of funds for that project or type of project.

## Article 9 Supplemental Funding Standards

### General Standards

9.1. The provisions of the Uniform Grant Management Standards (UGMS) issued by the Office of the Governor apply to the use of these funds, as well as the supplement financial administration guidance established by the TCEQ to be applied under all contracts, *TCEQ Allowable Expenditure Guidelines*.

9.2. Recipients of funds under this Agreement, including the PERFORMING PARTY, subgrant recipients, and subcontractors shall comply with all applicable state and local laws and regulations pertaining to the use of state funds, including laws concerning the procurement of goods and services and competitive purchasing requirements.

9.3. Funds may not be provided through a subgrant or subcontract to any public or private entity that is barred from participating in state contracts by the Texas General Services Commission, under the provisions of §2155.077, Government Code, and 1 TAC §113.02, GSC Regulations.

9.4. Public and private entities subject to payment of state solid waste disposal fees and whose payments are in arrears may not receive funds under this agreement through either a subgrant or subcontract.

9.5. In accordance with §361.014(b), Texas Health and Safety Code, and 30 TAC §330.569(d), TCEQ Rules, a project or service funded under this Agreement must promote cooperation between public and private entities and may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services. Under this definition, the term private industry included non-profit and not-for-profit non-governmental entities.

9.6. All equipment and facilities purchased or constructed with funds provided under this Agreement shall be used for the purposes intended in the funding agreement.

9.7. A project or service funded under this Agreement must be consistent with the PERFORMING PARTY's approved regional solid waste management plan, and must be intended to implement the goals, objectives, and priorities established in the regional plan.



9.8. Funds may not be used to acquire land or an interest in land.

9.9. Funds may not be used to supplant existing funds. In particular, staff positions where the assigned functions will remain the same and that were active at the time of the funding application or proposal, and were funded from a source other than a previous solid waste grant, may not be funded.

9.10. Funds may not be used for food or entertainment expenses, include refreshments at meetings and other functions. This provision does not apply to authorized employee per diem expenses for food costs incurred while on travel status.

9.11. Funds may not be used for payment of salaries to any employee who uses alcoholic beverages on active duty. Funds may not be used for the purchase of alcoholic beverages, including travel expenses reimbursed with these funds.

9.12. Funds may not be used for employment or otherwise contracts for services of a lobbyist or for dues to an organization which employs or otherwise contracts for the services of a lobbyist.

9.13. Funds may only be used for projects or programs for managing municipal solid waste.

9.14. Except as may be specifically authorized in this Article or elsewhere in this Agreement, funds may not be used for projects or facilities that require a permit from the TCEQ and/or that are located within the boundaries of a permitted facility, including landfills, wastewater treatment plants, or other facilities. This restriction may be waived by the TCEQ, at its discretion, for recycling and other eligible activities that will take place within the boundaries of a permitted facility. The applicant and/or the PERFORMING PARTY must request a preliminary determination from the TCEQ as to the eligibility of the project prior to the project being considered for funding by the PERFORMING PARTY.

9.15. Projects or facilities requiring a registration from the TCEQ, and which are otherwise eligible for funding, must have received the registration before the project funding is awarded.

9.16. Except as may be specifically authorized in this Article or elsewhere in this Agreement, funds may not be used for activities related to the collection or disposal of municipal solid waste. This restriction includes: solid waste collection and transportation to a disposal facility; waste combustion (incineration or waste-to-energy); processing for reducing the volume of solid waste which is to be disposed of; landfills and landfill-related facilities, equipment, or activities, including closure and post-closure care of a permitted landfill unit; or other activities and facilities associated with the disposal of municipal solid waste.

9.17. Funds may not be used to assist an entity or individual to comply with an existing or pending federal, state, or local judgement or enforcement action. This restriction includes assistance to an entity to comply with an order to clean up and/or remediate problems at an illegal dump site. However, the TCEQ may waive this restrictions, at its discretion and on a limited case-by-case basis, to address immediate threats to human health or the environment, and where it is demonstrated that the responsible party does not have the resources to comply with the order.

9.18. Funds may not be used to pay penalties imposed on an entity for violation of federal, state, or local laws and regulations. This restriction includes expenses for conducting a supplemental environmental project (SEP) under a federal or state order or penalty. Funds may be used in conjunction with SEP funds to support the same project.

## Article 10 Funds in the MSWDTRF

(a) It is the understanding of the parties that the source of the funds provided by the COG is the Municipal Solid Waste Disposal and Transportation Revenue Fee (MSWDTRF). Due to demands upon that source for funds necessary to protect the health and safety of the public, it is possible that the funds contained in the MSWDTRF will be depleted prior to completion of this Agreement. The parties agree that all funding arranged under this Agreement is subject to sufficient funds in the MSWDTRF. The SUBCONTRACTOR shall place this notice in all subgrants and subcontracts.

## Article 11 Conflict of Interest

The SUBCONTRACTOR shall notify the COG immediately upon discovery of any potential or actual conflict of interest. The SUBCONTRACTOR agrees that the COG and/or the TCEQ have sole discretion to determine whether a conflict exists and that the COG and/or the TCEQ may terminate the Agreement at any time, on the grounds of actual or apparent conflict of interest.

a. *Notice of Conflict of Interest:* The SUBCONTRACTOR shall notify the COG in writing or any actual, apparent, or potential conflict of interest regarding any individual performing or having access to information regarding the work. As applicable, the notification shall include both organizational conflicts or interest and personal conflicts of interest. Any individual with a personal conflict of interest shall be disqualified from taking part in any way in the performance of any work that created the conflict of interest.

## Article 12 Authorized Representatives

(a) The COG hereby designates the person in Exhibit B-1, Project Representative, as the individual authorized to give direction to the SUBCONTRACTOR for the purposes of this Contract. The COG Project Representative shall not be deemed to have authority to bind the COG in contract unless the Executive Director of the COG has delegated such authority.

(b) Immediately upon receiving the Purchase Order or Notice of Award, the SUBCONTRACTOR shall identify, as its Project Representative, the person authorized to receive direction from the COG, to manage the work being performed, and to act on behalf on the SUBCONTRACTOR. The SUBCONTRACTOR'S Project Representative shall be deemed to have authority to bind the SUBCONTRACTOR in contract unless the SUBCONTRACTOR, in writing, specifically limits or denies such authority to the SUBCONTRACTOR'S Project Representative.

(c) Either party may change its Project Representative. In addition, the Project Representative of either party may further delegate his or her authority as necessary, including any delegation of authority to a new Project Representative. The party making the change in Project Representative shall provide written notice of the change to the other party.

(d) The SUBCONTRACTOR shall ensure that it's Project Representative, or his or her delegate, is available at all times for consultation with the COG.

**Exhibit B**

The COG designates the individual named below as the Project Representative for COG:

Name: Theresa Finch, P.G., Environmental Coordinator

Address: Coastal Bend Council of Governments  
P.O. Box 9909  
Corpus Christi, TX 78469  
TEL: (361) 883-5743      FAX: (361) 883-5749

The SUBCONTRACTOR designates the individual named below as the SUBCONTRACTOR's Project Representative. The SUBCONTRACTOR's Project Representative is the person authorized to receive direction from the COG, to manage the work being performed, and to act on behalf of the SUBCONTRACTOR:

Name: Public Works – Dipak Desai, P.E.

Address: Nueces County  
901 Leopard Street, Suite 303  
Corpus Christi, Texas 78401

TEL: 361-888-0444      FAX: 361-888-0445

**Coastal Bend Council of Governments  
Solid Waste Grant Interlocal Agreement**

**Work Program of SUBCONTRACTOR  
Exhibit C**

**Goal:**

Goal 1: Ensure the proper management and disposal of municipal solid waste.  
1.3 Household Hazardous Waste and Other – Target waste reduction activities and proper disposal practices to certain components of the waste stream that may pose special risks or problems. Including such wastes as HHW, tires and others..

**Objective 1: Illegal Dump Site Cleanups**

Task 1a: Conduct Cleanup Events in areas of Nueces County where the need is at the greatest for illegal dumping activities.

**Objective 2: Report the progress of the work program task and measure of program effectiveness.**

Task 2a: Turn in Summary Reports (Form PT-S1) to identify progress of the project in three-month intervals.

Time Frame: Summary Report due December 15, 2013 (to report on September, October, November), April 15, 2014 (to report on January, February, March) and August 16, 2014 (to report on May, June, July).

Task 2b: Turn in Results Reports (Form PT-R1) to identify specific results being accomplished by the implementation of your project.

Time Frame: Results Report due December 15, 2013 (to report on September, October, November), April 15, 2014 (to report on January, February, March) and August 16, 2014 (to report on May, June, July).

Task 2c: Turn in Financial Status/Reimbursement Requests (Form PT-F1, PT-F2, and supplemental documentation as identifies in the Special Contract Provisions (Attachment B) section, Article 3(b) 5, located on page B-2.

Time Frame: Financial Status Report/Reimbursement Requests due January 15, 2014 (to report on September, October, November, December) and September 1, 2014 (to report on April, May, June, July, August).

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**Schedule of Deliverables from SUBCONTRACTOR  
Exhibit D**

Task	Time Frame	Deliverable
<b>Objective 1: Illegal Dumping Cleanup</b>		
Task 1: Identify areas of need in the county where a cleanup is needed.	08/31/2014	Submit photo documentation of the illegal dump site cleanup. Also submit manifests for debris disposed of.
<b>Objective 2: Summary Reports</b>		
Task 2a: Summary Report	December 15, 2013, April 15, 2014 and August 16, 2014	PT-S Forms
Task 2b: Results Report	December 15, 2013, April 15, 2014 and August 16, 2014	PT-R Forms
Task 2c: Financial Status Report/Reimbursement Request	January 15, 2014 and September 1, 2014	PT-F1, PT-F2, and supplemental documentation

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**Subcontractor Budget and Authorizations  
Exhibit E**

<b>Description</b>	<b>Cost</b>
Contractual	\$ 5,000.00
<b>TOTAL</b>	<b>\$ 5,000.00</b>