

Program Implementation

AGREEMENT COVER SHEET

TYPE OF AGREEMENT: Sub-Award agreement for reimbursable activities to

FEDERAL AWARD IDENTIFICATION NUMBER (FAIN):

FEDERAL AWARD PERFORMANCE PERIOD:

FUNDING SOURCE: US Environmental Protection Agency Gulf of Mexico Program

CFDA NAME & NUMBER: Gulf of Mexico Program 66.475

AWARD AMOUNT: \$428,000

AGREEMENT PERIOD: September 1, 2020 – August 31, 2022

Organizations and Signature Blocks

Memorandum of Understanding

Between the City of San Marcos

And Keep Texas Beautiful

For the EPA Trash Free Waters Grant

WHEREAS, *Keep Texas Beautiful* is a Not for Profit Organization; and,

WHEREAS, The City of San Marcos is a local municipality and Keep San Marcos Beautiful is an initiative of the City of San Marcos; and,

WHEREAS, on November 22, 2019, the KTB leadership authorized Keep Texas Beautiful to submit a grant application to the Environmental Protection Agency (EPA) and, upon award, provided the authority to execute contractual agreements necessary to carry out the grant; and,

WHEREAS, the City of San Marcos is committed to partner with Keep Texas Beautiful as part of the Reduction and Prevention of Trash in Texas and the Gulf of Mexico Watershed project; and,

WHEREAS, Keep Texas Beautiful received a Trash Free Waters grant from the Environmental Protection Agency (EPA),

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

ARTICLE 1. PARTIES

1.1 Parties. This Agreement, hereinafter referred to as the "Agreement", is made and entered into by and between Keep Texas Beautiful, hereinafter referred to as "KTB", and the City of San Marcos, hereinafter referred to as "SUBRECIPIENT". KTB and SUBRECIPIENT may each be referred to as a "Party" and may be collectively referred to as "Parties" to this Agreement.

ARTICLE 2. FUNDING

2.1. Award Amount. KTB will reimburse SUBRECIPIENT's eligible costs as outlined in the Scope of Work under the conditions in this Agreement not to exceed the Maximum Award Amount of \$100,000. The actual amount paid may be less than the maximum Award Amount and will be determined under the conditions of this Agreement. SUBRECIPIENT shall be responsible for any costs in excess of the Maximum Award Amount.

2.2. Source of Funds. The source of funds for this Agreement is U.S. Environmental Protection Agency Gulf of Mexico Program funds, hereinafter referred to as "Funding Program". SUBRECIPIENT agrees to comply with any and all requirements associated with the Funding Program. KTB was awarded funding from the EPA on March 10, 2020 for \$428,000 dollars to support the Reduction and Prevention of Trash in Texas and the Gulf of Mexico Watershed, hereinafter referred to as "PROJECT."

- 2.3 Indirect Costs.** SUBRECIPIENT's eligible Indirect Cost rate under this Agreement is 10%, which is the 10% de-minimis indirect cost rate described at 2 CFR 200.414(f).
- 2.4 Compliance.** All activities funded, operated, and maintained under this Agreement must be in compliance with the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 Code of Federal Regulations (CFR) 200 and other Federal, State, and local law. Additionally, the SUBRECIPIENT shall ensure compliance with funding agency requirements set forth in Exhibit E.

ARTICLE 3. SCOPE OF WORK

- 3.1 Scope of Work.** KTB will provide payment to SUBRECIPIENT for SUBRECIPIENT's tasks under this Agreement, implemented through the PROJECT, as more fully set out in the Scope of Work (SCOPE) submitted by the SUBRECIPIENT, attached as Exhibit A and incorporated herein. If there is a conflict between this Agreement and the SCOPE, this Agreement prevails.
- 3.2 Scope of Work Changes.** Changes to the SCOPE must be agreed to by both Parties in writing.

ARTICLE 4. TERM

- 4.1 Term.** This Agreement shall take effect on the date executed by the Parties and shall remain in effect until it is terminated. This Agreement shall automatically terminate upon completion of the PROJECT.
- 4.2 Termination.** Either Party reserves the right to terminate this Agreement in whole or in part. Notice of termination must be provided in writing, shall set forth the reasons for termination, and shall provide for a minimum of ten (10) days to cure the defect. Termination is effective only in the event the Party fails to cure the defect within the period stated in the termination notice including any written extensions. If the Agreement is terminated, KTB shall only be liable for eligible expenses incurred before the effective date of termination. The Parties may terminate this Agreement at any time by mutual written concurrence.

ARTICLE 5. PAYMENTS AND REPORTING REQUIREMENTS

- 5.1 Payment.** SUBRECIPIENT will submit a Request for Payment in accordance with the required reporting schedule in Exhibit A. Any payment under this Agreement shall be made only after eligible costs are approved by the KTB Project Manager and are reflected on the approved subrecipient budget. KTB will approve payments as soon as practicable, but not later than forty-five (45) days after a complete Request for Payment has been received, provided that complete and accurate supporting documentation (anticipated costs through multiple bids or quotes for a purchase) has been submitted to KTB. Costs incurred prior to execution of this Agreement are not eligible for reimbursement. KTB shall provide SUBRECIPIENT with written notice within five (5) business days after becoming aware that grant funds received by KTB from EPA for the purposes of payment under this agreement are no longer available for payment to SUBRECIPIENT. KTB will release funds to SUBRECIPIENT within five (5) business days of receiving funds from EPA.
- 5.2 Payment.** SUBRECIPIENT shall submit its Payment Request to KTB at sara@ktb.org. Requests for Payment shall include SUBRECIPIENT bids and/or quotes and an explanation of payment request printed on letterhead and signed by a certifying official as detailed in Article 5.3, and other supporting documentation. KTB may deem

a Request for Payment incomplete if the data and/or documentation are incomplete or improper, or if the SUBRECIPIENT fails to submit necessary reports or provide other information requested by KTB under the terms of this Agreement. KTB may reject requests for payments which fail to demonstrate that costs are eligible for payments and/or which fail to conform to the requirements of this Agreement. Payments will be submitted to EPA by KTB and once funds are received, KTB will have 5 (five) business days to disperse funds to SUBRECIPIENT. **Payments must align with what KTB and SUBRECIPIENT agreed to in the project budget.**

- 5.3 Certifying Official.** As detailed in 5.2, the SUBRECIPIENT is required to provide signed requests. The individual noted below has the authority, on behalf of the SUBRECIPIENT, to certify and serve as the signatory on requests related to the PROJECT. By signing the requests, Certifying Officials are acknowledging review of invoices to ensure expenses included in the invoice are consistent with the agreement, all services and costs are documented on the invoices are accurate and eligible, and all subrecipients and contractors have been fully paid.

Any requests received by KTB without the signature of the individual noted below may result in the requests being returned unpaid.

SUBRECIPIENT Certifying Official:

Name: Bert Lumbreras

Title: City Manager

- 5.4 Eligible Expenses.** Costs incurred by the SUBRECIPIENT prior to final execution of this Agreement are not eligible for payment. KTB may reject requests for payment which fail to demonstrate that costs are eligible for payment and/or which fail to conform to the requirements of this Agreement. Eligible and allowable expenses are limited to costs determined by KTB in its sole discretion as eligible costs necessary to complete the PROJECT and consistent with cost principles established in 2 CFR 200, Subpart E. These costs will be laid out in the SUBRECIPIENT budget.
- 5.5 Availability of Funds.** Any request for payment under this Agreement shall be payable only after eligible costs are approved by KTB. This Agreement and all claims, suits, or obligations arising under or related to this Agreement are subject to and limited to the receipt and availability of funds which are received from the funding agency by KTB dedicated for the purpose of this Agreement.
- 5.6 Return of Funds.** The SUBRECIPIENT agrees to return funds received from KTB for payment requests under this Agreement where the SUBRECIPIENT has failed to comply with the requirements set forth in this Agreement.
- 5.6 Reporting.** SUBRECIPIENT shall provide both quarterly and final reports. Quarterly reports should be submitted in conjunction with invoices for reimbursement as detailed in 5.2. Quarterly and final reports will be due according to the Reporting Schedule in Exhibit A. Additionally, SUBRECIPIENT agrees to inform KTB as soon as problems, delays, or adverse conditions which will materially impair the ability to meet the outputs/outcomes specified in Exhibit A are known.

ARTICLE 6. PROCUREMENT AND PROPERTY MANAGEMENT

- 6.1 Procurement Standards.** SUBRECIPIENT agrees that its purchase of equipment/technology under this Agreement will comply with the procurement standards and requirements 2 CFR Part 200.317-.326. KTB may require the

SUBRECIPIENT to submit its procurement procedures and a written code of conduct prior to commencing the procurement for approval, as detailed in Exhibit B, Third Party Procurement Procedures. If SUBRECIPIENT fails to meet these requirements KTB may deny reimbursement requests. If such failure is determined after reimbursement has been made, SUBRECIPIENT agrees to return reimbursed funds that were not in compliance with these requirements, whether determined by KTB, the State, or the US Environmental Protection Agency or its agents. SUBRECIPIENT shall provide KTB a written certification of compliance with 2 CFR 200.317-.326 prior to purchasing any equipment/technology under this agreement.

- 6.2 Equipment Use, Management, and Disposition.** SUBRECIPIENT agrees the equipment acquired under this Agreement will be subject to the use and management and disposition regulations at 2 CFR 200.313, as applicable. Equipment is defined as tangible non-expendable personal property having a useful life of more than one year and acquisition cost and/or current market value of \$5,000 or more per unit. Certified or verified equipment, vehicles, engines, and/or technologies are considered to be equipment to the extent they fall within this definition. The SUBRECIPIENT agrees to provide KTB reasonable information concerning the use and condition of the equipment upon request.

ARTICLE 7. MODIFICATION, WAIVER, AND SEVERABILITY

- 7.1 Whole Agreement.** This Agreement embodies all of the agreements of the parties relating to its subject matter, and supersedes all prior understandings and agreements regarding such subject matter.
- 7.2 Severability.** In the event any one or more of the provisions contained in this Agreement shall be for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision(s) hereof, and this Agreement shall be revised so as to cure such invalid, illegal, or unenforceable provision(s) to carry out as near as possible the original intent of the Parties.
- 7.3 Changed Circumstances.** If future federal, State, or local statute, ordinance, regulation, rule, or action render this Agreement, in whole or in part, illegal, invalid, unenforceable, or impractical, the parties agree to delete and/or to modify such portions of the Agreement as are necessary to render it valid, enforceable, and/or practical. Each section, paragraph, or provision of this Agreement shall be considered severable, and if, for any reason, any section, paragraph, or provision herein is determined to be invalid under current or future law, regulation, or rule, such invalidity shall not impair the operation of or otherwise affect the valid portions of this instrument.
- 7.4 Assignment.** Without the prior written consent of KTB, the SUBRECIPIENT may not transfer or assign any rights or duties under or any interest in this Agreement.
- 7.5 Amendments.** Amendments to this Agreement must be agreed to in writing signed by each Party.

ARTICLE 8. MISCELLANEOUS PROVISIONS

- 8.1 Liability.** The Parties agree that neither party is an agent, servant, employee of the other party and each party agrees it is responsible for its individual acts and deeds, as well as the acts and deeds of its contractors, employees, representatives, and agents.

- 8.2 Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that, if the performance of any provision of this Agreement is delayed by force majeure, defined as reason of war, civil commotion, act of God, governmental restriction, regulation or interference, fire, explosion, hurricane, flood, failure of transportation, court injunction, or any circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated herein, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the period of time applicable to such requirement shall be extended for a period of time equal to the period of time such party was delayed. Each party must inform the other in writing within reasonable time of the existence of such force majeure.
- 8.3 Property Insurance.** The SUBRECIPIENT must maintain sufficient property insurance or self-insurance for the repair or replacement of any equipment/technology funded under this Agreement, unless otherwise expressly agreed upon in writing by KTB.
- 8.4 Insurance Claims.** Any insurance proceeds received by or on behalf of the SUBRECIPIENT under an insurance policy due to the damage or destruction of equipment, vehicles, engines and/or technologies funded under this Agreement must be utilized to repair or acquire an equivalent or better low emissions engine/technology or be paid to KTB.
- 8.5 Indemnification.** To the extent authorized by law, the SUBRECIPIENT shall indemnify, save and hold KTB its officials, officers, and employees harmless from any and all actions, obligations, claims, damages, expenses, costs of any kind, debts, negligence, and liabilities arising from, or in any way related to, acts or omissions of the SUBRECIPIENT, its employees, volunteers, subcontractors, or clientele, in the performance of, or failure to perform under, this Agreement.
- 8.6 Captions.** The captions, headings, and arrangements used in this Agreement are for convenience only and shall not in any way affect, limit, amplify, or modify its terms and provisions.
- 8.7 Disputes and Remedies.** The SUBRECIPIENT and KTB shall negotiate in good faith toward resolving any disputes that arise under this Agreement. This agreement does not limit any remedy or right under law available to a Party to enforce the terms herein.
- 8.8 Notice.** All notices regarding this Agreement shall be in writing and shall be delivered to the persons identified below:

KTB

Mailing Address:

8850 Business Park Drive Suite 200
Austin, TX 78759

KTB Project Manager

Sara Nichols

Subrecipient

Mailing Address:

The City of San Marcos
Keep San Marcos Beautiful
630 E. Hopkins St.

Subrecipient

Project Manager:

Amy Thomaides, Community Enhancement Initiatives Manager

ARTICLE 9. ACCESSIBILITY AND MAINTENANCE OF RECORDS

- 9.1 Maintenance.** The SUBRECIPIENT shall maintain a record keeping system for all of its activities, including program records and financial management records, which support and document all expenditures of funds made under this Agreement, in accordance with federal regulations, state rules, and the Agreement. This section shall not be interpreted to require maintenance of multiple exact duplicate copies of any record or document.
- 9.2 Retention.** All records must be maintained for a minimum of seven (7) years following final reimbursement. In the event that any litigation or claim is still pending, these records shall be retained until resolution of the litigation or claim. KTB, KTB's funding agency, or their designees shall have access to all records that are directly applicable to this Agreement for the purpose of making audit examinations.

ARTICLE 10. AUDITS

- 10.1 Audits.** SUBRECIPIENT agrees that KTB, and/or the Federal Government may conduct an audit or investigation related to funds received under this Agreement.
- 10.2 Submission of Audits.** As applicable, the SUBRECIPIENT shall provide KTB, for its review, a copy of any audit received as a result of SUBRECIPIENT policy or audits of federal and State governments relating to the expenditure of funds under this Agreement. Such audits shall include or be accompanied by any applicable audit management letter issued and applicable responses to the auditor's findings and recommendations. All audits shall be submitted to KTB within thirty (30) days of receipt of each issued report.
- 10.3 Single Audit Act.** As applicable, the SUBRECIPIENT shall comply with the requirements of the audit provisions of 2 CFR Part 200, Subpart F, which requires that a non-Federal entity that expends \$750,000 or more during the non-federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year.
- 10.4 Financial Records.** The SUBRECIPIENT understands that acceptance of funds under this Agreement acts as acceptance of the authority of KTB, KTB's funding agency, or their designees to conduct an audit or investigation in connection with those funds. The SUBRECIPIENT further agrees to cooperate fully with KTB, KTB's funding agency, or their designees in the performance of an audit or investigation, including providing access to conduct financial and program monitoring of funding awarded to the SUBRECIPIENT under this Agreement and to perform an audit of related records that may encompass an examination of financial transactions, accounts and reports, as well as an evaluation of compliance with the terms and conditions of this Agreement.
- 10.5 Subcontractors.** The SUBRECIPIENT will ensure that the aforementioned clause concerning the authority to audit funds received indirectly by subcontractors through the SUBRECIPIENT and the requirement to cooperate is included in any subcontract it

awards under this Agreement. The SUBRECIPIENT will include in all subcontracts for work under this Agreement a requirement that subcontractors will provide access to all relevant financial records, including bank statements.

ARTICLE 11. REQUIRED CLAUSES AND ASSURANCES

- 11.1 Equal Employment Opportunity.** SUBRECIPIENT shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, or national origin. SUBRECIPIENT shall take affirmative actions to ensure that applicants are employed, and that employees are treated, during their employment, without regard to their race, religion, color, sex, sexual orientation, gender identity or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 11.2 Nondiscrimination on the Basis of Disability.** The SUBRECIPIENT agrees that no otherwise qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under the PROJECT. The SUBRECIPIENT shall insure that all fixed facility construction or alteration and all new equipment included in the PROJECT comply with applicable regulations regarding Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance, set forth in 49 CFR, Part 27 and any amendments thereto.
- 11.3 Noncollusion.** The SUBRECIPIENT warrants that it has not employed or retained any company or person, other than a bona fide employee working for it, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. If the SUBRECIPIENT breaches or violates this warranty, KTB shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, brokerage fee, gift, or contingent fee.
- 11.4 Gratuities.** Any person doing business with or who, reasonably speaking, may do business with KTB under this Agreement may, not make any offer of benefits, gifts or favors to employees of KTB. Failure on the part of the SUBRECIPIENT to adhere to this policy may result in termination of this Agreement.
- 11.5 Davis-Bacon Act.** SUBRECIPIENT agrees to comply with all applicable provisions of 40 USC § 3141 – 3148.
- 11.6 Contract Work Hours and Selection Standards.** SUBRECIPIENT agrees to comply with all applicable provisions of 40 USC § 3701 – 3708 to the extent this agreement indicates any employment of mechanics or laborers.
- 11.7 Rights to Invention Made Under Contract or Agreement.** SUBRECIPIENT agrees to comply with all applicable provisions of 37 CFR Part 401.
- 11.8 Clean Air Act, Federal Water Pollution Control Act, and Energy Policy Conservation Act.** SUBRECIPIENT agrees to comply with all applicable provisions of the Clean Air Act under 42 USC § 7401 – 7671, the Energy Federal Water Pollution

Control Act 33 USC § 1251 – 1387, and the Energy Policy Conservation Act under 42 USC § 6201.

11.9 Debarment/Suspension. SUBRECIPIENT is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. SUBRECIPIENT and its subcontractors shall comply with the special provision “Certification Requirements for Recipients of Grants and Cooperative Agreements Regarding Debarments and Suspensions” which is included as Exhibit C of this agreement.

11.10 Restrictions on Lobbying. SUBRECIPIENT is prohibited from using monies for lobbying purposes; SUBRECIPIENT shall comply with the special provision “restrictions on Lobbying,” which is included as Exhibit D of this Agreement. SUBRECIPIENT shall include a statement of compliance with the Lobbying Certification and Disclosure of Lobbying activities in applicable procurement solicitations. Lobbying Certification and Disclosure of Lobbying Activities shall be completed by subcontractors and included in subcontractor contracts, as applicable.

SUBRECIPIENT agrees to comply with the Title 40 CFR Part 34, New Restrictions on Lobbying. In accordance with the Byrd Anti-Lobbying Amendment, any Recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

11.11 Procurement of Recovered Materials. SUBRECIPIENT agrees to comply with all applicable provisions of 2 CFR §200.322.

11.12 Disadvantaged Business Enterprises (DBE). The SUBRECIPIENT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR, Part 33 and 2 CFR 200.321 in the award and administration of U.S. Environmental Protection Agency assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.

11.13 Whistleblower Policy. KTB has adopted a Whistleblower Policy as a responsibility to its public and private investors and to the clients it serves for ethical and legal management of its resources in order to accomplish the organization’s mission. Internal control systems are in place at KTB that work to prevent and detect inappropriate activities; however, absolute protection of KTB’s resources cannot be guaranteed. The whistleblower policy defines KTB’s commitment to the investigation of allegations of improper activities or directives as well as the protection policy of whistleblowers, representing KTB’s integration of the Texas Whistleblower into its policies and procedures. Contractors, agents, and volunteers can report suspected inappropriate activities to: suzanne@ktb.org.

11.14 False Claim. The SUBRECIPIENT must promptly refer to the EPA’s Inspector General any credible evidence that a principal, employee, agent, subgrantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this grant or subgrants awarded by the grantee.

11.15 Trafficking Victim Protection Act of 2000. The SUBRECIPIENT, SUBRECIPIENT's employees, SUBRECIPIENT's subrecipients, and SUBRECIPIENT's subrecipients' employees under this Agreement, may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award of subawards under the award.

11.15 Recycled Paper. The SUBRECIPIENT agrees that:

11.15.1 Resource Conservation and Recovery Act. Preference shall be given in procurement programs to the purchase of recycled products pursuant to the EPA guidelines as established in 40 CFR 247.

11.15.2 Reporting. In accordance with EPA Order 1000.25 and Executive Order 13423 dated January 24, 2007, and/or Title 40 CFR 30.16, recycled paper and double-sided printing shall be used for all reports that are prepared as a part of this Agreement.

11.16 Federal Award Requirements. During the performance of this Agreement, the SUBRECIPIENT, shall comply with the following federal award requirements.

11.16.1 Title VI of the Civil Rights Act of 1964 (42 USC §2000d et seq., 78 stat. 252), which prohibits discrimination on the basis of race, color, and national origin.

11.16.2 Federal Funding Accountability and Transparency Act Requirements.

A. As a recipient of funds under this agreement the SUBRECIPIENT agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR 170, including Appendix A. This agreement is subject to the following award terms:

<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.

B. SUBRECIPIENT agrees that it shall:

1. Obtain and provide to KTB a System for Award Management (SAM) number (Federal Acquisition Regulation, Part 4, Sub-part 4.11) if this award provides more than \$25,000 in federal funding. The SAM number may be obtained by visiting the SAM website whose address is: <https://www.sam.gov/portal/public/SAM/>
2. Obtain and provide to KTB a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet on-line registration website <http://fedgov.dnb.com/webform>; and

C. Report total compensation and names of its top five (5) executives to the State if:

1. More than 80% of annual gross revenues are from the federal government, and those revenues are greater than \$25,000,000; and

2. The compensation information is not already available through reporting to the United States Securities and Exchange Commission.

11.17 Hotel-Motel Fire Safety. Pursuant to 15 USC 2225a, the SUBRECIPIENT agrees to ensure that all space for conferences, meetings, trainings funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel fire Safety Act (PL 101-391, as amended).

11.18 Compliance with Regulations. During the performance of this Agreement, the SUBRECIPIENT, for itself, its assignees, and successors, agrees to comply with all applicable local, State, and federal regulations.

11.19 Drug Free Workplace. The SUBRECIPIENT must make an ongoing, good-faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in 40 CFR 36.200 – 36.230.

11.20 Interest of Public Officials. No member, officer, or employee of the public body or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

11.21 Substitution of Subcontractors. KTB must be notified of all substitutions of subcontracts.

APPENDICES

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

Exhibit A: Scope of Work

Exhibit B: Third Party Procurement Procedures

Exhibit C: Certification Requirements for Recipients of Grants and Cooperative Agreements Regarding Debarment and Suspensions

Exhibit D: Certification Regarding Lobbying

Exhibit E: Flow Down Provisions from Environmental Protection Agency Funding Agreement

IN WITNESS WHEREOF, the Parties have executed this Agreement on the _____ day of _____, 2020.

Pass through Entity

Pass through director signature
Executive Director, KTB

SUBRECIPIENT

By: _____
Bert Lumbreras
City Manager

EXHIBIT A
SCOPE OF WORK

Task 1. Project Management

Task 1 Objective: Conduct community site visits and identify potential partners

Task 1 Work and Deliverables:

- COSM will be available for initial site visits, follow up in-person meetings, and any project conference calls

Task 2.

Task 2 Objective: KTB, with COSM, will plan and lead stakeholder meetings through virtual focus groups

Task 2 Work and Deliverables:

- COSM will assist KTB with promotion and outreach for any events, surveys, or meetings
- COSM will help build a list of stakeholders

Task 3.

Task 3 Objective: KTB, with COSM, will develop a work plan to help address barriers and fill gaps

Task 3 Work & Deliverables:

- COSM will work with KTB to formulate a budget to spend subaward funds up to \$100,000
- COSM will work with KTB to develop the work plan for the San Marcos area, including identifying potential project partners and viability, in addition to potential scalability, of proposed projects and programs

Task 4.

Task 4 Objective: KTB, with COSM, will implement work plan and develop training program

Task 4 Work and Deliverables:

- COSM will assist KTB with coordinating an in-person training session focusing on litter prevention tactics, messaging and public outreach, the cost of littering, and why it is important to decrease litter in waterways
- In coordination with project partners, COSM will implement projects and/or programs outlined in the work plan
COSM, with oversight from KTB, will make good faith efforts to ensure disadvantaged business enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities

Task 5.

Task 5 Objective: Summarize findings, successes and best practices

Task 5 Work and Deliverables:

- COSM will assist in reviewing a cumulative report outlining the successes and best practices of the project

- COSM will assist in promoting and sharing best practices learned from this project with other entities in Texas and beyond through webinars, blogs, and other forms of outreach and information sharing

Required Reports:

A template report will be provided for use for both quarterly and the final report.

Quarterly reports should be submitted in conjunction with records of funds spent. Quarterly reports will be due one month prior to the EPA Quarterly report KTB submits. Reports will include brief information on each of the following areas:

- A comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan for the period;
- The reasons why established outputs/outcomes were not met; and,
- Additional pertinent information, including, when appropriate, analysis and explanation of cost overruns or high-unit costs.

Additionally, SUBRECIPIENT agrees to inform KTB as soon as problems, delays, or adverse conditions which will materially impair the ability to meet the outputs/outcomes specified in the Agreement Scope of Work are known.

Reporting Schedule:

Report Type	Due Date	Transmit To:
Quarterly Report	February 26, 2021; May 28, 2021; July 31, 2021; November 30, 2021; February 28, 2022; May 31, 2022; August 31, 2022	Sara Nichols, sara@ktb.org
Final Report	30 days from completion of project	Sara Nichols, sara@ktb.org

*Due to the evolving nature of the COVID-19 pandemic at the time of writing of this Scope of Work, some project elements may be modified and adjusted over the course of the project. All Scope of Work modifications and adjustments due to COVID-19 related impacts will be coordinated between KTB and the EPA Project Officer. KTB will notify COSM of any changes to the Scope of Work and the potential impacts to timelines, and or other elements. No changes to this Scope of Work shall become effective without prior written approval from KTB and the EPA.

EXHIBIT B
THIRD PARTY PROCUREMENT PROCEDURES

1. BACKGROUND

The purpose of the 3rd Party Procurement Review procedure is to establish standards and guidelines for the (KTB) to evaluate the potential risks and oversight responsibilities for our subgrantees who will procure goods and services through Third Party Contracts, in accordance with 2 CFR Part 200.317-326.¹

The implementation of the procedure outlined below should act to:

- Demonstrate compliance with grant requirements;
- Minimize KTB's exposure to legal and compliance issues, including subsequent financial loss;
- Identify the various levels of procurement scrutiny by our federal partners associated with different partners, agencies, and firms;
- Identify the level of review needed to ensure compliance with regulations; and,
- Ensure fair, open, competitive opportunities for all parties involved in procurements.

2. PROCEDURE

Compliance with Federal Regulations

Subgrantees shall comply with applicable federal, State and local laws and regulations, and conform to the standards set forth in 2 CFR Part 200 or applicable governing standards published by the awarding agency. These guidelines apply to purchases for contractual services, commodities, and equipment funded with federal and State funds.

Use of Lower-Tier Subgrantees

If the provisions of a KTB agreement allow a lower-tier subgrantee to manage and administer KTB supported projects, the lower-tier subgrantee must also comply with applicable federal, State, and local laws, and all guidelines established by the applicable funding agency.

Conflict of Interest

There can be no conflict of interest, real or apparent, in the award or administration of a contract supported by federal funds. The subgrantee shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees, or agents engaged in the award and administration of contracts supported by federal funds.

Open and Fair Competition

All procurement transactions shall be conducted in a manner that provides maximum open and fair competition consistent with 2 CFR Part 200 or applicable federal law. Procurement procedures shall not restrict or eliminate competition. Examples of what is considered to be restrictive of competition include, but are not limited to, the following:

- Placing unreasonable requirements on firms/service providers/vendors/consultants in order for them to qualify to do business;
 - Placing geographical preferences in the evaluation of bids or proposals;
 - Noncompetitive practices between firms/service providers;
 - Organization conflicts of interest;
 - Requiring unnecessary experience and excessive bonding requirements; and,
- Any arbitrary action in the procurement process.

¹ UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS; Cost Principles and Audit Requirements for Federal Awards

Written Procurement Policies

The subgrantee shall have written procurement procedures and may adopt by reference procedural requirements of 2 CFR Part 200 or applicable federal law.

Procurement Guidelines

KTB, in reviewing subgrantee procurement procedures and policies, will determine consistency with 2 CFR Part 200 or the applicable federal law regulating procurement. Stated therein are the governing regulations and implementing guidelines for all procurement activity undertaken with grant funds. Some of those items, with particular applicability to KTB grants, are:

- Subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- Procedures will allow for analysis of the most economical approach in purchasing, including lease versus purchase alternatives. Each proposed procurement must be reviewed to avoid the purchase of unnecessary or duplicative items.
- Subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
- Subgrantees will maintain records sufficient to detail the significant history of procurement.
- These standards do not relieve the subgrantee of any contractual responsibilities under its KTB contracts. The subgrantee is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual administrative issues arising out of any procurement entered in support of a KTB grant. These include, but are not limited to, source evaluation, protests, disputes, and claims.

Subgrantee Files

Each subgrantee must maintain adequate files to support any purchases made. A copy of the quotes that were obtained (purchases between \$3,000.00 and \$150,000.00) or a copy of the legal notice must also be on file to support the choice of lowest and/or best bid. The subgrantee must provide adequate justification if the purchase is not awarded to lowest and/or best bidder.

Method of Procurement²

All procurement transactions shall be made by one of the following methods. KTB reserves the right to request any and all documentation, either in advance or upon completion of procurement activities, as deemed necessary.

1. PROCUREMENT BY SMALL PURCHASE PROCEDURES

For procurement of services, supplies, or other property with an aggregate cost under \$150,000³, written price or rate quotations shall be obtained from at least two qualified sources. The aggregate sum of all items being purchased is considered one purchase.

Purchases equal to or under \$3,000- Purchases which do not involve the expenditure of more than \$3,000, exclusive of freight or shipping charges, may be made without advertising or otherwise requesting competitive quotes; provided, however, that nothing contained in this paragraph shall be construed to prohibit any agency or governing

²Explicit federal and State regulations apply to each procurement method. Subgrantees may proceed with procurement activities only after careful study of the regulations reveals all requirements have been met.

³ This purchase threshold is to be utilized for subgrantee procurements with federal funds. Separate thresholds may be permitted or required under state law for state funded grants.

authority from establishing procedures which require competitive quotes on purchases under \$3,000.

Purchases equal to or under \$150,000- Purchases which involve the expenditure of at least \$3,000 but not more than \$150,000, exclusive of freight and shipping charges, may be made from the lowest and best contractor without publishing or posting advertisements for bids, provided at least two competitive written quotes have been obtained. The term "competitive written quotes" means a quote submitted on a quote form furnished by the subgrantee and signed by authorized personnel representing the contractor, or a quote submitted on a contractor's letterhead or quote form signed by authorized personnel representing the contractor.

2. PROCUREMENT BY SEALED BIDS

Purchases over \$150,000- Public advertisement once each week for two consecutive weeks for competitive sealed bids is required for all purchases which exceed \$150,000. Bids may not be due less than seven working days following the date the last advertisement appears in the public forum.

Purchases which involve expenditure of more than \$150,000, exclusive of freight and shipping charges shall be made from the lowest and best bidder after publicly advertising for competitive sealed bids once each week for two consecutive weeks. The date, as published, for the bid opening, shall not be less than seven working days after the published notice has been completed. The notice shall state the time and place at which bids shall be received; types of supplies, and/or equipment to be purchased, and the contact person. If plans or specifications are not published, notice should state where copies may be obtained. Specifications shall be written so as not to exclude any supplier.

3. PROCUREMENT BY COMPETITIVE PROPOSALS

Purchases over \$150,000- Formally publicizing a Request for Proposals which normally results in conducting competitive negotiation with more than one source submitting an offer. This method is generally used when conditions are not appropriate for the use of sealed bids. All evaluation factors and their relative importance will be identified. There will be procedures for technical evaluations of the proposal and selection of an awardee. Awards are made to the proposal most advantageous to the program, with price and other factors considered.

4. SOLE SOURCE PROCUREMENT

Noncompetitive items are those available from one source only. In connection with the purchase of noncompetitive items only available from one source, a certification of the conditions and circumstances requiring the purchase shall be filed by the subgrantee with the appropriate KTB project manager. Upon receipt by KTB's project manager, the certification will be forwarded to the appropriate KTB personnel for approval of the request.

Only after receiving authorization from KTB will the purchase be deemed a sole source procurement. All authorizations must be received prior to any procurement transactions. The appropriate KTB personnel may authorize a sole source procurement under the conditions defined in state law, provided that the sole source procurement shall be made according to the established purchasing rules and regulations and shall not be made so as to circumvent the competitive purchasing requirements.

5. PURCHASES UNDER GOVERNMENTAL COOPERATIVE PURCHASING PROGRAMS

Public entities that can purchase under State contracts or other governmental cooperative purchasing programs can do so without prior approval or obtaining written quotes. All other purchases must follow the guidelines outlined in the Contracting Procurement Procedures.

6. EMERGENCY PROCUREMENT

KTB may approve an emergency procurement under the conditions defined in federal and State law, provided such emergency procurement shall be made with such competition as is practicable under the circumstances.

7. ADVERTISING PROCUREMENTS

Procurements to solicit various advertising activities are exempt from a competitive procurement requirement. Generally, the procurement of these items are done through competitive written quotes to ensure a fair and reasonable price is received for those services.

EXHIBIT C

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

This certification is required by the Federal Regulations Implementing Executive Order 12549, Debarment and Suspension, 45 CFR Part 93, Government-wide Debarment and Suspension, for the Department of Agriculture (7 CFR Part 3017), Department of Labor (29 CFR Part 98), Department of Education (34 CFR Parts 85, 668, 682), Department of Health and Human Services (45 CFR Part 76).

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

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;
2. Have not within a three-year period preceding this contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or Local) transaction or contract under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false Proposals, or receiving stolen property;
3. Are not presently indicated for or otherwise criminally or civilly charged by a government entity with commission of any of the offense enumerated in Paragraph (2) of this certification; and,
4. Have not within a three-year period preceding this contract had one or more public transactions terminated for cause or default.

Where the prospective recipient of federal assistance funds is unable to certify to any of the qualifications in this certification, such prospective recipient shall attach an explanation to this certification form.

Name of Organization/Contractor(s): _____

Signature of Authorized Representative: _____

Date: _____

APPENDIX C.1
LOWER TIER PARTICIPANT DEBARMENT CERTIFICATION

_____, being duly
(Name of certifying official)

sworn or under penalty of perjury under the laws of the United States, certifies that neither
_____, nor its principals
(Name of lower tier participant)

are presently:

- debarred, suspended, proposed for debarment,
- declared ineligible,
- or voluntarily excluded from participation in this transaction

by any federal department or agency.

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

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

EXCEPTIONS:

Signature of Certifying Official

Title

Date of Certification

Form 1734
Rev.10-91
TPFS

EXHIBIT D
CERTIFICATION REGARDING LOBBYING

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

1. No federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an officer or employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal loan, the entering into of any cooperative Contract, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative contract; and
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, and or cooperative contract, the undersigned shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying”, in accordance with the instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers and that all sub-recipients shall certify accordingly.

Name of Organization/Contractor(s):

Signature of Authorized Representative:

Title:

Date:

DISCLOSURE OF LOBBYING ACTIVITIES

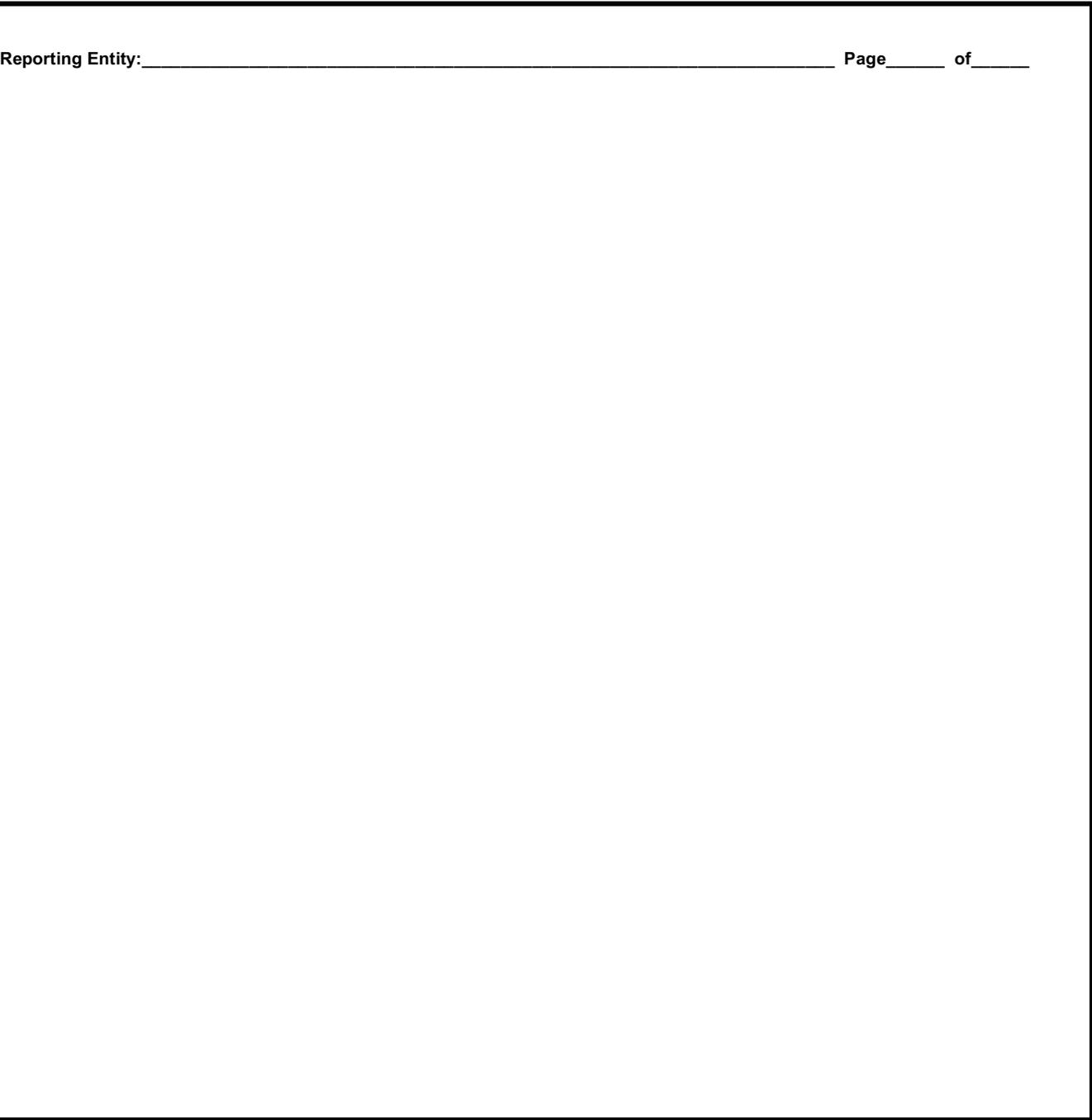
This disclosure form shall be completed by the reporting entity, whether subawardee or prime recipient, at the initiation or receipt of a covered action, or a material change to a previous filing. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an employee of KTB, a Member of the Regional Transportation Council (RTC), an officer or employee of the Regional Transportation Council (RTC), or an employee of a Member of the Regional Transportation Council (RTC) in connection with a covered action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report.

1. Identify the type of covered action for which lobbying activity is and/or has been secured to influence the outcome of a covered action.
2. Identify the status of the covered action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered action.
4. Enter the full name address city, state and zip code of the reporting entity. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, state and zip code of the prime recipient.
6. Enter the name of the agency making the award or loan commitment.
7. Enter the program name or description for the covered action (item 1.)
8. Enter the most appropriate identifying number available for action identified in item 1 (e.g., Request for Proposal (RFP) number; invitation for Bid (B) number, grant announcement number; the contract grant, or loan award number; the application/proposal control number assigned by the agency.) Include prefixes, e.g. "RFP-DE-90-001."
9. For a covered action where there has been an award or loan commitment by the agency, enter the amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered action.
(b) Enter the full names of the individuals(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate boxes(s). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contract with officials. Identify the employee of KTB, the Member of the Regional Transportation Council (RTC), an officer or employee of the Regional Transportation Council (RTC), or the employee of a Member of the Regional Transportation Council (RTC) in connection with a covered.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and the telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

**DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET**

Reporting Entity: _____ Page _____ of _____



Authorized for Local Reproduction

EXHIBIT E

FLOW DOWN PROVISIONS FROM ENVIRONMENTAL PROTECTION AGENCY FUNDING AGREEMENT

1. EPA General Terms and Conditions

The recipient agrees to comply with all required flow down provisions, as well as the current EPA general terms and conditions available at:

<https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2019-or-later>. These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award. The EPA repository for the general terms and conditions by year can be found at: <https://www.epa.gov/grants/grant-terms-and-conditions>.

2. Subawards

Any questions about subrecipient eligibility or other issues pertaining to subawards should be addressed to the recipient's EPA Project Officer. Additional information regarding subawards may be found at <http://www.epa.gov/ogd/guide/subaward-policy-part-2.pdf>. Guidance for distinguishing between vendor and subrecipient relationships and ensuring compliance with Section 210(a)-(d) of OMB Circular A-133 can be found at:

<http://www.epa.gov/ogd/guide/subawards-appendix-b.pdf> and <http://www.whitehouse.gov/omb/circulars/a133/a133.html>.

3. Civil Rights Compliance

- a. Compliance with Regulations: SUBRECIPIENT will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Environmental Protection Agency, as they may be amended from time to time, which are herein incorporated by reference and made part of this agreement.
- b. Nondiscrimination: SUBRECIPIENT, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. SUBRECIPIENT will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 45 CFR Part 21.
- c. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by SUBRECIPIENT for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by SUBRECIPIENT of obligations under this contract and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
- d. Information and Reports: SUBRECIPIENT will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the EPA or KTB to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of SUBRECIPIENT is in the exclusive possession of another who fails or refuses to furnish this information, SUBRECIPIENT will so certify to KTB or the EPA, as appropriate, and will set forth what efforts it has made to obtain the information.
- e. Sanctions for Noncompliance: In the event of SUBRECIPIENT's noncompliance with the Nondiscrimination provisions of this contract, KTB will impose such contract sanctions as it, or the EPA may determine to be appropriate, including, but not limited to:
 - i. withholding of payments to SUBRECIPIENT under the contract until the SUBRECIPIENT complies and/or

- ii. cancelling, terminating, or suspending of the contract, in whole or in part.
- f. **Incorporation of Provisions:** SUBRECIPIENT will include the provisions of paragraphs (a) through (f) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. SUBRECIPIENT will take such action with respect to any subcontract or procurement as KTB or the EPA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if SUBRECIPIENT becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, SUBRECIPIENT may request the State to enter into such litigation to protect the interests of the State. In addition, SUBRECIPIENT may request the United States to enter into such litigation to protect the interests of the United States.

4. Disadvantaged Business Enterprise Program Requirements

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

5. Federal Funding Accountability and Transparency Act Requirements

- a. As a recipient of funds under this agreement SUBRECIPIENT agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms:
<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and
<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- b. SUBRECIPIENT agrees that it shall:
 - i. Obtain and provide to KTB a System for Award Management (SAM) number (Federal Acquisition Regulation, Part 4, Sub-part 4.11) if this award provides more than \$25,000 in Federal funding. The SAM number may be obtained by visiting the SAM website whose address is:
<https://www.sam.gov/portal/public/SAM/>
 - ii. Obtain and provide to KTB a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet on-line registration website <http://fedgov.dnb.com/webform>; and
- c. Report total compensation and names of its top five (5) executives to the State if:
 - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

6. Single Audit Report

- a. SUBRECIPIENT shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in 2 CFR 200.
- b. If threshold expenditures of \$750,000 or more are met during the fiscal year, SUBRECIPIENT must submit a Single Audit Report and Management Letter (if applicable) to KTB.
- c. If expenditures of less than the threshold during SUBRECIPIENT's fiscal year, SUBRECIPIENT must submit a statement to KTB as follows: "We did not meet the \$ _____ expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- d. For each year the project remains open for federal funding expenditures, SUBRECIPIENT will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

7. Pertinent Non-Discrimination Authorities

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

- a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- b. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).
- c. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- d. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- e. The Age Discrimination Act of 1975, as amended, (49 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- f. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- g. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not).
- h. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- i. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- j. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.

- k. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- l. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).