CAPITAL AREA COUNCIL OF GOVERNMENTS INTERLOCAL CONTRACT FOR IMPLEMENTATION OF SOLID WASTE MANAGEMENT ACTIVITIES, FY 2020

The Capital Area Council of Governments (hereafter, CAPCOG) and the agreeing party (hereafter, SUBRECIPIENT) each certifies that it has authority to enter into this Contract pursuant to the provisions of the Interlocal Cooperation Act, Texas Government Code Section 791.00 et seq, and the Solid Waste Disposal Act, Chapter 361 of the Texas Health and Safety Code.

This Solid Waste Interlocal Contract is entered into by and between the parties named below. **Neither the Texas Commission on Environmental Quality (TCEQ) nor the State of Texas is a party to this agreement**.

PRIMARY:	Capital Area Council of Governments
SUBRECIPIENT:	Burnet County
Contract #:	20-12-02
Award:	$40,185.10

Article I. Contracting Parties

PRIMARY:	Capital Area Council of Governments
Signature:	
Printed Name:	Betty Voights
Title:	Executive Director
Date:	

SUBRECIPIENT:	Burnet County
Signature:	
Printed Name:	James Oakley
Title:	Burnet County Judge
Date:	

Article II. General Contract Provisions

Section 2.01 Purpose

a. The purpose of this Contract is to accomplish the goals of the Solid Waste Disposal Act of 1989, as amended, 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. CAPCOG's Executive Committee has determined that this project will support the goals and objectives of CAPCOG's Regional Solid Waste Management Plan (RSWMP).

c. The overall goals this contract are:

(i) To enable CAPCOG to carry out or conduct various MSW management-related services and support activities within CAPCOG's regional jurisdiction;

(ii) To enable CAPCOG to report to the Legislature and promote the continuation of pass-through grant funding; and

(iii) To administer an efficient and effective region-wide pass-through assistance grants program and/or, where authorized by CAPCOG to conduct various CAPCOG-managed projects.

Section 2.02 Scope of Services

a. All parties agree that Burnet County, in consideration of compensation hereinafter described, shall carry out work as described in Article V of this contract.

b. The SUBRECIPIENT agrees to implement the Project according to the agreed upon budget in an amount not to exceed $40,185.10 as detailed in Article VI of this Contract.

c. Failure on the part of the SUBRECIPIENT to comply with the conditions set forth in this Contract shall be the basis for termination of the Contract and recovery of any unexpended or inappropriately expended funds.

Section 2.03 Period of Performance

a. The period of performance of this Solid Waste Interlocal Contract (hereafter, Contract) begins on April 1, 2020 and ends, unless sooner terminated under Section 2.10, Section 2.11, or Section 2.12, on April 30, 2021.

b. The SUBRECIPIENT has the time period shown above to complete the tasks as shown in Article V of this Contract.

c. The SUBRECIPIENT may request in writing a time extension, but CAPCOG is not obligated to provide the time extension.

d. **SUBRECIPIENT must not begin work under this Contract until CAPCOG's project representative identified in Article IV signs and transmits a "Notice-To-Proceed" to the SUBRECIPIENT's project representative. This will not occur until:**

(i) The project representative for the SUBRECIPIENT identified in Article IV completed a mandatory grant management workshop conducted by CAPCOG's project representative on March 10, 2020 (or will commit to at a time and location mutually agreeable to both project representatives).

(ii) The TCEQ approves the project.

Section 2.04 Legal Authority and Indemnification

a. The SUBRECIPIENT warrants and assures CAPCOG that it possesses adequate legal authority to enter into this Contract. The SUBRECIPIENT'S governing body where applicable has authorized the signatory official(s) to enter into this Contract and bind the SUBRECIPIENT to the terms of this Contract and any subsequent amendments hereto. The SUBRECIPIENT agrees to adhere to the provisions of Section (§) 361.014 and Chapters 363 and 364 of the Texas Health and Safety Code, Title 30 Texas Administrative Code (30 TAC) section §330.649 of the MSW Rules, 30 TAC Chapter 14, TCEQ Rules, and the Uniform Grant Management Standards (UGMS) issued by the Texas Comptroller of Public Accounts.

b. SUBRECIPIENT is not an employee or agent of CAPCOG.

Section 2.05 Limitation of Liability

a. In no event shall the parties to this Contract be liable to the other party for any special, consequential, incidental or punitive damages on any claim arising out of or concerning this contract. If SUBRECIPIENT is served with process in a suit or proceeding described in Subsection (a), SUBRECIPIENT agrees to furnish CAPCOG promptly with a copy of the process. SUBRECIPIENT agrees that its indemnification obligations under Subsection (a) apply to causes of action accruing during the term of this Contract, and that for this purpose the obligations will survive the ending or early termination of this Contract.

Section 2.06 Liability Insurance

a. SUBRECIPIENT agrees to maintain its own commercial general liability insurance, or the equivalent in amount and coverage of self-insurance, during the term of this SUBAGREEMENT and to name CAPCOG an additional insured on the policy. SUBRECIPIENT agrees to provide the minimum primary insurance coverage of $500,000 general aggregate and $250,000 each occurrence plus $500,000 excess coverage.

b. SUBRECIPIENT's liability insurance must contain provisions, to the extent legally permitted, that the insurer will notify CAPCOG in writing at least 10 calendar days in advance of (1) cancellation of non-renewal of the policy; (2) any reduction in the policy amounts; and (3) deletion of CAPCOG as an additional insured.

c. SUBRECIPIENT agrees to furnish CAPCOG with a certificate of the SUBRECIPIENT's commercial liability insurance or copy of its policy, or to certify in writing that it has in force the equivalent amount and coverage of self-insurance if requested.

Section 2.07 Audit/Access to Records

a. The SUBRECIPIENT 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 Contract, including negotiated changes or amendments thereto, in accordance with accepted professional practice, appropriate accounting procedures and practices at the SUBRECIPIENT'S Texas office.

b. CAPCOG, TCEQ, Texas State Auditor's Office or any of CAPCOG's duly authorized representatives, shall have access to such books, records, documents, and other evidence for the purpose of review, inspection and/or audit.

c. Audits conducted pursuant to this provision shall be in accordance with State law, regulations and policy, and generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency.

d. Records under Sections (a) above shall be maintained and made available during the entire period of performance of this Contract and until three (3) years from date of final CAPCOG 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. This audit/access to records applies to financial records pertaining to all subagreements and all subagreement change orders and amendments.

f. CAPCOG 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 SUBRECIPIENT on work performed under this Contract.

g. The SUBRECIPIENT agrees to include Sections (a) through (g) of this Section in all subagreements or contracts and all change orders directly related to project performance.

Section 2.08 Independent Financial Audit

a. The SUBRECIPIENT shall adhere to the Single Audit requirements of the UGMS. The SUBRECIPIENT shall deliver to CAPCOG any applicable audit report within thirty (30) days of completion of the audit report. The SUBRECIPIENT 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 contractors.

Section 2.09 Amendments to Contract

a. Any alterations, additions, or deletions to the terms of this Contract which are required by changes in state law or regulations are automatically incorporated into this Contract without written amendment hereto, and shall become effective on the date designated by such law or regulation, provided if the SUBRECIPIENT may not legally comply with such change, SUBRECIPIENT may terminate its participation herein as authorized by Section 2.10.

b. CAPCOG may, from time to time, require changes in the Scope of the Services of the SUBRECIPIENT to be performed hereunder. Such changes that are mutually agreed upon by and between CAPCOG and the SUBRECIPIENT in writing shall be incorporated into this Contract.

c. Any changes in personnel whose salaries are funded under this Contract or any other changes in the budget, scope of work, schedule or deliverables, must be approved in advance by CAPCOG. A detailed description of the proposed change(s) shall be submitted in writing by the SUBRECIPIENT to CAPCOG for approval. Authorization to amend the Contract will be documented in writing and copies of the authorization retained in the files of both CAPCOG and SUBRECIPIENT.

Section 2.10 Termination of Contract for Convenience

a. CAPCOG may terminate this Contract in whole or part for its convenience. CAPCOG terminates this Contract for convenience by giving SUBRECIPIENT at least 30 calendar days' notice of the termination, specifying the termination date, and describing the part or parts terminated.

b. Upon receipt of the termination notice, SUBRECIPIENT agrees to stop work on or before the termination date, cancel all subcontracts and orders entered into under this Contract, and settle all claims resulting from cancellation of the subcontracts and orders. If CAPCOG terminates only part of the Contract, SUBRECIPIENT agrees to complete the un-terminated part if CAPCOG so requests.

c. At CAPCOG's request, following termination of the Contract for convenience, SUBRECIPIENT agrees to transfer title and deliver to CAPCOG, at CAPCOG's expense, all work produced in performing this Contract. SUBRECIPIENT agrees to preserve and protect the work until it is delivered to CAPCOG.

d. SUBRECIPIENT agrees to submit to CAPCOG a written termination claim itemizing and documenting the amounts due because of termination of the Contract. If SUBRECIPIENT does not submit the termination claim within 90 calendar days from the effective date of termination, SUBRECIPIENT's termination claim is barred.

e. If SUBRECIPIENT's termination claim is timely submitted, complete, and correct, CAPCOG agrees to pay SUBRECIPIENT the following amounts in full settlement of SUBRECIPIENT's termination claim: (1) the reasonable cost of all work performed through the date of termination; and (2) the reasonable cost of settling and paying claims resulting from cancellation of subcontracts and orders. However, CAPCOG's total payment under this paragraph may not exceed the total Contract price, less amounts already paid SUBRECIPIENT under this Contract, any lawful offsets, and the Contract price for any work not terminated.

Section 2.11 Suspension or Termination of Contract for Unavailability of Funds

a. SUBRECIPIENT acknowledges that CAPCOG is a governmental entity without taxing power and that its only source for paying SUBRECIPIENT under this Contract is the MSW Disposal and Transportation Revenue Fee administered by TCEQ under Contract with CAPCOG. If TCEQ suspends or terminates its Contract with CAPCOG, SUBRECIPIENT agrees that CAPCOG may suspend its payment obligations under or terminate this Contract in whole or part. If CAPCOG suspends or terminates only part of this Contract for unavailability of funds, SUBRECIPIENT agrees to perform the unsuspended or unterminated part if CAPCOG so requests.

b. CAPCOG suspends or terminates this Contract for unavailability of funds by giving SUBRECIPIENT notice of the suspension or termination, as soon as it learns of the funding unavailability, specifying the suspension or termination date, and describing the part or parts suspended or terminated. CAPCOG agrees to promptly return to SUBRECIPIENT at CAPCOG's expense any goods SUBRECIPIENT shipped to CAPCOG before receiving notice of suspension or termination.

c. If this Contract is terminated for unavailability of funds under this Section 2.11, SUBRECIPIENT is entitled to compensation for goods it furnished and services it performed before it received notice of termination. However, CAPCOG is not liable to SUBRECIPIENT for costs it paid or incurred under this Contract after or in anticipation of its receipt of notice of termination.

Section 2.12 Termination for Breach of Contract

a. If CAPCOG or SUBRECIPIENT breaches a material provision of this Contract, the other may notify the breaching party describing the breach and demanding corrective action. The breaching party has five business days from its receipt of the notice to correct the breach, or to begin and continue with reasonable diligence and in good faith to correct the breach. If the breach cannot be corrected within a reasonable time, despite the breaching party's reasonable diligence and good faith effort to do so, either party may terminate the Contract for breach by notifying the other party of the termination date, which may be no sooner than 10 calendar days from the notice date, or either party may invoke the dispute resolution process of Section 2.18.

b. If this Contract is terminated for breach under Subsection (a), SUBRECIPIENT is entitled to compensation for services it performed and goods it provided before it received notice of termination. However, CAPCOG is not liable to SUBRECIPIENT for costs it paid or incurred under this Contract after or in anticipation of its receipt of notice of termination.

c. Termination for breach under Subsection (a) does not waive CAPCOG's claim for damages resulting from the breach, and CAPCOG among other remedies may withhold from compensation owed SUBRECIPIENT an amount necessary to satisfy CAPCOG's claim.

Section 2.13 Severability

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

Section 2.14 Data and Publicity

a. All data and other information developed under this Contract shall be furnished to CAPCOG 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, Texas Government Code Chapter 552. Upon termination of this Contract, all data and information shall become the joint property of CAPCOG and the SUBRECIPIENT.

Section 2.15 Intellectual Property

a. For the purpose of this Contract, "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. If the SUBRECIPIENT conceives of, actually puts into practice, discovers, invents or produces any intellectual property during the course of its work under this Contract, it shall report that fact to CAPCOG.

c. The SUBRECIPIENT may obtain governmental protection for rights in the intellectual property. However, CAPCOG and TCEQ hereby reserve a nonexclusive, royalty-free and irrevocable license to use, publish, or reproduce the intellectual property for sale or otherwise, and to authorize others to do so. CAPCOG and TCEQ also reserve a royalty-free nonexclusive, and irrevocable license to use, publish, or reproduce for sale or otherwise, and to authorize others to use, publish, or reproduce, for sale or otherwise (to the extent consistent with the rights of third parties) any intellectual property for which the SUBRECIPIENT obtains rights with funds received under this Contract.

d. In performing work under this Contract, the SUBRECIPIENT shall comply with all laws, rules, and regulations relating to intellectual property, and shall not infringe on any third party's intellectual property rights. To the extent permitted by the laws and Constitution of the State of Texas, it shall hold CAPCOG and the TCEQ harmless for, defend and indemnify CAPCOG against, any claims for infringement related to its work under this Contract.

Section 2.16 Energy Efficiency Standards

a. The SUBRECIPIENT is encouraged to 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).

Section 2.17 Identification of Funding Sources

a. The SUBRECIPIENT shall acknowledge the financial support of the TCEQ and CAPCOG whenever work funded, in whole or part, by this Contract is publicized or reported in news media or publications. All reports and other documents completed as a part of this Contract, other than documents prepared exclusively for internal use, shall carry the following notation (or one similar) on the front cover or title page: SUPPORTED WITH FUNDS FROM THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ) THROUGH THE CAPITAL AREA COUNCIL OF GOVERNMENTS (CAPCOG)

Section 2.18 Dispute Resolution

a. The parties desire to resolve disputes arising under this Contract without litigation. Accordingly, if a dispute arises, the parties agree to attempt in good faith to resolve the dispute between themselves. To this end, the parties agree not to sue one another, except to enforce compliance with this Section 2.18, until they have exhausted the procedures set out in these subsections.
b. At the written request of either party, each party shall appoint one non-lawyer representative to negotiate informally and in good faith to resolve any dispute arising under this Contract. The representatives appointed shall determine the location, format, frequency, and duration of the negotiations.
c. If the representatives cannot resolve the dispute within 30 calendar days after the first negotiation meeting, the parties agree to refer the dispute to the Dispute Resolution Center of Austin for mediation in accordance with the Center's mediation procedures by a single mediator assigned by the Center. Each party shall pay half the cost of the Center's mediation services.
d. The parties agree to continue performing their duties under this Contract, which are unaffected by the dispute, during the negotiation and mediation process.

Section 2.19 Oral and Written Contracts

a. 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 herein.

Section 2.20 Nondiscrimination and Equal Opportunity

a. Subsection (b) summarizes the nondiscrimination requirements applicable to SUBRECIPIENT's performance under this Contract that are set out in detail in title 41, chapter 60, and title 28, parts 35 and 36, Code of Federal Regulations. The SUBRECIPIENT agrees to comply with the detailed requirements.

b. SUBRECIPIENT shall not exclude anyone from participating under this Contract, deny anyone benefits under this Contract, or otherwise unlawfully discriminate against anyone in carrying out this Contract because of race, color, religion, sex, age, disability, handicap, or national origin.

Section 2.21 Utilization of Small, Minority, and Women's Business Enterprises

a. A Historically Underutilized Business (HUB) is a Corporation, Sole Proprietorship, Partnership, or Joint Venture in which as least 51 percent is owned, operated, controlled and actively managed by a person or persons who are historically underutilized (socially disadvantaged) because of their identification with members of certain groups, including Black Americans, Hispanic Americans, Asian Pacific Americans, Native Americans (American Indians) and Women who suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control.

b. The SUBRECIPIENT agrees that qualified Historically Underutilized Businesses (HUBs) shall have the maximum practicable opportunity to participate in the performance of this Contract.

Section 2.22 Force Majeure

a. Subject to the requirements of Subsections (b) and (c) and the limitation of Subsection (d), a party's obligations under this Contract are suspended during any period the party is unable to perform its obligations because of work stoppage or strike resulting from a labor dispute; fire, flood, wind, earthquake, or other natural disaster; epidemic, riot, sabotage, rebellion, or war; governmental intervention; or other cause beyond the party's control.

b. Subsection (a) does not apply unless the party invoking it notifies the other party of the force majeure event within five business days after it occurs, describing the nature of the event in detail and estimating its likely duration. The party invoking Subsection (a) has the burden of proving that the force majeure event exists.

c. If the other party is reasonably satisfied that the force majeure event exists, it shall notify the invoking party that the obligations of this Contract are suspended from the effective date of the event throughout its duration. The party invoking Subsection (a) shall notify the other party within five business days after the force majeure event ends. When the force majeure event ends, the obligations of this Contract are reinstated for the remainder of the Contract's term.

d. If the obligations of this Contract are suspended because of a force majeure event for a cumulative period of more than 30 calendar days, either party may terminate this Contract in whole or part for convenience under Section 2.10.

Section 2.23 Conflict of Interest

a. SUBRECIPIENT agrees to comply with its internal policy prohibiting conflict of interest and with Chapter 171 of the TEX. LOCAL GOVT. CODE ANN. in carrying out this Contract.

b. If SUBRECIPIENT learns that one of its governing body members, officers, employees, or agents has violated or may violate its internal policy or Chapter 171, SUBRECIPIENT agrees promptly to take corrective and appropriate disciplinary action and to notify CAPCOG in writing of the actual or potential violation and the corrective and disciplinary action taken.

Section 2.24 Miscellaneous

a. All representations and warranties of SUBRECIPIENT, together with all continuing obligations described in this Contract, survive the ending or early termination of this Contract.
b. This Contract states the entire agreement of the parties, and an amendment to it is not effective unless in writing and signed by both parties.
c. This Contract is binding on and inures to the benefit of the parties' successors in interest.
d. This Contract is performable in Travis County, Texas, and Texas law governs the interpretation and application of this Contract.
e. This Contract is executed in duplicate originals.

Article III. Special Contract Provisions

Section 3.01 Compliance with Applicable Laws

a. The SUBRECIPIENT 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 SUBRECIPIENT or CAPCOG observes that this Contract is at variance, the observing party shall promptly notify the other party in writing, and any necessary changes shall be addressed by appropriate Contract modification. On request, the SUBRECIPIENT shall furnish CAPCOG modification. The main governing standards include, but may not be limited to the following:

(i) Chapters 361, 363, and 364, TEX. HEALTH & SAFETY CODE ANN;

(ii) Title 30 Texas Administrative Code (30 TAC) Chapter 330 MSW Regulations (30 TAC Chapter 330), Subchapter O;

(iii) The Uniform Grant and Contract Management Act, Texas Government Code, §§783.001 et. seq., and the Uniform Grant Management Standards, 1 TAC §§5.141 et. seq. (collectively, "UGMS");

(iv) CAPCOG's Contract #582-20-10206 with the TCEQ; and,

(v) TCEQ's Regional Solid Waste Grants Program (RSWGP) Administrative Procedures.

Section 3.02 Payment Terms

a. In consideration of full and satisfactory performance hereunder, CAPCOG agrees to reimburse SUBRECIPIENT in an amount equal to the allowable and documentable costs defined in UGMS, and incurred by SUBRECIPIENT in rendering such performance, subject to the following limitations:

(i) CAPCOG is not liable for expenditures made in violation of the Authorized Budget and funding guidelines in Article VI, which outline the standards which shall apply to the SUBRECIPIENT'S use of funds provided under this Contract, including prohibited activities and expense categories as defined by the TCEQ.

(ii) CAPCOG is not liable for any costs incurred by SUBRECIPIENT in the performance of this Contract which have not been billed to CAPCOG within thirty (30) days following termination of this Contract.

(iii) CAPCOG is not liable to SUBRECIPIENT for costs incurred or performance rendered by SUBRECIPIENT for costs incurred by SUBRECIPIENT before commencement of this Contract or after termination of this Contract.

(iv) CAPCOG will evaluate each SUBRECIPIENT's reported local contribution, whether cash and/or in-kind, and make a determination based on the explanation provided as to how much the SUBRECIPIENT will be reimbursed.

(v) CAPCOG reserves the right to proportionally adjust reimbursements for the local contribution, whether cash and/or in-kind, proportional to the SUBRECIPIENT's reported local contributions.

Section 3.03 Financial Monitoring and Documentation

a. Financial Monitoring Program

(i) The SUBRECIPIENT will adhere to the following financial monitoring requirements in order to receive reimbursement for authorized expenditures and to ensure that the expenditures incurred were reasonable and necessary to the project.

(ii) Reimbursement Request Form which will be used to request reimbursement and will require sufficient backup documentation. Reimbursement requests may be submitted at any time during the grant period, but must be submitted at least as identified in Table 1.

(iii) Payments (reimbursements) required under this Contract will be withheld by CAPCOG until such time as any past due progress reports are received.

(iv) Payments to the SUBRECIPIENT will be made only on a reimbursement basis. To receive reimbursement, the SUBRECIPIENT must submit the following:

1. Reimbursement Request Form
2. Copies of checks
3. Copies of invoices
4. List of bid responses for purchases over $5,000
5. Copy of Request for Proposal (RFP) and list of RFP responses (if applicable)
6. Equipment inventory information (if applicable)

(v) The SUBRECIPIENT's reimbursement request form must document all cash outlays for the project within scope of the project identified in the grant application including amounts that it will cover with any local contribution, whether cash and/or in-kind, as identified in Form 7 of the application.

(vi) Changes to the local contribution, whether cash and/or in-kind, identified on Form 7 of the SUBRECIPIENT's application must be submitted in writing to document the reason for such changes.

(vii) If the SUBRECIPIENT does not have a Purchasing Policy that complies with state law, the SUBRECIPIENT must adhere to the general provisions of CAPCOG's Purchasing Policy.

(viii) The SUBRECIPIENT is allowed to account for expenses incurred and request reimbursement of outlays under either a cash or an accrual basis, as defined and authorized under the UGMS. To be eligible for reimbursement under this Contract, a cost must have been incurred and either paid by the SUBRECIPIENT prior to claiming reimbursement from CAPCOG or incurred by the last day of the time period indicated on a request for reimbursement form and liquidated no later than thirty (30) days after the end of that time period.

(ix) CAPCOG will review all materials provided by the SUBRECIPIENT with a request for reimbursement, and will not make a reimbursement payment unless all required items listed under (iv) of this section have been provided and are deemed to be accurate.

(x) CAPCOG shall reimburse or otherwise make payment to the SUBRECIPIENT only for expenses incurred during the term of the Contract between CAPCOG and the SUBRECIPIENT.

(xi) CAPCOG will not reimburse or otherwise make payment to the SUBRECIPIENT for an expenditure that is not authorized under this Contract. If it is determined by either CAPCOG or the TCEQ that an expenditure that was reimbursed is not an authorized expense, CAPCOG shall request return and reimbursement of those funds from the SUBRECIPIENT or, where appropriate, the application of those funds to other authorized expenses, and shall not provide additional reimbursements to the SUBRECIPIENT until the funds are returned or are applied to other authorized expenses.

b. Documentation required

(i) In general, expenditure documentation to be maintained by the SUBRECIPIENT 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 Contract. Documents that should be maintained, as appropriate for the expense, include but are not limited to the following:

1. Salary/Wages – Time sheets that have been signed and approved.
2. 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.
3. Equipment – Purchase orders, invoices, and canceled checks.
4. Supplies – Purchase orders (if issued), invoices, and canceled checks.
5. Contractual – Purchase orders (if issued), invoices, and canceled checks, plus documentation that the costs were reasonable and necessary. The same standards should be applicable to contractors.

c. Additional documentation

(i) If requested by CAPCOG, the SUBRECIPIENT agrees to provide to CAPCOG the additional expense records and documentation materials for the time period requested by CAPCOG. CAPCOG will provide reasonable time for the SUBRECIPIENT to comply with a request for additional records. CAPCOG will review requested additional records and provide the SUBRECIPIENT a written summary of findings, if any, of that review. CAPCOG will also allow the SUBRECIPIENT reasonable time to respond to any findings of noncompliance or other problems identified.

Section 3.04 Reporting Requirements

a. The SUBRECIPIENT shall prepare and submit to CAPCOG progress reports. These progress reports shall include a **Progress Reporting Form** which documents the progress and completion of tasks identified in the SUBRECIPIENT's application and includes the Results Tracking Form.

b. The SUBRECIPIENT progress reports required contain descriptions of activities and costs for CAPCOG to ensure that the provisions of this Contract are being complied with. In particular, any legal research and related legal activities shall be clearly detailed in the quarterly progress reports in order to assure CAPCOG that the activities are not prohibited under Section 6.02 of this Contract (relating to Supplemental Funding Standards). The SUBRECIPIENT shall comply with any reasonable request by CAPCOG for additional information on activities conducted in order for CAPCOG to adequately monitor the SUBRECIPIENT's progress in completing the requirements of and adhering to the provisions of this Contract.

c. The SUBRECIPIENT will certify in writing to CAPCOG through a final progress report the satisfactory completion of all activities and deliverables required under this Contract.

d. The SUBRECIPIENT shall maintain the information required by the form listed in Subsection (a) of this Section so that a follow-up results report can be prepared. The SUBRECIPIENT shall provide CAPCOG with a follow-up Progress Reporting Form due September 15, 2022, so that CAPCOG can report to the TCEQ the results of the projects funded under this Contract.

e. The SUBRECIPIENT'S failure to comply with the requirements of this section shall constitute a breach of this Contract.

f. The SUBRECIPIENT shall maintain documentation on the results of the project activities for the life of the program or activity.

g. The reporting requirements of this Section 3.04 survive the ending or early termination of this Contract.

h. For the purposes of preparing progress and results reports, it is suggested that the SUBRECIPIENT maintain the Results Tracking Form on a monthly basis.

i. The required reporting form templates are incorporated into this contract by reference.

j. Collection events funded projects are required to submit one report only, which will be due the first applicable reporting date after the event is held.

Table 1. Schedule of Deliverables FY 2020 - 2021 REQUIRED REPORTS

Report	Reporting Period	Due Date
Progress Report #1	April 1, 2020 – September 30, 2020	October 15, 2020
Progress Report #2 & Final Reimbursement	October 1, 2020 – April 30, 2021	May 15, 2021
Follow-Up Progress Report #3	May 1, 2021 – August 31, 2021	September 15, 2021
Follow-Up Progress Report #4	September 1, 2021 – August 31, 2022	September 15, 2022

Section 3.05 Monitoring Requirements

a. CAPCOG may periodically monitor SUBRECIPIENT for:

(i) The degree of compliance with the terms of this Contract, including compliance with applicable rules, regulations, and promulgations referenced herein; and

(ii) The administrative and operational effectiveness of the project.

b. CAPCOG will conduct periodic analysis of SUBRECIPIENT'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 SUBRECIPIENT.

c. Note that CAPCOG is including in this contract its risk assessment checklist, which CAPCOG staff will use to determine the extent of monitoring and compliance review and assistance CAPCOG will conduct for this contract. A copy of the risk assessment form is included in Article VII.

Section 3.06 Title to and Management of Real Property and Equipment

a. SUBRECIPIENT must adhere to their published purchasing policies and procedures or CAPCOG's where no such policies and procedures have been approved and published.

(i) The SUBRECIPIENT 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 for property owned by the SUBRECIPIENT 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 SUBRECIPIENT must meet the requirements set forth in this Section.

(ii) 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.

(iii) A physical inventory of all equipment acquired or replaced under this Contract 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 SUBRECIPIENT shall include adequate safeguards to prevent loss, damage, or theft of the acquired property. Any loss, damage, or theft shall be investigated. The SUBRECIPIENT 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.

(iv) Certain types of equipment are classified as "controlled assets" and are subject to annual revision. In accordance with the UGMS, the SUBRECIPIENT should contact the Texas Comptroller of Public Accounts' property accounting staff or review the Comptroller's state Property Accounting User Manual available on the Internet, for the most current listing.

b. When, during the useful life of property acquired with grant funds under this Contract by the SUBRECIPIENT and with a current per-unit fair market value of $5,000 or more, the property is no longer needed for the originally authorized purpose, SUBRECIPIENT agrees to request disposition instructions from the CAPCOG or, if CAPCOG is no longer administering a Regional Solid Waste Grants Program, the TCEQ. CAPCOG shall, in turn, request authorization from the TCEQ to provide disposition instructions to the SUBRECIPIENT. 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 the disposition plan will comply with the private industry provisions of §361.014(b) of the TEXAS HEALTH & SAFETY CODE ANN. In cases where SUBRECIPIENT fails to take appropriate disposition actions, CAPCOG may direct SUBRECIPIENT to take appropriate disposition actions. The disposition instructions 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 CAPCOG.

(ii) Retain title after compensating CAPCOG. If CAPCOG is compensated by the SUBRECIPIENT for property acquired using funds provided under this Contract, CAPCOG 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 TCEQ. 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 CAPCOG. If CAPCOG is compensated by the SUBRECIPIENT for property acquired using funds provided under this Contract, CAPCOG will in turn compensate the TCEQ or, upon authorization by the TCEQ, use those funds for other projects or activities that support the goals of this or similar future programs conducted by the TCEQ. The amount due will be calculated by applying CAPCOG'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 SUBRECIPIENT is directed to sell 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 CAPCOG or to a third-party designated/approved by the TCEQ. If the SUBRECIPIENT participated financially in the original purchase of the property, the SUBRECIPIENT 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 value of the property.

Article IV. Project Representatives and Location of Records

The Capital Area Council of Governments hereby designates the individual below as the person to give direction to the SUBRECIPIENT as Project Representative of CAPCOG:

Name:	Ken May
Title:	Regional Program Coordinator
Address:	6800 Burleson, Bldg 310, Ste 165
	Austin, TX 78744
Phone:	(512) 916-6040
Fax:	(512) 916-6001
Email:	kmay@capcog.org

The SUBRECIPIENT hereby designates the individual named in the application as the person authorized to receive direction from CAPCOG, to manage the work being performed, and to act on behalf of the SUBRECIPIENT as a Project Representative:

The SUBRECIPIENT designates the following location for record access and review for this Contract:

	Burnet County Courthouse Annex on the Square
Address:	133 East Jackson Street
	Burnet, TX 78611

Article V. Work Program of Subrecipient

Section 5.01 Incorporation of Subrecipient's Grant Application

a. The SUBRECIPIENT's grant application, as reviewed by CAPCOG's Solid Waste Advisory Committee on January 23, 2020, is hereby incorporated by reference into this contract.

b. Except as explicitly authorized by CAPCOG's project representative or otherwise described in this contract, the SUBRECIPIENT shall carry out the work program described in its grant application.

c. No purchases made, expenses incurred, or work performed outside of the performance period of this contract or not described in the SUBRECIPIENT's application will be reimbursed by CAPCOG.

d. CAPCOG's project representative may approve minor changes to the scope of work in the SUBRECIPIENT's grant application to the extent that the changes would not have affected the scoring and ranking of the SUBRECIPIENT's application.

e. SUBRECIPIENT understands that failure to complete its work as described in the application (or modified with approval of CAPCOG) by the end of the performance period of this contract will result in CAPCOG redirecting unreimbursed funds to other activities.

f. The SUBRECIPIENT's reimbursement request form must document all cash outlays for the project within scope of the project identified in the grant application including amounts that it will cover with any local contribution, whether cash and/or in-kind, as identified in Form 7 of the application.

g. Changes to the local contribution, whether cash and/or in-kind, identified on Form 7 of the SUBRECIPIENT's application must be submitted in writing to document the reason for such changes.

Article VI. Subrecipient Budget and Funding Standards

Section 6.01 Subrecipient's Grant Budget

a. SUBRECIPIENT's grant budget is limited to the amounts identified for each expense category and purposes identified in Form 7 of the SUBRECIPIENT's application with any mutually agreed upon modifications to the allocation of funding among expenses categories approved by CAPCOG's Project Representative that does not materially alter the work that will be performed.

1) SUBRECIPIENT(s) which fail to fully expend the local contribution, whether cash and/or in-kind, presented on Form 7 of the application must submit a reason in writing explaining why they did not meet their proposed local contribution.

   (i) CAPCOG will evaluate each SUBRECIPIENT's reported local contribution, whether cash and/or in-kind, and make a determination based on the explanation provided as to how much the SUBRECIPIENT will be reimbursed.

   (ii) CAPCOG reserves the right to adjust reimbursements for the local contribution, whether cash and/or in-kind, proportional to the SUBRECIPIENT's reported local contributions.

Section 6.02 General Supplemental Funding Standards

a. In addition to the standards set forth in applicable laws and regulations, the standards below apply to all uses of the funds provided under this Contract. Unless authorization is otherwise specifically provided for under the terms of this Contract, the use of funds provided under this Contract shall be in accordance with the supplemental funding standards set forth in this Section.

b. **Payment of Fees**. Local and regional political subdivisions subject to the payment of state solid waste disposal fees and whose payments are in arrears are not eligible to receive grant funding.

c. **Land Acquisition Costs**. Funds provided under this Contract may not be used to acquire land or an interest in land.

d. **MSW-Related Programs Only**. Funds provided under this Contract may not be used for programs dealing with wastes that are not considered Municipal Solid Waste (MSW), including programs dealing with industrial or hazardous wastes.

e. **Activities Related to the Disposal of MSW**. Except as may be specifically authorized under an eligible project category, funds provided under this Contract may not be used for activities related to the disposal of MSW. 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; any landfill-related facilities or activities, including the closure and post-closure care of a landfill; or other activities and facilities associated with the ultimate disposal of MSW. This provision does not apply to activities specifically included under an authorized project category, to include citizens' collection stations, and small registered transfer stations.

f. **Projects Requiring a TCEQ Permit**. Funds may not be used for expenses related to 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, and other facilities. This provision, however, may be waived by the TCEQ, at its discretion, for otherwise eligible activities to be located at a closed permitted facility and/or for recycling activities that will take place within the boundaries of an open facility. Recycling activities that may qualify for such a waiver may include recyclables collection, composting, and land application of biosolids for beneficial use. The applicant should request a preliminary determination from the TCEQ as to the eligibility of the project prior to consideration for funding.

g. **Projects Requiring TCEQ Registration**. Projects or facilities that require registration from the TCEQ, and which are otherwise eligible for funding, may be funded. However, the registration for the facility must be approved and granted by the TCEQ before that project can be selected for funding.

h. **Projects that Create a Competitive Advantage Over Private Industry**. In accordance with §361.014(b) of the Texas Health and Safety Code, a project or service funded under this Contract 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 includes non-profit entities.

i. **Supplanting Existing Funds**. Funds provided under this Contract may not be used to supplant existing funds. In particular, staff positions where the functions assigned to that position will remain the same and that were active at the time of the grant application, and were funded from a source other than a previous solid waste grant, are not eligible for grant funding. This provision does not apply to the salaries for staff of the SUBRECIPIENT in its conduct of activities under this Contract.

j. **Food/Entertainment Expenses**. Funds provided under this Contract may not be used for food or entertainment expenses. This provision does not apply to authorized employee per diem expenses for food costs incurred while on travel status.

k. **Use of Alcoholic Beverages**. None of these funds may be used for the purchase of alcoholic beverages, including travel expenses reimbursed with these funds. Funds provided under this Contract may not be used for payment of salaries to any employee who uses alcoholic beverages on active duty.

l. **Funds to Law Enforcement Agencies**. Funds may not be provided to any law enforcement agency regulated by Texas Occupational Code, Title 10, Chapter 1701, unless: (a) the law enforcement agency is in compliance with all rules on Law Enforcement Standards and Education; or (b) the Texas Commission on Law Enforcement certifies that the requesting agency is in the process of achieving compliance with such rules.

m. **Funds for Compliance**. Funds may not be used to assist an entity or individual to comply with an existing or pending federal, state, or local judgment 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 dumpsite. However, the TCEQ may waive this restriction, 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.

n. **Funds to Pay Penalties**. 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.

o. **Funds for Lobbying Activities**. Funds may not be used for employment, contracts for services of a lobbyist, or for dues to an organization, which employs or otherwise contracts for the services of a lobbyist.

p. **Use of Funds**. The provisions of the UGMS apply to the use of these funds, as well as the supplemental financial administration provided in the CAPCOG program Administrative Procedures.

q. **Procurement and Purchasing.** Recipients of funds under this Contract, including the COG, pass-through grant recipients, and contractors 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.

Section 6.03 Category-Specific Funding Restrictions

a. Under CAPCOG's contract with TCEQ, CAPCOG is required to ensure that all implementation projects funded under this Contract fit within defined categories.

b. Category-specific funding limitations apply to each category identified by TCEQ and shall apply to this subgrant.

c. The project category for this grant is Household Hazardous Waste Management, for which the following funding restrictions apply:

(i) Funds may be used for projects that provide a means for the collection, recycling or reuse, and/or proper disposal of household hazardous waste, including household chemicals, electronic wastes, and other materials. Funded activities may include: collection events; consolidation and transportation costs associated with collection activities; recycling or reuse of materials; proper disposal of materials; permanent collection facilities, education and public awareness programs; and, School Chemical Clean-out Campaign (SC3) events and programs.

(ii) All HHW events must meet the requirements of 30 TAC 335, Subchapter N, and must be coordinated through the TCEQ/External Relations Division. Additionally, the TCEQ Used Oil Program regulates the handling – including transportation – of used oil and oil filters. HHW collections should be aware of registration requirements when selecting vendors or running a collection programs themselves.

(iii) All HHW collection event activities must be conducted under an operational plan which meets the requirements of 30 TAC §335.405(a), to be maintained onsite, which addresses collection, ingress and egress, storage, transportation, recycling, and disposal.

(iv) All HHW funded project plans must be submitted to the CAPCOG Solid Waste Program for review and approval at least 45 days prior to scheduled event.

(v) The SUBRECIPIENT must submit to the TCEQ HHW Program a 45 Day Notice which meets the requirements of 30 TAC §335.403(b) (if hosting an HHW event for covered materials). The operator must also report to the HHW program by April 1st of the following year on the amount of material received under the collection. This notice must be submitted in one of the following formats through one of the following avenues:

1) Mailed to:
TCEQ/External Relations Division (MC 118)
HHW Program
P.O. Box 13087
Austin TX 78711-3087

2) E-mailed to: Recycle@tceq.texas.gov

3) Faxed to: (512) 239-1065, Attn. HHW Program

(vi) SUBRECIPIENT may be required to attend a mandatory training on hosting HHW Events if the SUBRECIPIENT has not received HHW Event funding through CAPCOG within the last three biennia. SUBCONTRATOR must request this training at least 90 days prior to hosting the funded event.

Article VII. CAPCOG Solid Waste Grant Subrecipient Risk Assessment Form

Organization: **Burnet County** **Date:** **3/4/2020**

Period of Performance: **April 1, 2020 – April 30, 2021** **Contact:** **Jana Teague**

Consistent with Title 2, Code of Federal Regulations, Chapter 200, the Capital Area Council of Governments (CAPCOG) is evaluating each Solid Waste Grant subrecipient's risk of non-compliance to assist us in monitoring grant performance. Answers to the questions below will assist CAPCOG in assessing the level of monitoring and technical assistance that will be needed for each subgrant.

Question	Yes/No	Comments
1. Has the organization received solid waste grant funding through CAPCOG since September 1, 2015?	Yes	If Yes, please identify fiscal year(s) 2015, 2016, and 2019.
2. Has the organization previously received solid waste grant funding through CAPCOG for the same project category since September 1, 2015?	No	If Yes, please identify fiscal year(s)
3. Has the organization completed the same type of activity, with or without CAPCOG funding, since September 1, 2015?	No	If Yes, please identify fiscal year(s)
4. Is this project an HHW collection event?	No	*[note: if the organization has not completed an HHW collection event since September 1, 2013, with CAPCOG grant funds, the project <u>will</u> require extra monitoring and technical assistance]*
5. Do you have specific personnel assigned to the management and completion of your grant award project?	Yes	If Yes, please identify Jana Teague, Grant Administrator Karin Smith, County Auditor
6. Do the specific personnel assigned to the management and completion of your grant award project have prior grant management experience in general?	Yes	If Yes, please describe briefly: 10+ years

Question	Yes/No	Comments
7. Do the specific personnel assigned to the management and completion of your grant award project have experience with managing a COG solid waste grant since September 1, 2015?	Yes	If Yes, please describe briefly: 10+ years
8. Were there any errors in the organizations FY 2018-2019 grant application?	No	If Yes, please explain:
9. Were there any performance deficiencies in any pervious solid waste contracts with CAPCOG since September 1, 2015? (i.e., were extensions needed? Were any reports or reimbursement requests submitted to CAPCOG late or inaccurate?)	No	If Yes, please explain:
10. Does your organization have purchasing policies and procedures?	Yes	If Yes, please provide a copy On File
11. Will this project use contractors?	Yes	If Yes, please identify Environmental Team Resources will be contracted to conduct HAZWOPER training for Burnet County staff working the facility.

Article VIII. Grant Application

Attach grant application here