

This Agreement is our Standard Contract and no changes or alterations will be considered.

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (the “Agreement”) is entered into between the Tarrant Regional Water District, a Water Control and Improvement District (the “District”), and _____ (“Contractor”), a _____ corporation authorized to do business in Texas, with corporate offices at _____ for the purposes and consideration set forth hereinbelow, and is dated to be effective the _____ day of _____, 2024 (the “Effective Date”).

RECITALS

WHEREAS, pursuant to a Request issued in accordance with the Professional Services Procurement Act (Tex. Gov’t Code Sec. 2254.001, et. seq.), and the District’s Procurement Policies regarding the procurement of professional services, the District sought to identify and obtain the services of a qualified Contractor, as more specifically described in Article 1; and

WHEREAS, pursuant to the District’s selection of the Contractor as the most highly qualified provider of the required services; and

WHEREAS, the Contractor has agreed to provide the services subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, the District and the Contractor, in consideration of the mutual covenants, agreements, and undertakings herein set forth and other good and valuable consideration, including the District’s obligation to make the payments provided for herein, the District and Contractor do hereby agree as follows:

AGREEMENT

1. **Scope**. Contractor agrees to provide services to the District which are necessary and appropriate to _____ in accordance with the scope of work and description of services set forth in Exhibit “A” attached hereto and incorporated by reference (the **PSA – PROJECT NAME**)

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“Services”). In connection therewith, Contractor further agrees to make employees with sufficient background, knowledge and experience at reasonable times for consultation with the District, its employees, agents, attorneys and contractors. It is stipulated that the intended purpose of this Agreement is for Contractor to provide the District with such Services as are necessary and appropriate for the District to fulfill its obligations for the project to which this Agreement relates (the “Project”). The parties hereto recognize that it is impossible at this stage to define with precision the scope of services to be rendered by Contractor with respect to the Project in general. Therefore, Contractor agrees to provide such services as may be reasonably required to effectuate the purposes of this Agreement. In the event of a conflict between the terms of this Agreement and the terms of Exhibit “A” or any Contractor terms and conditions, the terms of this Agreement shall govern.

2. Price. For the Services, Contractor shall be paid an amount not to exceed \$_____ in accordance with the schedule set forth in Exhibit “B” attached hereto and incorporated by reference.

3. Invoices. Contractor agrees to submit invoices for the Services no more often than monthly, addressed to the District at the address set forth below. Such invoices shall include a timesheet that states the date of Services performed, identifies each representative of the Contractor or subcontractor providing the Services, a description of the Services provided and shall set forth the charge due for each such item of Services (broken down to the nearest quarter hour, if an hourly charge) with a line item extension for each such charge, separately itemize expenses for which reimbursement is sought, and written certification by a project manager of Contractor that the Services for which compensation is requested have been completed and are invoiced in accordance with the terms of this Agreement. All such invoices shall contain such other and further information as the District may reasonably require to provide an adequate

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description of all services rendered. Travel and other out-of-pocket expenses shall be pre-authorized by the District in writing and be billed at cost, and all travel will be in conformance with the then-current standards and rules of the U.S. General Services Administration travel policy, subject to reasonable adjustment by the District. In addition, the District may also require the inclusion with each invoice of a Subcontractor/Supplier Utilization Form and/or Vendor Participation Form regarding the identities of, activities performed by, and payment of subcontractors and suppliers, if any, as further detailed on Exhibit “DB”. District may defer processing any payment request which does not accurately provide such information.

4. Payment. The District agrees to use its best efforts to remit payment for each such invoice within thirty (30) days after receipt of same in proper form. The District and Contractor each agree to reasonably cooperate with the other in resolving any issues pertaining to the description of or scope of Services rendered, and payment thereof.

5. Access to Files. Contractor agrees to maintain files documenting all activities undertaken in connection with the performance of the Services, including all contacts and communications with third parties in the course of providing the Services. The District and its representatives shall have ongoing access to such files and information, and on a periodic basis as requested by the District, and in any event upon completion of all Services, the District will be supplied with either the original or a complete copy of the files maintained by Contractor, organized in such a manner as to allow the District to readily access information pertaining to the Services.

6. Standard of Performance. Contractor agrees to provide the Services in a good, professional, and workmanlike manner, recognizing that time is of the essence to the Services and the Project, consistent with professional skill and care and the orderly progress of the Project. Contractor agrees to file all necessary registrations and reports with all applicable regulatory

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authorities which may be required in the course of providing the Services. Contractor further agrees to provide the Services in a manner which complies with all applicable federal, state, and local laws and regulations. The District agrees to cooperate with Contractor by providing information in its possession, staff access, and such other and further resources reasonably available to it as may be necessary to facilitate the timely and proper rendition of the Services.

7. *Diverse Business Requirements.* In performance of this Agreement, Contractor will retain “diverse businesses” as defined in the District’s Fair Opportunities Purchasing/Contracting Policy, as amended from time to time, for subcontracting, consulting and other work for which Contractor is responsible in accordance with the stated goal of ____%. In addition, Contractor will provide all documentation requested by the District relating to participation by diverse businesses in connection with Contractor’s performance of this Agreement.

8. *Term.* This Agreement shall be for a term of _____ () months, beginning on the Effective Date, but may be extended at the sole option of the District; subject to the earlier termination of this Agreement pursuant to Section 10 below.

9. *No Authority.* It is understood and agreed that neither Contractor nor its representatives shall have the authority to bind the District or any related party to any contractual obligation or item of expenditure without the prior written approval of the District.

10. *Termination.* The District reserves the right to terminate this Agreement at any time, with or without cause, by providing thirty (30) days advance written notice thereof to Contractor. Upon such termination the District will take possession of all Proprietary Information created in connection with the rendition of the Services, and Contractor shall make its appropriate personnel available to explain the status of any aspect of the Services or the files and materials provided to the District upon termination so as to ensure an orderly transition. The District agrees to compensate Contractor for providing such transitional consultation at the applicable hourly

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rate(s) of Services. Upon any such event of termination by the District, Contractor shall be paid for Services rendered to the effective date of termination, and any partially completed Services shall be compensated on an equitable, pro rata basis. Contractor reserves the right to terminate this Agreement at any time, with or without cause, by providing ninety (90) days advance written notice thereof to the District.

11. *Confidential Information and Use of Documents.* Contractor acknowledges and agrees that in the course of performing the Services it will develop and produce certain files, reports, data, surveys, maps, drawings and other information (collectively, the "Proprietary Information") in the execution of the Services. Contractor agrees that it will provide to District originals of all Proprietary Information, which shall be the property of the District. Contractor further acknowledges and agrees that the District may use such Proprietary Information in any manner it desires; provided, however, that Contractor shall not be liable for the use of such Proprietary Information for any purpose other than the purposes contemplated herein. Further, Contractor acknowledges and agrees that in the course of performing the Services it will acquire information from the District, including appraisers, attorneys, and consultants, and that all of such information is and shall be deemed highly sensitive and confidential in nature. All Proprietary Information relating to the Project which are developed by Contractor in connection with the performance of the Services shall be the property of the District upon payment of Contractor's earned fees therefore, and Contractor shall not use any such Proprietary Information in connection with any other project or for any other purpose, though it may retain copies for its permanent files. Except to the extent required by law, or as authorized by the District in writing, neither Contractor nor its agents shall disclose to anyone other than the District or its designated agents any Proprietary Information concerning the Project and the Services, whether before or after any termination of this Agreement. Contractor shall also notify the District of any third party request

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for Proprietary Information, and refer the requestor to the District. Because the release of such Proprietary Information could compromise negotiations of the District, it is acknowledged and agreed that the District will not have an adequate remedy at law for any such violation and therefore may seek injunctive or similar relief to prevent the disclosure or unauthorized retention of any such documents or Proprietary Information, in addition to any other remedy provided by law. Contractor further agrees to cause all agents or subcontractors employed by it to execute an agreement containing the following provisions before any of Proprietary Information described in this Paragraph is provided or disclosed to any such person:

The undersigned expressly acknowledges and agrees that in the course of performing the services contemplated hereby, the undersigned will develop and/or obtain information which is confidential in nature, the ownership of which is vested in the Tarrant Regional Water District. I agree to maintain any information developed, used or reviewed in connection with this project confidentially, and will not disclose such information to any person unless I am expressly authorized by the District to do so. Further, I will notify the District of any requests I receive for such information and will refer the requestor to the District for response.

12. Public Information Act. Contractor acknowledges and agrees that all records, documents, drawings, plans, specifications and other materials in the District's possession, including materials submitted by Contractor, are subject to the provisions of Chapter 552, Texas Government Code (the "Public Information Act"). Contractor shall be solely responsible for all determinations made by it under such law, and for clearly and prominently marking each and every page or sheet of materials with "Trade Secret" or "Confidential", as it determines to be appropriate. Contractor is advised to contact legal counsel concerning such law and its application to Contractor.

If any of the materials submitted by the Contractor to the District are clearly and prominently labeled "Trade Secret" or "Confidential" by Contractor, the District will endeavor to advise Contractor of any request for the disclosure of such materials prior to making any such

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disclosure. Under no circumstances, however, will the District be responsible or liable to Contractor or any other person for the disclosure of any such labeled materials, whether the disclosure is required by law, or court order, or occurs through inadvertence, mistake or negligence on the part of the District.

In the event of litigation concerning the disclosure of any material marked by Contractor as “Trade Secret” or “Confidential,” the District’s sole obligation will be as a stakeholder retaining the material until otherwise ordered by a court, and Contractor shall be fully responsible for otherwise prosecuting or defending any action concerning the materials at its sole cost and risk; provided, however, that the District reserves the right, in its sole discretion, to intervene or participate in the litigation in such manner as it deems necessary or desirable. All costs and fees, including attorneys’ fees and costs, incurred by the District in connection with any litigation, proceeding or request for disclosure shall be reimbursed and paid by Contractor.

The requirements of Subchapter J of the Public Information Act may apply to this Agreement, and the Contractor agrees that the Agreement can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

Notwithstanding any other provision of the Agreement, within five (5) business days of a request by the District, the Contractor shall provide any records related to this Agreement that are in the custody or possession of the Contractor that are subject to a pending request for information received by the District.

Not later than 180 days following the completion of the term of this Agreement, the Contractor shall provide the District with all records related to this Agreement in the custody or possession of the Contractor. The cost of complying with this Section 12 is not subject to reimbursement by the District.

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13. *No Assignment.* Contractor may not assign this Agreement to a third party without the express written consent of the District, which may be withheld or conditioned in the District's sole discretion.

14. *No Third-Party Beneficiaries.* Nothing in this Agreement shall be construed to give any rights or benefits under this Agreement to anyone other than the District and Contractor, and all duties and responsibilities undertaken pursuant to this Agreement shall be for the sole and exclusive benefit of the District (or such other Project participants and related parties as it may designate) and Contractor, and not for the benefit of any other party. There are no third-party beneficiaries of this Agreement.

15. *Insurance.* During the term of this Agreement, Contractor shall, at its expense, procure and maintain the following minimum insurance coverages. Upon request by District, Contractor shall provide to the District, or the District's attorneys or insurance representatives as the District may direct, certificates of insurance and insurance policies confirming the following minimum coverages (all limits in thousands):

Commercial General Liability	Per Occurrence \$500,000 General Aggregate \$1,000,000
Workers Compensation	Statutory Limits or \$1,000,000
Automobile Liability	CSL \$500,000
Professional Liability	Per Occurrence \$500,000 General Aggregate \$1,000,000

Excess/Umbrella Policy: If Contractor does not carry adequate limits in their specific liability policies (GL and Auto), it is acceptable for them to carry a follow form Excess or Umbrella Liability policy to make up the difference.

No such policy shall have, in aggregate, a deductible and self-insured retention in excess of a reasonable amount to be approved by District. Except for the Workers Compensation and Professional Liability policies, the District will be named as an additional insured on each such policy of insurance. Further, such additional insured coverage shall be primary and non-

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contributory to any other coverage available to the District. Contractor hereby agrees to provide, as a provision of such policies, at least thirty (30) days written notice to District prior to any cancellation, non-renewal or material change in coverage contemplated herein. Contractor hereby waives, and each policy shall be endorsed to provide a waiver of, any and all rights of subrogation by, through, or under it against the District or any related party by any insurance carrier or other third person. Certificates of insurance shall be submitted on a standard ACORD form and must contain in the “Descriptions of Operations/Locations” field a Project Name or description of the Work, as specified by the District. Such certificates or other evidence of insurance shall be submitted electronically to insurance@trwd.com at least two (2) weeks prior to commencement of Services. The District shall be named Certificate Holder at the following address: Tarrant Regional Water District, Attn: Risk Management, 804 E. Northside Drive, Fort Worth, Texas 76102.

Contractor shall procure and keep in force, or cause to be procured and kept in force, railroad protective liability insurance as may be required by any railroad in connection with Work across, under or adjacent to the railroad’s tracks or railroad right-of-way. In the event any agreement between TRWD and a railroad includes railroad protective insurance requirements applicable to the Work, Contractor shall procure and keep in force or cause to be procured and kept in force, insurance meeting such requirements. The railroad shall be the named insured on any such policy.

16. *Indemnification.* WITHOUT LIMITING IN ANY WAY ANY OTHER RIGHTS OF THE PARTIES, CONTRACTOR FURTHER AGREES TO THE GREATEST EXTENT PERMITTED BY LAW TO INDEMNIFY AND HOLD HARMLESS THE DISTRICT AND ITS ATTORNEYS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, AGENTS, OFFICERS, DIRECTORS, AND RELATED PARTIES (THE “DISTRICT INDEMNIFIED

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PARTIES") OF AND FROM ANY CLAIM, COST, RIGHT, OR CAUSE OF ACTION TO THE EXTENT CAUSED BY ANY ACT OR OMISSION OF CONTRACTOR, OR ITS OFFICERS, DIRECTORS, AND EMPLOYEES, ANY SUBCONTRACTOR, ANY SUPPLIER OR ANY INDIVIDUAL OR ENTITY DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM TO PERFORM SERVICES HEREUNDER OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, SUBJECT TO THE DISTRICT'S DEFENSES AND LIABILITY LIMITS UNDER THE TEXAS TORT CLAIMS ACT OR OTHER APPLICABLE LAW. IN SUCH EVENT, THE CONTRACTOR SHALL ALSO INDEMNIFY AND HOLD HARMLESS THE DISTRICT INDEMNIFIED PARTIES FROM ANY AND ALL REASONABLE AND NECESSARY EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, INCURRED BY THE DISTRICT IN LITIGATING OR OTHERWISE RESISTING SAID CLAIMS, COSTS, OR LIABILITIES. IN THE EVENT THE DISTRICT INDEMNIFIED PARTIES, IS/ARE FOUND TO BE PARTIALLY AT FAULT, THE CONTRACTOR SHALL, NEVERTHELESS, INDEMNIFY THE DISTRICT FROM AND AGAINST THE PERCENTAGE OF FAULT ATTRIBUTABLE TO THE CONTRACTOR OR ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS OR TO THEIR CONDUCT.

17. *Independent Contractor.* Contractor shall at all times act as an independent contractor of the District. No relationship of employer-employee or partnership is created hereby. Although the District shall not have the right or power to control the details of the manner in which the Services are rendered by Contractor, Contractor nonetheless agrees that if the District is at any time dissatisfied with the Services rendered by any subcontractor, agent or employee of Contractor, upon the District's written request any such person shall cease to be associated with the Project or the Services.

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18. *Representations.* Contractor represents that the statements of fact made in Contractor's proposal submitted to District regarding performance of Services, and the factual statements set forth herein, are true and correct. Contractor further acknowledges and agrees that the District is relying upon such representations in entering into this Agreement.

19. *Background Checks.* Upon request of the District, Contractor shall perform background checks on all employees and subcontractors responsible for performing work related to the Project. Background checks shall be at the expense of the District and shall be performed by a qualified vendor approved by the District. In the event a background check discloses information that the District, in its sole discretion, deems unsatisfactory, Contractor agrees to immediately cease using said employee or subcontractor on work related to the Project and Contractor and the District shall meet to agree upon satisfactory resolution.

20. *Governing Law and Venue.* This Agreement is entered into in the State of Texas and shall be governed by Texas law. The performance of the parties hereunder shall occur in Tarrant County, Texas, and exclusive venue of any legal proceeding arising hereunder shall lie in the courts of competent jurisdiction of Tarrant County, Texas.

21. *Taxes.* Contractor shall be responsible for and shall pay all applicable employment, income, payroll, federal and state withholding, FICA, social security, Medicare, federal and state unemployment, and all other taxes relating to the Services or Contractor's business and the District shall have no obligation to report, withhold, or deposit any type of taxes applicable to the Services or Contractor's business.

22. *Notices.* All notices by and between the parties hereto with respect to the subject matter hereof shall be delivered by personal delivery, by certified mail, return receipt requested, or email as follows:

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If to District: Tarrant Regional Water District
Attn: _____
800 East Northside Drive
Fort Worth, Texas 76102
Email: _____

If to Contractor: _____
Attn: _____

Email: _____

Notwithstanding the above, Contractor shall comply with the notice requirement under Section 29(d) below in the event of a cybersecurity breach.

23. *Counterparts.* This Agreement may be executed in one or more counterparts, and may be exchanged by electronic means. It is stipulated and agreed that any counterpart containing a signature of the authorized representatives of the District and Contractor shall be deemed an original for all purposes.

24. *No Waiver of Sovereign Immunity.* Nothing in this Agreement shall be deemed or construed to waive the District's sovereign immunity. Contractor waives any rights he may have under Subchapter I, Chapter 271, Texas Local Government Code.

25. *Entire Agreement.* This Agreement and the attachment(s) hereto constitute the entire agreement between the parties with respect to the subject matter hereof. This Agreement may only be modified by a writing signed by the party sought to be charged thereby. This Agreement shall be binding upon the District only when signed by the District, and shall be of no force and effect until so executed.

26. *Conflict of Interest.* Neither Contractor, nor any of its subcontractors, shall have other interests which conflict with the interests of the District, specifically including, but not limited to: (i) a connection with the sale or promotion of equipment or material which may be used on the Project, or (ii) planning, design or related work for another party on or in support of the Project. Contractor agrees to make reasonable inquiry of all subcontractors concerning the PSA – PROJECT NAME

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existence of or potential for such conflicts and to immediately disclose same to the District. Further, it is stipulated and agreed that in order to avoid potential conflicts of interest Contractor may not pursue or accept planning, design or related work from or for any Project participant for work on or in support of the Project.

27. *Contractor Certifications.*

- a. *Texas Government Code “Boycott Israel” Provisions.* Contractor represents and warrants that Contractor (1) does not, and will not for the duration of this Agreement, boycott Israel or (2) the verification required by Section 2271.002 of the Texas Government Code does not apply to this Agreement. If circumstances relevant to this provision change during the course of the Agreement, Contractor shall promptly notify the District.
- b. *Texas Government Code “Foreign Terrorist Organization” Provisions.* Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
- c. *Texas Government Code “Firearm and Ammunition Verification” Provisions.* Contractor verifies that: (1) it does not, and will not for the duration of this Agreement, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to this Agreement. If circumstances relevant to this provision change during the course of the Agreement, Contractor shall promptly notify the District.
- d. *Texas Government Code “Boycott Energy Company” Provisions.* Contractor represents and warrants that: (1) it does not, and will not for the duration of this

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Agreement, boycott energy companies or (2) the verification required by Section 2276.002 of the Texas Government Code does not apply to this Agreement. If circumstances relevant to this provision change during the course of this Agreement, Contractor shall promptly notify the District.

- e. *Texas Government Code “Disclosure of Interested Parties” Provisions.* If Section 2252.908 of the Texas Government Code applies to this Agreement, Contractor represents and warrants that Contractor has submitted to the District a Certificate of Interested Parties prior to execution of this Agreement.

28. Federal Grant Provisions.

- a. This Agreement abides by all applicable procurement standards (2 CFR 200.317-327).
- b. The Contractor agrees that the services provided under this Agreement will comply with the Clean Air Act (42 U.S.C. Chapter 85).
- c. This Agreement abides by the Federal Water Pollution Control Act (33 U.S.C. Chapter 1251-1387).
- d. Federal Debarment, Suspension and Ineligibility (FAR Subpart 9.4) requirements apply to the services provided under this Agreement.
- e. The Contractor agrees to comply with Federal requirements for Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (FAR Subpart 52.203-11).
- f. The Contractor agrees to comply with Federal requirements for Certification Regarding Lobbying and Disclosure of Lobbying Activities pursuant to 31 U.S.C. 1352, in accordance with and set forth in Exhibit “C” attached hereto and incorporated by reference.

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29. Cybersecurity. This Cybersecurity clause shall apply if Contractor has access to District Technology as defined herein:

- a. Contractor represents and warrants that it will comply with the District's Acceptable Use Procedures and Cybersecurity Procedures, including amendments and modifications thereto.
- b. The Contractor and each employee or subcontractor of Contractor with physical, virtual or remote access to District Technology or data shall complete a cybersecurity training program. The cybersecurity training program must include, at a minimum: (i) definition of cybersecurity, (ii) understanding of cybersecurity, (iii) email security, (iv) social engineering, (v) wireless security, (vi) protection and understanding of data, (vii) password management, (viii) physical security, and (ix) how to report suspected or real data breaches. District Technology shall be defined as the District's computer systems, the District's data or databases.
- c. Annually during the term of this Agreement and any renewal periods, Contractor shall submit a certification to the District in the form attached hereto as Exhibit D ("Cybersecurity Certification"), certifying completion of a cybersecurity training program by each employee or subcontractor of Contractor. The District may, at its sole discretion, immediately terminate physical, virtual or remote access to District Technology or data if Contractor fails to submit required Cybersecurity Certification(s).
- d. If at any time Contractor experiences a confirmed breach which includes, but is not limited to, password compromise, data exfiltration, cyber destruction, financial loss due to a breach, phishing compromise, malware or software intrusion, Contractor shall immediately notify the District at 817-720-4584. In addition, District may utilize its own resources to determine if an unreported breach has occurred.

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e. The Contractor, as well as any employee, subcontractor, or agent acting under the authority of the Contractor, shall be required to utilize Multi-Factor Authentication¹ when requesting access to any technology systems or data repositories belonging to the District. Furthermore, any data or information belonging to the District that is stored on the Contractor's technology infrastructure must be secured and safeguarded through the implementation of Multi-Factor Authentication.

f. **WITHOUT LIMITING IN ANY WAY ANY OTHER RIGHTS OF THE DISTRICT, CONTRACTOR FURTHER AGREES TO INDEMNIFY AND HOLD HARMLESS THE DISTRICT INDEMNIFIED PARTIES OF AND FROM ANY CLAIM, LOSS, DAMAGE, RIGHT, OR CAUSE OF ACTION RESULTING FROM ANY CONTRACTOR CYBERSECURITY BREACH OR ANY FAILURE OF CONTRACTOR, OR CONTRACTOR'S EMPLOYEES, SUBCONTRACTOR, SUPPLIER OR ANY INDIVIDUAL OR ENTITY DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, TO COMPLY WITH THIS SECTION 29.**

¹ Multi-Factor Authentication (MFA) is a security process requiring multiple distinct factors to verify a user's identity. Phish-resistant MFA combines an approved authentication application or service with an additional factor like a PIN or biometric. An example is Microsoft Authenticator, where the user approves sign-in by matching a number displayed on their device to the prompt, serving as the second factor.

DISTRICT:

TARRANT REGIONAL WATER DISTRICT, a Water Control and Improvement District

By: _____
Printed Name: _____
Title: _____

CONTRACTOR:

This Agreement is our Standard Contract and no changes or alterations will be considered.

By: _____

Printed Name: _____

Title: _____