

#15,396

FILED FOR RECORD
at 3:20 o'clock P.M.
DEC 21 2018
JENNIFER LINDENZWEIG
By Clerk Hunt County, TX

**INTERLOCAL AGREEMENT
FOR
DEVELOPMENT OF HAZARD MITIGATION ACTION PLAN**

THIS INTERLOCAL AGREEMENT (“ILA” or “Agreement”), made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the “Act”), by and between the North Central Texas Council of Governments, hereinafter referred to as “NCTCOG,” having its principal place of business at 616 Six Flags Drive, Arlington, TX 76011, and the County of Hunt, a local government, a state agency, or a non-profit corporation created and operated to provide one or more governmental functions and services, hereinafter referred to as “Participant,” having its principal place of business at 2507 Lee Street, Greenville, Texas

WHEREAS, NCTCOG is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code; and

WHEREAS, pursuant to the Act, NCTCOG is authorized to contract with eligible entities to perform governmental functions and services; and

WHEREAS, in reliance on such authority, NCTCOG applied and has been approved by the Texas Division of Emergency Management (TDEM) and the Federal Emergency Management Agency (FEMA) to develop hazard mitigation action plans (“Plans”) for Erath County, Hood County, and Hunt County under grant project number PDM-17-001; and

WHEREAS, the Participant has represented that it is an eligible entity under the Act, that its governing body has authorized this Agreement on December 21, 2018, and that it desires to contract with NCTCOG on the terms set forth below.

NOW, THEREFORE, NCTCOG and the Participant do hereby agree as follows:

ARTICLE 1: LEGAL AUTHORITY

The Participant represents and warrants to NCTCOG that it is eligible to contract with NCTCOG under the Act for the purposes recited herein because it is one of the following: a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas or any other state, or a combination of two or more of those entities, a state agency (an agency of the State of Texas as defined in Section 771.002 of the Texas Government Code, or a similar agency of another state), or a non-profit corporation created and operated to provide one or more governmental functions and services, and it possesses adequate legal authority to enter into this Agreement.

ARTICLE 2: SCOPE OF SERVICES

The Participant by this agreement authorizes NCTCOG on its behalf to develop hazard mitigation action plans according to the CFDA 97.047 Pre-Disaster Mitigation Grant Program (PDM) (“Products” or “Services”). The parameters of the program as well as the Plans are described in the addendum and attachment to this Agreement which are incorporated herein for all purposes.

ARTICLE 3: PARTICIPANT OBLIGATIONS

The Participant agrees to cooperate fully with NCTCOG in the development of the hazard mitigation action plan(s) for its jurisdiction, including but not limited to (a) furnishing NCTCOG with various technical data, general information, demographic statistics, and other relevant reports and data necessary for the development of the plan, and (b) furnish NCTCOG on a quarterly basis information or funding needed by NCTCOG to satisfy the 25% local match obligation under the PDM grant.

ARTICLE 4: PERFORMANCE PERIOD

This Agreement shall be effective when signed by the last party who's signing makes the Agreement fully executed and will remain in full force and effect until project completion, estimated as March 31, 2021, unless terminated earlier as herein provided.

ARTICLE 5: CHANGES AND AMENDMENTS

This Agreement may be amended only by a written amendment executed by both parties, except that any alternations, additions, or deletions to the terms of this Agreement which are required by changes in Federal and State law or regulations are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation.

ARTICLE 6: TERMINATION PROCEDURES

NCTCOG or the Participant may cancel this Agreement for any reason and at any time upon thirty (30) days written notice to the other party to this Agreement. The obligation of the Participant to complete any outstanding items from the Scope of Services, shall survive such cancellation.

ARTICLE 7: APPLICABLE LAWS

NCTCOG and the Participant agree to conduct all activities under this Agreement in accordance with all applicable rules, regulations, and ordinances and laws in effect or promulgated during the term of this Agreement.

ARTICLE 8: SEVERABILITY

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

ARTICLE 9: FORCE MAJEURE

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance. In such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed; provided, however, force majeure shall not excuse an obligation solely to pay funds.

ARTICLE 10: WHOLE AGREEMENT

This Agreement and any attachments/addendums, as provided herein, constitute the complete agreement between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

ARTICLE 11: DISPUTE RESOLUTION/NO WAIVER OF IMMUNITY

The parties to this Agreement agree to the extent possible and not in contravention of any applicable state or federal law or procedure established for dispute resolution, to attempt to resolve any dispute between them regarding this Agreement informally through voluntary mediation, arbitration, or any other local dispute mediation process before resorting to litigation. Neither party by entering into this agreement waives the defense of sovereign immunity to the extent applicable to this agreement.

ARTICLE 12: AVAILABILITY OF FUNDING

This Agreement and all claims, suits, and/or obligations arising under or related to this Agreement are subject to and limited by the receipt and availability of funds which are received by NCTCOG from the funding agencies and that are dedicated for the purposes of this Agreement. Under no circumstances does this Agreement create any financial obligation of NCTCOG to Participant.

ARTICLE 13: MISCELLANEOUS

- a. This Agreement has been made under and shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under, or in connection with, this Agreement shall lie exclusively in Tarrant County, Texas.
- b. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective entities.
- c. This Agreement and the rights and obligations contained herein may not be assigned by either party without the prior written approval of the other party to this Agreement.

THIS INSTRUMENT HAS BEEN EXECUTED IN TWO ORIGINALS BY THE PARTIES HERETO AS FOLLOWS:


**North Central Texas
Council of Governments
Emergency Preparedness Department
616 Six Flags Drive
Arlington, Texas 76011**

Molly McFadden
NCTCOG Emergency Preparedness Director or Designee

Signature of NCTCOG Emergency Preparedness Director or Designee

Date: _____

Jim Latham
County Judge Pro Tem, Hunt County



Signature of County Judge Pro Tem, Hunt County

Date: 12-21-18

Addendum A

The following project, financial, and reporting conditions apply to this grant award and each element must be met during the performance period:

- 1) The final local hazard mitigation action plan (“Plan”) must meet or exceed the Final Rule for local mitigation planning found in 44CFR § 201.6 in order to be Federal Emergency Management Agency (FEMA) approved.
- 2) NCTCOG will use the FEMA Local Mitigation Plan Review Guide (dated October 1, 2011) and the Local Mitigation Plan Review Tool for Local and State Use, Section 1: Regulation Checklist, provided by the Texas Division of Emergency Management (TDEM) to ensure the Plan meets requirements set forth by FEMA and TDEM.
- 3) The natural hazards assessed in the Plan must be coordinated with the current FEMA-approved State of Texas Hazard Mitigation Action Plan.
- 4) NCTCOG will submit the Plan to TDEM no later than 12 months prior to the end of the performance period; the Plan will be submitted to FEMA for review and approval following TDEM review and concurrence that the plan meets the 44CFR criteria. FEMA will not review plans submitted directly by NCTCOG or the Participant.
- 5) Each participant in the Plan must meet all the requirements and conclude its performance with an adoption resolution in order to receive continued eligibility for FEMA mitigation grant programs.
- 6) The period of performance (POP) is 36 months. The project, including FEMA approval and local adoption, must be completed by March 31, 2021. If due to extenuating circumstances the project cannot be completed within this POP, NCTCOG and/or the Participant must request an extension in writing and submit it to TDEM 90 days prior to March 31, 2021.
- 7) The Participant will, at a minimum, submit match documentation each quarter to NCTCOG. Match documentation must be submitted to NCTCOG no later than March 31, June 30, September 30, and December 31 of each year until the project is completed.

Attachment: PDM-17-001 In-Kind Match Report.