

INTERLOCAL AGREEMENT FOR
MITIGATION AND RECOVERY COORDINATOR

THE STATE OF TEXAS §
 §

FISCAL YEAR 2022-2023

COUNTY OF WISE §

THIS AGREEMENT is made and entered into by and between the CITY OF DECATUR, TEXAS (hereinafter referred to as "CITY"), and WISE COUNTY, TEXAS, on behalf of Emergency Management (hereinafter referred to as "COUNTY") and is effective as of the date fully executed.

RECITALS

WHEREAS, Chapter 791 of the TEXAS GOVERNMENT CODE, also known as the INTERLOCAL COOPERATION ACT, authorizes all local governments to contract with each other to provide a governmental function or service that each party to the contract is authorized to perform individually and in which the contracting parties are mutually interested, such as police protection and public health and welfare; and

WHEREAS, DECATUR is organized under the laws of Texas and is authorized to enter into this agreement pursuant to its CITY CHARTER; and

WHEREAS, WISE COUNTY is duly organized and functioning in accordance with the laws of the State of Texas; and

WHEREAS, CITY and COUNTY represent that each is independently authorized to perform the functions contemplated by this Agreement; and

WHEREAS, the COUNTY operates an Office of Emergency Management in its normal duties to prepare, prevent, plan, respond to and recover from threatened or actual disasters, acts of terrorism, or other man-made disasters in accordance with Chapters 418 and 421 of the Local Government Code; and

WHEREAS, the CITY and COUNTY share the need to expand mitigation and recovery programs and are not able to provide for these services individually; and

WHEREAS, each party has sufficient funds available from current revenues to perform the function contemplated by this Agreement; and

NOW, THEREFORE in consideration of the above recitals, mutual benefits and promises each to the other made herein, the parties named above do hereby agree as follows:

INCORPORATION OF RECITALS

The above recitals, having been found by the Parties to be true and correct in all respects are incorporated into this Agreement by reference.

COUNTY'S OBLIGATION/SCOPE OF SERVICES

A. COUNTY agrees to employ, provide benefits for, and office a full time Mitigation and Recovery Coordinator.

B. At the COUNTY's sole discretion, the Mitigation and Recovery Coordinator will provide services within the corporate limits of the CITY, in a manner to be determined by the City Manager and/or City Emergency Management Coordinator, and County Judge and/or County Emergency Management Coordinator. In no event, however, will CITY be responsible to supervise the Mitigation and Recovery Coordinator or be considered as a Joint Employer.

Further, the COUNTY and CITY will meet annually to determine if services provided are in accordance with expectations and make changes as they deem necessary.

CITY'S OBLIGATIONS

A. CITY shall fully cooperate with COUNTY in the provision of Mitigation and Recovery Services, including but not limited to; providing access to financial information necessary for the development of mitigation and/ or recovery projects and, allowing access to city facilities and/or personnel as needed.

B. CITY agrees to furnish information to the COUNTY in a timely and expeditious manner.

CITY RIGHTS PRESERVED

Nothing in this Agreement shall divest, diminish or affect the CITY's authority to develop, write, submit or manage projects related to mitigation and/or recovery services independent of the COUNTY.

CONSIDERATION

A. In consideration for the COUNTY's performance of the obligations and services listed herein, the CITY shall pay out of current available funds twelve (12) equal payments of two thousand nine hundred and seventeen dollars a month (\$2, 917.00) or; one (1) lump sum payment of thirty-five thousand dollars (\$35,000) provided within the first quarter of the fiscal year.

NOTICE OF NONAPPROPRIATION

If, for any fiscal year, the Parties fail to appropriate funds in amounts sufficient to perform its obligations under this Agreement, the Parties shall promptly give notice of the non-appropriation of funds. Parties shall make a reasonable effort to ensure that funds are appropriated to fully carry out its obligations as set forth in this Agreement. The Parties shall endeavor to provide thirty (30) days' notice of its intent not to appropriate the necessary funds for its performance of obligations under this Agreement.

DEFAULT

In the event the CITY fails to pay all costs set forth above or perform its obligation set forth herein, the COUNTY shall give the CITY a thirty (30) day written notice of default with an opportunity to cure such default within that time period. If CITY fails to cure such default during the stated period, the Agreement

shall terminate and CITY shall assume responsibility for its own Mitigation and Recovery Programs. In the event the COUNTY fails to perform its services under this agreement, the CITY has all available options under the termination and dispute resolution sections of this Agreement.

TERM AND RENEWAL TERMS

The effective date shall be the later of the dates this agreement is ratified by the last party to sign or October 1, 2022 and shall renew at midnight of September 30, 2023. After this initial term, this agreement will automatically renew at midnight every September 30, for a yearly term unless it is terminated by one of the below terms.

TERMINATION

A. **By Mutual Agreement:** This Agreement may be terminated by mutual agreement of the CITY and the COUNTY, as evidenced by a written termination agreement.

B. **For Non-appropriation of funds:** As mentioned above, if the Parties fails to appropriate funds necessary for performance of the obligations under this Agreement, the other Party may terminate this Agreement.

C. **By Either party:** This agreement may be terminated at any time for convenience or fault upon thirty (30) days' written notice to the other party. All costs and liabilities incurred by the COUNTY on behalf of the CITY prior to termination shall be the responsibility of the CITY.

GENERAL APPORTIONMENT OF RESPONSIBILITY AND IMMUNITY

IN THE EVENT OF JOINT OR CONCURRENT NEGLIGENCE OF THE PARTIES, RESPONSIBILITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO EITHER PARTY INDIVIDUALLY UNDER TEXAS LAW. THE CITY SHALL BE RESPONSIBLE FOR ITS SOLE NEGLIGENCE. THE COUNTY SHALL BE RESPONSIBLE FOR ITS SOLE NEGLIGENCE. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON.

FINANCIAL RESPONSIBILITY

The development of Mitigation and Recovery Projects may include the application and project management for, but not limited to; private, state, and federal grants. Fiduciary responsibility for the project will lie with the COUNTY or CITY, depending upon who the project was developed for. This includes but is not limited to; matching funds, upfront cost for reimbursement, and/or recaptured funds deemed ineligible.

INDEPENDENT CONTRACTOR

A. The COUNTY shall be responsible for the Mitigation and Recovery Services contemplated under this Agreement. The COUNTY shall supply all materials, equipment, tools, transportation, and labor required for or reasonably incidental to the performance of the Mitigation and Recovery Services. The COUNTY shall have ultimate control over the execution of the work under this Agreement. The COUNTY shall have the sole obligation to employ, direct, control, supervise, manage, discharge and compensate all of its employees, including the Mitigation and Recovery Coordinator.

B. The COUNTY shall retain personal control and shall give its personal attention to the faithful

prosecution and completion of its services and fulfillment of this Agreement.

DISPUTE RESOLUTION

A. **Dispute Resolution Process.** Before commencing formal legal proceedings concerning any dispute arising under or relating to this Agreement, or any breach thereof, the Parties agree to observe the following Dispute Resolution Process.

B. **Notice.** A written complaint which contains sufficient detail to clearly identify the problems giving rise to the dispute, and the responding Party shall have a reasonable opportunity to respond.

C. **First Resolution Meeting.** After consulting with and obtaining input from the appropriate individuals so as to facilitate a complete discussion and proposed solution, the Parties shall schedule a meeting and designate representatives to attend such meeting to attempt to facilitate an agreed resolution.

D. **Second Resolution Meeting.** If the Parties' designated representatives cannot reach an agreed resolution, the following representatives shall meet to discuss the matter: CITY: City Manager and/or Mayor and/or City Emergency Management Coordinator; COUNTY: County Judge and/or County Emergency Management Coordinator.

E. **Successful Resolution.** If resolution is made it shall be reduced to a written agreement to be approved by each side's governing body. If approved, the written agreement will become an amendment to the original agreement. However, it will not supersede any term or condition except those dealing with the subject matter of the dispute.

F. **Unsuccessful Resolution.** If all above options are completed and the Parties are unable to reach a resolution, either Party may pursue all legal and equitable remedies available to it under Texas law.

GENERAL PROVISIONS

A. **Severability Clause.** The Parties intend for the various provisions of this Agreement to be severable so the invalidity, if any, of one or more sections of this Agreement shall not affect the validity of the remaining provisions of the Agreement.

B. **Counterparts.** This document may be executed in any number of original signature counterparts, each of which shall for all purposes be deemed an original, and all such counterparts shall constitute one and the same document.

C. **Notices.**

To COUNTY: Any Notice permitted or required to be given to the COUNTY hereunder must be in writing and may be given by Certified United States Mail, Return Receipt Requested, postage prepaid, addressed to:

Wise County
P.O. Box 899
Decatur, Texas 76234

To CITY: Any notice permitted or required to be given to the CITY hereunder must be in writing and may be given by Certified United States Mail, Return Receipt Requested, postage prepaid, addressed to:

City of DECATUR
City Manager
201 E. Walnut Street
DECATUR, TX 76234

Any notice permitted or required to be given hereunder shall be deemed to have been given upon deposit of the notice in the United States Mail as aforesaid.

D. Authority of Signatories. Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement.

E. Governing Law/Venue. This Agreement shall be interpreted in accordance with the laws of the State of Texas and Wise County is the proper venue for any action regarding this contract.

F. Entirety of the Agreement and Modifications: This agreement represents the entire and integrated agreement between the CITY and the COUNTY and supersedes all prior negotiations, representations and/or agreements, either written or oral. This agreement may be amended only by mutual agreement of the parties made in writing.


DATED: 10/11/12

WISE COUNTY

BY: 
Wise County Judge

DATED: 10/16/22

CITY OF DECATUR

BY: 
Mayor