

LOCAL AIR QUALITY TRAFFIC SIGNAL OR BICYCLE/PEDESTRIAN REGIONAL  
CONNECTION OR PARK-AND-RIDE FACILITY PROJECT

*Program Implementation and Administration*

**AGREEMENT COVER SHEET**

TYPE OF AGREEMENT: Interlocal Cooperative Agreement between the North Central Texas Council of Governments and the Sponsoring Entity for a Traffic Signal or Bicycle/Pedestrian Regional Connection or Park-and-Ride Facility Project

AGREEMENT PERIOD: Signature date through closure

AGREEMENT AMOUNT: See Appendix A

**Awarding Party**

North Central Texas Council of Governments  
616 Six Flags Drive, Suite 200, Center Point Two  
P. O. Box 5888  
Arlington, Texas 76011

**Contact Person**

Name  
Title  
Phone  
Email

**Public Sector Sponsor**

Sponsor  
Address  
City, Texas Zip

**Contact Person:**

Name  
Number



**INTERLOCAL COOPERATIVE AGREEMENT**  
**Between**  
**THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS**  
**and**  
**(THE NAME OF THE SPONSORING AGENCY)**  
**for**  
**TRAFFIC SIGNAL OR BICYCLE/PEDESTRIAN REGIONAL CONNECTION OR PARK-AND-  
RIDE FACILITY**

WHEREAS, the North Central Texas Council of Governments (NCTCOG) has been designated as the Metropolitan Planning Organization for the Dallas-Fort Worth Metropolitan Area by the Governor of Texas in accordance with federal law; and,

WHEREAS, the Regional Transportation Council (RTC), comprised primarily of local elected officials, is the regional transportation policy body associated with NCTCOG and has been and continues to be a forum for cooperative decisions on transportation; and,

WHEREAS, it is the goal of the RTC to encourage the implementation of projects to reduce vehicle emissions that create ozone; and,

WHEREAS, on April 14, 2005, the RTC approved funding for implementation of a Local Air Quality Program in the Dallas-Fort Worth Metropolitan Area for the implementation of projects and programs that address the federal 8-hour ozone standard; and,

WHEREAS, on July 13, 2006 [or September 14, 2006], the RTC awarded funds to Name of Public Sponsor for Traffic Signal or Bicycle/Pedestrian Regional Connection or Park-and-Ride Facility projects; and,

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code provides authority for the North Central Texas Council of Governments, and Name of Public Sponsor to enter into this agreement for the provision of governmental functions and services of mutual interest;

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

**1. Parties**

- 1.1. This Interlocal Agreement, hereinafter referred to as the "Agreement", is made and entered into by and between the North Central Texas Council of Governments, hereinafter referred to as "NCTCOG", and the Public Sector Sponsor, Public Sponsor, hereinafter referred to as the "SPONSOR". NCTCOG and the SPONSOR may each be referred to as a "Party", and may be collectively referred to as "Parties" to this agreement.

## 2. Terms of Agreement

- 2.1. **Scope of Service.** The SPONSOR covenants and represents to the NCTCOG that the SPONSOR shall implement **Traffic Signal or Bicycle/Pedestrian Regional Connection or Park-and-Ride Facility** projects as provided for in Appendix A hereinafter referred to as the “**SCOPE**”.
- 2.2. Changes to the SCOPE must be agreed to by both parties, in writing.
- 2.3. SPONSOR agrees that emissions reductions provided by each SCOPE Activity may be used by NCTCOG to meet air quality requirements and goals.
- 2.4. **Notice to Proceed.** A Notice to Proceed shall be issued for each SCOPE Activity upon receipt of Local Match payment and completion of Notice to Proceed Prerequisites as identified in the SCOPE. A Notice to Proceed shall not be issued for any SCOPE Activity prior to the Funding Year as identified in the SCOPE.
- 2.5. **Time of Performance.** The SPONSOR shall not commence performance of any SCOPE Activity, nor incur any costs or obligations associated with those services, until the SPONSOR has received a written Notice to Proceed from NCTCOG for the SCOPE Activity. All work and services required by this Agreement shall be completed in a reasonable period of time in accordance with RTC policies.
- 2.6. **Termination.** Either party reserves the right to terminate this Agreement in whole or in part. Notice of termination must be provided in writing, shall set forth the reasons for termination, and shall provide for a minimum of 30 days to cure the defect. Termination is effective only in the event the party fails to cure the defect within the period stated in the termination notice including any written extensions. If the Agreement is terminated, NCTCOG shall only be liable for payment for services rendered before the effective date of termination, plus reasonable contract closeout costs, as mutually agreed upon.  
  
The Parties may terminate this Agreement at any time by mutual written concurrence. Parties also agree that should a necessitated switch from local funds to federal funds occur for any SCOPE Activities, this agreement will be terminated with respect to those SCOPE Activities.
- 2.7. **Unused Local Match.** Upon completion of any SCOPE Activity or termination of the Agreement, any remaining Local Match funds provided by the SPONSOR may be returned to the SPONSOR or may be used as a Local Match payment for another project or SCOPE Activity awarded funds by RTC, at the discretion of the SPONSOR.
- 2.8. **Closeouts.** Closeouts shall occur upon completion of all SCOPE Activities and complete receipt of payment and submittal of final closeout reports. Closeout of this Agreement does not invalidate any continuing obligations imposed by this Agreement.

### 3. Amendments

- 3.1. **Agreement.** This Agreement embodies all of the agreements of the parties relating to its subject matter, supersedes all prior understandings and agreements regarding such subject matter.
- 3.2. **Severability.** In the event any one or more of the provisions contained in this Agreement shall be for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision(s) hereof, and this Agreement shall be revised so as to cure such invalid, illegal, or unenforceable provision(s) to carry out as near as possible the original intent of the Parties.
- 3.3. **Changed Circumstances.** If future federal, State, or local statute, ordinance, regulation, rule, or action render this Agreement, in whole or in part, illegal, invalid, unenforceable, or impractical, the parties agree to delete and/or to modify such portions of the Agreement as are necessary to render it valid, enforceable, and/or practical. Each section, paragraph, or provision of this Agreement shall be considered severable, and if, for any reason, any section, paragraph, or provision herein is determined to be invalid under current or future law, regulation, or rule, such invalidity shall not impair the operation of or otherwise affect the valid portions of this instrument.
- 3.4. **Modifications.** Modifications to this Agreement must be agreed to in writing.
- 3.5. **Other Funding Awards.** In the event that a SCOPE Activity is awarded funding under another federal or state program, that SCOPE Activity may no longer be eligible to receive reimbursement under this agreement and the SCOPE shall be modified to reflect this change.

### 4. Budget

- 4.1. **Funding.** NCTCOG shall reimburse the eligible and allowable expenses of each SCOPE Activity in an amount not to exceed the awarded funds identified in Appendix A. Funds may not be available for reimbursement prior to the fiscal year (October 1<sup>st</sup> through September 30<sup>th</sup>) as identified in the SCOPE.
- 4.2. **Match.** The SPONSOR shall provide the required local match for each SCOPE Activity as outlined in Appendix A. The SPONSOR shall provide a check payable to the North Central Texas Council of Governments in the amount specified in Appendix A. A Notice to Proceed for each SCOPE Activity will not be issued unless or until the local match for that SCOPE Activity has been received. If the local match amount for any SCOPE Activity has not been received within two (2) years of the date this Agreement is executed, NCTCOG reserves the right to reprogram funding.
- 4.3. **Cost Overruns.** The SPONSOR is responsible for any cost overruns.

- 4.4. Unused Funds.** In the event that a SCOPE Activity is completed for less than the total awarded funding as identified in the SCOPE, any unused local funds shall be returned to the SPONSOR, except as directed by the SPONSOR under paragraph 2.7, and the remaining RTC/Local funds shall be reprogrammed by the RTC.

## 5. Payments

- 5.1. Reimbursement.** Reimbursement shall be made upon completion of each SCOPE Activity and at the end of the NCTCOG fiscal year (October 1<sup>st</sup> through September 30<sup>th</sup>). Invoices shall be submitted by October 15<sup>th</sup> of each year for each SCOPE Activity for work performed but not invoiced during the previous fiscal year. Upon completion of each SCOPE Activity, including completion of SCOPE Activity Closeout Requirements, invoices shall be submitted for any work not previously reimbursed.
- 5.2. Required Documentation.** Requests for reimbursement shall include an itemized list of expenses for which reimbursement is requested, as well as supporting documentation. Expenses should be grouped according to the SCOPE Activity for which the expense was incurred and a SCOPE Activity Number or **Location Reference Number [for Traffic Signal Projects]** should be indicated for each expense.
- 5.3. Eligible Expenses.** Costs must be determined by NCTCOG to be the reasonable, necessary, actual, and eligible costs of conducting the SCOPE Activity. Expenses related to utility relocation will not be eligible for reimbursement.
- 5.4. Availability of Funds.** This Agreement and all claims, suits, or obligations arising under or related to this Agreement are subject to and limited to the receipt and availability of RTC/Local funds. If RTC/Local funds are not available due to a default of local funds being paid to NCTCOG, the SCOPE shall be modified to reflect the reduced availability of funds.

## 6. Rights

- 6.1. Authority.** The SPONSOR shall have no authority to act for or on behalf of the NCTCOG except as expressly provided for in this Agreement; no other authority, power, use, or joint enterprise is granted or implied. The SPONSOR may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of NCTCOG
- 6.2. Assignment.** Without the prior written consent of the NCTCOG, the SPONSOR may not transfer or assign any rights or responsibilities under or any interest in this Agreement.

## 7. Miscellaneous Provisions

**7.1. Indemnification.** To the extent authorized by law, the SPONSOR shall indemnify, save and hold NCTCOG/RTC, its officials, officers, and employees harmless from any and all actions, obligations, claims, damages, expenses, costs of any kind, debts, negligence, and liabilities arising from, or in any way related to, acts or omissions of the SPONSOR, its employees, volunteers, subcontractors, or clientele, in the performance of, or failure to perform under, this Agreement.

To the extent authorized by law, the SPONSOR shall indemnify, save and hold NCTCOG/RTC, its officials, officers, and employees harmless for any damages, including that of personal injury, death, or property for any reason associated with implementation of the SCOPE Activities described under this Agreement.

**7.2. Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that, if the performance of any provision of this Agreement is delayed by force majeure, defined as reason of war, civil commotion, act of God, governmental restriction, regulation or interference, fire, explosion, hurricane, flood, failure of transportation, court injunction, or any circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated herein, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the period of time applicable to such requirement shall be extended for a period of time equal to the period of time such party was delayed. Each party must inform the other in writing within reasonable time of the existence of such force majeure.

**7.3. Contractual Relationship.** It is understood and agreed that the relationship described in this Agreement between the parties is contractual in nature and is not to be construed to create a partnership of joint venture or agency relationship between the parties. Nor shall any party be liable for any debts incurred by the other party in the conduct of such other party's business or functions.

**7.4. Guidelines and Procedures.** The SPONSOR agrees to implement and manage all SCOPE Activities in accordance with operating standards and procedures established by SPONSOR's governing body.

**7.5. Insurance.** The SPONSOR shall comply with the insurance requirements imposed by State and local laws, regulations, and ordinances.

**7.6. Captions.** The captions, headings, and arrangements used in this Agreement are for convenience only and shall not in any way affect, limit, amplify, or modify its terms and provisions.

**7.7. Disputes and Remedies.** The SPONSOR and NCTCOG shall negotiate in good faith toward resolving any disputes that arise under this Agreement.

**7.8. Public Comment Process.** Public meeting and public hearing notices regarding this project shall be provided to NCTCOG within five (5) days of publication.

Meeting minutes, summaries of communication, and copies of written responses to public comments and questions shall be transmitted to the NCTCOG Contact Person as identified on the Agreement Cover Sheet within thirty (30) days following the meeting

**7.9. Notice.** Notices to either party by the other party required under this Agreement shall be in writing and delivered to the addresses shown below. A copy shall concurrently be provided to the Contact Person, provided on the Agreement Cover Sheet, of the party receiving notice.

NCTCOG

**Mailing Address:**

Michael Morris, P.E., Transportation Director  
North Central Texas Council of Governments  
Transportation Department  
P.O. Box 5888  
Arlington, Texas 76005-5888

Telephone No.: (817) 695-9240  
Facsimile No.: (817) 640-3028

**Physical Address:**

Michael Morris, P.E., Transportation Director  
North Central Texas Council of Governments  
Transportation Department  
616 Six Flags Drive  
Arlington, Texas 76011

SPONSOR

**Mailing Address:**

Name, Title  
Public Sector Partner  
Address

Telephone No.:  
Facsimile No.:

**Physical Address:**

Name, Title  
Public Sector Partner  
Address

The above contact information, or the contact information provided on the Agreement Cover Sheet, may be modified without requiring an amendment to the Agreement.

## 8. Subcontracting

- 8.1.** All work and services required hereunder will be performed by the SPONSOR, or under its supervision, and SPONSOR shall ensure that all personnel engaged in the performance of work or services shall be fully qualified and properly authorized or licensed under the applicable federal, state and local law, statutes, and ordinances to perform such work or services.
- 8.2.** The SPONSOR shall ensure that the services performed under all subcontracts comply with all terms and conditions of this Agreement as if the SPONSOR performed such services. Where the SPONSOR contracts with another entity or individual, including a subgrantee or recipient (Subcontractor), to perform any or all of the SCOPE, the SPONSOR will enter written contractual agreements requiring the Subcontractor to comply with the provisions of this Agreement.
- 8.3.** The SPONSOR shall comply with their Agency set standards and practices when soliciting and acquiring all subcontractors for SCOPE Activities.



## 9. Design Standards/Certification.

- 9.1. **Design Guidelines.** SPONSOR agrees to design, build, and maintain equipment and facilities described in the SCOPE in compliance with standards and procedures established by SPONSOR'S governing body.
- 9.2. **Inspections.** SPONSOR agrees to perform field inspections at appropriate intervals to be determined by SPONSOR to ensure project compliance with the standards and procedures established by SPONSOR'S governing body. Copies of such reports shall be provided to NCTCOG upon request.
- 9.3. **Blueprints/Designs.** The SPONSOR shall provide the NCTCOG with copies and recent updates of any final designs or schematics pertaining to the SCOPE Activities upon request.
- 9.4. The SPONSOR shall ensure that all required documents of the SCOPE Activities, including but not limited to insurance certificates, performance or payment bonds, and required licenses and permits of a SPONSOR or the SPONSOR'S subcontractors be kept on file, current, and available to the NCTCOG upon request. Additionally, any relevant performance documents pertaining to the SCOPE Activities, such as correspondence, evaluations, reports submitted by the subcontractor and/or the SPONSOR'S contract administration team, payment requests, and copies of invoices shall be provided to the NCTCOG upon request.

## 10. Accessibility and Maintenance of Records

- 10.1. The SPONSOR shall maintain a record keeping system for all of its activities, including program records and financial management records, which support and document all expenditures of funds made under this Agreement, in accordance with federal regulations, state rules, and the Interlocal Cooperative Agreement. This section shall not be interpreted to require maintenance of multiple exact duplicate copies of any record or document.
- 10.2. All records must be maintained for a minimum of three (3) years after SCOPE closeout. In the event that any litigation or claim is still pending before the expiration of the three-year period, these records shall be retained until resolution of the litigation or claim. NCTCOG and their duly authorized agents shall have access to all records that are directly applicable to this agreement for the purpose of making audit(s) examinations.

## 11. Audits or Evaluations

- 11.1. The SPONSOR shall provide NCTCOG, for its review, a copy of any audit received as a result of SPONSOR policy or audits of federal and state governments relating to the expenditure of reimbursement funds under this Agreement. Such audits shall include or be accompanied by any applicable audit management letter issued and applicable responses to the auditor's findings and

recommendations. All audits shall be submitted to NCTCOG within thirty (30) days of receipt of each issued report.

- 11.2. NCTCOG reserves the right to conduct financial and program monitoring of all awards to the SPONSOR and to perform an audit of all records, related to this Agreement. An audit by NCTCOG may encompass an examination of all financial transactions, all accounts and reports, as well as an evaluation of compliance with the terms and conditions of this Agreement.

## 12. Reports

- 12.1. Annually and upon completion of each SCOPE Activity, the SPONSOR shall provide to NCTCOG a written progress report for work completed on SCOPE Activities.
- 12.2. Upon request from NCTCOG and as identified in the SCOPE, the SPONSOR shall provide reports on the status of the SCOPE Activities.

## 13. Assurances

- 13.1. **Equal Employment Opportunity.** The SPONSOR shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The SPONSOR shall take affirmative actions to ensure that applicants are employed, and that employees are treated, during their employment, without regard to their race, religion, color, sex, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 13.2. **Nondiscrimination on the Basis of Disability.** The SPONSOR agrees that no otherwise qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under the project. The SPONSOR shall insure that all fixed facility construction or alteration and all new equipment included in the project comply with applicable regulations regarding Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance, set forth in 49 CFR, Part 27 and any amendments thereto.
- 13.3. **Interest of Public Officials.** No member, officer, or employee of the public body or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.
- 13.4. **Noncollusion.** The SPONSOR warrants that it has not employed or retained any company or person, other than a bona fide employee or agent working for it, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee or agent, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. If the SPONSOR breaches or violates this warranty, NCTCOG shall have the right to

annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, brokerage fee, gift, or contingent fee.

- 13.5. **Gratuities.** Any person doing business with or who, reasonably speaking, may do business with NCTCOG under this Agreement may not make any offer of benefits, gifts or favors to employees of NCTCOG. Failure on the part of the SPONSOR to adhere to this policy may result in termination of this Agreement.
- 13.6. **Debarment/Suspension.** The SPONSOR is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. The SPONSOR and its subcontractors shall comply with Federal and State regulations regarding Debarment and Suspension. The SPONSOR shall include a statement of compliance with Federal and State Debarment and Suspension regulations in Third-Party contracts.
- 13.7. **Restrictions on Lobbying.** The SPONSOR is prohibited from using funds awarded under this agreement for lobbying purposes. The SPONSOR shall include a statement of compliance with this provision in applicable procurement solicitations and Third-Party contracts.
- 13.8. **Disadvantaged Business Enterprise.** The SPONSOR shall comply with SPONSOR'S policies and procedures regarding Disadvantage Business Enterprise (DBE) participation in carrying out this Agreement. Upon request, SPONSOR shall report DBE participation.
- 13.9. **Compliance with Regulations.** During the performance of this Agreement, the SPONSOR, for itself, its assignees, and successors agrees to comply with all applicable local, state, and federal regulations.
- 13.10. **Copyrights.** Except as otherwise provided in the terms and conditions of the Agreement, NCTCOG is free to copyright any books, publications, or other copyrightable materials developed in the course of this Agreement. Except as otherwise provided in the terms and conditions of the Agreement, the NCTCOG shall reserve a royalty-free nonexclusive and irrevocable right to produce, publish, or otherwise use, and to authorize others to use, the work for government purposes.
- 13.11. **Constitutional Prohibition.** The SPONSOR shall not use funds under this agreement for the acquisition, construction, reconstruction, rehabilitation, or operation of structures used for religious purposes.

## **Appendices**

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

### **Appendix A** Scope of Services

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**IN WITNESS HEREOF**, the parties have executed this Agreement in duplicate original at Arlington, Tarrant County, Texas, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**PUBLIC SECTOR SPONSOR**

**NORTH CENTRAL TEXAS COUNCIL  
OF GOVERNMENTS**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
R. Michael Eastland  
Executive Director

\_\_\_\_\_  
Printed Name

APPROVED AS TO FORM:

\_\_\_\_\_  
Title

\_\_\_\_\_  
General Counsel

ATTEST:  
  
\_\_\_\_\_



Appendix A  
Scope of Services