

RESOLUTION NO. 47-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT WITH THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS FOR THE PERIOD FROM OCTOBER 1, 2017, TO SEPTEMBER 30, 2022, THEREBY AUTHORIZING THE CITY OF MESQUITE'S PARTICIPATION IN THE REGIONAL STORM WATER MANAGEMENT PROGRAM.

WHEREAS, the Interlocal Cooperation Act, V.T.C.A., Texas Government Code, Chapter 791, provides authorization for any local government to contract with one or more local governments to perform governmental functions and services under the terms of the Act; and

WHEREAS, the North Central Texas Council of Governments ("NCTCOG") has been coordinating a Regional Storm Water Management Program with local governments to gather data and information, perform analyses and develop programs to address storm water quality issues affecting the water of North Central Texas, including the preparation of permit applications to the Texas Commission on Environmental Quality ("TCEQ") for the control of municipal separate storm sewer system discharges; and

WHEREAS, an Interlocal Agreement between the City of Mesquite and NCTCOG will authorize the City's participation in the Regional Storm Water Management Program with NCTCOG for the period from October 1, 2017, to September 30, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

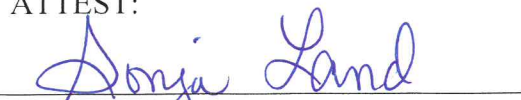
SECTION 1. That the City Manager is hereby authorized to execute the Interlocal Agreement attached hereto as Exhibit "A" between the City of Mesquite ("City") and North Central Texas Council of Governments ("NCTCOG") to authorize the City's participation in the Regional Storm Water Management Program with NCTCOG for the period from October 1, 2017, to September 30, 2022.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 16th day of October, 2017.



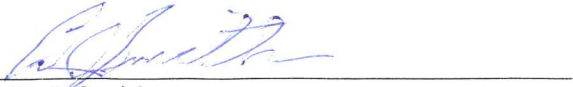
Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



B. J. Smith
City Attorney

THE STATE OF TEXAS

THE COUNTY OF TARRANT

INTERLOCAL AGREEMENT FOR
REGIONAL STORMWATER MANAGEMENT PROGRAM

THIS INTERLOCAL Agreement ("Agreement") effective October 1, 2017 through September 30, 2022, is entered into between the **City of Mesquite**, a municipal corporation duly incorporated under the Constitution and laws of the State of Texas acting by and through its respective City Council; the North Central Texas Council of Governments ("NCTCOG"), a political subdivision of the State of Texas acting by and through its Executive Board; and other governmental entities consenting hereto,

WITNESSETH

WHEREAS, pursuant to the Interlocal Cooperation Act, Texas Government Code, Chapter 791, as amended (the "ACT"), cities, counties, special districts, and other legally constituted political subdivisions of the State of Texas are authorized to enter into interlocal contracts and agreements with each other regarding governmental functions and services as set forth in the Act; and,

WHEREAS, NCTCOG has been coordinating a Regional Stormwater Management Program with local governments to gather data and information, perform analyses, and develop programs to address stormwater quality issues affecting the waters of North Central Texas; and,

WHEREAS, the inclusion of other entities in a regional strategy to address stormwater quality issues will benefit not only the new participants, but also those that have been participating in the regional program in the past; and,

WHEREAS, the parties to this Agreement understand that entering into this Agreement in no way obligates any party to participate in any joint project without the express approval of the party;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and subject to the conditions herein set forth, the parties agree and bind themselves as follows:

ARTICLE 1. - PURPOSE OF AGREEMENT

The purpose of this Agreement is to accomplish a broad range of objectives that may include, but are not limited to, the following:

- Assist with development of an expanded, comprehensive, and coordinated regional strategy for managing stormwater in North Central Texas. The work program for fiscal year 2018 is attached to this Agreement as "Exhibit A." The work program will be amended and approved each fiscal year.
- Identify and facilitate opportunities for regional cooperation that will assist participants in meeting state and federal requirements for improving water quality.
- Assist with development of annual stormwater management plans and programs and performance reports, as may be required by USEPA and/or TCEQ.
- Identify and pool local funds for joint projects among two or more parties where interest is not shared with all participants.
- Provide regular forums for communication and discussion to share and advance ideas on the regional strategy and to share up-to-date information—such as new state and federal regulations on water quality related issues; examples of stormwater permits and programs from across the state, USEPA Region 6, and elsewhere; and to present cooperative successes whenever opportunity arises at state and national conferences.
- Continue the cooperative monitoring program—funded by Phase I participants for implementation of a regional monitoring network to meet permit requirements; analyze and report monitoring results; and explore opportunities for an expanded cooperative monitoring program in future years to address future needs.
- Coordinate training opportunities—such as the Dry Weather Field Screening Training and other opportunities as they arise.
- Continue to use NCTCOG's Regional Geographic Information System capabilities to address special needs upon request—such as delineating watersheds and subwatersheds, tracking illicit connection/illegal dumping remediation activities, accessing new data coverages, and/or mapping storm drain outfalls and storm sewer systems.
- Engage consultant assistance, as necessary and as requested by participants, to conduct more detailed technical studies on selected issues.
- Undertake other activities relating to the Regional Stormwater Management Program as identified by the work program and/or Regional Stormwater Management Coordinating Council.

ARTICLE 2. - ADMINISTRATIVE AND POLICY STRUCTURE

The administrative and policy structure under this Agreement is as follows:

- A Regional Stormwater Management Coordinating Council will provide policy guidance for the cooperative program and make recommendations to the governing bodies of the parties. Due to their heavy involvement in NPDES and TPDES permitting activities, both past and present, and their larger geographic coverage, each of the ten TPDES Phase I parties to this

Agreement will be entitled to appoint one senior staff as a voting representative to the Regional Stormwater Management Coordinating Council. Four major watershed areas have been delineated in the region that encompass the Metroplex local governments. Additional participants in the regional program can appoint up to three voting representatives from their respective watershed area to the Regional Stormwater Management Coordinating Council. If a community or entity exists outside of these divisions they will be represented within the Mainstem watershed. NCTCOG will be a non-voting member on the Council.

Regional Stormwater Management Coordinating Council (22 members + NCTCOG staff)	
10 Phase I Representatives	12 Additional Watershed Representatives
Arlington, Dallas, Fort Worth, Garland Irving, Mesquite, Plano, TxDOT-Dallas District, TxDOT-Fort Worth District, North Texas Tollway Authority	3 Representatives from each of 4 watershed areas: East, Elm, Main, West

- The Regional Stormwater Management Coordinating Council may appoint whatever additional supporting subcommittees it deems necessary and desirable.
- NCTCOG will be the administrative agent under the Agreement pursuant to the Intergovernmental Cooperation Act. NCTCOG will submit an annual coordinated work program and budget for Regional Stormwater Management Coordinating Council approval. The Coordinating Council will approve the basis for determining the annual share of contributions for NCTCOG administrative and technical services by each party with cost allocations to be determined through Coordinating Council consensus. A separate “Letter of Authorization” for each consecutive fiscal year from October 2017 through September 2022, will be obtained for administration and implementation support of stormwater-related activities included in this Agreement. The approved budget for the Regional Stormwater Management Program for fiscal year 2018 is \$314,000. This budget is cost-shared among participants. Cost share allocations for fiscal year 2018 are attached to this Agreement as “Exhibit B.” The budget will be approved and cost shares will be allocated each fiscal year.
- Each work element beyond NCTCOG administrative and technical services will be cost-shared by one or more interested parties to this Agreement under whatever basis is appropriate to that work element. The cost for any additional NCTCOG support beyond the annual administrative and technical services will also be incorporated into the work program.
- This Agreement in itself does not obligate participating parties to cost-share any work elements proposed as part of the annual work program. Annual funding commitments for participating parties will be secured separately from this Agreement as part of the annual process for developing a work program and budget.
- This Agreement is recognized as a supplemental level of service, and is not intended to duplicate or diminish the products, assistance, representation, or services received by participating entities through NCTCOG membership.
- The Regional Stormwater Management Coordinating Council may seek funding and approve cooperative planning and/or implementation activities among the parties, with state and federal agencies, and with any other public or private entities to accomplish the purposes of this Agreement.
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ARTICLE 3. - PAYMENTS

In accordance with the Interlocal Cooperation Act, the parties will make payments for goods or

services rendered under this Agreement from available current revenues. NCTCOG will invoice the party for its costs incurred for goods or services, and the party shall remit the amount of the invoice to NCTCOG within thirty (30) calendar days of receipt of the invoice. In the event that the party does not accept the goods or services or finds an error in the invoice, the party shall notify the NCTCOG Manager who is responsible for executing this program as soon as possible within the 30 calendar day period, and shall make payment not less than ten (10) calendar days after the problem(s) are corrected or the error is resolved to the satisfaction of all parties. In the event that payment of invoiced goods or services is not received by the NCTCOG within 30 calendar days of receipt of the accepted invoice, NCTCOG is authorized to charge the party interest in accordance with the Prompt Payment Act. Parties that do not pay will not receive the benefits outlined in Article 1 or the annual work program (fiscal year 2018 work program is attached as "Exhibit A").

ARTICLE 4. - ADDITIONAL PARTIES

Additional political subdivisions within or serving the North Central Texas region may become parties to this Agreement by approving the terms and conditions of this Agreement and affixing hereto the signature of its authorized representative indicating the date of approval of this Agreement by said entity.

ARTICLE 5. - RENEWAL AND AMENDMENTS

This Agreement will be in effect for one year from the effective date of this Agreement, and will be considered automatically renewed for each succeeding year through the year 2022. A party may withdraw from this Agreement, through a vote of its governing body, provided that it has notified the Executive Director of NCTCOG of such action in writing at least 60 days before its intended withdrawal date. Amendments may be made to this Agreement upon the approval of the governing bodies of all parties to this Agreement.

ARTICLE 6. - SEVERABILITY CLAUSE

If any provision of this Agreement or any application hereof shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby.

ARTICLE 7. - GOVERNING LAW

This Agreement shall be construed in accordance with and governed by the laws of the State of Texas pursuant to the Uniform Grant Management Standards (<http://governor.state.tx.us>)

ARTICLE 8. - INDEMNIFICATION

It is agreed that no party to this Agreement shall be responsible for the acts of another party to this Agreement, and each party participating herein indemnifies, releases, and holds all other participating parties harmless for all acts of its own officers, officials, agents, and employees acting hereunder, to the full extent permitted by law.

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, as provided herein, constitutes the complete contract between the parties hereto regarding the subject matter herein described, and supersedes any and all prior oral and written agreements between the parties relating to the matters herein.

ARTICLE 11. - RECORDS RETENTION

Records shall be retained by NCTCOG for at least THREE (3) YEARS following the closure of the most recent audit report and until any outstanding litigation, audit, or claim has been resolved.

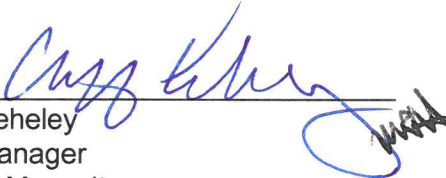
ARTICLE 12. - MISCELLANEOUS

It is expressly understood and agreed that in the execution of this Agreement neither the parties to this Agreement nor NCTCOG waive, nor shall be deemed to waive, any immunity or defense that would otherwise be available to each against claims arising in the exercise of governmental powers and functions.

Each individual signing this Agreement on behalf of a party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations undertaken. Also, this Agreement states the entire agreement of the parties, and an amendment to it is not effective unless in writing and signed by both parties.

By entering into this Interlocal Agreement, the parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and their respective seals to be hereunto affixed and attested, as of the date and year noted below.



Cliff Keheley
City Manager
City of Mesquite



Mike Eastland
Executive Director
North Central Texas
Council of Governments

11-20-17

Date

11/10/18

Date

Attch: Exhibit A – FY18 NCTCOG Work Program
Exhibit B – FY2018 Work Program Budget and Cost-Share Allocations

EXHIBIT A

Regional Strategy for Managing Stormwater in North Central Texas FY2018 Work Program

October 1, 2017 to September 30, 2018

Introduction

This Annual Work Program has been developed under the direction of the Regional Stormwater Management Coordinating Council (RSWMCC) as part of a regional unified approach to addressing state and federal stormwater quality regulations, and to support regional stewardship of the urbanized surface waters of North Central Texas. A Regional Policy Position on Managing Urban Storm Water Quality was created in 1999 by the RSWMCC to provide guidance for the regional strategy, setting out the key elements for a cooperative and comprehensive regional approach to stormwater management. Task Forces propose new tasks for the upcoming work program. These ideas are narrowed down by a Work Program Committee and are presented, along with budget recommendations, for endorsement by the full RSWMCC.

Ongoing Support Activities of the RSWMCC

Ongoing Support Activities may include coordination and facilitation of a variety of meetings; providing administrative support and budgeting; performing general liaison functions with TCEQ and other regulatory agencies including tracking of regulatory information; assistance with Stormwater Management Plans (SWMP); identifying regional cooperative opportunities including cooperative bulk purchases; representing the regional program at local, state, or national conferences as feasible; hosting roundtables focused on discussions with municipal inspectors on the topic of construction/post-construction; hosting training such as *Storm Water Pollution Prevention During Construction*; hosting county roundtables as needed; seeking grant funding for additional programs or projects; supporting and maintaining the regional stormwater website; ensuring coordination with other watershed programs to convey related pertinent information (i.e. iSWM, TMDL I-Plan, Impaired Waters, Water Quality Management Plan, and others); serving as an information clearing house and resource center; and providing public education and outreach.

Public Education Task Force

The Public Education Task Force supports a unified stormwater public education message for the region while maintaining the uniqueness of individual municipal programs. It also offers educators an opportunity to explore areas of mutual cooperation and to learn from each other's programs. In support of the Public Education Task Force, NCTCOG staff will:

- Conduct at least four Public Education Task Force meetings.
- Coordinate and support Texas SmartScape™ activities, including those related to:
 - a) the annual March Is Texas SmartScape Month initiative (e.g., coordinating the Texas SmartScape training workshop and creating PSA images and a newsletter template).
 - b) Texas SmartScape plant sales (e.g., coordinating meetings, updating deliverables such as water bill inserts, flyer templates, etc.).
 - c) ongoing support (e.g., maintaining the SmartScape website).
- Support seasonal campaigns covering stormwater-related topics such as the proper disposal of pet waste (e.g., supporting the Doo the Right Thing Photo Contest and creating the annual calendar), yard waste (e.g., providing sample social media posts), used cooking oil (e.g., informing the group about the Wastewater And Treatment Education Roundtable's activities for the annual Holiday Grease Roundup), and general stormwater issues.

- Document information for initiatives conducted by the Public Education Task Force in Public Education Activity Reports for participants' permit report periods, including web statistics for www.txsmartscape.com and appropriate www.dfwstormwater.com webpages.
- Explore and support other educational campaigns as feasible.
- Facilitate cooperative purchasing of agreed-upon items annually and of media as feasible.
- *Special project for FY2018:* Develop a social media toolbox:
 - a) The content of these posts will be related to stormwater and related events happening in the region;
 - b) Content will consist of videos, templates, and other relevant materials;
 - c) This project includes creating a social media training for our task force.
- **Help develop initiative for future work programs.**

Illicit Discharge Detection and Elimination (IDDE)

Local governments need an increased array of tools such as training programs, inspection methods, or monitoring and tracking procedures for addressing businesses and citizens that may be contributing to contaminated discharges in stormwater.

- Conduct at least four meetings of the IDDE Task Force
- Develop initiatives for future work programs
- Hold the Industrial Inspectors' Workshop
- Update the IDDE Field Investigation Guide
- Hold Basic Dry Weather Field Screening Training

Municipal Pollution Prevention (P2)

Local governments will lead by example if they are to succeed in changing the practices and habits of businesses and residents. The goal of governments should be to prevent or reduce pollutant runoff from municipal operations including streets, highways, municipal parking lots, maintenance facilities, storage yards, and waste transfer stations. This Task Force offers an opportunity for participants to learn from each other's programs and to coordinate efforts in meeting the training component of permit requirements. In support of this Task Force, NCTCOG staff will:

- Conduct at least three meetings of the P2 Task Force.
- Coordinate one peer-to-peer exchange opportunity such as a site tour/mock self-inspection.
- *Special project for FY2018:* (Continuation of the FY2017 special project) Develop online training modules to accompany the 2016 Water Utilities/Public Works training module. (The modules will also be made available as discs or video files and Word documents.)
 - a) The content of these modules will be created by editing/updating the *Preventing Stormwater Pollution: What We Can Do* training videos and quizzes.
 - b) This project includes creating a certification process and online tracking system for P2 members to check employee progress.
- Help develop initiatives for future work programs.

Regional Cooperative Monitoring

NCTCOG is facilitating the implementation of the current permit term TCEQ-approved monitoring program that is based on in-stream monitoring of selected watersheds. Phase I entities will use the tracking of long-term water quality trends and effectiveness of BMP implementation in meeting requirements of their permits. Additional expenses are secured from participating entities in order to pay for consultant fees (ie. third-party lab costs, data analysis and record keeping.)

- Work with consultant to determine monitoring locations
- Oversee consultant activities as necessary
- Manage contracts and billings for monitoring services
- Maintain communication with Monitoring Task Force on consultant activities
- Maintain www.dfwstormwater.com site with sampling updates and data
- Conduct Monitoring Task Force meetings as needed
- Complete final regional monitoring report and submit to TCEQ by deadline
- Administer 4th permit term monitoring program activities

Cost Summary

Costs of NCTCOG services for the above referenced work program activities equal \$314,000 as referenced in Appendix B, which will be cost-shared among active participants in the traditional manner.

EXHIBIT B

Regional Strategy for Managing Stormwater in North Central Texas FY2018 Work Program Budget

In February, the Regional Stormwater Management Coordinating Council (RSWMCC) was presented with the FY2018 Work Scope at a funding level of \$314,000. Completion of the full work program is contingent upon receiving this level of funding from participating local governments. The budget is presented in the table below.

Category	Justification	Total Project
Personnel/Salary	Approximately 50% of the budget pays salary for planning staff and management oversight, and administrative, fiscal, and technology support staff.	\$ 159,000
Fringe Benefit Rate	43.7% of salary. (Projected Estimate)	\$ 69,483
Travel	Approximately 2% of budget goes to in-region travel for project meetings, conducting presentations, and providing support to program participants. This also covers out-of-region travel to meet with TCEQ as needed, attend the annual EPA Region 6 MS4 conference, and possibly one national conference.	\$ 6,280
Supplies	Approximately 1.5% of the budget pays for consumable supplies.	\$ 4,710
Contractual	<i>* The contract for our monitoring program consultant is covered under separate sub-program agreements</i>	\$ 0*
Other (misc.)	Covers printing, copying, mailing, postage, GIS, network services, rent, communications. This represents approximately 11% of the budget. Many of these items are fixed charges (e.g., rent, network services).	\$ 34,086
Indirect Cost Rate:	Accounts for approximately 13% of the budget and is calculated from a 17.7% rate applied just to salary and fringe and is based on letter from cognizant agency (TxDOT).	\$ 40,441
Total Costs		\$74,527.00

LETTER OF AUTHORIZATION

North Central Texas Regional Stormwater Management Program

FY2018 Administrative and Implementation Assistance North Central Texas Council of Governments (NCTCOG)

The NCTCOG and the **City of Mesquite** (hereafter referred to as the "participant") have executed an Interlocal Agreement to provide a structure through which the participants can pursue initiatives that assist with the Regional Stormwater Management Program. The Interlocal Agreement established a structure by which a Regional Stormwater Management Coordinating Council may identify specific activities to be carried out by NCTCOG, and/or professional agencies, with cost allocations to be determined through Coordinating Council consensus. The participants to this agreement have reviewed the NCTCOG proposed work program for FY2018, which includes NCTCOG assistance to the participants for administrative and implementation support of stormwater related activities and the cost-share arrangement for funding of this effort.


In accordance with Article 2, Paragraph 5, and Article 5 of the Interlocal Agreement, the purpose of this letter is to authorize the participant's cost-share of **\$6,773** for the FY2018 work program.

Execution of this Letter of Authorization is considered a formal part of the Interlocal Agreement, and obligates the participant's cost share as identified above. If the participant fails to execute this agreement prior to January 15, 2018, a 5% penalty will be added to the above cost-share amount for every complete quarter of delay after the first. Once executed, billing of the participant by NCTCOG for these services will be made no more frequently than quarterly. NCTCOG will invoice the participant for its costs incurred resulting from the FY2017 work program, and the participant shall remit the amount of the invoice to NCTCOG within thirty (30) calendar days of receipt of the invoice. In the event that the participant does not accept the goods or services or finds an error in the invoice, the participant shall notify the NCTCOG Manager who is responsible for executing this program as soon as possible within the 30 calendar day period, and shall make payment not less than ten (10) calendar days after the problem(s) are corrected or the error is resolved to the satisfaction of all parties. In the event that payment of invoiced goods or services is not received by the NCTCOG within 30 calendar days of receipt of the accepted invoice, NCTCOG is authorized to charge the participant interest in accordance with the Prompt Payment Act. Participants that do not pay will not receive the benefits outlined in the FY2018 work program.

Work under this program will be carried out from October 1, 2017 through September 30, 2018. It may become necessary for work to continue beyond September 30, 2018 in order to complete the authorized FY2018 work program. However, costs for the work program will not exceed the participant's cost-share as agreed to in this Letter of Authorization.

Each individual signing this Letter of Authorization on behalf of a participant warrants that he or she is legally authorized to do so and that the participant is legally authorized to perform the obligations undertaken. The undersigned represent the agreement of NCTCOG and the Participant to these provisions and hereby execute this Authorization in triplicate originals.


Cliff Keheley, City Manager
City of Mesquite


Mike Eastland, Executive Director
North Central Texas Council of Governments

Date: 11-20-17

Date: 1/15/18