

## **AGREEMENT FOR FUNDING OF 9-1-1 DATABASE MAINTENANCE ACTIVITIES**

This contract is made and entered into by and between the **East Texas Council of Governments**, hereinafter called **'ETCOG'**, and **PANOLA COUNTY**, hereinafter called **"Local Government"**.

### **WITNESSETH:**

WHEREAS, ETCOG has been designated as the Grantee pursuant to a Grant Agreement between the Commission on State Emergency Communications, hereinafter referred to as "CSEC", and

WHEREAS, Local Government desires to receive funding for database maintenance activities from the database funds established; and permits Local Government to receive funding for database maintenance activities as defined in the plan agreement with ETCOG and CSEC, is authorized by the Executive Committee of the East Texas Council of Governments;

NOW, THEREFORE, ETCOG and Local Government, in consideration of the terms, covenants and conditions herein, hereby agree as follows:

### **1. Effective Date and Term of Contract**

This contract shall be considered in effect upon signature from **September 1, 2019 through August 31, 2021**, unless terminated according to section 10.

### **2. Scope of Services**

ETCOG agrees to submit request for reimbursement for database maintenance activities conducted by Local Government and/or its agents to CSEC and to distribute the resulting reimbursement to Local Government.

It is agreed and understood that ETCOG's ability to reimburse Local Government for database maintenance activities is **limited wholly and completely to its receipt of funds from CSEC**. In no event shall ETCOG be liable or responsible for the failure of CSEC to fund database maintenance activities.

FOR AND IN CONSIDERATION OF THE FOREGOING, Local Government agrees to undertake database maintenance activities in Local Government in accordance with CSEC's directives and requirements and to submit, on a timely basis, requests for reimbursement for database maintenance activities. It is agreed that the term "database maintenance activity" includes:

- A. Maintaining an accurate inventory of new county subdivisions/roads and addresses:
  - Identifying new county and private roads;
  - Acquiring subdivision maps and street lists;
  - Establishing address ranges; and
  - Assigning addresses as needed in accordance with local adopted database standards;
- B. Correcting new and existing database errors, establishing a baseline of no greater than 1.9% errors to be eligible for reimbursement;
- C. Maintaining adequate signage for emergency response;
- D. Resolving problems in assignment, by establishing inquiry, postal notification, and address correction measures including follow-up responses certifying final addresses; and
- E. Maintaining MSAG (Master Street Address Guide) in statewide database, including new roads, county/private roads, and new address assignments.
- F. Submit to ETCOG, in a timely manner, map updates for Local Government's Public Safety Answering Point 9-1-1 Map, when requested by an ETCOG Public Safety Employee or when you have a major County update. This must be in the form of a shapefile or file geodatabase.

### **3. Method and Schedule of Payment**

- A. The type of contract in use here is a cost reimbursement contract.
- B. The amount to be paid to Local Government for the contract period shall be based upon the terms, provisions, and grant budgets as set forth in the approved Local Government Database Maintenance Plan. The budget provisions are subject to funding from the CSEC.
- C. Local Government shall submit to ETCOG requests for reimbursement for database maintenance activities and shall only include allowable costs incurred. The allowable cost of performing the work

under this contract shall be the cost actually incurred by Local Government, either directly, incident to, or properly allocable to the contract, in accordance with the terms.

- D. ETCOG agrees to submit requests for reimbursement for database maintenance activities conducted by Local Government and/or its subcontractor to CSEC and to distribute the resulting reimbursement to Local Government in a timely manner.
- E. All costs submitted by Local Government are subject to monitoring by CSEC and reimbursement is subject to approval by CSEC prior to payment. ETCOG shall, within ten (10) days of receiving reimbursement from CSEC, remit payment to **PANOLA COUNTY**.

#### **4. Reporting and Documentation Requirements**

- A. Local Government shall insure that adequate fiscal records and supporting documentation of all costs to be reimbursed under the terms of this Agreement are maintained, as appropriate, and in accordance with the provisions of this Agreement and applicable state law. Local Government shall maintain such fiscal records and supporting documentation of all costs reimbursed until instructed by ETCOG to destroy and dispose of such records and documents.
- B. Local Government shall insure that CSEC, ETCOG, and/or their duly identified representative has access to and the right to examine all books, accounts, records, reports, files, and other papers or property belonging to or in use by Local Government, its subcontractor and/or any other party performing authorized database maintenance activity to be reimbursed under the terms of this Agreement.
- C. Local Government will submit appropriate reporting documents to ETCOG with each request for reimbursement.

#### **5. Monitoring Requirements/Compliance with Applicable Laws**

- A. ETCOG and CSEC reserve the right to perform periodic on-site database monitoring (Attachment A) of Local Government's performing subcontractor, or employee and/or any other authorized agent in compliance with the terms and conditions of this Agreement. Following such a monitoring visit, ETCOG will provide a written report of the findings to the ETCOG Executive Committee and to Local Government. If such reports identify non-compliance with the terms and provisions of this Agreement, said reports shall also identify requirements for the timely correction of such deficiencies by Local Government. Failure by Local Government to take action specified in the monitoring report may be cause for suspension or termination of this Agreement and funding associated with it and can result in reimbursement by Local Government of funds already received.
- B. Unless otherwise directed by ETCOG, Local Government shall arrange for the performance of an annual financial and compliance audit of funds received and costs reimbursed under the terms of this contract, including the Texas Uniform Grant and Contract Management Standards. Local Government shall be liable to ETCOG for any costs disallowed pursuant to financial and compliance audits of funds received under the terms of this contract.
- C. For all audits of fiscal years ending on or after June 30, 1997, the following applies:
  - 1. **Grantees Expending \$300,000 or More in Total Federal or State Grant Funds:** Any Local Government or non-profit CSEC grantee expending at least \$300,000 in total Federal or State awards during its fiscal year is required to have an audit performed in accordance with the Single Audit Act Amendments of 1996. The Office of Management and Budget (OMB) Circular A-133 sets forth requirements for audits of Federal fund.
  - 2. **Grantees Expending Less than \$300,000 in total Federal or state Funds:** Any Local Government or non-profit CSEC grantee expending less than \$300,000 in total Federal or State awards during its fiscal year is exempt from undergoing a single Audit. However, CSEC may require such grantees to undergo a "limited scope audit" as defined in OMB Circular A-133. Affected grantees will be notified. Grantees in this category are required to submit to CSEC a copy of an audit report conducted in accordance with generally accepted auditing standards along with any management letters(s) and responses(s).
- D. CSEC grantees must ensure that required audits are completed and submitted to ETCOG the earlier of thirty (30) days after the issuance of the auditor's reports(s) or the following:

1. For fiscal years beginning on or after July 1, 1999, the audit shall be completed within the earliest of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period.
- E. In entering into this contract, Local Government, its subcontractor, and/or their authorized agents shall comply with all applicable state and federal laws to include, but not limited to:
1. Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000 (d) and with the provisions of 45 C.F.R. 800);
  2. Executive Order 11246 (Equal Employment Opportunity), 41 C.F.R. Chapter 60;
  3. The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);
  4. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the Americans with Disabilities Act of 1990; and
  5. Occupational Safety and Health Act of 1970 and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) as applicable.

#### **6. Measure of Liability**

- A. It is understood and agreed that, notwithstanding any provisions contained herein to the contrary, ETCOG's financial obligation to Local Government under this subcontract will not exceed the total amount of the grant funds provided by CSEC.
- B. Final acceptance of the costs to be reimbursed and that are submitted by Local Government are subject to monitoring by CSEC and reimbursement is subject to approval by CSEC prior to payment.
- C. ETCOG shall not be liable for expenditures made in violation of rules, regulations, requirements and guidelines promulgated by CSEC or any applicable state or federal law, regulation, rule or guideline.

#### **7. Equipment**

- A. Subject to obligations and conditions set forth in this agreement, title to all equipment acquired under this Agreement will vest upon acquisition.
- B. ETCOG will evaluate all proposed equipment purchases which would utilize grant funds, prior to purchase, to determine that such items legitimately serve to fulfill the scope and purpose of the grant. If equipment purchases do not legitimately serve to fulfill the scope and purpose of the grant, then ETCOG will not reimburse Local Government for such equipment purchases.
- C. Title to equipment acquired with funds provided under this Agreement shall, throughout the term of this Agreement, be in the name of Local Government. All parties agree that upon full performance of this Agreement, title shall remain with Local Government, provided however, that if this Agreement is terminated, due to substantial failure by Local Government to fulfill its obligations under this Agreement, then the title and physical possession of all equipment shall, upon written notification from ETCOG, be transferred in good condition and within five (5) working days to ETCOG.
- D. Local Government shall conduct physical property inventories; maintain property records and necessary control procedures, and provide adequate maintenance with respect to all property acquired under this Agreement for which Local Government retains title, as further set forth in 1 through 9 below.
  1. Local Government shall develop and use its own property management system, which must conform to all applicable state and local laws, rules, and regulations. If an adequate system for accounting for personal property owned by Local Government or its sub-grantee is not in place or currently in use, the Property Accounting System Manual issued by the State of Texas Department of Information Resources shall be used as a guide for establishing such a system.
  2. A physical inventory of all equipment or property acquired or replaced under this Agreement having an initial per-unit purchase price of five-thousand dollars (\$5,000) or more, shall be conducted no less frequently than once every year, and the results of such inventories shall be reconciled with the appropriate property records maintained by Local Government.
  3. All property acquired or replaced under this Agreement shall be used by Local Government or its sub-grantees, to support the purposes of this Agreement, for as long as the equipment is needed for such purposes, whether or not the original projects or programs continue to be supported by State funds.
  4. For property with a current fair market, per-unit, value of five thousand dollars (\$5,000) or less, Local Government may for the purpose of replacing the property acquired under this

Agreement, either trade-in or sell the property and use the proceeds of such trade-in or sale to offset the cost of acquiring needed replacement property.

5. For the property with a current fair market, per-unit, value of over five thousand dollars (\$5,000), Local Government shall, for the purpose of replacing the property acquired under this Agreement within six years of the initiation date of this Agreement, obtain written authorization from CSEC prior to trading in or selling the property and using the proceeds of such trade-in or sale to offset the cost of acquiring needed replacement property. Property with a current fair market, per-unit, value of five thousand dollars (\$5,000), or less, if no longer needed for the support of the authorized projects or programs under this Agreement, whether original or replacement, may be used in support of other activities currently or previously supported by CSEC, or alternatively, may be made available for use on other projects or programs, providing such other use will not interfere with the work on those projects or programs for which such equipment was originally acquired.
6. For property with a current fair market, per-unit, value in excess of five thousand dollars (\$5,000), if no longer needed for the support of the authorized projects or programs under this Agreement, whether original or replacement, and within six years of the initiation date of this Agreement, Local Government shall obtain written authorization from CSEC prior to changing the use of the property, to include selling or transferring ownership of the property. In requesting authorization for a change in use of the property, Local Government shall provide all information requested by CSEC, including information to assure that the new use of the property will adhere to the requirements of subsection B of Section 6. After six years of the initiation date of this Agreement, Local Government is not required to obtain authorization for a change in use of the property acquired under this Agreement, but the provisions of subsection B of Section 6 shall still apply.
7. If any property acquired or replaced under this Agreement is sold or transferred within six years of the initiation date of this Agreement, CSEC is entitled to a share of the proceeds from such sale or may require the transfer of ownership of the property to a third party, provided the fair market, per unit, value of the property at the time of the sale is in excess of five thousand dollars (\$5,000). CSEC's share of the sale proceeds shall be the same percentage as was the funding provided under this Agreement that enabled the original purchase or acquisition of the property in question. Property that is no longer needed and that has a fair market, per-unit, value of five thousand dollars (\$5,000) or less may be retained, sold transferred, or otherwise disposed of with no further obligation to CSEC, provided the other requirements set forth in this Section are met, including the requirements of subsection B of Section 6.
8. If, prior to the termination date of this Agreement, Local Government or its sub-grantees determines that any property acquired with funds provided as a result of this Agreement is no longer needed for the original intended project, CSEC may require Local Government to transfer title and possession of such property to a third party named by CSEC.
9. Local Government shall not grant or allow to a third party a security interest in any original or replacement materials or equipment purchased with funds made available under this Agreement.

E. Local Government agrees that, in the event any funds provided under this contract are in turn awarded to any sub-grantee for the purpose of acquisition of any equipment, by such other party, Local Government's contract with that sub-grantee shall include the requirements set forth in this section.

## **8. Assurances**

Local Government assures and guarantees ETCOG that Local Government possesses the legal authority to enter into this Agreement pursuant to official motion, resolution or action passed or taken by Local Government's governing body.

## **9. Amendments to Contract**

Any alterations, additions, or deletions to the terms of this subcontract which are required by changes in CSEC's rules, regulations, requirements or federal or state law are automatically incorporated into this Agreement without written amendment and are effective on the date designated by such laws or regulations. It is agreed that this contract may be amended from time to time during the term of the Agreement by ETCOG issuing

policy directives that serve, establish, interpret, or clarify performance requirements under this Agreement. The Executive Director of ETCOG, or his designee, shall promulgate such policy directives in the form of a written communication, which has the effect of qualifying the terms of this Agreement. Except as specifically provided by this Agreement, any other alterations, additions, or deletions to the terms of this subcontract shall be by written agreement, executed by both parties.

#### **10. Termination of Contract**

LOCAL GOVERNMENT acknowledges that this Agreement may be terminated under the following circumstances:

##### **A. Convenience**

ETCOG may terminate this Agreement in whole or in part without cause at any time by written notice by certified mail to the contractor, whenever for any reason ETCOG determines that such termination is in the best interest of ETCOG. Upon receipt of notice of termination, all services hereunder of the Local Government and its employees and subcontracts shall cease to the extent specified in the notice of termination. In the event of termination in whole, Local Government shall prepare a final notice within 30 days of such termination reflecting the services actually performed pursuant to the Agreement which have not appeared on any prior notice. ETCOG agrees to pay Local Government, in accordance with the terms of the Agreement, for services actually performed and accruing to the benefit of ETCOG, prior to the effective termination date, for which compensation was not previously paid.

Local Government may cancel or terminate this Agreement upon 90 days written notice by certified mail to ETCOG. Local Government may not give notice of cancellation after it has received notice of default from ETCOG. In the event of such termination prior to completion of the contract provided for herein, ETCOG agrees to pay for services herein specified on a prorated basis for work actually performed and invoiced in accordance with the terms of this Agreement, less payment of any compensation previously paid.

##### **B. Default**

ETCOG may, by written notice of default to Local Government, terminate the whole or any part of the Agreement in any one of the following circumstances:

If Local Government fails to perform the services herein specified within the time specified herein or any extension thereof; to include but not limited to:

1. Maintain valid MSAG;
2. Move fictitious addresses to valid addresses;
3. Correct all new or existing errors;
4. Provide valid addressing to customers; and
5. Maintain valid GIS mapping.

C. If Local Government fails to perform any of the other provisions of this Agreement for any reason whatsoever, or so fails to make progress or so violates the Agreement in a manner which significantly endangers substantial performance of the Agreement or completion of the services herein specified within a reasonable time, and in either of these two instances does not cure such failure within a period of ten (10) days (or such longer periods of time as may be authorized by ETCOG in writing) after receiving written notice of default from ETCOG by certified mail. In the event of such termination, all services of Local Government and its employees and/or its agents shall cease and Local Government shall prepare a final invoice reflecting the services actually performed pursuant to the Agreement and to the satisfaction of the Executive Director of ETCOG or his designee which has not appeared on a prior invoice. ETCOG agrees to pay Local Government, in accordance with the terms of this Agreement, for services actually performed and accruing to the benefit of ETCOG as reflected on said invoices, less payment of any compensation previously paid and less any costs or damages incurred by ETCOG as a result of such default, including any amount agreed to in writing by ETCOG and Local Government as necessary to complete the services herein specified, in addition to that which would have been required had Local Government completed the services herein specified as required herein.

#### **11. Non-Disclosure Clause**

Any customer information obtained from the Postal Service or Telephone Company is restricted by non-disclosure agreements and should be held in the strictest confidence.

12. Utilization of Historically Underutilized Business Enterprises

Local Government agrees that qualified Historically Underutilized Business Enterprises (HUBS) shall have the maximum practicable opportunity to participate in the performance of this Agreement.

13. Contracting Parties

All notices permitted under this Agreement shall be in writing and shall be delivered in person or deposited in the United States mail, postage paid, addressed as follows:

PANOLA COUNTY

Lee Ann Jones, County Judge  
110 S Sycamore #216A  
Carthage, Texas 75633

East Texas Council of Governments

Mr. David Cleveland, Executive Director  
3800 Stone Road  
Kilgore, Texas 75662

Such addresses may be changed from time to time by either party by providing written notice in the manner set forth above.

This Agreement contains the entire agreement of the parties and there are no other promises, terms, or conditions, written or oral. This Agreement supersedes any prior written or oral agreements between the parties.

The laws of the State of Texas shall govern this agreement.

PANOLA COUNTY, TEXAS

By: \_\_\_\_\_

Hon. Lee Ann Jones

PANOLA COUNTY, Judge

Date: \_\_\_\_\_

8-6-19

EAST TEXAS COUNCIL OF GOVERNMENTS

By: \_\_\_\_\_

David A. Cleveland

Executive Director

Date: \_\_\_\_\_

8-14-19