

**NORTH CENTRAL TEXAS FULL SCALE EXERCISE (“BIG X”)
EXERCISE HOST SITE AGREEMENT BETWEEN THE
NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS (NCTCOG)
AND
THE CITY OF NORTH RICHLAND HILLS (“HOST”).**

This Exercise Host Site Agreement (the “Agreement”) is made and entered into as of **August 15, 2016** (“Effective Date”) by and between the **North Central Texas Council of Governments (NCTCOG)**, a Texas political subdivision and non-profit corporation with offices located at **616 Six Flags Drive, Arlington, Texas 76011**, and the **City of North Richland Hills**, a local government with offices located at **4301 City Point Drive, North Richland Hills, Texas 76180** (“Host”). In the event that Host is a local government as defined under the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (Act), this Agreement shall be subject to the terms of such Act.

RECITALS:

WHEREAS, the health, safety and welfare of citizens in North Central Texas is threatened by a variety of natural and technological hazards including terrorism; and,

WHEREAS, NCTCOG and The Olson Group, LTD. have designed a regional full-scale multi-disciplinary/multi-jurisdictional exercise as recommended by the Emergency Preparedness Planning Council; and,

WHEREAS, the proposed regional full-scale exercise is intended to assess the North Central Texas Regions’ ability to successfully respond to and manage multiple terrorist events and other emergencies occurring simultaneously throughout the region; and,

WHEREAS, a multi-layered regional full-scale exercise will enhance the skills and abilities of regional first responders as well as those responsible for coordinating and managing large-scale events; and

WHEREAS, the HOST is a local government and wishes to host an exercise site.

NOW, THEREFORE, the parties hereby agree as follows:

ARTICLE I GOALS AND OBJECTIVES

1.1 North Central Texas Regional Exercise Goals

The North Central Texas Regional Full-Scale Exercise (Big X) is a comprehensive multi-discipline, multi-jurisdictional full-scale regional exercise. The overarching goal for this exercise would be to increase proficiency levels in identified core capabilities and enhance regional response to large-scale incidents. The Big X exercise is intended to:

- Enhance the skills and abilities of regional first responders, as well as those responsible for coordinating and managing large-scale events;
- Assess the region's ability to successfully respond to and manage multiple terrorist events and other emergencies occurring simultaneously throughout the region;
- Provide the NCTCOG Region with critical gap analysis information by identifying the existing level of preparedness and capabilities and comparing that information to related desired levels;
- Conclude with the creation of a comprehensive After Action Report and Improvement Plan (AAR-IP) that provides an accurate assessment of involved functions and preparedness program areas.

ARTICLE II OBLIGATIONS

2.1 HOST's Obligations

During the Term of this Agreement, the HOST agrees to provide an exercise site located at 4301 City Point Drive, North Richland Hills, Texas 76180 on November 11-13, 2016.

- The HOST agrees to provide a facility with:
 - An isolated fenced-in area, that will be visible, but inaccessible to the public during the exercise
 - Adequate parking for 15 – 20 vehicles
 - Participant brief and debrief area indoors or under adequate shelter
 - For purposes of this Agreement, Participants shall include Host police officers, personnel, and volunteers (collectively "Host Participants"); and Other Agency police officers, personnel and volunteers (collectively "Other Agency Participants").
 - Fenced-in scenario area, that will be visible, but inaccessible to the public
 - Tables and chairs for 15 – 20 people
 - Electricity
 - Lighting

- Restroom facilities
- Accessibility to Host Participants and Other Agency Participants
- 10 – 15 personnel on site to execute and continue exercise operations throughout the duration of the Big X. with personnel expenses borne by the HOST.
 - There is no funding available for reimbursements, backfill, or overtime. The Big X Exercise Planning Team will assist with resource requests and site-specific logistics purchasing before the exercise as grant guidance, funding limitations, and circumstances allow.
- The HOST further agrees to:
 - Provide for the safety and security of the exercise site.
 - Enforce safety procedures, provided by the Big X Exercise Planning Team, as outlined in the Big X Safety Plan, including the use of force-on-force marking rounds and site security.
 - Provide a primary point of contact to coordinate with NCTCOG and The Olson Group, LTD. (the vendor designing and conducting the exercise). This primary point of contact is:

Name: Billy Owens
Agency: City of North Richland Hills
Job Title: Emergency Management Coordinator
Address: 4301 City Point Drive, North Richland Hills, Texas 76180
Cell Phone (972) 989-3686
E-mail: bowens@nrhtx.com
- The HOST primary point of contact agrees to:
 - Provide NCTCOG with a signed release of liability and hold harmless agreement (Appendix A) for each Participant requiring access to the exercise site during the exercise;
 - Provide the name, agency, job title, phone number, and e-mail address for all Participants who need access to the site during the exercise.

2.2 NCTCOG's Obligations

During the Term of this Agreement, NCTCOG agrees to the following:

- Foster coordination with Olson Group Exercise Support Team (EST).
- Provide the site host with the Big X Safety Plan
- Coordinate with The Big X Planning Team to assist in the planning and

development of the exercise site requirements, and ensuring the exercise site HOST receives a copy of the Big X Safety Plan;

- Provide HOST with plan to prevent damage to HOST property during the event.
- Provide a primary point of contact to coordinate with HOST. This primary point of contact is:

Name: Jessica Mason

Agency: North Central Texas Council of Governments

Job Title: Emergency Preparedness Specialist

Address: 616 Six Flags Drive, Arlington, Texas 76011

Phone: (817) 608-2352

E-mail: jmason@nctcog.org

2.3 Joint Obligations

During the Term of this Agreement, both parties hereto agree to the following:

- Make every reasonable effort to ensure that the health and safety of all Participants are protected during the performance of their duties as it relates to the Big X; and
- Avoid placing any Participant in a role that would constitute a conflict of interest.

ARTICLE III TERM; TERMINATION

- 3.1 The initial term of this Agreement will be five months from the Effective Date. Either party may terminate its participation under this Agreement upon ninety (90) days advance written notice to the other party.

ARTICLE IV HOLD HARMLESS

- 4.1 To the maximum extent permitted by law, both parties shall hold harmless the other party from and against any and all liabilities, judgments, losses, claims, assessments, suits in law or in equity, expenses, attorney's fees, and damages arising from that party's own negligent acts or omissions, failure to perform its obligations under this Contract as well as any actual or alleged infringement of any United States or foreign patent, trademark or copyright in connection with this Contract.

ARTICLE V MISCELLANEOUS COVENANTS

- 5.1 **Amendments/Whole Agreement.** This Agreement and any amendment hereto may be executed in counterparts, and all such counterparts taken together shall be deemed to constitute one and the same instrument. This Agreement embodies the entire understanding of the Parties with respect to the subject matter herein, and any prior or contemporaneous representations, either oral or written, are hereby superseded. No amendments or changes to this Agreement shall be effective unless made in writing and signed by authorized representatives of the parties.
- 5.2 **Dispute Resolution.** 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.
- 5.3 **Availability of Funding.** 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 funds, which are received from the funding agencies by NCTCOG dedicated for the purposes of this Agreement.
- 5.4 **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. The mandatory and exclusive venue for the adjudication or resolution of any dispute arising out of this Agreement shall be in Tarrant County, Texas.
- 5.5 **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.
- 5.6 **Liability.** Neither party shall be responsible for any civil liability that arises from the furnishing of its service(s) under this Agreement.
- 5.7 **No Waiver of Immunity.** Notwithstanding any other provision of this agreement, nothing in this agreement shall or may be deemed to be, or shall or may be construed to be, a waiver or relinquishment of any immunity, defense, or tort limitation to which NCTCOG and/or HOST, their officials, officers, employees, representatives, and agents are or may be entitled, including, without limitation, any waiver of immunity to suit.

5.8 **Notice.** Notice from one Party to another Party regarding this Agreement shall be in writing and shall be delivered to the addresses shown below:

NCTCOG: North Central Texas Council of Governments
Molly McFadden, Director of Emergency Preparedness
616 Six Flags Drive
P. O. Box 5888
Arlington, Texas 76005-5888

HOST: City of North Richland Hills
Mark Hindman
City Manager
4301 City Point Drive
North Richland Hills, TX 76180

The above contact information may be modified without requiring an amendment to the Agreement.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have caused this Agreement to be executed by their authorized representatives as set forth below.

CITY OF NORTH RICHLAND HILLS

**NORTH CENTRAL TEXAS
COUNCIL OF GOVERNMENTS**

Name: Mark Hindman

Name _____

Title: City Manager

Title _____

Date: _____

Date _____

Signature _____

Signature _____

Attest

By: _____
Alicia Richardson, City Secretary

Approved to Form and Legality

By: _____
Maleshia B. Farmer, City Attorney

APPENDIX A

ACCIDENT WAIVER, RELEASE, INDEMNITY AND HOLD HARMLESS AGREEMENT

NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS

Big X

That, in consideration of the **2016 North Central Texas Full-Scale Exercise (Big X)** sponsored by the North Central Texas Council of Governments (NCTCOG) Emergency Preparedness Department allowing me to participate in the following named training:

I, _____, do hereby knowingly and voluntarily **RELEASE** the North Central Texas Council of Governments and the Olson Group, LTD. (the sponsoring agencies of Big X 2016), as well as all organizations entering into site host agreements, their officials, agents, officers, directors, employees and licensees ("**Released Parties**") in both their public and private capacities, from and against any and all claims, suits, demands, losses, damages, causes of action and liability of every kind arising out of, or in any way related to, my participation in such program including, but not limited to, claims arising out of my injury or death as well as claims arising out of the negligence of the **Released Parties**,

I certify that I am physically fit, have sufficiently prepared or trained for participation in the activity or event, and have not been advised to not participate by a qualified medical professional. I certify that there are no health-related reasons or problems, which preclude my participation in this activity or event.

Further, to the extent permitted by law, I agree to **defend, indemnify and hold harmless** the **Released Parties from and against any and all claims suits, demands, losses, damages and costs**, including all expenses of litigation or settlement (including, but not limited to, court costs and attorney's fees) incurred by the **Released Parties** and which arise out of my participation in such program including my death or injury. This release and agreement to indemnify and hold harmless shall include suits in which I am named a co-defendant or am a cross-defendant or counter-defendant involving the loss of, damage to, or loss of use of any property owned or controlled by me or any other person or entity, including any claim presented by any person alleging negligence on the part of the **Released Parties** arising out of or occurring as a consequence of the **Big X 2016 and the contracted sponsors** allowing me to participate in any activity or activities relating to the full-scale exercise occurring on November 11-13, 2016 whether such injuries, deaths or damages are caused by the **Released Parties'** sole negligence or the joint negligence of the **Released Parties**, me or any other person or entity.

Nothing herein is intended nor shall be deemed as a waiver of rights against my employer while acting in the course and scope of my employment.

IT IS THE EXPRESS UNDERSTANDING of the **Big X 2016 and the contracted sponsors** and me that the release and indemnity provided for in this agreement is, to the extent permitted by law, an open and unequivocal commitment on the part of me, my assigns and heirs to release and indemnify the **Released Parties** for any and all losses sustained by the **Released Parties** as a consequence of **Big X 2016 and the contracted sponsors** allowing me to

participate in any activity or activities associated with my participation occurring November 11-13, 2016, whether such losses are caused by my sole negligence, the joint negligence of me and the **Released Parties**, the joint negligence of the **Released Parties** and any other person, or the sole and exclusive negligence of the **Released Parties**.

This Release, Indemnity and Hold Harmless Agreement shall be construed broadly to provide a release and waiver to the maximum extent permissible under applicable law.

I understand that at this event or related activities, I may be photographed. I agree to allow my photo, video, or film likeness to be used for any legitimate purpose by the event holders, producers, sponsors, organizers, and assigns.

The accident waiver and release of liability shall be construed broadly to provide a release and waiver to the maximum extent permissible under applicable law.

I CERTIFY THAT I HAVE READ THIS DOCUMENT AND I FULLY UNDERSTAND ITS CONTENT. I HAVE BEEN AFFORDED THE OPPORTUNITY TO ASK ANY AND ALL QUESTIONS THAT I HAVE CONCERNING THIS DOCUMENT AND SEEK THE ADVICE OF COUNSEL OF MY CHOOSING. I AM SIGNING IT OF MY OWN FREE WILL.

Signature

Printed Name

Agency Name/ Department