

STATE OF TEXAS

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COUNTY OF HIDALGO

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN LA JOYA INDEPENDENT SCHOOL DISTRICT AND
THE COUNTY OF HIDALGO, TEXAS**

This Agreement is made and entered into this day of , 2013, by and between the County of Hidalgo, a political subdivision of the State of Texas (hereinafter referred to as "County") and the La Joya Independent School District (hereinafter referred to as "District"), collectively referred to as "Parties", and pursuant to the provisions of the Texas Interlocal Cooperation Act, agree as follows:

WITNESSETH:

WHEREAS, County applied for a grant on behalf of District and was awarded the grant hereinafter referred to as the Texas Safe Shelter Initiative ("TSSI") or the "Grant" in the amount of \$2,400,000 from the Hazard Mitigation Grant Program ("HMGP") funded through the Federal Emergency Management Administration ("FEMA") with CFDA # 97-039 and administered through the State of Texas Division of Emergency Management ("TDEM") to be used for the construction of a Community Safe Room to be incorporated into a new multipurpose facility as described more fully below;

WHEREAS, the purpose and use of the Grant is to construct a safe room (hereinafter "Facility") at Palmview High School on real estate owned by District that can withstand 200 mile per hour winds and provide shelter to citizens (with functional and/or special needs) of District and County (hereinafter collectively referred to as the "Project");

WHEREAS, the Grant covers 75% of eligible costs of the Project and requires 25% matching funds which shall be provided as a cash match by District. District is prohibited from using in-kind force labor as matching funds. County shall not have any responsibility or obligation to pay matching funds or any cost deemed ineligible or otherwise disallowed by FEMA or TDEM.

WHEREAS, the Grant requires County, as the Grant recipient, to comply with certain terms and conditions more particularly described in the Award Letter dated January 4, 2013 and the accompanying Texas Community Safe Room Policy Letter attached hereto as Exhibit "A"

and the Texas Community Safe Room Program Handbook ("Handbook") attached hereto as Exhibit "B" and or its successors:

WHEREAS, District will be responsible for all aspects of the Project, including but not limited to bidding, design, construction, management, and development of the operations and management plan in accordance with all Federal guidelines and standards specified in the Handbook including FEMA 361 requirements. District agrees to complete Project as described in the Scope of Work attached hereto as Exhibit "C" within 24 months from November 27, 2012;

WHEREAS, District agrees to comply with all terms and conditions and scope of work as attached hereto as Exhibits "A," "B" and "C". :

WHEREAS, the Project described in Exhibit "C" will benefit the residents of County and District:

NOW THEREFORE, County and District in consideration of the mutual covenants expressed hereinafter, agree as follows:

SECTION I

RULES AND REGULATIONS

The District agrees to complete the Project in compliance with all applicable federal, state and local laws and regulations.

SECTION II

PROCUREMENT AND DEBARMENT/SUSPENSION VERIFICATION

District must follow all Federal, State and County rules as prescribed in 44 CFR 13.36 Procurement Uniform Grant Management Standards, Local Government Code and Hidalgo County Purchasing Policies and Procedures. The Hidalgo County Purchasing Policies and Procedures are attached hereto as Exhibit "D".

District agrees to verify that its contractors/subcontractors/vendors associated with this Agreement are not debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any federal department or agency and do not appear in the Excluded Parties List System found at <http://sam.gov>. District shall search the Excluded Parties List System prior to selecting any contractor/subcontractor/vendor associated with this Agreement and prior to processing payments to contractors/subcontractors/vendors under this Agreement

Project, and shall submit the forms entitled Excluded Parties List Verification Form ("EPLS"), attached hereto as **Exhibit "E"**, with District's monthly reimbursement requests.

District agrees and understands that it is responsible for all costs associated with the Project, including those costs and/or expenses not covered by the Grant. District further agrees and understands that it will provide all funding towards the Project through completion and all funding and/or cost for maintenance and utilities.

SECTION III

TERMS AND CONDITIONS AND SCOPE OF WORK

District represents that it has read and understood the terms, conditions and scope of work attached hereto as **Exhibits "A," "B" and "C"**. District further agrees to comply with all terms and conditions and scope of work as attached hereto as **Exhibits "A," "B" and "C"**.

District agrees to notify County in writing and obtain from County and State written approval, prior to any proposed changes, delays or departures from the Scope of Work (See **Exhibit "C"**) and the approved Budget. County shall not be liable for costs incurred or services rendered by District before commencement of this Agreement or after termination of this Agreement.

SECTION IV

RECORDS, REPORTS AND PAYMENT REQUESTS

District agrees to prepare and maintain all necessary records and reports that may be necessary for reimbursement under the Grant, including but not limited to the following:

Procurement Records:

District is responsible for managing the Grant and procuring all of the project's requirements and services. District shall provide the County with the following: (1) tear sheet(s) for procurement advertisements, (2) score/rating sheet(s) for selection of any and all awards of services or contracts, (3) bid log of all participating vendors, (4) minutes for the selection and award of any and all contractors, (5) a bid schedule clearly identifying all material and labor for each bid, and (6) any and all documents that may be necessary to process any claim for reimbursement.

District is prohibited from employing cost plus percentage contracts and design build contracts as specifically disallowed by the Handbook.

All procurement processes shall be reviewed and approved by County prior to selection and execution of contracts. Procurement documents shall be forwarded for review to:

Hidalgo County Purchasing Agent Martha Salazar

2802 South Business HWY 281

Edinburg, Texas 78539

Tel: (956) 318-2626

Payment Requests:

District agrees to submit to the County Auditor's Office, a properly completed HMGP Payment Request Form attached hereto as Exhibit "F" and all supporting documentation, including but not limited to purchase orders, standard American Institute of Architects (AIA) applications for payment approved by the contractor, engineer, and District including schedule of values for construction activities and/or materials, invoices for all other activities including materials or professional services, copies of EPLS Verification Forms (see Exhibit "E"), canceled checks, project draw request log, project reimbursement draw request cover sheet attached hereto as Exhibit "G", and other related information whether or not requested by County on a monthly basis no later than the 15th of each month for the previous month. Each HMGP Payment Request Form shall be completed with the instructions included in the attached Exhibit "F". Payment requests shall be forwarded to:

Hidalgo County Auditor's Office

2808 South Business HWY 281

Edinburg, Texas 78539

Tel: (956) 318-2511

Financial Reports:

District agrees to submit to the County Auditor's Office, a properly completed Texas Mitigation Quarterly Report attached hereto as Exhibit "II" with supporting documentation to include general ledger reports and executed contracts no later than October 5th, January 5th, April 5th, and July 5th of each year until the Project is completed. District shall further provide County with a final quarterly report and all documentation required no later than 45 days after completion of the project. Financial reporting shall be forwarded to:

Hidalgo County Auditor's Office
2808 South Business HWY 281
Edinburg, Texas 78539
Tel: (956) 318-2511

District understands that it is solely the District's responsibility to keep all records and reports pertaining to Grant activity within their possession, custody and/or control in a manner acceptable to County. Failure to maintain records and reports may result in termination of the Grant award.

SECTION V

PROJECT COMPLETION AND CLOSEOUT PROCEDURES

As notification that the Project has concluded and is ready for the final audit, the District shall submit to County the Certificate of Completion attached hereto as Exhibit "I", an Elevation Certificate, and a Certificate of Occupancy for approval by County.

County acknowledges that it is not claiming any ownership interest in the property other than as stated in this Agreement. County agrees to sign any documents necessary to convey title to the District.

District shall modify the general deed for the property address involved to contain the following language: "The property owner will provide the windproof structure on this parcel, containing approximately 20,000 square feet of space, to the citizens of the County of Hidalgo, Texas, to be used as a tornado or hurricane shelter, as demanded by the County Judge of said county, in accordance with the authorized shelter operations plan. This restriction will expire on

MM/DD/YYYY. The date of the restriction is 30 years from the date on the certificate of occupancy.

District agrees to allow the State to conduct a physical inspection of the Safe Room every 3 years for the duration of the useful life of the project. 30 years.

District is further required to comply with 4 CFR 13.32(e) regarding the disposition of assets acquired with Grant funds. District shall further provide County with a final report and all documentation required no later than 45 days after completion of the project.

SECTION VI MONITORING VISITS

District shall allow County to conduct on-site monitoring visits to ensure compliance with applicable Federal, State and County requirements, terms and conditions, and to ensure the adequacy of timeliness of performance by District. District shall give FEMA, FEMA, the Comptroller General of the United States, County, County Auditor, and any of their duly authorized representatives, immediate unobstructed and full access to and the right to examine all books, accounts, records, reports, files, and other papers, things or property belonging to or in use by District pertaining to this Agreement.

SECTION VII AUDIT REQUIREMENTS

District agrees to comply with the applicable requirements and standards as set forth in OMB Circular A-133, Audits of States, Local Governments and Non-Profit organizations. If District expends Five Hundred Thousand Dollars, (\$500,000.00) or more in federal grant funds in the fiscal year, District must, within nine (9) months from the end of the fiscal year, supply County with a copy of a financial audit conducted by a certified public accountant. If the District expends less than \$500,000.00 in federal grant funds in a calendar year, then it is exempt from the OMB Circular A-133 audit requirements for that year; however, records must be available for review or audit by appropriate Federal, State and County officials. If District is exempt, District will notify County in writing that District is exempt from OMB Circular A-133 audit requirements and will provide to County a copy of District's Financial Statements for the most recent fiscal year ended.

District agrees to cooperate with County relating to any inquires regarding audits. Audit information shall be available to County staff, and any and all applicable state and/or federal agencies.

SECTION VIII SUSPENSION AND TERMINATION

District understands that this Agreement may be suspended or terminated if District materially fails to comply with the provisions of the Agreement or the provisions so listed in attached Exhibits "A" through "D".

If District fails to fulfill in a timely and proper manner its obligations under this Agreement, or District violates any of the terms or stipulations of this Agreement, then the County shall provide District written notification of such non-performance. Such non-performance may be the basis for immediate termination of the Agreement. **Should any breach by the District of this Agreement relate to a violation of federal law or regulation that results in TDEM or FEMA demanding reimbursement from the County or the District or its successor, the County will terminate Agreement and seek reimbursement of all funds from District.** District shall not be relieved of the liability to the County for damages sustained by the County by virtue of any breach of this Agreement by District and County may withhold any payments to District for violations of Federal, State and County regulations. Should the County become aware of any activity by District, which would jeopardize the County's position with FEMA, TDEM or any other state or federal agency, or which would cause a payback of federal funds, then the County may take appropriate action including injunctive relief against District to prevent the transaction as aforesaid. The failure of the County to exercise any right shall in no way constitute a waiver by the County to otherwise demand payment or seek any other relief in law or in equity to which it may be justly entitled.

It is expressly agreed that this Agreement may not be amended except in writing upon the joint action of the governing bodies of both the County and District.

SECTION IX
LIABILITY FOR DISALLOWED COSTS

The District understands and agrees that it shall be liable to County for any costs disallowed pursuant to financial and compliance audit(s) of Grant funds. The District further understands and agrees that reimbursement to County of such disallowed costs shall be paid by the District from funds that were not provided or otherwise made available to District pursuant to this Agreement or any other federal funds.

SECTION X
INDEMNITY CLAUSE AND INSURANCE REQUIREMENT

District agrees to hold harmless the County, its elected officials, officers, employees, consultants, or agents and to indemnify County's elected officials, employees, consultants or agents and to defend County against any and all claims brought against County by elected officials, officers, employees, or agents of District or brought by any third person arising in any manner directly or indirectly from District programs, activities or events conducted pursuant to this Agreement.

District shall acquire, maintain and furnish to County a Certificate of Insurance as proof that it has secured and paid for a general liability policy of insurance to cover all operations and services under this Agreement with limits of not less than \$300,000.00 per occurrence, \$1,000,000.00 aggregate, covering all risks incident to or in connection with the execution, performance, attempted performance or non-performance of this Agreement. This requirement shall be to meet District's duty of indemnification under this paragraph.

SECTION XI
CONFLICT OF INTEREST

District covenants that neither its elected officials, officers, employees, consultants, nor agents who exercise influence on the decision-making process presently have or will have any interest, direct or indirect, with any person, corporation, company or association that is hired to carry out any of the activities funded by the Grant. District agrees that all elected officials, officers, employees, consultants or agents shall comply fully with the requirements of Texas Local Government Code Chapter 171.

District agrees that no person who is an elected official, officer, employee, consultant, or agent of the District's organization or the County's organization shall gain any interest in any corporation, company, or association that is hired to carry out any of the activities so listed in the attached Exhibits "A" through "C" during the Grant period or for a period of one (1) year thereafter.

District is responsible for repayment of funds associated with any conflict of interest that may occur either knowingly or unknowingly.

SECTION XII MISCELLANEOUS PROVISIONS

Conflict with Applicable Law. Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision of this Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflicts exists.

No Waiver. No waiver by County of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.

Entire Agreement. This Agreement contains the entire contract between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representations or agreements in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by County and District, and not otherwise.

Texas Law to Apply. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas. The parties hereby consent to personal jurisdiction in Hidalgo County, Texas.

Notice. Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests or communications required or permitted hereunder shall be in writing and

shall either be (i) personally delivered against a written receipt, or (ii) sent by electronic mail, or (iii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or (iv) sent by facsimile to the parties at the addresses set forth below, as may have been theretofore specified by written notice delivered in accordance herewith:

If to County: County of Hidalgo
P.O. Box 1356
Edinburg, TX 78539

If to District: La Joya Independent School District
Attn: Dr. Alda T. Benavides, Superintendent
201 East Expressway 83
La Joya, TX 78560

Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

Additional Documents. The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.

Successors. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.

Assignment. This Agreement shall not be assignable by District. County may assign this Agreement without the consent of District.

Headings. The headings and captions contained in this Agreement are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any provision or paragraph hereof.

Gender and Number. All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.

Authority to Execute. The execution and performance of this Agreement by County and District have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of County and District in accordance with its terms.

WITNESS THE HANDS OF THE PARTIES effective as of the day and year first written above.

LA JOYA INDEPENDENT SCHOOL DISTRICT


Dr. Alda T. Benavides, Superintendent of Schools

ATTEST


District Secretary

THE COUNTY OF HIDALGO

Ramon Garcia, County Judge

ATTEST

Arturo Guajardo, Jr., County Clerk

APPROVED AS TO FORM:

Office of Hidalgo County Criminal District Attorney,
Rene Guerra

By: _____
Josephine Ramirez Solis
Assistant District Attorney

LIST OF EXHIBITS:

- "A" Award Letter dated January 4, 2013 and the accompanying Texas Community Safe Room Policy Letter
- "B" Texas Community Safe Room Program Handbook ("Handbook")
- "C" Scope of Work
- "D" Hidalgo County Purchasing Policies and Procedures
- "E" Excluded Parties List Verification Form ("EPLS")
- "F" HMGP Payment Request Form
- "G" Project Reimbursement Draw Request Cover Sheet
- "H" Texas Mitigation Quarterly Report
- "I" Certificate of Completion

EXHIBIT “A”

**Award Letter Dated January 4, 2013
and the Accompanying Texas Community Safe Room Policy
Letter**

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001

512/424-2000

www.dps.texas.gov



STEVEN C. McCRAW
DIRECTOR
DAVID G. BAKER
CHERYL MacBRIDE
DEPUTY DIRECTORS



COMMISSION
LINDA MATEON, CHAIR
TERRY MARCY BARTON
ADA BROWN
ALEXANDER POLANSKY

January 4, 2013

The Honorable Ramon Garcia
County Judge, Hidalgo County
100 N. Closner
Edinburg, Texas 78539

Dear Judge Garcia,

The Hidalgo County funding request for the ISSI Safe Room project has been approved by FEMA and the State of Texas.

This project is approved under the CFDA 97-039 Hazard Mitigation Grant Program (HMGP). Your jurisdiction qualified for this funding because you had a FEMA approved local mitigation plan. Your plan expires on November 5, 2013.

The project number is DR-1791-331 and should be used as a reference on all documents and correspondence. Under the terms of your application and the below listed conditions, Hidalgo County is authorized to proceed with the construction of the community safe room identified in your application. The federal share award for this grant project is \$1,800,000.00.

The activities identified in this project application have been cleared under the National Environmental Policy Act (NEPA). The project location and description identified in the Record of Environmental Consideration (REC) are specific and no additional activities that have not been pre-identified, submitted, and FEMA approved can be considered. The State, as grantee, must ensure that all conditions of the REC and the FONSI are met. (See Enclosure 1)

The effective date of the approval of this project is November 27, 2012. The Period of Performance (POP) is twenty-four months requiring project completion by November 27, 2014 or sooner. If, due to extenuating circumstances, the project cannot be completed within this period, the sub-grantee must submit a POP extension request in writing 90 days prior to the project completion date of November 27, 2014.

You are required to submit a Quarterly Progress Report to this office no later October 15th, January 15th, April 15th, and July 15th of each year until the project is completed. A report with 2 consecutive quarters indicating no progress may result in your project funding being forfeited. A copy of the report format is enclosed for your use and may be reproduced as required. (See Enclosure 2)

The sub-grantee is required to keep complete records of all work, including but not limited to receipts, canceled checks, job orders, contracts, equipment usage documentation, and payroll information. The sub-grantee is accountable to the State for all funds that are awarded. Requests for the reimbursement of expenses may be submitted as needed during the grant performance period. Payments will be made within 21-30 days after receipt of complete and accurate documentation (See Enclosure 3).

Any contract for service associated with this project, must be issued in accordance with local, State, and Federal laws. Contract material and labor costs must be specific and considered reasonable. "cost plus" type contracts will not be acceptable. For any contract awarded, a copy of the contract will be forwarded to the State with the first quarterly report following award, along with a report from the System for Award Management website (<https://www.sam.gov/portal/public/SAM/>) showing that the chosen contractor is not currently excluded. (See Enclosure 4)


As notification that the project has concluded and is ready for the final audit, the sub-grantee will submit the Certificate of Completion along with a final quarterly report containing a recap of all project expenditures, an elevation certificate, and certificate of occupancy. A chief elected official or his/her designated representative must sign this document. Final project payments will be made based upon the submission of the certificate of completion, final programmatic inspection, and the financial compliance review by our staff. A copy of the form is attached. (See Enclosure 5).

Before breaking ground, the sub-grantee must provide the State a copy of the final construction plans and specifications with a raised architects seal, assuring that the safe room meets or exceeds the criteria outlined in "FEMA 361, Design and Construction Guidance for Community Safe Rooms" (second edition/August 2008). The State will have the plans peer reviewed and will issue an approval before the applicant may proceed with construction. In addition the project must also comply with the additional State requirements contained in "Texas Community Safe Room Policy Letter" dated December 2010 (see Enclosure 6).

Since you will receive over \$500,000.00 total funding from Federal programs, during this Federal fiscal year, you will be required to provide the Texas Division of Emergency Management with a copy of your current annual audit, performed per OMB Circular No. A-133. Please contact our Disaster Program Auditor, at (512) 424-7474 for further information on audit requirements. All HMCIP grants are subject to Federal audit; therefore, all records must be maintained for three years from the date of project close out or, upon receipt of the final payment, whichever is later.

If you have any questions or concerns please contact your state project officer, Michael Ku, at 512-424-2397 or via email at Michael.Ku@dps.texas.gov

Sincerely,



W. Nino Kidd, CEM ®
Assistant Director
Texas Department of Public Safety
Chief
Texas Division of Emergency Management

WNK: mk

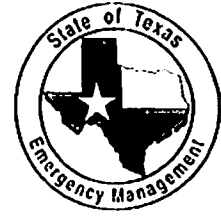
Enclosures:

- 1 - Record of Environmental Consideration*
- 2 - Quarterly Progress Report Form*
- 3 - Payment Request Form*
- 4 - Excluded Parties List Verification Form*
- 5 - Certificate of Completion*
- 6 - Texas Community Safe Room Policy Letter*

*cc: Oscar Montoya, Emergency Management Coordinator, Hidalgo County.
Dr. Alda T. Benavides, Superintendent, La Joya ISD*



TEXAS COMMUNITY TORNADO/HURRICANE SAFEROOM POLICY



PROGRAM DESCRIPTION

The Texas Community Tornado Saferoom program is a 25% local/75% federal reimbursable match grant for producing new community tornado and coastal hurricane shelters. Locations below 24 ft MSL or inside the 500 year floodplain are not eligible. Local Government entities are normally eligible applicants, but in some cases, private non-profits agencies may apply.

PROGRAM FUNDING

Community Tornado and Hurricane shelters are funded with FEMA supplied mitigation grants; the Hazard Mitigation Grant Program (HMGP) and Pre-Disaster Mitigation (PDM). Both of these grant programs are limited and competitive, which means that just because a city or county applies does not mean their application will be selected and funded. HMGP is funded only in the event of a federally declared disaster; the state will publish deadlines in letters to the senior elected representative in each jurisdiction. Although HMGP is available statewide, the state normally prioritizes funding to those jurisdictions most heavily impacted by the event. PDM is an annual grant; the grant window normally opens in October and closes in December of each year; the maximum federal share available under PDM is \$3 million. Mitigation grant funding is only available to jurisdictions that have a FEMA approved Mitigation Action Plan and which are at the Basic level of preparedness on their Emergency Management Plan

FEDERAL REQUIREMENTS

Only saferooms that meet the design criteria in FEMA 361 are fundable. Building components not directly attributable to the tornado sheltering function of the building (parking¹, kitchen, showers, security systems etc.) are not reimbursable. The maximum size will be limited to an area sufficient to protect the population that could reasonably reach the building within typical warning times (normally 5 minutes) and allowing 5 square feet per person for tornado and 20 sf per person for hurricane. A shelter operations plan meeting the checklist in FEMA 361 will be required with the application. Note: Hurricane shelters have differing standards

ADDITIONAL STATE REQUIREMENTS

- No more than 20% of the building floor space can be unusable for sheltering (filled with desks, bookshelves, or lockers.)
- Marking. The tornado saferoom must be placarded on at least two exterior walls with the sign 'public tornado shelter', each placard with dimensions not less than 30" x 30" and containing an image of a tornado. Structures within 120 miles of the coast will have a dual role as hurricane shelters have an additional and similar placard requirement in the same size but with an image of a hurricane and the words 'public hurricane shelter'. Additionally, a brass plate not less than 5"x 8" must be attached with screws or bolts to the wall to the right of the main entryway at eye height. The plate must contain the following minimum information: 'FEMA funded Community Tornado/Hurricane Saferoom, with funds from DR-XXXX, Year Constructed YYYY, Design Wind ZZZ. A larger, more ornate, placard elsewhere in the building can be used to meet this requirement as long as it contains the minimum information.

¹ Except Handicapped access

- Selected location must be outside the 500 year floodplain and more than 24 feet above sea level.
- Full plans & specs with a raised engineers seal must be sent to the state prior to starting construction.
- For stand-alone saferooms larger than 1200 sf, a generator large enough to provide the covered space with power and environmental needs. (with justification, this may be waived)
- The jurisdiction must provide an explanation on how building access will be accomplished on five minutes notice, both at 1 pm (normal working hours) and at 1 am.
- A certificate of occupancy issued by the local code department, and an elevation certificate, are required attachments to the completion certificate.
- The State will re-inspect federally funded shelters approximately every three years to insure the 20% un-usable space requirement is being maintained.

ADDITIONAL INFORMATION AND ASSISTANCE

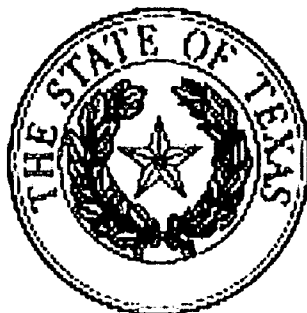
If you have additional questions, please contact the State Project Officer, Ms. Hildy Soper of the State Mitigation Section at (512) 424-2454 or hildy.soper@txdps.state.tx.us.

Sincerely,

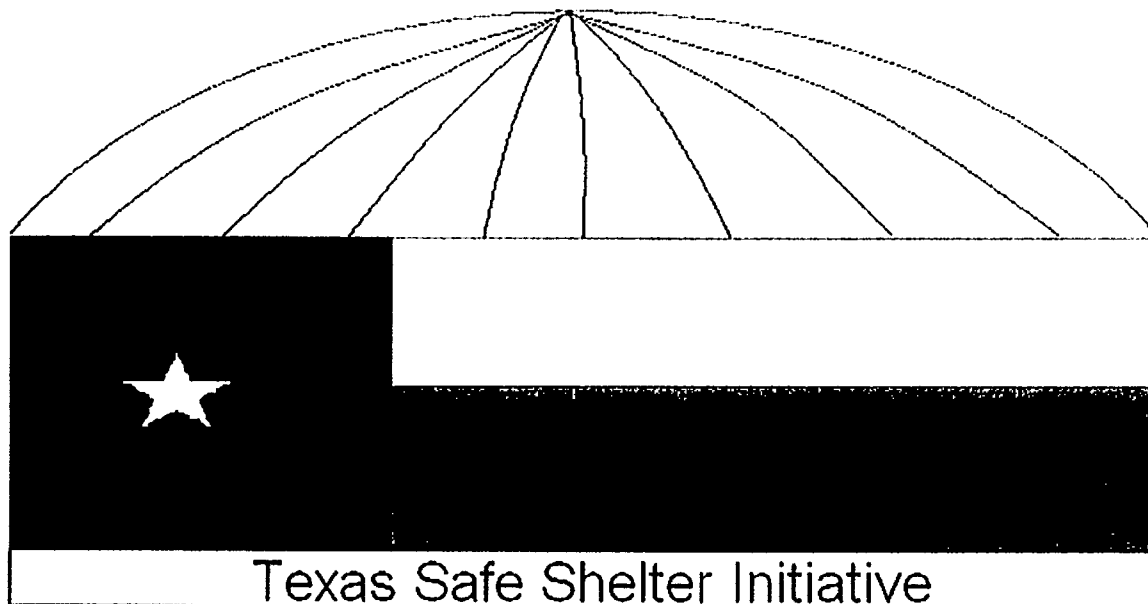
Gregory F. Pekar
State Hazard Mitigation Officer

EXHIBIT “B”

**Texas Community Safe Room Program Handbook
 (“Handbook”)**



STATE OF TEXAS



Texas Community Safe Room Program Handbook

Version 1.15.2013

Revisions in This Version

Section 3. Federal Guidelines and Standards.

- Part B. Determining the Types of Safe Room for Your Community..... P. 7
- Part C. Size Eligibility and Determination for Safe Room..... P.7

Section 4. State Community Safe Room Policies and Guidelines.

- Part C. Design Options for the Safe Room.....P.10
- Part F. Financial Budget Requirement.....P.10

Section 5. Project Administration.

Part E. Project Design and Construction.

- 1). Design Requirement.....P.16
- 3). FEMA 361 compliance on components tested.....P.20
- 4). Construction Practices
 - b). Contractual Requirement
 - i. Updated EPLS Website link.....P.22

Section 7. Financial Responsibilities

- Part C. Signature Authority.....P.24
- Part G. Quarterly Request for Payment.....P.25

Appendix B. Request for Payment Cover Sheet.....P.40

TABLE OF CONTENTS

	PAGE
1. INTRODUCTION.....	1
2. ELIGIBILITY & PROGRAM PRE-REQUISITES.....	1
3. FEDERAL GUIDELINES AND STANDARDS	1
4. STATE COMMUNITY SAFE ROOM POLICIES AND GUIDELINES.....	10
5. PROJECT ADMINISTRATION.....	12
6. LABOR STANDARDS, DAVIS - BACON ACT.....	21
7. FISCAL RESPONSIBILITY.....	24
8. SHELTER OPERATION AND MANAGEMENT PLAN	25
9. ADDITIONAL REQUIREMENTS AND OBLIGATIONS	29
10. RESOURCES	29
11. APPENDIX A., FEMA 361 WIND SPEED MAP.....	30
12. APPENDIX B., HMA TABLE 6, ELIGIBLE AND INELIGIBLE COMPONENTS.....	31~35
13. SAMPLE DRAW REQUEST RECORD LOG.....	37
14. DRAW REQUEST COVER SHEET.....	40

Texas Community Safe Room Program Handbook

1. Introduction:

Every year, tornadoes, hurricanes, and other extreme windstorms cause numerous fatalities and injuries, and cost millions of dollars worth of property damage throughout the United States. Most businesses and public buildings, even new ones constructed according to current building codes, do not provide adequate protection for occupants seeking refuge from these events.

A Community Safe Room can provide "near-absolute protection" for many community members, when it is constructed in accordance with FEMA criteria.

The Texas Division of Emergency Management is taking the initiative to address this short coming by providing opportunities to help local jurisdictions build a community safe room for their citizens, including ones with Functional Needs (formerly known as Medical or Special Needs) through Hazard Mitigation Grant Program (HMGP) and/or Pre Disaster Mitigation (PDM) program funded by FEMA. Through HMGP funding, the State will reimburse communities up to 75% of the cost to construct a community safe room that may have an alternate use the community can also benefit from, such as a community center. Having a community safe room located nearby could prevent the evacuation of some of the citizens during a hurricane or tornado.

This handbook provides the necessary guidance for all Texas Safe Shelter Initiative and other HMGP and PDM funded community safe room projects.

2. Eligibility and Program Pre-requisites:

The following are eligible to apply for the Hazard Mitigation Grant Program:

State and local governments; Private nonprofit organizations that own or operate a private nonprofit facility as defined in 44CFR 206.221(e); Indian tribes or authorized tribal organizations and Alaska Native villages or organizations, but not Alaska native corporations with ownership vested in private individuals.

In addition, to be eligible for the Hazard Mitigation Grant Program, the applicant must have an approved Hazard Mitigation Action Plan.

Entities not identified in the above categories can not apply for HMGP funding, but can benefit from the project as a co-applicant when sponsored by an eligible applicant as defined above.

3. Federal Guidelines and Standards:

For community safe rooms, the applicant and sub-applicant must comply with the following guidance:

- Title 44, Code of Federal Regulation, Federal Emergency Management Administration.
- Hazard Mitigation Assistance Unified guidance, dated June 1, 2010.

- FEMA Mitigation Interim Policy MRR-2-09-1, *Hazard Mitigation Assistance for Safe Rooms*, dated April 30, 2009.
- Implementation Guidance for FEMA Mitigation Interim Policy MRR-2-09-1, dated April 30, 2009.
- FEMA 361, Design and Construction guidance for Community Safe Rooms.
- FEMA 453 Design Guidance for Shelters and Safe Rooms.
- International Construction Code ICC-500.

FEMA will consider an extreme wind event mitigation activity consisting of the retrofit or construction of a residential, nonresidential, or community safe room (single- or multi-use) to be an eligible project type for PDM and HMGP grant awards as follows:

- where it provides immediate life-safety protection in the target area of impact of a striking hurricane and/or tornado;
- where it is designed only to the extent it is necessary for the limited population that must remain in the impact strike area during a hurricane and/or tornado event, to the extent necessary for the limited time period that a hurricane and/or tornado event is occurring;
- where the mitigation measure is consistent with the identified risk to be mitigated;
- where the mitigation measure is not located in a flood hazard area where the flood waters have the potential to endanger occupants within the safe room;
- where the mitigation measure is constructed with criteria recognized by FEMA to afford near-absolute protection and verified by a licensed design professional;
- where allowable safe room project costs are directly related to and necessary for the hazard mitigation purpose of providing immediate life safety resulting from structural and building envelope protection to the limited population required to remain in the impact zone during an extreme wind event;
- where adequate operations and maintenance planning are demonstrated;
- where the mitigation measure is demonstrated to be cost-effective, and
- where other applicable PDM and HMGP program conditions are demonstrated, as shown in PDM and HMGP program-specific guidance.

A. Eligible Activities and Design Standards.

HMGP funds are not available for general population shelters, including evacuation or recovery shelters intended to provide longer-term services and housing for people leaving the anticipated impact area of an extreme wind event, or because their homes have been damaged or destroyed by extreme wind events, fire, disasters, or other catastrophes. Such general population shelters are not intended to sustain the extreme wind event and are not required to satisfy the higher design criteria of near-absolute protection consistent with hazard mitigation residential, non-residential, and community safe rooms as established in FEMA 361. In addition, the hazard mitigation time of protection for safe rooms is 2 hours for tornado events and 24 hours for hurricane events. These time periods also differentiate hazard mitigation event-only safe rooms from longer-term evacuation and recovery shelters.

HMGP funds may only be used for safe room projects designed to achieve “near absolute protection” as described in FEMA 361, *Design and Construction Guidance for Community Safe Rooms*, August 2008.

Eligible safe room activities are limited to:

- extreme wind (combined tornado and hurricane) residential, non-residential safe rooms; and
- extreme wind (combined tornado and hurricane) community safe rooms; and
- tornado community safe rooms; as well as
- hurricane community safe rooms.

FEMA will consider an extreme wind event mitigation activity consisting of the retrofit or construction of a residential, non-residential, or community safe room (single- or multi-use) to be an eligible project type for HMGP grant awards as follows:

- The safe room project must provide immediate life-safety protection in the target area of impact of a striking hurricane and/or tornado;
- The safe room is designed and sized only to the extent necessary for the limited population that must remain in the impact strike area during an extreme wind event. The safe room is also designed only to the extent necessary for the limited time period that a hurricane and/or tornado event is occurring. Therefore, safe rooms must be sized according to the defined population that will utilize the facility during a storm event and their design is to accommodate this population for a limited time period;
- The safe room project is constructed with criteria recognized by FEMA to afford near absolute protection and verified by a licensed design professional. Project applications must include documentation to show that the project meets or exceeds the criteria for the identified risk to be mitigated. Criteria are found in the following publications:
 - FEMA 361, *Design and Construction Guidance for Community Safe Rooms* Second Edition, August 2008.
- In addition, the *Standard for the Design and Construction of Storm Shelters* (ICC-500), a consensus standard from the International Code Council is acceptable for use in designing HMGP safe rooms only when incorporating specific recommendations outlined in FEMA 320 and 361. For further details, see MRR-2-09-1 Section VII, Part A;
- The safe room project is not located in a flood hazard area where the flood waters have the potential to endanger occupants within the safe room. If the applicant community does not have any land area outside the flood hazard area for the safe room site, it is possible to build a safe room in the flood hazard area provided there are no other alternatives, and the safe room will be elevated above all known flood elevation, or 24' MSL, whichever is higher.
- Consistent with FEMA 361, safe rooms must be located outside the following high-hazard areas:
 - The Coastal High-Hazard Area (Zone VE) or other areas known to be subject to high velocity wave action; or Areas seaward of the Limit of Moderate Wave Action where mapped, also referred to as the Coastal A Zone in ASCE/SEI 24-05; or Floodways.
- Operations and maintenance (O&M) plans must be developed for each project. At a minimum the process to include O&M plans will include the following:
- Descriptive statement of the O&M plan at time of application;
- Draft O&M Plan prior to any retrofit or construction; and
- Final O&M Plan prior to project closeout.

B. Determining the Types of Safe Room for Your Community

While a community may have need for a safe room to protect its residents from impending storms, the determination of whether the safe room is for tornado, hurricane or both, is not just based on the location of the project site. To determine if your community is eligible for a tornado, hurricane, or combination safe room, you must first determine what population you plans to protect and the location of your safe room.

Hurricane community safe room can only be constructed in area that has a documented history of hurricane damages. If your community is not in a coastal area, but in a hurricane evacuation route and does not have any documented history of significant damages caused by hurricanes, your community will most likely not be eligible to construct a hurricane safe room. In addition, if the project is not located in a coastal community, you must provide justification as why your local identified at-risk population must be evacuated from the hurricane. For coastal communities, all safe rooms will be built according to Hurricane standards while serving as a dual use Hurricane and Tornado safe room. For communities outside of the coastal area or area not impacted by hurricane, only tornado safe rooms may be eligible. The design criteria and program requirements varies between Hurricane and Tornado safe room. Proper safe room identification is critical in the determining proper project requirements.

C. Size Eligibility and Determination for Hurricane and Tornado Safe Room

FEMA funded community safe room is not intended to provide protection for thousands of residents, regardless it's a tornado, hurricane or combination safe room. While hurricane safe room may have longer warning period to allow identified residents to seek protection in the safe room, the limit to the size of the safe room will be determined by the cost effectiveness of the project. Overly large safe room will not be practical as the cost of the project may not be cost effective. While there is not a maximum allowed limit on the size of a hurricane safe room, the most cost effective community safe rooms have been smaller than 20,000 square feet (gross overall exterior size) in the coastal communities. Community safe room designed for tornado will be limited by the size of population that will be able to evacuate safely during a tornado disaster within the appropriate warning period. A tornado safe room is not intended to provide protection for thousands of people, as it is unrealistic expectation that thousands of residents will be able to travel to and enter a community safe room within the short warning time safely. The size of a tornado safe room shall be determined by the population identified within a typical 5 minutes walking distance (typically approximately 0.5 miles) radius. As per Hazard Mitigation Assistance Unified Guidance, Part IX. Additional Project Guidance: C. Hazard Mitigation Assistance for Safe Rooms, C.4.1.2 Population at Risk from Tornadoes:

“The distance from the safe room for the at-risk population is based on a maximum walking travel time of 5 minutes or a maximum driving travel distance of approximately 0.5 mile. When considering a single- or dual-use community safe room, the 5-minute walk time or the equivalent 0.5-mile driving distance must be calculated by the actual travel route or pathway which a pedestrian or a driver will be required to follow. This pathway should not be restricted, bottlenecked, or obstructed by such barriers as multi-lane highways, railroad tracks, bridges, or similar facilities or topographic features. Traffic congestion (including parking constraints) during the movement of the potential at-risk population to the safe room once a storm watch/warning notification is issued should be considered when defining the at-risk population for the community safe room. In either case, whether walking or driving,

prospective safe room occupants must be able to safely reach the facility within 5 minutes of receiving a tornado warning or notice to seek shelter."

The applicant must be able to provide supporting documentation on how the identified population will be able to seek protection in the tornado safe room within the time allotted safely. While it is unrealistic to protect thousands of residents, the size of the safe room will be limited to the population that can be safely protected.

D. At-Risk Population Protected for the Safe Room

The Safe Room Policy, Section VII, Part C (page 6), Population Protected and Period of Protection states:

FEMA will only consider PDM and HMGP applications for safe room projects that identify the safe room population that must remain behind to face an imminent threat against either, or both, tornado or hurricane hazards. This is the population that the applicant will identify and quantify, so that the anticipated population and resulting size of the safe room can be verified during the grant application review process. This is demonstrated by risk assessment information such as that developed as part of a mitigation plan or evacuation plan. Applicants and sub-applicants should be mindful that PDM and HMGP funds are not available for general population shelters, including evacuation or recovery shelters. Therefore it is essential that Applicants and sub-applicants identify the specific hazard mitigation population to be protected otherwise application review may be delayed or an application rejected.

Safe Room Policy, Section VII, Part C (page 7), Population Protected and Period of Protection states:

The applicant will demonstrate consideration of at least the following components in determining eligible safe room population:

- * population to be protected within the area at risk of impact by tornado and/or hurricane hazards;*
- * warning capabilities, logistics, and operations components that support basic safe room functions;*
- * travel times for the population to be protected to reach the safe room, such that people are not exposed to additional risk when moving to the protected area;*
- * hazard mitigation time of protection: 2 hours for tornado and 24 hours for hurricane; and*
- * relationship of the population to be protected by the safe room to State or local emergency evacuation requirements.*

The at-risk population identified directly impacts the proposed safe room design size requirements and is another factor that will be verified during the grant review process. This is important to understand because as the Safe Room Policy states, "PDM and HMGP funding will not be provided to support safe rooms that are sized larger than that required to accommodate the identified at-risk population." Applicants and sub-applicants should refer to Chapter 3 of FEMA 361 for further guidance on sizing criteria.

Per FEMA Hazard Mitigation Assistance Unified Guidance, 2010, Part C, Hazard Mitigation Assistance for Safe Room:

C.4.1.1 Population at Risk from Hurricanes:

This section provides information to assist in identifying and defining the population at risk from hurricanes. The section also describes this at-risk population to assist Applicants and sub-applicants in identifying who may require a safe room facility. Information Sources Determining the hurricane safe room population is dependent on the assumptions used in the development and implementation of evacuation or emergency response plans and policies being administered by local, State, and Federal (if applicable) emergency management organizations. Therefore, Applicants and sub-applicants are encouraged to coordinate with the relevant agency in the jurisdiction developing those plans. In addition, local mitigation plans are required to include a risk assessment that defines the hazard characteristics within an area, and to provide a vulnerability assessment. Evacuation plans are likely more specific in terms of population, but the risk assessment in a community's existing mitigation plan may also be a source for this information. Documentation to support the determination of the at-risk population may be directly related to the planning tools mentioned above and should be included in the application.

Hurricane Population Categories:

Generally, two broad categories of potential hurricane safe room occupants may be identified as part of the limited at-risk population in need of life-safety protection. The at-risk population should be accommodated within the safe room for a minimum of 24 hours (the FEMA 361 minimum design occupancy time for hurricane safe rooms). Applicants and sub-applicants are encouraged to use verifiable information such as emergency evacuation plans and local emergency management plans (or other applicable sources) to identify potential safe room occupants from the categories listed below.

Category 1: First Responders

** People who may be required to remain in harm's way, i.e., the civilian personnel of the emergency response services, also known as first responders. These groups include, but are not limited to personnel of fire and police departments, rescue squads, emergency operation centers (EOCs), emergency medical and ambulance services, search and rescue teams and similar personnel that a local community may depend upon for a successful response to an extreme wind event.*

Category 2: Critical and Essential Services Personnel and Facility Occupants

** In many cases other critical services personnel may be required to remain in harm's way to facilitate the continued operation of certain critical facilities, including long-term care and custodial care facilities, water supply and wastewater facilities, power supply and distribution plants, fuel and other hazardous material storage facilities, communications and data centers, and others that a local community may depend upon for a successful response to an extreme wind event. This category may also include occupants of these facilities such as patients in hospitals, residents of long-term care facilities, and prison/jail inmates.*

C.4.1.2 Population at Risk from Tornadoes

This section provides information to assist in identifying and defining the population at risk from tornadoes. Tornado safe room populations are determined based on limited warning times (minutes, not days) and the maximum reasonable travel time for potential safe room occupants to reach the safety of the facility. At-risk populations that cannot reach the safe room in a reasonable time (this topic is discussed later in this document) are not considered as potential occupants of the safe room.

Tornadoes strike without timely warning, often depriving the at-risk population of sufficient time to seek safety. Only about 20 minutes (or less) of warning time may be provided before a tornado strikes. For a limited or no-warning storm event, at-risk individuals have various degrees of vulnerability.

C.4.1.3 Population at Risk from Both Hurricanes and Tornadoes

Many areas in the United States are subject to both hurricane and tornado hazards. When building a safe room to protect from both hazards, the population at risk must be determined independently for each hazard. When designing a combined safe room for both tornado and hurricane hazards, the most restrictive design criteria for these hazards provided in FEMA Publication 361 must be used. There is not necessarily one set of complete criteria for each hazard. For that reason, design engineers should pay close attention to the criteria outlined in FEMA 361 when designing a combined safe room for both tornado and hurricane hazards.

For communities that will have a safe room that can serve as a hurricane and a tornado safe room, the project shall follow the guidelines and requirements established for hurricane safe room. If the requirements for hurricane and tornado contradict, the more stringent requirement shall be followed.

4. State Community Safe Room Policies and Guidelines:

- A. The HMGP may provide federal funds up to 75% of the cost of the project. Eligible applicants, who include state and local governments, certain non-profit organizations and institutions, and Indian tribes or authorized tribal organizations, must contribute at least 25% of the cost of their projects. This 25% match can be made in a variety of ways to include "in kind" matches. Infusion of other Federal funding as part of 25% match is prohibited.
- B. The 80/20 Rule: The State requires 80% of the interior space must be allocated to sheltering evacuees at time of need. Not all interior space will be eligible to be counted toward this 80% threshold of sheltering space. Interior partition walls may be deducted from the gross interior space to calculate the 80% space requirement. Spaces allocated to sheltering evacuees will be dependent of type of safe room applied: hurricane or tornado.
- C. The safe room project is dependent of the Benefit Cost Analysis for the project eligibility. The most cost effective method to mitigate wind event by safe room is a monolithic type dome safe room due to lower cost of construction. A typical brick and mortar building will be significant more costly to construct for the same given size compared to the monolithic dome shaped safe room. The maintenance cost for the typical brick and mortar building will also be higher. The eligibility of the project is directly dependent on the Benefit Cost Analysis and its resulting ratio; therefore, dome structure is preferred and recommended. Currently, all safe room projects are funded based on a \$120.00* per square foot total project cost threshold.
* Based on 2010 construction cost.
- D. The project will have 24 months from FEMA award to completion.
- E. All hurricane safe rooms shall be constructed to meet 200 mph wind speed with FEMA 361 standards. All tornado safe rooms shall be constructed to meet 200 mph or 250 mph, pending the location identified in FEMA361standards, Figre 3-1. Tornado Safe Room Design Wind

Speed Map. All combination hurricane and tornado safe room shall be constructed to meet 200 mph wind speed.

- F. Applicants shall provide the State a finalized budget for the project before the start of construction. The budget shall clearly identify all hard and soft costs for the project. The budget shall identify the amount allocated for professional services, constructions and any other related fees and budget line items. All reimbursements requested by the applicant shall be drawn against the budget established prior to construction.
- G. All changes and modification to the project must receive written consent and approvals from the State before executing. Once the project is approved and funded by FEMA, certain changes and modifications will not be permitted, including the design of the safe room. As changes and modification to an approved project may impact the eligibility of the project, please consult your State Project Officer of any potential changes or modification at the earliest development.
- H. Marking. The tornado safe room must be placarded on at least two exterior walls with the sign 'public tornado shelter', each placard with dimensions not less than 30" x 30" and containing an image of a tornado. Structures within 120 miles of the coast will have a dual role as hurricane shelters have an additional and similar placard requirement in the same size but with an image of a hurricane and the words 'public hurricane shelter'. Additionally, a brass plate not less than 5"x 8" must be attached with screws or bolts to the wall to the right of the main entryway at eye height. The plate must contain the following minimum information: 'FEMA funded Community Tornado/Hurricane Safe room, with funds from DR-XXXX, Year Constructed YYYY, Design Wind ZZZ'. A larger, more ornate, placard elsewhere in the building can be used to meet this requirement as long as it contains the minimum information.
- I. Selected location must be outside the 500 year floodplain and more than 24 feet above sea level if possible. An Elevation Certificate showing that the structure is at least 24 ft. mean sea level (MSL) or above the 500 year water surface elevation is required prior to construction. Applicant must evaluate all possible alternatives if there are no suitable sites outside any floodplain.
- J. Full plans & specs with a raised engineers seal must be sent to the state prior to starting construction. The plans and specs will be reviewed by a peer review engineer through the State. Construction of the safe room will not be granted until the peer review engineer has approved the plans & specs of the safe to ensure it has met all Federal, State and programmatic rules.
- K. For stand-alone safe rooms larger than 1200 sf, a generator large enough to provide the covered space with power and environmental needs is eligible for the project. (with justification, this may be waived). HVAC is also eligible for the project. If back up generator and HVAC are to be located outside the safe room, both equipment are required to be protected to meet FEMA 361 standards from both horizontal and vertical debris damage.