

**INTERLOCAL COOPERATION AGREEMENT BETWEEN
GUADALUPE COUNTY, TEXAS AND THE CITY OF NEW BERLIN,
TEXAS RELATIVE TO SUBDIVISION REGULATIONS IN GUADALUPE
COUNTY, TEXAS AND ALSO WITHIN THE EXTRATERRITORIAL
JURISDICTION (ETJ) OF THE CITY OF NEW BERLIN**

THIS INTERLOCAL COOPERATION AGREEMENT is made and entered into by and between Guadalupe County, Texas, a political subdivision of the State of Texas (hereinafter referred to as "County"), by and through its County Judge, and the City of New Berlin, a municipal corporation of the State of Texas (hereinafter referred to as "City").

WHEREAS, the regulation of subdivisions of property is a governmental function as set forth in Chapters 212 and 232 of the Texas Local Government Code; and

WHEREAS, pursuant to Chapter 212 of the Texas Local Government Code, the City has the statutory authority to adopt rules and regulations governing plats and subdivisions of land both inside the city limits and within the City's extraterritorial jurisdiction of the City; and

WHEREAS, pursuant to Chapter 232 of the Texas Local Government Code, the County has statutory authority to adopt rules governing plats and subdivisions of land in areas of the county lying outside the limits of a municipality, including the areas within the municipality's extraterritorial jurisdiction; and

WHEREAS, Chapter 242 of the Texas Local Government Code requires certain counties and municipalities to execute an agreement that identifies the governmental entity authorized to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction.

NOW THEREFORE, the parties hereby enter into this Agreement as authorized by Chapter 791 of the Texas Government Code and required by Chapter 242 of the Texas Local Government Code as follows:

SECTION 1. TERM OF AGREEMENT

- 1.1 The County and the City mutually agree that the term of this Interlocal Cooperation Agreement shall be for three years from the date it is formally and duly executed by both the City and the County, and it shall automatically renew for successive three-year terms until amended by the parties or superseded by a new interlocal agreement between the parties.
- 1.2 Notwithstanding the foregoing, this Agreement may be terminated by either party by giving ninety days written notice of intent to terminate this Agreement to the other party. Any notice of intent to terminate must be delivered by deposit in the United States mail, certified, return receipt requested, to the other party at the

address set out herein. Upon termination of this Agreement, neither party shall have any obligations to the other party under this Agreement, except with respect for any services already rendered under this Agreement but not yet paid.

- 1.3 Definitions. In this Agreement terms stated below shall have the meanings that follow:

“*Direct access*” means direct ingress and egress from a Lot to a County road.

“*Fiscal security*” means a bond or Irrevocable Letter of Credit payable to or for the benefit of Guadalupe County, Texas in a sum as determined by the Guadalupe County Road & Bridge Administrator in accord with the Guadalupe County Subdivision Regulations to guaranty the work and any applicable warranties; and which is furnished and approved by the Guadalupe County Commissioners’ Court.

“*Multi-family residential properties*” lots on which more than one residential unit is located including, but not limited to, apartments, duplexes, four-plexes, condominiums, hotels, manufactured home parks and recreational vehicle parks.

“*Plat Applicant*” means the Property Owner, and if applicable the Developer, of the land to be subdivided.

“*Public infrastructure*” means that infrastructure the County Commissioners Court expressly accepts for public maintenance and use.

“*Remaining tract*” means that part of the original tract of land that remains after the division of part of said tract into lots.

SECTION 2. COUNTY RESPONSIBILITIES

- 2.1 The County, within the extraterritorial jurisdiction of the City of New Berlin, shall:

2.1.1 continue to administer and enforce Guadalupe County On-Site Sewage Order; and

2.1.2 administer and enforce its Flood Damage Prevention Regulations.

- 2.2 The County shall assume maintenance responsibilities for all public infrastructure within any platted subdivision, once built, provided such public infrastructure is in compliance with the requirements of the County and also follow any applicable state and/or federal regulations for road construction and drainage. Before the County shall assume such public infrastructure maintenance responsibilities the Plat Applicant shall:

2.2.1 provide a one year warranty guarantying the design and construction of the public infrastructure, and give fiscal security assuring the Plat Applicant’s warranty;

- 2.2.2 during the warranty period, upon notification by the County Road & Bridge Department of any public infrastructure construction failure and the required repairs, make the necessary repairs in a timely fashion (failure of the Plat Applicant to comply with any required repairs will result in County making demand for payment on any bond, bonds or Irrevocable Letter of Credit); and
 - 2.2.3 upon the expiration of the one-year warranty period with no outstanding warranty claims, submit a request to the County Road & Bridge Department for release of any Bond or Irrevocable Letter of Credit posted by Plat Applicant, which shall be honored if there are no existing construction failures requiring repairs.
- 2.3 The County shall administer and enforce the subdivision of land into lots greater than five acres in size and such subdivision of land shall be subject solely to the subdivision regulations of Guadalupe County, Texas. Any exceptions to platting requirements set forth in Chapter 232 of the Texas Local Government Code shall be applicable in subdivisions subject to the County's subdivision regulations.
- 2.4 Any Lot directly accessing a County Road shall be required to obtain a County driveway permit. County driveway permit requirements include the following:
 - 2.4.1 subject to any statutory exceptions, lot proposed to front an existing County road, from which it shall have direct access, shall have a minimum road frontage of two hundred linear feet;
 - 2.4.2 driveways shall be construction in conformity with current and future drainage infrastructure and traffic safety considerations; and
 - 2.4.3 that portion of a driveway located within the public rights of way shall be dedicated to the public.
- 2.5 Except as specifically authorized in this Agreement, the County shall not enforce its subdivision regulations within the ETJ of the City.

SECTION 3. CITY RESPONSIBILITIES

- 3.1 Except as otherwise stated herein, the City shall enforce its subdivision regulations in the ETJ of the City.
- 3.2 The City shall adopt in its subdivision regulations those exceptions to platting prescribed in Texas Local Government Code Section 232.0015, which shall be applicable in the ETJ.
- 3.3 The City shall incorporate into its subdivision rules applicable to its ETJ compliance

with the "Order Adopting Rules of Guadalupe County, Texas for On-Site Sewage Facilities" approved on June 30, 2009 by the Commissioner's Court of Guadalupe County and subsequently approved on August 25, 2009 by the Texas Commission on Environmental Quality as well as any future amendments thereto. As these rules are amended, the County shall provide copies of such amended documents to the City.

- 3.4 For purposes of servicing single family dwellings by an On-Site Sewage Facility and which are served by a TCEQ approved public water supply and where said lots are located within the ETJ of the City in a proposed subdivision, a minimum of one acre per lot will be required.
- 3.5 For all proposed multi-family residential properties (and all proposed non-residential commercial properties) located within the ETJ of the City, On-Site Sewage Facility permitting requirements will be decided by the County consistent with TCEQ guidelines for same, generally accepted engineering standards and any additional applicable On-Site Sewage Facility guidelines adopted by the County in the future.
- 3.6 Pursuant to Texas Local Government Code Chapter 212, the City shall administer the approval of:
 - 3.6.1 the division of property within its corporate limits; and
 - 3.6.2 the division of land, in its extraterritorial jurisdiction, into lots less than five acres; including instances when the remaining tract is greater than five acres.
- 3.7 The City shall require any Plat Applicant, for land to be subdivided in the City's extraterritorial jurisdiction, to prepare a "Drainage Study" that is no less stringent than the drainage study requirements of the County. In the event the City does not have a Drainage Study Requirement or the requirements are less stringent than those of the County, City agrees to require the Plat Applicant to comply with the Drainage Study requirements set forth in Guadalupe County's Subdivision Rules.
- 3.8 The City shall require a Plat Applicant proposing direct access from any proposed Lot to a County road to comply with the County's Driveway Permit requirements as described in Section 2.2 above.
- 3.9 The City shall require a Plat Applicant proposing to construct any road or other infrastructure for dedication to the County to comply with the County's infrastructure requirements.
 - 3.9.1 The City shall provide in its Subdivision Ordinance, that the County shall be a necessary reviewing agency of a Preliminary Plat, when dedication of infrastructure is proposed; and the Subdivision Ordinance shall include a methodology for the Plat Applicant to provide the County with a copy of

the subdivision application and related documents, in such form as acceptable by the County, for review and approval by the County.

3.9.2 The City shall not record an approved plat, until the infrastructure is accepted by dedication by the County; or, the Plat Applicant provides the County with a performance bond or letter of credit, satisfactory to the County, assuring completion of the infrastructure.

3.9.3 The construction of the road shall be subject to County inspection for compliance with applicable road construction standards in accordance with the County's construction standards, including minimum right-of-way width dedication.

3.9.4 The County shall be under no obligation to accept any road for public maintenance that fails to comply with applicable County standards

3.10 With the exception of roads, streets or other public infrastructure specifically accepted by the County for maintenance, the County assumes no further obligations to maintain any other public areas of the Subdivision.

3.11 The City's Subdivision Ordinance shall prohibit the establishment of any lot not having direct access to a public road; unless the private road providing access to a public road is fully completed before plat recordation; and, the owners of the lots served by the private road are bound by a road maintenance agreement assuring the viability of the private road.

SECTION 4. GENERAL PROVISIONS

4.1 **General Administration:** General administration of this Agreement shall be by the designated contact person as the representative for the County, the Guadalupe County Judge, or his/her representative (or successor in office). Administration of this Agreement for the City will be by the designated contact person as the representative for the City, the City Mayor, or his/her representative (or successor in office).

4.2 **Alteration, Amendment or Modification:** This Agreement may not be altered, amended, or modified except in writing signed by all parties to this Agreement. No official, agent, employee, or representative of either the County or the City has the authority to alter, amend, or modify the terms of this Agreement, except in accordance with express authority as may be respectively granted by either the Guadalupe County Commissioner's Court or the City Council of the City of New Berlin, Texas.

4.3 **Notice:** All notices sent pursuant to this Agreement shall be in writing and must be sent by certified mail, postage prepaid, return receipt requested or hand delivered. The addresses for notice below may be changed by either party providing written notice to the other of the new address.

1. Notices pursuant to this Agreement shall be sent to the Guadalupe County Judge's Office at the following address:

Guadalupe County Judge's Office
101 E. Court Street
Seguin, Texas 78155

2. Notices sent pursuant to this Agreement may be delivered or sent to the City at the following address:

City of New Berlin
275 FM 2538
Seguin, Texas 78155

3. To be effective, a copy of any notices sent to the County shall be sent to the Guadalupe County Attorney's Office at the following address:

Guadalupe County Attorney
211 W. Court Street
Seguin, Texas 78155

4. When notices sent pursuant to this Agreement are mailed by registered or certified mail, notice shall be deemed effective three days after deposit in a U.S. mail box or at a U.S. post office.

4.4 **Severability:** If any provision of this Agreement is found to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect the remaining provisions of this Agreement.

4.5 **Breach:** The failure of either party to comply with the terms and conditions of this Agreement shall constitute a breach of this Agreement. Either party shall be entitled to any and all rights and remedies allowed under Texas Law for any breach of this Contract by the other party.

4.6 **Non-Waiver:** The waiver by either party of a breach of this Agreement shall not constitute a continuing waiver of such breach or of a subsequent breach of the same or a different provision.

4.7 **Entire Agreement:** This Interlocal Cooperation Agreement constitutes the entire agreement between Guadalupe County and the City. No other agreement, statement, or promise relating to the subject matter of this Contract and which is not contained in this Contract or incorporated by reference in this Contract shall be valid or binding.

- 4.8 **Terms used in Document:** As used in this document, the terms "Interlocal Cooperation Agreement," "Interlocal Agreement," "Agreement," and "Contract" are synonymous.
- 4.9 **Non-Defined Terms:** If not specifically defined in this Contract, words and phrases used in this Contract shall have their ordinary meaning as defined by common usage.
- 4.10 Both the County and the City acknowledge that they each are in possession of a copy of the other's current subdivision rules. The County and City further agree that in the event their respective subdivision rules are modified in any respect, then that party will provide a copy of the changes to the other party. Neither party hereto shall have the right to waive any applicable subdivision, septic or floodplain rules.
- 4.11 This Agreement supersedes and replaces any prior agreement between the City and the County relative to Subdivision regulations.

GUADALUPE COUNTY, TEXAS

BY: _____

PRINTED NAME: Kyle Kutscher

GUADALUPE COUNTY JUDGE

SIGNED THIS 25 DAY OF June, 2019.

ATTEST: A. Smith, DATE: 6/25/19

GUADALUPE COUNTY CLERK

A. Smith, deputy

CITY OF NEW BERLIN, TEXAS

BY: _____

PRINTED NAME: WALTER C WILLIAMS JR

CITY OF NEW BERLIN CITY MAYOR

SIGNED THIS 17 DAY OF June, 2019.

ATTEST: Marjorie L. Inell, DATE: June 17, 2019

CITY OF NEW BERLIN CITY SECRETARY

