

**2<sup>ND</sup> AMENDED INTERLOCAL AGREEMENT  
BETWEEN COMAL COUNTY AND CITY OF BULVERDE  
FOR SUBDIVISION REGULATION WITHIN THE  
EXTRATERRITORIAL JURISDICTION OF THE  
CITY OF BULVERDE**

**THIS INTERLOCAL COOPERATION AGREEMENT** (this “Agreement”) is made and entered into by and between Comal County, Texas, a political subdivision of the State of Texas (hereinafter referred to as “COUNTY”), by and through its County Judge, Sherman Krause, and the City of Bulverde, a municipal corporation of the State of Texas (hereinafter referred to as “CITY”), by and through its Mayor, Bill Krawietz.

**WHEREAS**, the CITY has duly identified its extraterritorial jurisdiction (hereinafter referred to as “ETJ” or the “CITY’s ETJ”) within the COUNTY; and

**WHEREAS**, the CITY has adopted and is enforcing subdivision regulations pursuant to Texas Local Government Code Chapter 212 and other statutes applicable to municipalities; and

**WHEREAS**, the COUNTY has adopted and is enforcing subdivision regulations pursuant to Texas Local Government Code sections 232.001-232.005 and other statutes applicable to counties; and

**WHEREAS**, the COUNTY and the CITY, pursuant to Texas Local Government Code Section 242.001, have both enforced their subdivision regulations in the CITY’s ETJ and, in those situations where the CITY’s regulation conflicted with the COUNTY’s regulation, the more stringent provisions have prevailed; and

**WHEREAS**, the Texas Legislature has revised Texas Local Government Code Chapter 242 to limit subdivision regulation within the ETJ to one entity; and

**WHEREAS**, the COUNTY and the CITY are required to enter into a written agreement that identifies the governmental entity authorized to regulate subdivision plats and approve related permits in the ETJ of the CITY within the COUNTY; and

**WHEREAS**, the COUNTY and the CITY were required to enter into said written agreement on or before April 1, 2002; and

**WHEREAS**, the Texas Local Government Code Section 242.001(d)(4) allows the CITY and the COUNTY to establish a single set of consolidated and consistent regulations related to plats, subdivision construction plans, and subdivisions of land as authorized by Chapter 212, Sections 232.001-232.005, Subchapters B and C, Chapter 232, and other statutes applicable to municipalities and counties that will be enforced in the ETJ; and

**WHEREAS**, pursuant to Section 242.001(d)(4) of the Texas Local Government Code, the CITY and the COUNTY entered into an Interlocal Agreement on April 4, 2002, establishing consolidated and consistent subdivision regulations for the CITY'S ETJ, dictating that the CITY would enforce such regulations pursuant to such Interlocal Agreement; and

**WHEREAS**, the City and the County entered into an Amended Interlocal Agreement on April 14, 2009, establishing consolidated and consistent subdivision regulations for the CITY'S ETJ, dictating that the County would enforce the County's regulations pursuant to the Amended Interlocal Agreement; and

**WHEREAS**, pursuant to Section 242.001(d)(4) of the Texas Local Government Code, the CITY and the COUNTY desire to enter into this 2<sup>nd</sup> Amended Interlocal Agreement, establishing consolidated and consistent subdivision regulations for the

CITY'S ETJ, dictating that the CITY will enforce the CITY'S regulations pursuant to this 2<sup>nd</sup> Amended Interlocal Agreement; and

**WHEREAS**, to the extent that the CITY's execution of this Agreement and related agreements with other counties in other areas of the CITY's ETJ, or the CITY's adoption, administration or enforcement of ordinances, rules, regulations or plans in reasonable furtherance of this Agreement or the related agreements results in requirements or restrictions that are not identical throughout the CITY's entire ETJ, the parties jointly acknowledge that the actions of the CITY are "reasonably taken to fulfill an obligation mandated by state law" within the meaning of TEX. GOV'T CODE Section 2007.003(b)(4), and are therefore not subject to TEX. GOV'T CODE Chapter 2007; and

**WHEREAS**, pursuant to Section 242.001(c) of the Texas Local Government Code, the CITY and COUNTY hereby certify that the foregoing 2<sup>nd</sup> Amended Interlocal Agreement complies with Texas Local Government Code Chapter 242 pertaining to regulation of the ETJ of Bulverde;

**NOW, THEREFORE**, the COUNTY and the CITY mutually agree as follows:

**I.**

**TERM OF AGREEMENT**

1. The COUNTY and the CITY mutually agree that the term of this Agreement shall be from the date it is formally and duly executed by both the COUNTY and the CITY until terminated by the parties. This Agreement may be amended by the mutual agreement of the parties in writing.
2. Notwithstanding the foregoing, this Agreement may be terminated by either party by giving ninety (90) calendar 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 addresses set out herein. Upon termination of this Agreement, neither party shall have any obligations to the other party under this Agreement, except with respect to payment for services already rendered under this Agreement, but not yet paid.

## **II.**

### **COUNTY RESPONSIBILITIES**

1. Pursuant to Section 242.001(d)(4) of the Texas Local Government Code, the COUNTY assigns and delegates to the CITY, the COUNTY's authority to approve subdivision within the ETJ of the CITY. The COUNTY hereby agrees that it will not enforce its subdivision regulations within the CITY's ETJ, with the exception of the following subdivisions that the COUNTY has received a completed plat application on:
  - a. Singing Hills, Unit 1
  - b. Singing Hills, Unit 2
  - c. Kestrel Airpark, Unit 3

## **III.**

### **CITY RESPONSIBILITIES**

1. The CITY shall enforce its subdivision regulations, including review and approval processes and design and construction standards, within its ETJ. The CITY hereby agrees that it shall not enforce its subdivision regulation on the following subdivisions, which the COUNTY will continue to enforce under its

subdivision regulations:

- a. Singing Hills, Unit 1
  - b. Singing Hills, Unit 2
  - c. Kestrel Airpark, Unit 3
2. The CITY will enforce, in the ETJ, the portion of the COUNTY subdivision regulations attached hereto and incorporated herein as Attachment "A." If either party wishes to propose revisions in the future to the regulations described in Attachment "A," the party will notify the other party of the proposed change. The parties will cooperate in determining the need for the change and will adopt, in writing, any change agreed to by official action of their respective governing bodies.
  3. The CITY shall require the following minimum lot sizes for all subdivisions of land:
    - a. Where each lot within the proposed subdivision will be served by a Texas Commission on Environmental Quality (TCEQ) approved public water supply and will utilize individual on-site sewage facility methods for sewage disposal, the CITY shall require that individual lots have surface areas of at least 1.0 acre; and
    - b. Where each lot within the proposed subdivision will not be served by a TCEQ approved public water supply and will utilize individual on-site sewage facility methods for wastewater treatment, the CITY shall that individual lots have surface areas of at least 5.01 acres.
  4. As an attachment to this Agreement, the CITY shall provide a current map defining the legal boundaries of its corporate limits and areas of ETJ. The CITY shall notify, in writing, the COUNTY of any changes to the CITY's ETJ within ten (10) working days of the effective date of the change, and the

area covered by this agreement shall be deemed by the parties to be amended accordingly. A change in the area covered by this Agreement shall not, however, affect any rights accrued under Chapter 245 of the Texas Local Government Code prior to the effective date of the change.

#### IV.

### GENERAL PROVISIONS

1. **General Administration:** General administration of this Agreement shall be by the contact person and representative for the COUNTY—the Comal County Judge (or respective successors in office), or his/her representative. Administering this Agreement and the contact person and representative for the CITY shall be the Mayor (or respective successors in office), or his/her representative.
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 Comal County Commissioners Court or the Bulverde City Council.
3. **Notice:** All notices sent pursuant to this Agreement shall be in writing and must be sent by registered or certified mail, postage prepaid, return receipt requested.

(a) Notices sent pursuant to this Agreement shall be sent to the Comal

County Judge's Office at the following address:

County Judge Sherman Krause (or his successors in office)  
Comal County Judge's Office  
150 N. Seguin Avenue  
New Braunfels, Texas 78130

With copies to:

County Engineer Thomas Hornseth, P.E. (or his successors in office)  
195 David Jonas Drive  
New Braunfels, Texas 78130

Tiffany Colunga (or her successors in office)  
Chief Civil Prosecutor  
150 N. Seguin Avenue, Suite 307  
New Braunfels, Texas 78130

(b) Notices sent pursuant to this Agreement shall be sent to the Bulverde

Mayor's office at the following address:

Mayor Bill Krawietz (or his successor in office)  
City of Bulverde  
30360 Cougar Bend  
Bulverde, Texas 78163

With copies to:

E.A. Hoppe (or his successor in office)  
City Administrator, City of Bulverde  
30360 Cougar Bend  
Bulverde, Texas 78163  
Frank Garza (or his successor in office)  
City Attorney  
Davidson, Troilo, Ream & Garza  
7550 IH-10 West #800  
San Antonio, Texas 78163

(c) When notices sent pursuant to this Agreement are mailed by registered or certified mail, notice shall be deemed effective three (3) days after deposit in a U.S. mail box or at a U.S. post office.

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.
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 Agreement by the other party.
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. Nothing in this Agreement is intended by either party to constitute a waiver of any immunity from suit or liability to which it is entitled under applicable law.
7. **Terms used in Document:** As used in this document, the terms “2<sup>nd</sup> Amended Interlocal Agreement,” “Agreement,” and “Contract” are synonymous.
8. **Non-Defined Terms:** If not specifically defined in this Agreement, words and phrases used in this Agreement shall have their ordinary meaning as defined by common usage.
9. **Entire Agreement; Third Parties:** This Agreement constitutes the entire agreement between the COUNTY and the CITY. No other agreement, statement, or promise relating to the subject matter of this Agreement and which is not contained in this Agreement or incorporated by reference in this Agreement, shall be valid or binding. This Agreement is not intended to

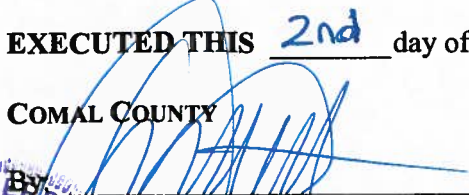


confer any rights on any third parties, and it shall not be construed as conferring any rights on any third parties.


10. **Venue:** Exclusive venue shall lie in a court of competent jurisdiction in Comal County, Texas.

EXECUTED THIS 2nd day of JULY, 2013.

COMAL COUNTY

By:   
HONORABLE SHERMAN KRAUSE  
COMAL COUNTY JUDGE

ATTEST:

  
JOY STREATER, COMAL COUNTY CLERK

DATE: 7-2-13

EXECUTED THIS 9th day of July, 2013.

CITY OF BULVERDE

By:   
BILL KRAWIETZ, MAYOR

ATTEST:

  
CITY SECRETARY

DATE: 7-9-13



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**ATTACHMENT "A"**

**1) Comal County Flood Damage Prevention.**

- a. Prior to any plat approval or recordation, the CITY shall obtain a written approval letter from the Comal County Floodplain Administrator indicating that the plat properly depicts the existing regulatory flood plain limits within the CITY'S ETJ and that the developer has obtained the necessary permits for the associated land development, pursuant to the Comal County Flood Damage Prevention Order.

**2) Notification to the COUNTY by the CITY.**

- a. Not later than ten (10) working days after the CITY receives a completed final plat application, the CITY shall send to the COUNTY two (2) copies of the proposed plat and a copy of the associated Plat Application Form.
- b. Within ten (10) working days of the recordation of a subdivision plat within the CITY's ETJ, the CITY shall deliver two (2) copies of the recorded subdivision plat to the COUNTY.
- c. Requests for variances from the COUNTY regulations in this Attachment "A" will require approval of the Commissioners Court.

**3) Dedication of Public Right-Of-Way in ETJ.**

- a. The CITY agrees to require developers at a minimum to dedicate public right-of-way pursuant to the Comal County Major Thoroughfare Plan, as currently revised or amended, subject to applicable constitutional and statutory limitations. The COUNTY shall furnish a copy of the Major Thoroughfare Plan to the CITY within ten (10) working days of adoption of any revisions to the Comal County Major Thoroughfare Plan.
- b. Subdivisions in which it appears to the CITY that a requirement for dedication of right-of-way and improvements required by either the CITY or COUNTY Thoroughfare Plan may exceed an applicable constitutional or statutory limitation, the CITY shall notify the COUNTY, and the parties shall cooperate to determine

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the extent of dedication or improvements to be required, or an alternative method of securing the needed transportation infrastructure.

**4) Completion of Infrastructure or Financial Assurance Requirement.**

- a. The CITY shall require all infrastructure needed to serve the subdivision, whether located off-site or on-site, to be finally completed in accordance with the approved construction plans before an approved final subdivision plat is recorded. The CITY may defer this obligation to construct the infrastructure prior to plat recordation, conditioned on execution of a subdivision improvement agreement and the posting of sufficient surety to secure the obligations defined in the agreement.
- b. If the City defers the obligation to construct the infrastructure prior to the recordation of the plat, the CITY shall require the developer to provide a Corporate Surety Bond, Irrevocable Letter of Credit, or a Cash Deposit, in an amount determined by the CITY, (amount to reflect the projected amount calculated to the expiration date of the surety), to ensure the proper completion of all necessary infrastructure, including but not limited to roads, drainage, water distribution facilities, and waste water collection/treatment facilities, for subdivisions involving said infrastructure.
- c. The surety instrument shall be executed by a surety company authorized to do business in the State of Texas and shall be made payable to the County Judge or his successors in office, of Comal County, Texas.
- d. The condition of the bond, letter of credit or cash deposit shall be that the owner or owners of the tract of land to be subdivided will construct all necessary infrastructure, including but not limited to roads, drainage, water distribution facilities, and waste water collection/treatment facilities of such subdivision within one year.
- e. The time period for completion may be extended upon written agreement of the

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developer and COUNTY.

- f. The full amount of the surety shall remain in force until all necessary infrastructure, including but not limited to roads, drainage, water distribution facilities, and waste water collection/treatment facilities are completed, and roads, drainage, water distribution facilities, and waste water collection/treatment facilities are approved and/or accepted by the COUNTY.
- g. The CITY shall deliver said surety to the COUNTY within 10 working days of the recording of the subdivision plat.

**5) Maintenance of Private Improvements and Financial Assurance Requirement.**

- a. In this Section, Private Improvements shall be defined as improvements placed within the public or private road right-of-way to include but not limited to the following improvements:
  - i. Storm drain inlets, catch basins, and underground piping;
  - ii. Public sidewalks, curbs, and pathways; and
  - iii. Planting strips, boulevards, medians and street lighting.
- b. Prior to final plat approval, CITY shall require the individual property owner(s), developer, home owners association, property owners association, or other entity to obtain a Private Improvement within Public Right-of-Way (PIPROW) Permit from Comal County for all Private Improvements proposed to be located within the public right-of-way.

**6) Placement of Public Utilities.**

- a. The City shall require public utilities within the public road rights-of-way to be located no closer than 5' to the back of the street curb or edge of the road shoulder.

**7) County Inspection of Roads in ETJ.**

- a. COUNTY inspectors shall have the right, at its discretion, to inspect the construction of the roads, drainage, water distribution facilities, and waste water collection/treatment facilities.

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- b. The COUNTY may request that the CITY issue a stop-work notice if the applicable construction standards are not being met.
- c. Upon the City's approval of the project, the CITY shall provide the COUNTY a set of final construction plans, including lab results and road materials, and specifications for all public improvements located off-site or on-site that are required for the subdivision. The CITY shall also submit to the COUNTY, a letter from the CITY, certifying completion and compliance of all infrastructure.

**8) Road Signage within the ETJ in Comal County.**

- a. County standard road name plates, signs, and posts shall be installed by the Comal County Road Department on all public roads. The CITY shall require the Developer to pay the cost of labor and materials for the installation of this signage.
- b. County standard road name plates and posts shall be installed by the Comal County Road Department on all private roads. The CITY shall require the Developer to pay the cost of labor and materials for the installation of name plates and posts. Upon completion of the project, the CITY shall require the Developer to install all necessary regulatory, warning, and advisory signs on private roads.

**9) Water Availability within the ETJ in Comal County.**

- a. A person seeking approval of a plat that creates one or more lots or is seeking approval of a revision plat that results in an increase in the total amount of lots located within the extraterritorial jurisdiction of the City of Bulverde and the County of Comal shall comply with the Comal County Water Availability Regulations, as currently revised or amended, subject to applicable constitutional and statutory limitations.

**10) Exempt from ATTACHMENT "A" within the ETJ in Comal County.**

- a. The provisions within ATTACHMENT "A" shall not apply to Amendments to Plats.
- b. The provisions within ATTACHMENT "A" shall not apply to subdivision activity

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exempt from platting, pursuant to Texas Local Government Code, Chapter §232.0015, Exceptions to Plat Requirement.

- c. The provisions within ATTACHMENT "A" shall not apply to Amending Plats, pursuant to Texas Local Government Code, Chapter §232.011, Amending Plat, and Chapter §232.0095, Alternative Procedures for Plat Revision.

City of Bulverde Extra Territorial Jurisdiction as of 07/09/2013  
 Attached to the 2nd Amended Interlocal Agreement Between Comal County  
 and the City of Bulverde per Sec. III(4) of the Agreement.

