

**AMENDED INTERLOCAL AGREEMENT
BETWEEN COMAL COUNTY AND CITY OF FAIR OAKS RANCH
FOR SUBDIVISION REGULATION WITHIN THE
EXTRATERRITORIAL JURISDICTION OF THE
CITY OF FAIR OAKS RANCH**

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, Danny Scheel, and the City of Fair Oaks Ranch, a municipal corporation of the State of Texas (hereinafter referred to as “CITY”), by and through its Mayor Pro Tem, Daniel Kasprowicz.

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, pursuant to Section 242.001(d)(1) of the Texas Local Government Code the CITY and the COUNTY entered into an Interlocal Agreement on March 28, 2002, establishing subdivision regulations for the CITY'S ETJ dictating that the CITY would enforce the CITY's regulations pursuant to such 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(d)(1) of the Texas Local Government Code the CITY and the COUNTY desire to enter into this Amended Interlocal Agreement establishing subdivision regulations for the CITY's ETJ dictating that the

CITY will enforce the CITY's regulations pursuant to this Amended Interlocal Agreement; and

WHEREAS, pursuant to Section 242.001(c) of the Texas Local Government Code, the CITY and COUNTY hereby certify that the foregoing Amended Interlocal Agreement complies with Texas Local Government Code Chapter 242 pertaining to regulation of the ETJ of the City of Fair Oaks Ranch;

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) 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

The COUNTY shall not enforce its subdivision regulations within the ETJ of the City of Fair Oaks Ranch.

III.

CITY RESPONSIBILITIES

The CITY shall enforce its subdivision regulations, including review and approval processes and design and construction standards, within its ETJ.

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 his/her representative (or respective successors in office). Administering this Agreement and the contact person and representative for the CITY shall be the Director of Planning and Development Services, 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 Fair Oaks Ranch 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 Danny Scheel (or his successors in office)
Comal County Judge's Office
199 Main Plaza
New Braunfels, Texas 78130

With copies to:

- County Engineer Thomas Hornseth (or his successors in office)
195 David Jonas Drive
New Braunfels, Texas 78130
- Jennifer Tharp (or her successors in office)
Chief Civil Prosecutor
150 N. Seguin Street, Suite 307
New Braunfels, Texas 78130

(b) Notices sent pursuant to this Agreement may be delivered or sent to the Fair Oaks Ranch City Mayor's office at the following address:

- Mayor Pro Tem Daniel Kasprowicz (or his successors in office)
City of Fair Oaks Ranch
7286 Dietz Elkhorn
Fair Oaks Ranch, TX 78015

(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 “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.

EXECUTED THIS 20th day of December, 2007.

COMAL COUNTY

By: Danny Scheel

HONORABLE DANNY SCHEEL
COMAL COUNTY JUDGE



ATTEST:
Joy Streater
JOY STREATER, COMAL COUNTY CLERK

DATE: 12-20-07

EXECUTED THIS 20 day of December, 2007.

CITY OF FAIR OAKS RANCH

By: Daniel Kasproicz

DANIEL KASPROWICZ
MAYOR PRO TEM OF FAIR OAKS RANCH



ATTEST:
P. Vanzant
CAROLE VANZANT, SECRETARY OF FAIR OAKS RANCH

DATE: 12/20/07