

RESOLUTION 2018-19

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS
AUTHORIZING THE EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT
WITH CALDWELL COUNTY FOR SUBDIVISION REGULATION WITHIN THE
EXTRATERRITORIAL JURISDICTION OF THE CITY OF LOCKHART.**

WHEREAS, pursuant to Texas Local Government Code Section 242.001(d)(1), the City of Lockhart and Caldwell County entered into an interlocal cooperation agreement for the enforcement of subdivision regulations in the City's extraterritorial jurisdiction which has terminated, and the parties wish to enter into a new agreement that states the purpose, terms, rights, and duties of the parties regarding subdivision regulation in the City's ETJ, such new agreement being attached hereto as Exhibit A;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOCKHART,
TEXAS:**

That the Lockhart City Council authorizes the Mayor to execute and enter into the attached Interlocal Cooperative Agreement between the City of Lockhart, Texas, and Caldwell County, Texas, for the regulation of subdivisions within the extraterritorial jurisdiction of Lockhart.

Passed and approved this 16th day of October, 2018.



ATTEST:

Connie Constancio

Connie Constancio, TRMC
City Secretary

CITY OF LOCKHART, TEXAS

Lew White

Lew White, Mayor

APPROVED AS TO FORM:

Peter Gruning

Peter Gruning, City Attorney

STATE OF TEXAS §
 §
COUNTY OF CALDWELL §

INTERLOCAL COOPERATIVE AGREEMENT BETWEEN CALDWELL COUNTY AND THE CITY OF LOCKHART FOR SUBDIVISION REGULATION WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF LOCKHART

THIS INTERLOCAL COOPERATION AGREEMENT (this "Agreement") is made and entered into by and between CALDWELL 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 Lockhart, a municipal corporation of the State of Texas (hereinafter referred to as "CITY"), by and through its Mayor.

WHEREAS, the CITY has duly identified its corporate limits and the areas of its statutory extraterritorial jurisdiction (hereinafter referred to as "ETJ" or the "CITY's ETJ") within the COUNTY; and,

WHEREAS, the COUNTY has adopted and is enforcing subdivision regulations pursuant to Texas Local Government Code Sections 232.002 through 232.005 and other statutes applicable to counties; and,

WHEREAS, the COUNTY and the CITY, pursuant to Texas Local Government Code Section 242.001 (d)(1), entered into an interlocal agreement for enforcement of subdivision regulations in the CITY's ETJ, and the parties wish to enter into a new Agreement that states the purpose, terms, rights, and duties of the parties regarding subdivision regulation in the City's ETJ; and,

WHEREAS, to the extent that the CITY's adoption, administration and/or enforcement of ordinances, rules, regulations, and/or plans in furtherance of this Agreement are not identical throughout the City's ETJ, the parties acknowledge that the actions of the CITY are "reasonably taken to fulfill an obligation mandated by state law" within the meaning of Chapter 2007 of the Texas Government Code;

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

I. TERM OF AGREEMENT AND CERTIFICATION

A. The COUNTY and the CITY agree that the term of this Agreement shall commence on the date it is formally and duly executed by both the COUNTY and the CITY on an annual basis, unless earlier terminated as provided herein.

B. 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. If this agreement terminates, then both Parties' subdivision ordinances will apply to subdivisions in the ETJ. Where a conflict arises between the Parties' subdivision ordinances, the stricter standard shall apply.

C. The COUNTY and the CITY mutually certify that this Agreement complies with the requirements of Chapter 242 of the Texas Local Government Code.

II. AUTHORITY AND RESPONSIBILITIES OF THE PARTIES

A. Pursuant to Chapter 242 of the Texas Local Government Code, the COUNTY grants to the CITY jurisdiction to regulate all subdivisions and approve related plats and permits within the statutory ETJ of the CITY, pursuant to Chapters 212 and 232 of the Texas Local Government Code and other statutes applicable to municipalities. In the event that the City's statutory ETJ should expand or reduce, the City shall continue to have jurisdiction to regulate subdivisions and approve related plats and permits in its statutory ETJ, including in the expanded or reduced areas. All areas outside of the CITY's statutory ETJ shall be within the COUNTY's exclusive jurisdiction. The City's subdivision standards, as modified herein, will apply to subdivisions partly within the City's ETJ and partly within the County outside the ETJ. Subdivisions that are partly within the City and partly within the ETJ are subject to City standards.

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

C. The CITY agrees to require developers in the City's ETJ to dedicate public rights of way pursuant to any County Transportation Plan adopted by the COUNTY subject to applicable constitutional and statutory limitations. If it appears to the CITY that a requirement for dedication of right of way pursuant to such County Transportation Plan may exceed an applicable constitutional or statutory limitation, the CITY will notify the COUNTY, and the parties will cooperate to determine the extent of right of way dedication to be required, or an alternative method of securing the needed right of way. When enforcing subdivision regulations in the CITY's ETJ, the CITY shall apply whichever Party's road construction standards are more stringent.

D. The CITY shall record plats of subdivisions in the City's ETJ with the County Clerk and provide a digital file of each new subdivision to the County and to the Caldwell County Appraisal District. The City shall collect the County plat recording fee, as detailed in the Caldwell County Subdivision and Development Fee Schedule, from subdividers in the City's ETJ and shall forward such fee to the County.

E. The CITY shall confer with the Caldwell County 911 Addressing Coordinator or designated representative concerning street names prior to final approval of plats in the City's ETJ.

F. The CITY shall allow COUNTY inspectors access to road construction sites of subdivisions within the ETJ and the CITY shall timely submit copies of all road design materials and road construction test results to the COUNTY during road construction. The COUNTY may request that the CITY issue a stop-work notice if it believes that the applicable construction standards are not being met. The City shall notify, or require the developer to notify, the County at least 72 hours in advance of construction subject to County inspection.

G. Prior to acceptance of new streets or other improvements in a subdivision that is completely within the ETJ, or partly in the COUNTY and partly in the ETJ, the CITY shall require of the applicant/developer a Certificate of Deposit, a Letter of Credit, or a warranty or cash bond as required by the Development Ordinance of Caldwell County, payable to Caldwell County, which shall be binding for two (2) years from the date of acceptance of the streets and improvements, during which time the applicant/developer shall be responsible for maintenance of the public streets and other improvements as required by the Caldwell County Development Ordinance. The CITY shall collect the County road fee, as detailed in the Caldwell County Subdivision and Development Fee Schedule, from applicants for subdivisions in the City's ETJ and shall forward such fee to the County. The CITY's subdivision development procedures will apply to new streets or other improvements in a subdivision that is partly within the CITY and partly in the ETJ.

H. The CITY shall have the right to charge applicants/developers its fees for costs and services under this Agreement and otherwise in the administration of laws, ordinances and regulations that apply to subdivisions in the CITY's ETJ.

I. If a Certificate of Deposit, Letter of Credit, warranty, or bond is to be forwarded to the COUNTY in accordance with this Agreement, the CITY shall promptly forward the Certificate of Deposit, Letter of Credit, warranty, or bond to the Office of the County Judge, Caldwell County Courthouse, Room 201, 110 South Main Street, Lockhart, Texas 78644.

J. The CITY agrees that if any subdivision is to be approved in the ETJ that involves the use of septic tanks, the COUNTY shall have exclusive jurisdiction over approval, permitting, collection of fees, regulation, and inspection of such systems.

K. As "Exhibit A" attached 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 the COUNTY of any changes to the CITY's ETJ within ten (10) days of the effective date of the change, and the area covered by this agreement shall be deemed by the parties to be subject to this agreement. 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. Notice of any change shall be sent to the office of the County Judge at the address set forth above.

L. The CITY shall submit for review by the COUNTY facility planning reports supporting proposed on-site sewage facilities in subdivisions in the CITY's ETJ.

M. The CITY agrees that the COUNTY shall have exclusive jurisdiction over floodplains, as detailed in Appendix H of the Caldwell County Development Ordinance and the County's Flood Damage Prevention Ordinance. The CITY further agrees to enforce the COUNTY's drainage design criteria, as detailed in Appendix E of the Caldwell County Development Ordinance, within the ETJ area subject to this agreement.

N. The CITY shall provide the COUNTY with a copy of any application received for a subdivision in the City's ETJ.

O. The CITY shall provide the COUNTY at least 10 (ten) days' written notice of any Planning and Zoning Commission consideration of an application for a subdivision variance in the ETJ. If the variance applies to a County standard, then the County may approve or deny the variance in full or part, at its discretion. If the variance applies to a City standard, then the City may approve or deny the variance in full or part, at its discretion. Either Party may provide written comment recommending approval or denial of a variance applying to the other Party's standard.

P. For any permits required by the COUNTY under Section 4 of the Caldwell County Development Ordinance, the CITY must place a note on the subdivision plat detailing the permits that must be obtained by applicant.

Q. The CITY shall consult the COUNTY's transportation plan and enforce right of way (ROW) dedications and ROW widths in accordance with the COUNTY's transportation plan.

- a. All permits for work in the ROW, including installation of utilities and driveways shall be issued by the COUNTY.
- b. All newly created subdivisions shall have utilities installed outside the ROW, except for necessary crossings, which will be as close to perpendicular as reasonably possible.
- c. Any street lights installed in ROWs to be dedicated to the COUNTY shall be subject to a licensing agreement. (This should be documented on a plat note.)
- d. Any dedications of parkland within the ETJ shall require approval of the County.
- e. All subdivisions partially within the CITY and partially in the ETJ that have a potential to serve more than 25 non-residential lots or 75 dwelling units shall have at least two points of vehicular access.

III. GENERAL PROVISIONS

A. General Administration: Administering this Agreement and the contact person for the COUNTY shall be the Caldwell County Subdivision Coordinator or his or her representative. Administering this Agreement and the contact person and representative for the CITY shall be the City Planner, or his or her designee.

B. Alteration, Amendment or Modification: This Agreement may not be altered, amended, or modified except in a subsequent writing signed by the Parties. 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 Caldwell County Commissioners Court or the Lockhart City Council.

C. Notice: Any 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 Caldwell County Subdivision Coordinator's Office at the following address:

Manager
Caldwell County Sanitation Department
1700 FM 2720
Lockhart, Texas 78644

- b) To be effective, a copy of any notice sent to the COUNTY shall be sent to the COUNTY's attorney at the following address:

Assistant District Attorney for Civil Affairs
Caldwell County Justice Center
1703 S. Colorado St., Box 5
Lockhart, Texas 78644

- c) Notices sent pursuant to this Agreement shall be delivered or sent individually to the following CITY personnel:

Lockhart City Manager
P.O. Box 239
Lockhart, TX 78644

Lockhart City Planner
P.O. Box 239
Lockhart, TX 78644

- d) 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.

D. 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.

E. Breach: The failure of either party to comply with the terms and conditions of this Agreement shall constitute a breach of this Agreement. However, the parties agree to work together to resolve disputes arising under this Agreement, including a breach, and neither party shall be liable to the other party for any errors or omissions in the review or approval of an application or in the inspection of infrastructure installations. In the event of an alleged breach or other dispute, notice shall be provided to the other party as provided in Section IV.C., and the parties shall cooperate in an attempt to resolve such breach or dispute for a period of at least 60 (sixty) days, prior to sending notice of termination under section I.B., or taking any other remedial action. If the Parties cannot resolve the breach or dispute within the first 30 (thirty) days prior to sending notice of termination or taking any other remedial action, then the Parties shall attempt to resolve the breach or dispute through mediation within the last 30 (thirty) day period, and will act in good faith to select a mediator who is mutually acceptable.

F. 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.

G. 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.

H. Terms Used in Document: As used in this document, the terms "Interlocal Cooperation Agreement", "Interlocal Agreement", "Agreement", and "Contract" are synonymous.

I. 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.

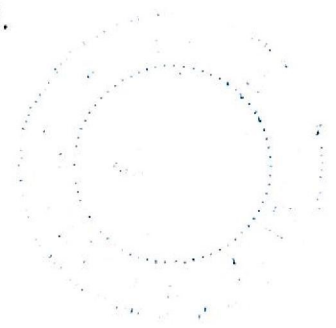
EXECUTED THIS 16th day of October 2018.

CITY OF LOCKHART

By: *Lew White*
LEW WHITE, MAYOR

Attest: *Connie Constanancio*
CONNIE CONSTANCIO, TRMC, CITY SECRETARY

Date: 10/16/18



EXECUTED THIS 13th day of November 2018.

CALDWELL COUNTY

By: *[Signature]*
KEN SCHAWWE, CALDWELL COUNTY JUDGE

Attest: *Carol Holcomb*
CAROL HOLCOMB, CALDWELL COUNTY CLERK

Date: 11-13-2018

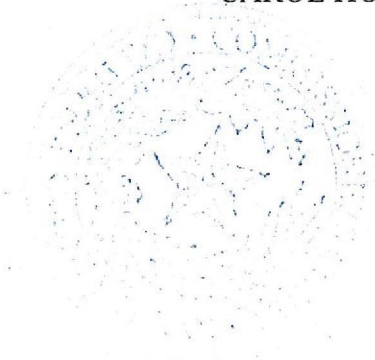
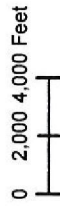


EXHIBIT A



Legend
 PARCEL BOUNDARY
 CITY LIMITS
 STATUTORY 1-MILE ETJ



October 16, 2018

This exhibit is for informational purposes only, and may not have been prepared for or be suitable for legal use. It is not intended to constitute an offer of any services, and it is not intended to be used as a basis for any legal action. The City of Rockport is not responsible for any errors or omissions, and it is not responsible for any consequences that may result from the use of this information.

