

**INTERLOCAL AGREEMENT BETWEEN
WILLIAMSON COUNTY, TEXAS AND
THE CITY OF AUSTIN FOR CONSTRUCTION OF AVERY RANCH BOULEVARD EXTENSION**

This Interlocal Agreement (“Agreement”) is made by and between Williamson County, Texas, a political subdivision of the State of Texas (“the County”) and the City of Austin, Texas, a home-rule municipality and political subdivision of the State of Texas, acting by and through its duly authorized City Manager, or designee (“the City”).

W I T N E S S E T H:

WHEREAS, the County and the City are authorized to enter into this Agreement pursuant to the provisions of the Interlocal Cooperation Act, Texas Government Code Section 791.00 et seq; and

WHEREAS, the County and the City both desire that the County construct a portion of Avery Ranch Boulevard within the City limits; and

WHEREAS, the County has contracted with a contractor (“Contractor”) to construct the extension of Avery Ranch Boulevard to connect with US 183A, and this roadway is an integral part of the County’s road system and will benefit residents of the County and City; and

WHEREAS, the City plans to annex the remaining land that comprises the extension of Avery Ranch Boulevard after the “date of completion” of the Avery Ranch Boulevard Extension Project; and

WHEREAS, the County desires to complete the project in accordance with the plans and specifications set out in this Agreement;

NOW, THEREFORE, the County and the City agree as follows:

I. OBLIGATIONS OF THE COUNTY

- A. The County shall appoint one staff person to act as a single point of contact (hereinafter “SPOC”), with the City. SPOC must be knowledgeable in the planning, content, subject matter and construction being accomplished through the Avery Ranch Boulevard Extension Project. SPOC must possess decision making ability and authority.
- B. The County is responsible for management of the Avery Ranch Boulevard Extension Project, as described in the attached Exhibit A, including oversight of its Contractor, payment to its Contractor, and assuring that the Contractor complies with contractual and other requirements for the Extension Project. This includes obtaining any necessary permits, other than City permits, for the Avery Ranch Boulevard Extension Project. All City of Austin permits are waived for the Avery Ranch Boulevard Extension Project, if the project is constructed in accordance with the construction plans and specifications set out in Exhibit A. If the Avery Ranch Boulevard Extension Project is completed in accordance with Exhibit A, the Project will be deemed to have complied with applicable City development regulations.
- C. County will inspect construction of the Avery Ranch Boulevard Extension Project, and City staff may accompany County staff on such inspections. County will provide City staff with 24 hours telephone notice of preconstruction conferences, periodic inspections, and regular meetings with the Contractor, and the final inspection. (For purposes of this paragraph, telephone notice may be given by calling City of Austin Public Works Inspector Jim Wiggins at 626-0568, or 974-9751.)

County will also provide the City Watershed Protection and Development Review Department with all inspection test results, and upon completion, the final construction summary, and a set of as-built drawings.

- D. After completion of construction of the Avery Ranch Boulevard Extension Project, the County will monitor the roadway and require correction of any deficiencies in design or construction of the roadway or related facilities. After a period of one year from the date of completion, if the roadway and related facilities have been constructed in accordance with the County's contract, and have passed County inspection and qualify for acceptance by the County, the County will notify the City of such fact and the City will accept the roadway and related facilities for maintenance. (For purposes of this Agreement, the "date of completion" of the Avery Ranch Boulevard Extension Project is the date that the County verifies, in writing, that the Contractor has completed the project in accordance with the Contract.) The County shall transfer to the City all Avery Ranch Boulevard Extension Project Contractor's warranties, guarantees, and bonds, to the extent such are transferable; and will assist the City in enforcing such guarantees, warranties, and bonds to the extent necessary.

During the period prior to City acceptance of the roadway and related facilities, the City will refer any inquiries from the public regarding the Avery Ranch Boulevard Extension Project to the County.

II. OBLIGATIONS OF THE CITY

- A. The City shall appoint one person to act as a single point of contact (hereinafter "Contract Administrator") with the County.
- B. The City agrees to the construction of the Avery Ranch Boulevard Extension Project by the County as described in Exhibit A..
- C. The City will accept the Avery Ranch Boulevard Extension Project, and related facilities, for maintenance as set out in Section I.D.

III. TERM, TERMINATION

- A. This Agreement shall be effective from and after the date of execution by all parties, shall automatically renew for successive one year periods, and shall expire one year after the completion of construction of the Avery Ranch Boulevard Extension Project, unless previously terminated pursuant to Section III. B.
- B. If either party defaults in the performance of any of the terms or conditions of this Agreement, the defaulting party shall have 30 days after receipt of written notice of the default within which to cure the default. If such default is not cured within the 30 days, then the offended party shall have the right without further notice to terminate this Agreement.

IV. MISCELLANEOUS

- A. Severability. If any section, subsection, sentence, clause, or phrase of this Agreement is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of the Agreement shall not be affected thereby. It is the intent of the parties signing this Agreement that no portion of it, or provision or regulations contained in it shall become inoperative or fail by reason of unconstitutionality or invalidity of any other section, subsection, sentence, clause, phrase, provision, or regulation of this Agreement.

- B. Indemnity. Williamson County shall, to the extent authorized under the Constitution and laws of the State of Texas, hold the City harmless from liability resulting from the negligent acts or omissions of the County, its officers, agents and employees pertaining to the activities to be carried out pursuant to the obligations of this Agreement; provided, however, the County shall not hold the City harmless from any claims, demands, or causes of action arising in favor of any person or entity, growing out of or incident to, or resulting directly or indirectly from negligence (whether sole, joint, concurring or otherwise) of the City, its officers, agents, representatives, or employees, or any person or entity not subject to the County's supervision or control.

The City shall, to the extent authorized under the constitution and laws of the State of Texas, hold the County, their officers, agents and employees harmless from any liability, loss or damage they may suffer as a result of claims, demands, costs or judgments against them arising out of the activities to be carried out pursuant to the obligations of this Agreement, including but not limited to the use by the City of the results obtained from the activities performed by the County under this Agreement; provided, however, the City shall not hold the County harmless from any claims, demands, or causes of action arising in favor of any person or entity, growing out of, or incident to, or resulting directly or indirectly from:

- a. the negligent failure of the County to substantially comply with any applicable governmental requirements; or
 - b. the negligence, whether sole, joint, concurring, or otherwise, or willful malfeasance of any officer, agent or employee of the County.
- C. Law and Venue. This Agreement shall be governed by the laws of the State of Texas. The obligations under this Agreement are performable in Williamson County, Texas. It is expressly understood that any lawsuit or litigation arising out of or relating to this contract will take place in Williamson County, Texas.
- D. Alteration, Amendment, or Modification. This Agreement may not be altered, amended, or modified except in writing, approved by the County Judge of Williamson County and the City Manager of the City of Austin.
- E. Entire Agreement. This Agreement constitutes the entire agreement between the City and the County. No other agreement, statement or promise relating to the subject matter of this Agreement which is not contained in this Agreement is valid or binding.
- F. Notice. Notices to either party shall be in writing, and may be either hand delivered or sent by certified or registered mail, postage paid, return receipt requested. If sent to the parties at the addresses designated herein, notice shall be deemed effective upon receipt in the case of hand delivery and three days after deposit in the U.S. Mail in case of mailing. The address of City for all purposes shall be:

City Manager
City of Austin
P.O. Box 1088
Austin, Texas 78767

Attn: Henry Casas
Watershed Protection and Development Review Department
(512) 974 5611

The address for the County for all notices hereunder shall be:

Commissioner Lisa Birkman
Precinct 1, Williamson County
400 W. Main, # 216
Round Rock, Texas 78664

with a copy to:
Honorable Jana Duty (or successor)
Williamson County Attorney
405 M.L.K. Street, Box #7
Georgetown, Texas 78626

- G. Independent Relationship. Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.
- H. No Waiver of Immunities. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to the parties hereto, their past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third party. Neither party waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.
- I. Compliance with Laws. The parties hereto shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations.
- J. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto, and supersedes all their oral and written negotiations, agreements, and understandings of every kind. The parties hereto understand, agree, and declare that no promise, warranty, statement, or representation of any kind whatsoever, which is not expressly stated in this Agreement, has been made by any party hereto or its officer, employees, or other agents to induce execution of this Agreement.

WHEREFORE, premises considered, in this Interlocal Agreement is executed to be effective the date of the last party to sign.

CITY OF AUSTIN

By: _____
Laura Huffman
Assistant City Manager

Date: _____

WILLIAMSON COUNTY

By: _____

John Doerfler
County Judge

Date: _____

Approved as to Form:

By: _____

Hal C. Hawes,
Assistant Williamson County Attorney

By: _____

Jim Gilger,
Williamson County Contracts Auditor

EXHIBITS

EXHIBIT A – Construction drawings titled “Paving and Drainage Improvements for Avery Ranch Boulevard Extension”, prepared by Cook-Steinman and Associates, Inc., Randall Nixon P.E. (License # 91097), dated August 16, 2006; reviewed by Joe England P.E., Williamson County, on October 17, 2006.