

INTERLOCAL COOPERATION AGREEMENT

This **Interlocal Cooperation Agreement** ("Agreement") is made and entered into effective as of this the ____ day of _____ 2004 by and between the **City of Austin**, Texas ("Austin"), a Texas home rule municipal corporation, and the **City of Lago Vista**, Texas ("Lago Vista"), a Texas general law municipal corporation, acting by and through their authorized representatives.

Recitals.

Whereas, Austin and Lago Vista (sometimes hereinafter collectively referred to as the "cities" or "parties") recognize that both the public interest and good government are best served by long-term, mutually cooperative relationships between neighboring cities;

Whereas, agreements that establish boundaries within which specific duties are performed and standards are applied in a convenient and cost effective manner to assure quality urban planning and development serve the best interests of all citizens;

Whereas, agreement regarding areas adjacent to the cities' respective corporate limits or extraterritorial jurisdiction ("ETJ") will assist and enhance the planning and development of capital improvement programs and services, and result in meaningful protection for the environment and valuable natural resources; and

Whereas, this Agreement will accomplish legitimate public purposes of both cities and will permit dependable urban planning that will benefit the environment and the public health, safety and welfare of our respective present and future citizens;

NOW, THEREFORE, pursuant to *Chapter 791, Texas Government Code*, and *Chapter 42, Texas Local Government Code*, and as otherwise authorized and permitted by the City Charter of Austin and the laws of the State of Texas, for and in consideration of the covenants, conditions and undertakings hereinafter described, and the benefits to accrue to the citizens of the cities, and subject to each and every term and condition of this Agreement, the parties contract, covenant and agree as follows:

Article One Findings and Declarations.

Section 1.1. Fact Findings. The recitals hereinabove set forth are incorporated herein for all purposes and are found by the respective city councils of Austin and Lago Vista to be true and correct. It is further found and determined that both the governing body of the City of Austin and the City of Lago Vista have authorized and approved this Agreement by resolution duly adopted by such respective governing body, and such resolutions provide that the terms, provisions and conditions of such resolutions and this Agreement will be and become in full force and effect upon the execution of this Agreement by both of their respective Mayors.

Section 1.2. Water Protection Requirements. The application and enforcement of the Water Quality Regulations within the Lago Vista Release Area, as those terms are hereinafter defined, are reasonable and necessary for the preservation and protection of water quality, the watersheds of both Lago Vista and Austin, and valuable natural resources.

Article Two Term and Nature of Agreement.

Section 2.1. Term of Agreement. The original term of this Agreement shall commence on the Effective Date and continue in full force and effect for one (1) year (the "Original Term"). The Original Term and each subsequent one (1) year term thereafter, if any, shall be automatically renewed and extended for an additional one (1) year term (the "Extended Term") without the necessity of any action by the parties, unless a party gives notice of non-renewal. Either party may elect not to renew this Agreement by giving written notice of non-renewal to the other party at least thirty (30) days prior to the end of the Original Term or any Extended Term.

Section 2.2. Termination by Parties. Notwithstanding any other term or condition herein, this Agreement may be terminated by either party by giving thirty days (30) written notice of intent to terminate the Agreement to the other party. Any notice of intent to terminate must be delivered by deposit in the U.S. Mail, certified, return receipt requested.

Section 2.3. Intent and Purpose. The intent and purpose of this Agreement is to provide for the effective and efficient urban planning, the review and approval of land development, and the planning of future municipal services, for the geographic area described as follows:

(a) all the land area that is within Austin's ETJ and that is located between the northernmost corporate limits of the City of Pointe Venture and a line north of Lago Vista that is generally described as follows: Beginning near the Little Devil's Hollow of Lake Travis at the southeast corner of the property annexed by Jonestown on January 22, 1999; thence generally in a westerly direction and then northeasterly direction with the meanders of the corporate boundary of Jonestown (as established by the January 22, 1999 annexation) and the boundary line of the Marshall's Point Subdivision (hereinafter "MPS") to a point for corner; thence with the northernmost boundary of the MPS to the northeast corner of the MPS; thence in a northwesterly direction with the northerly boundary of a 533.382 acre tract of land described in a deed, dated September 3, 1987, to George K. Marshall Trust and George K. Marshall III, of record at Volume 10402, Page 572, Official Records of Real Property of Travis County, Texas, to the northwest corner of said 533.382 acre tract; thence in a north, northeasterly direction with the easterly boundary line of Travis Hollow Subdivision, Section 3, as shown on the plat of record at Book 78, Page 394-397, Plat Records of Travis County, Texas, to the most north, northeasterly, corner of Travis Hollow, Section 3; thence with the easterly boundary line of Travis Hollow Subdivision, Section 1, as shown on the plat of record at Book 76, Page 141, Plat Records of Travis County, Texas, and an

extension of said line beyond the most north, northeasterly, corner of Travis Hollow, Section 1, to a point of intersection with the south right-of-way ("ROW") line Adrian Way Street; thence westerly with the meanders of the south ROW line of Adrian Way Street to a point of intersection with the most easterly ROW line of F.M. 1431; and

(b) all that certain area of Lake Travis that is within Austin's ETJ, that abuts or is adjacent to the geographic area that is between the northernmost corporate boundary of the City of Pointe Venture and the above described northerly line, and that is within one thousand one hundred feet (1,100') of the 681 elevation contour line above mean sea level (as established by the United States Geological Survey in effect as of the date hereof).

Section 2.4. Map. It is the stated intent and agreement of the parties that all references to any geographic areas described in Section 2.3 above (collectively the "Lago Vista Release Area" as used in this Agreement) refer to areas named and shown on the Map attached hereto as Exhibit "A" and incorporated herein for all purposes. If there is a conflict between the Map and word descriptions in this Agreement, the parties agree and intend that the Map designation shall control over any and all word descriptions; provided that to the fullest possible extent the Map and the word descriptions shall be construed and interpreted in a manner to give effect to both consistent with the law applicable to ascertaining the boundaries of political subdivisions.

Section 2.5. Legal and Equitable Remedies. The terms, conditions and provisions of this Agreement may be enforced by either city, either at law or in equity. If this Agreement is terminated by Austin due to a default or non-performance by Lago Vista, then, in that event, as of the effective date of the termination of this Agreement: (a) that part or portion of the Lago Vista Release Area previously annexed by Lago Vista (if any) shall be and remain within and a part of the corporate limits of Lago Vista; (b) all of the Lago Vista Release Area, if any, that has been released from Austin's ETJ to Lago Vista's ETJ pursuant to this Agreement (and not subsequently annexed by Lago Vista) shall revert to the ETJ of Austin; and (c) Lago Vista shall execute a written instrument documenting the release of the Lago Vista Release Area and ETJ described in (b) from Lago Vista to Austin.

Article Three Actions By Lago Vista.

Section 3.1. Ordinance Amendments. Lago Vista has amended its Subdivision Ordinance and its Site Development Ordinance to include the conditions and requirements that are hereinafter set forth in Section 3.2(c) (the "Water Quality Regulations") as requirements for the approval of subdivisions and land development in the Lago Vista Release Area.

Section 3.2. Urban Planning. Lago Vista will provide urban planning and will enforce the following requirements within the Lago Vista Release Area, will review, provide oversight and inspect subdivisions and land development within the Lago Vista Release Area, and will only approve subdivisions and land developments that are in compliance

with the following requirements:

- (a) Application and enforcement of the Lago Vista Subdivision Ordinance;
- (b) Application and enforcement of the Lago Vista Site Development Ordinance;
- (c) The Water Quality Regulations, as follows:
 - (1) All single family development will be set back at least 75 feet from the 681-foot contour line above mean sea level, as established by the United States Geological Survey in effect as of the date hereof. All condominium units, apartments and commercial buildings (excluding any marinas) will be set back at least 100 feet from said 681-foot contour line.
 - (2) Temporary erosion and sedimentation controls as required by the LCRA under Section 5(c) of the Lake Travis Nonpoint Source Pollution Control Ordinance in effect as of the date hereof, and those controls of the City of Austin as provided in Section 25-8-181 of the City of Austin Land Development Code in effect as of the date hereof, will be implemented.
 - (3) Permanent water quality controls equivalent to or better than that required under the City of Austin Land Development Code in effect as of the date hereof will be implemented, designed, constructed and maintained according to the City of Austin Environmental Criteria Manual as determined by comparing calculations under the City of Austin's requirements with those under the proposed controls.
 - (4) Impervious cover will be limited to twenty percent (20%) of the net site area, as defined by City of Austin Land Development Code Section 25-8-62 over the Property for any lot developed with any retail, condominiums, apartments or office commercial uses.
 - (5) A minimum average lot size of one acre shall be maintained on all residential lots in the Lago Vista Release Area.
 - (6) Cut and fill is limited to four feet (4') maximum, provided that cut and fill over four feet (4') shall be permitted if the cut/fill slope is terraced to control erosion and sedimentation.
 - (7) Detention of the 2-year storm for erosion control or, as an alternative, non-erosive conveyance of storm water to Lake Travis, will be provided as required under City of Austin Land Development Code Chapter 25-7 (drainage) and the City of Austin Drainage Criteria Manual.
 - (8) A building envelope that encompasses the limits of building disturbances will be established and required for residential construction on any lot.

(9) All of the 100-year flood plain located within the Lago Vista Release Area shall be dedicated to the Lago Vista as a drainage easement in accordance with the City of Lago Vista's development rules. For the purpose of this paragraph, the 100-year floodplain shall be determined based on fully developed conditions.

(10) Lago Vista shall provide notice of all site plan or subdivision plat approvals by the City of Lago Vista to the City of Austin within 72 hours of such approval.

Section 3.3. Extraterritorial Jurisdiction. Notwithstanding that the land within the Lago Vista Release Area is within the ETJ of Austin, at anytime after the City Council of Lago Vista finds that were such a parcel of land not within the ETJ of Austin it would be within the statutory ETJ of Lago Vista, or that Lago Vista has received a valid petition for such tract or parcel to be included within Lago Vista's ETJ, the City Council of Lago Vista may by a resolution adopted and forwarded to Austin as provided in Section 4.2 of this Agreement obtain a written release of such land and thereafter include such parcel or tract of land within the ETJ of Lago Vista. The land that is described in such resolution that is within the Lago Vista Release Area shall transfer from the ETJ of Austin to the ETJ of Lago Vista effective as of the date of the written statement of release given by Austin as provided in Section 4.2. The land area to be released shall be as shown and represented on a map attached to the resolution provided to Austin by Lago Vista.

Section 3.4. Annexation Jurisdiction. Notwithstanding that the Lago Vista Release Area is within the ETJ of Austin, Austin hereby authorizes Lago Vista to annex land that is within the Lago Vista Release Area into the corporate limits of Lago Vista; provided that Lago Vista otherwise has the legal authority to annex such land; and provided further that the Service Plan for each such annexation shall list the Water Quality Regulations and provide that Lago Vista will continue to apply and enforce such requirements with respect to the land being annexed.

Section 3.5. Extension of Jurisdiction. Lago Vista will not extend its corporate limits or extraterritorial jurisdiction to include any part of the Lago Vista Release Area at anytime that Lago Vista is not actively applying and enforcing the Water Quality Regulations in such area. Lago Vista intends to continue applying and enforcing the Water Quality Regulations within any part of the Lago Vista Release Area that is subsequently included within the ETJ or corporate limits of Lago Vista. Lago Vista will provide a copy of each such annexation ordinance to Austin within thirty (30) days after its adoption by Lago Vista. Land that is described in such ordinance and that is within the Lago Vista Release Area shall transfer from the ETJ of Austin to within the corporate boundaries of Lago Vista effective as of the date of the written release signed by Austin. Notwithstanding that land abutting such annexed land may be within the ETJ of Austin, each such annexation ordinance that is authorized by State law, that adopts and annexes a portion of the Lago Vista Release Area in conformance with this Agreement, shall extend the ETJ of Lago Vista to abutting lands within the Lago Vista Release Area, as provided in *Chapter 42, Texas Local Government Code*. The land

area included in any such annexation shall be as shown and represented on a map attached to the annexation ordinance provided to Austin.

Section 3.6. Enforcement and Compliance. The standards, regulations and conditions set forth in this Agreement for the review and approval of development within the Lago Vista Release Area shall be applied and enforced by Lago Vista, its officers, employees, agents and representatives, in a manner consistent with the wording and intent of this Agreement. They shall remain development regulations and requirements of Lago Vista in the Lago Vista Release Area. If Lago Vista contracts with Travis County, pursuant to *Chapter 242, Texas Local Government Code*, or otherwise, for Travis County to review and approve land development within Lago Vista's ETJ, it shall be an event of default under this Agreement unless the standards and regulations set forth in this Agreement are applied and enforced in a manner consistent with the intent of this Agreement. The Lago Vista Release Area shall be treated as part of Lago Vista's ETJ for purposes of Chapter 242, Texas Local Government Code.

Article Four Actions By Austin.

Section 4.1. Urban Planning. Austin authorizes Lago Vista to provide urban planning, land development review and approval, and enforcement of the Water Quality Regulations within the Lago Vista Release Area for and on behalf of Austin. During the Term and any Extended Term of this Agreement, Austin will refer to Lago Vista all persons making application for subdivision or land development approval or permits for land within the Lago Vista Release Area. All costs and fees charged and collected by Lago Vista for the review, approval and inspection of subdivisions and land development within the Lago Vista Release Area may be retained by Lago Vista.

Section 4.2. Extraterritorial Jurisdiction. Notwithstanding that the Lago Vista Release Area is within the ETJ of Austin, Austin hereby agrees to transfer from the ETJ of Austin to the ETJ of Lago Vista those tracts and parcels of land within the Lago Vista Release Area that hereafter would, but for the Austin ETJ, be or become within the statutory ETJ of Lago Vista, or for which Lago Vista receives a valid petition for such tract or parcel to be included within Lago Vista's ETJ. Provided that the City Council of Lago Vista: (a) accepts the tract or parcel into the ETJ of Lago Vista by a resolution; (b) the resolution finds the land is within Lago Vista's statutory ETJ or is otherwise eligible to be included within Lago Vista's ETJ under this Agreement and State law; (c) the resolution finds that Lago Vista is actively enforcing the Water Quality Regulations within the Lago Vista Release Area; (d) the resolution finds that Lago Vista intends to continue to enforce the Water Quality Regulations with respect to such parcel that is being taken into the Lago Vista ETJ; (e) Lago Vista provides a copy of each such resolution to Austin after its adoption; (f) Lago Vista attaches a map to the resolution showing the land area to be released; and (g) Lago Vista has not been notified that it is not in compliance with this Agreement, the administrative officer designated by the city manager of Austin shall execute a written release documenting the release by Austin and transferring the land from the ETJ of Austin to the ETJ of Lago Vista effective as of the date of such written statement of release given by Austin as provided above in this Section 4.2.

Section 4.3. Annexation Jurisdiction. Notwithstanding that the Lago Vista Release Area is within the ETJ of Austin, the City Council of Lago Vista may annex land that is within the Lago Vista Release Area into the corporate limits of Lago Vista; provided Lago Vista otherwise has the legal authority to annex such land; and provided further that the Service Plan for each such annexation shall list the Water Quality Regulations and provide that Lago Vista will continue to apply and enforce such requirements with respect to the land being annexed. Upon Lago Vista annexing a tract or parcel of the Lago Vista Release Area in compliance with this Section, providing Austin with a copy of the annexation ordinance, providing a true and accurate map attached showing the area annexed to be as represented in the map, and obtaining preclearance (if required) by the Department of Justice, the annexation of such tract or parcel shall be in full force and effect as of the date Austin signs the release.

Article Five General and Miscellaneous.

Section 5.1. Exceptions to Release. Notwithstanding any other term or provision of this agreement, no tract or parcel of land will be released to the ETJ of Lago Vista or to be annexed by Lago Vista at a time when such release will result in any other tract, parcel or area of land becoming discontinuous to the ETJ of Austin. If a proposed release of ETJ to Lago Vista or a release of land to be annexed by Lago Vista will result in any other land becoming discontinuous to the ETJ of Austin, Lago Vista will not request the area be released until the area that would become discontinuous is also eligible for release to Lago Vista under this agreement.

Section 5.2. Development Approval and Policy Making Authority. Lago Vista shall have exclusive responsibility for urban planning within the Lago Vista Release Area that is consistent with this Agreement, and the approval of land development and subdivisions within the Lago Vista Release Area in compliance with this Agreement. Lago Vista shall further have control, supervision and policy making authority for and with respect to city services and future services within the Lago Vista Release Area, to the fullest extent authorized by State law and not inconsistent with this Agreement.

Section 5.3. Other Services. Nothing in this Agreement shall be deemed to create, by implication or otherwise, any duty or responsibility of either of the cities to undertake any other action or to provide any service within the Lago Vista Release Area, except as specifically set forth in this Agreement.

Section 5.4. Jurisdiction. This Agreement shall not be deemed to extend or increase the jurisdiction or authority of either of the cities except as necessary to implement and give effect to this Agreement. All governmental and proprietary functions and services to be performed and provided by Lago Vista within the Lago Vista Release Area shall, except as provided otherwise by State law and in this Agreement, be and remain in the sole discretion of Lago Vista. Nothing in this Agreement shall be deemed to be applicable to, or an attempt to limit or restrict, the legal rights, authority or jurisdiction of any other governmental entity.

Section 5.5. Governmental Immunity. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to either of the cities nor to create any legal rights or claims on behalf of any third party. Neither Austin nor Lago Vista waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas.

Section 5.6. Quality of Service. Except that Lago Vista will review and approve or disapprove subdivisions and land development within the Lago Vista Release Area in compliance with the requirements set forth in Section 3.2, this Agreement is not intended to and shall not be deemed to establish any additional requirement for, or any specific or implied additional standard or quality for, any level of planning or service to be provided by Lago Vista within the Lago Vista Release Area. Provided that Lago Vista shall enforce the planning and land development standards set forth in Section 3.2, the level and quality of urban planning and services to be provided within the Lago Vista Release Area shall be established by Lago Vista's budgets, appropriations, resolutions and ordinances adopted by its governing body in the exercise of its legislative discretion.

Section 5.7. Effective Date. This Agreement shall be in full force and effect on the date above first written, from and after its execution by the parties as hereinafter provided, but not before the effective date of an Interlocal Cooperation Agreement, pursuant to § 242.001, *Texas Local Government Code*, between Lago Vista and Travis County providing that neither Lago Vista or Travis County will take any action or grant any approval within the Lago Vista Release Area or Lago Vista's ETJ that is inconsistent with this Agreement and that is not in compliance with the requirements set forth in Section 3.2 above.

Section 5.8. Amendments and Modifications. This Agreement may not be amended or modified except in writing executed by both Austin and Lago Vista and authorized by their respective governing bodies.

Section 5.9. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the parties hereto shall be construed and enforced in accordance therewith. The parties hereto acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is their desire and intention that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, be deemed to be validated and enforceable.

Section 5.10. Gender, Number and Headings. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.

Section 5.11. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall be considered fully executed when all parties have executed an identical counterpart, notwithstanding that all signatures may not appear on the same counterpart.

Section 5.12. Termination By Performance. If not earlier terminated by Austin or Lago Vista as provided in Article 2 above, this Agreement shall automatically terminate and expire upon all of the land area that is within the Lago Vista Release Area being included within the ETJ or the corporate limits of Lago Vista, by the City Council of Lago Vista acting in strict compliance with the terms and provisions of this Agreement and State law.

IN WITNESS WHEREOF, the parties have executed and attested this Agreement by their officers thereunto duly authorized as of the date first written above.

Executed this the _____ day of _____, 2004.

City of Austin, Texas

City of Lago Vista, Texas

Will Wynn, Mayor

Dennis Jones, Mayor

Attest:

Attest:

Shirley A. Brown, City Clerk

Joyce Stapleton, City Secretary