

ORDINANCE NO. 155

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR OF THE CITY OF WALLIS TO SIGN AND EXECUTE FOR AND ON BEHALF OF THE CITY OF WALLIS AN INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF WALLIS, TEXAS (CITY) AND THE COUNTY OF AUSTIN, TEXAS (COUNTY) RELATED TO THE AUTHORITY TO REGULATE SUBDIVISIONS WITHIN THE CITY OF WALLIS' EXTRATERRITORIAL JURISDICTION (ETJ).

WHEREAS, HB 1445 as enacted by the 77th Regular Session of the Texas State Legislature mandates that cities and counties can no longer exercise concurrent authority to regulate subdivision plats and approve related permits within a city's ETJ, and

WHEREAS, HB 1445 further requires Texas cities and counties to enter into a written agreement which identifies the entity which shall exercise jurisdiction to regulate subdivision plats and approve related permits in the ETJ of a city, and

WHEREAS, both the City and County agree that such jurisdiction and authority shall be granted to the City, and

WHEREAS, an Interlocal Cooperation Agreement as attached hereto and marked Exhibit "1" formalizes such agreement concerning the City's authority to regulate subdivision plats and approve related permits in the City's ETJ, and

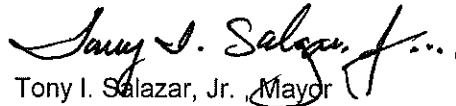
WHEREAS, the City and County hereby certify that the Interlocal Cooperation Agreement as attached hereto and marked Exhibit "1" complies with requirements of Chapter 242 of the Local Government Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WALLIS, TEXAS:

Section 1. That the Mayor for and on behalf of the City of Wallis is herewith authorized to sign and execute in duplicate originals an Interlocal Cooperation Agreement with the County of Austin in a form as attached hereto and marked Exhibit "1".

PASSED AND APPROVED at a legally held meeting of the City Council of the City of Wallis, Austin County, Texas on the 11 day of March, 2004.

APPROVED


Tony I. Salazar, Jr., Mayor

ATTEST


D.J. Sommers, City Secretary

EXHIBIT "1"

INTERLOCAL COOPERATION AGREEMENT

THIS INTERLOCAL COOPERATION AGREEMENT ("ICA") is entered into and in accordance with the provisions of the Interlocal Cooperation Act, Chapter 791, Texas Government Code, and Texas Local Government Code §242.001, as amended by House Bill 1445 ("HB 1445"), enacted by the Texas Legislature during its 77th Legislative Session and as further amended by House Bill 1204 ("HB 1204"), enacted by the Texas Legislature during its 78th Legislative Session, by and between the City of Wallis, Texas ("City"), a political subdivision of the State of Texas, and the County of Austin, Texas, ("County"), also a political subdivision of the State of Texas.

Recitals

Whereas, prior to the enactment of HB 1445, Texas Local Government Code §242.001 authorized the City and the County to exercise concurrent jurisdiction over the platting process required upon the subdivision of land within the City's Extraterritorial Jurisdiction ("ETJ") located within the County; and

Whereas, HB 1445 amends Texas Local Government Code §242.001 to authorize the City and County to agree to a means whereby only one governmental agency will have jurisdiction to oversee and regulate the platting processes and related permits within a municipality's ETJ; and

Whereas, the Interlocal Cooperation Act allows local governments to contract with one another to perform governmental functions such as platting and approval of related permits; and

Whereas, City and County mutually desire to be subject to the provisions of the Texas Government Code, Chapter 791, the Interlocal Cooperation Act, specifically §791.011 regarding contracts to perform governmental functions and services; and

Whereas, HB 1445 requires City and County to enter into a written agreement that identifies the governmental entity authorized to regulate subdivision plats and approve related permits in City's ETJ; and

Whereas, both City and County desire that City be granted such exclusive jurisdiction to regulate subdivision plats and approve related permits in City's ETJ under Chapter A of Chapter 212 of the Texas Local Government Code and other statutes applicable to municipalities, all of which is provided for in the Interlocal Cooperation Act and HB 1445.

Now, therefore, City and County, for the mutual consideration stated herein, agree and understand as follows:

1. City Granted Exclusive Jurisdiction. City shall be granted exclusive jurisdiction to regulate and approve all subdivision plats and, approve all related permits in City's ETJ and may regulate subdivisions under Chapter A of Chapter 212 of the Texas Local Government Code and other statutes applicable to municipalities, and County shall no longer exercise any of these functions in City's ETJ. The City is not granted jurisdiction to enforce Texas Health and Safety Code Chapter 366 and on-site sewage facilities under Texas Administrative Code (TAC) Chapter 285 unless the City is an authorized agent of the Texas Commission on Environmental Quality under TAC § 285.10. The jurisdiction to approve and regulate culvert

permits, storm water drainage and detention plans, and flood control permits shall remain within the jurisdiction of the County.

2. ETJ Defined. For purposes of this Agreement, the City's ETJ is identified and described by the area indicated on Exhibit A, attached hereto and made part hereof by this reference. This recognition of the ETJ shall not be deemed an admission by City or County in any dispute with any other person or municipality regarding the boundaries of City's ETJ.
3. ETJ Expansion or Reduction. Should City expand or reduce its ETJ, City shall notify County of such expansion or reduction within thirty (30) days by sending a copy of the applicable ordinance or resolution. City shall prepare a new Exhibit A, to reflect City's revised ETJ, and submit the revised Exhibit A to County for Commissioners Court approval. After such approval, County shall forward a copy of such approved Exhibit A to City. Receipt by city of the approved Exhibit A from County shall be deemed an amendment to this ICA by the parties pursuant to Texas Local Government Code §242.001(c). The date of County approval of Exhibit A shall be the "Date of Amendment" for the purposes of this ICA. In the event that City's ETJ should expand or reduce such that the expansion or reduction of ETJ necessitates the amendment of this Agreement, both City and County agree that City shall continue to be granted exclusive jurisdiction to regulate subdivision plats and approve related permits in its ETJ, and to regulate subdivisions under Subchapter A of Chapter 212 of the Texas Local Government Code and other statutes applicable to municipalities, until this Agreement is amended to take into account such ETJ expansion or reduction.
4. Notice of Approved Plats. City shall notify County of the approval of a plat within City's ETJ. A copy of the approved plat and any engineering plans shall be sent to the Austin County Judge, One East Main, Bellville, Texas 77418. Copies of approved plats shall be sent to the County within thirty (30) days of the City's approval.
5. Plats Affected. The plats which will be subject to this ICA are those that will be filed after the Effective Date, as defined herein, of this ICA. If the ETJ is expanded or reduced, plats must be filed with the party who has jurisdiction after the Date of Amendment. The party receiving an application for a plat approval for which the party has no jurisdiction may either direct the developer to the appropriate office or forward the application. Any rights accruing to a person under Texas Local Government Code Chapter 245 shall not be affected.
6. Collection of Fees and Costs. All cost incurred by City in the approval of subdivision plats, including but not limited to engineering reviews and inspections of public improvements, under this ICA shall be the responsibility of City and payable out of current revenues available to it. All fees collected by City in the approval of subdivision plats and issuance of permits hereunder shall be retained by City.
7. Effective Date. The Effective Date shall be the date upon which both parties have approved and fully executed this ICA.
8. Term. The term of this Agreement is for one(1) year from the date of execution by both parties, after which the Agreement will renew automatically thereafter for additional one (1) year terms unless terminated. Either party to this Agreement may terminate the Agreement at the end of any term without cause by notifying the other party not later than thirty (30) days prior to the end of the term. However, both parties understand and agree that the right to terminate this Agreement does not avoid the statutory duty of the County and City to have a written agreement providing for subdivision regulation within City's ETJ.

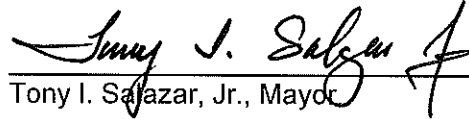
9. Amendment. This Agreement may be amended at any time by the mutual consent of both parties hereto.
10. Applicable Regulations. The subdivision rules and regulation enacted by City and extended to the ETJ as they now exist, or as they may be hereafter amended, are hereby established as the set of regulations to be enforced by City in the ETJ.
11. Miscellaneous Provisions.
- (A) This Agreement expresses the entire agreement between the parties hereto regarding the subject matter contained herein and may not be modified or amended except by written agreement duly executed by both parties.
 - (B) This Agreement has been duly and properly approved by each party's governing body and constitutes a binding obligation on each party.
 - (C) This Agreement shall be construed in accordance with the laws of the State of Texas and venue for all purposes hereunder shall be in Austin County, Texas.
 - (D) If any provision hereto is determined by any court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be fully severable here from and this Agreement shall be construed and enforce as if such invalid, illegal, or unenforceable provision never comprised a part hereof, and the remaining provision shall continue in full force and effect.
 - (E) All notices required to be given by virtue of this ICA shall be addressed as follows and delivered by certified mail, postage prepaid, or by hand delivery:

City: City of Wallis
 PO Box 190
 Wallis, TX 77485

County: Austin County Judge
 One East Main
 Bellville, TX 77418
 - (F) The City and County certify that this Interlocal Cooperation Agreement complies with the requirements of Chapter 242 of the Local Government Code.
 - (G) This ICA is not intended to extend the liability of the parties beyond that provided by law. Neither City nor County waives any immunity or defense that would otherwise be available to it against claims by third parties.

APPROVED BY THE CITY COUNCIL FOR THE CITY OF WALLIS, TEXAS, in a duly constituted meeting held on the 11 day March, 2004, and executed in duplicate originals by its authorized representative.

CITY OF WALLIS, TEXAS



Tony I. Salazar, Jr., Mayor

ATTEST:



D. J. Sommers, City Secretary

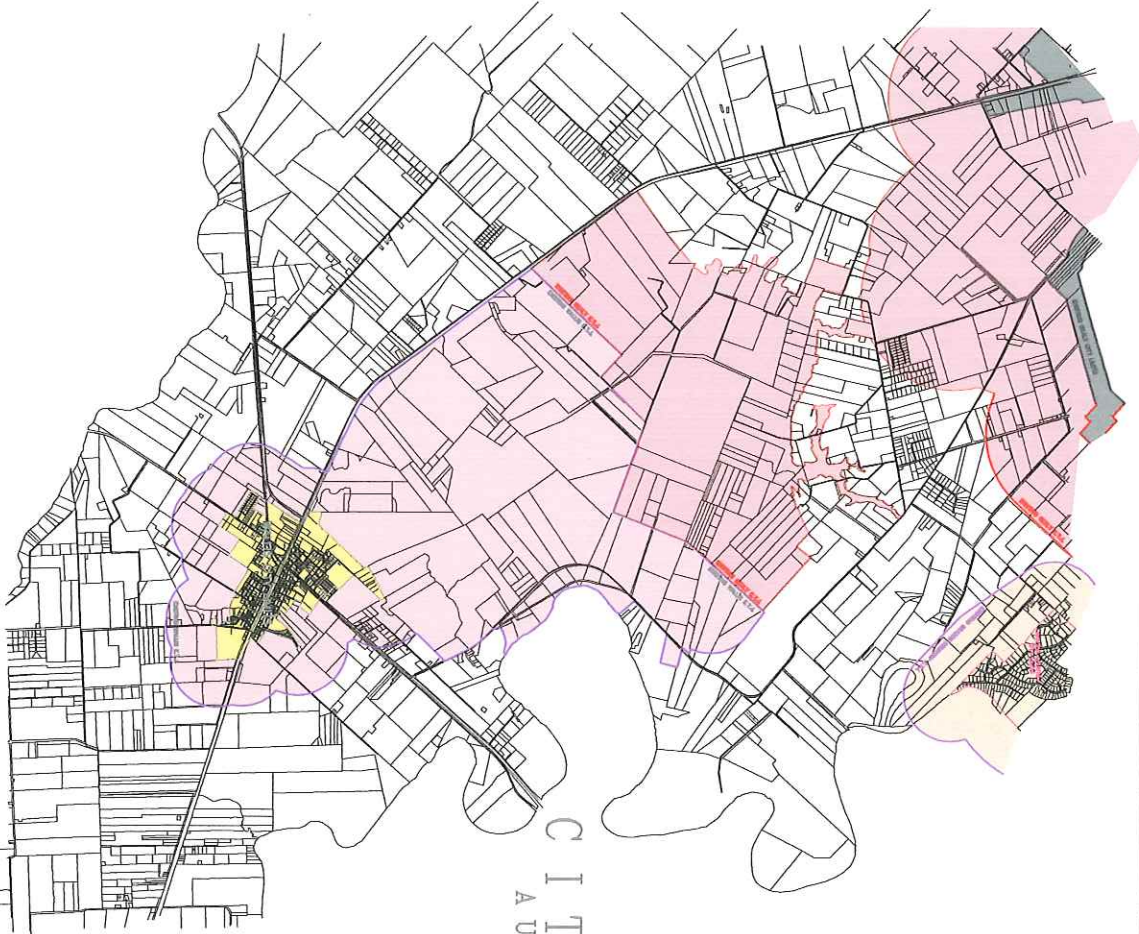
APPROVED BY THE COMMISSIONERS COURT FOR AUSTIN COUNTY, TEXAS, in a duly constituted meeting held on the _____ day of _____, 2004, and executed in duplicate originals by its authorized representative.

AUSTIN COUNTY, TEXAS

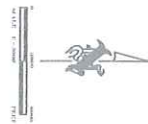
Carolyn Bilski, County Judge

Carrie Gregor, County Judge

EXHIBIT "A"



CITY OF WALLIS
 WALLIS
 CITY LIMITS AND E.T.L. MAP



<p>NOTE: THIS MAP WAS PREPARED FOR THE CITY OF WALLIS, TEXAS, BY PLEDGER KALKREUTH, INC., CONSULTING ENGINEERS, 1400 SOUTH 4TH STREET, SUITE 200, FORT WORTH, TEXAS 76104. THE CITY OF WALLIS, TEXAS, IS THE CLIENT FOR THIS MAP. THE CITY OF WALLIS, TEXAS, IS RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION SHOWN ON THIS MAP.</p>	
<p>P K</p>	<p>Pledger Kalkreuth, Inc. Consulting Engineers</p>
<p>1400 South 4th Street, Suite 200 Fort Worth, Texas 76104 Phone: (817) 735-1000 Fax: (817) 735-1000 www.pledgerkalkreuth.com</p>	<p>1401 South 4th Street, Suite 200 Fort Worth, Texas 76104 Phone: (817) 735-1000 Fax: (817) 735-1000 www.pledgerkalkreuth.com</p>
<p>DATE: 10/11/11</p>	<p>CITY OF WALLIS, TEXAS CITY OF WALLIS WALLIS CITY LIMITS AND E.T.L. MAP</p>
<p>DATE: 10/11/11</p>	<p>DATE: 10/11/11</p>