

**INTERLOCAL COOPERATION AGREEMENT BETWEEN
COLLIN COUNTY AND THE NORTH TEXAS GROUNDWATER
CONSERVAION DISTRICT
REGARDING
REVIEW OF GROUNDWATER AVAILABILITY
CERTIFICATIONS SUBMITTED WITH PLAT APPLICATIONS
FOR SUBDIVIDED PROPERTIES IN THE UNINCORPORATED
AREAS OF COLLIN COUNTY**

This Interlocal Agreement (“Agreement”) is made and entered into by and between Collin County (“County”), Texas, and the North Texas Groundwater Conservation District (“District”) (collectively “Parties” and individually “Party” depending upon the context).

RECITALS

WHEREAS, the County is a body politic and corporate created and operating pursuant to Article XI, Section 1 of the Constitution of Texas; the Texas Local Government Code; and the applicable, general laws of the State of Texas;

WHEREAS, the North Texas Groundwater Conservation District was created by the 81st Texas Legislature under the authority of Section 59, Article XVI, of the Texas Constitution, and in accordance with Chapter 36 of the Texas Water Code, by the Act of May 19, 2009, 81st Leg., R.S., ch. 248, 2009 Tex. Gen. Laws 686, codified at Tex. Spec. Dist. Loc. Laws Code Ann. ch. 8856 (“the District Act”);

WHEREAS, the Parties, each being a political subdivision and either a county or a special district of the State of Texas, desire to enter this Agreement in accordance with the provisions of the Interlocal Cooperation Act, being Chapter 791 of the Texas Government Code;

WHEREAS, the County and the District are collaborative allies, which individually and collectively pursue the protection of groundwater resources, private property rights, and the economic interests of the citizens of the County;

WHEREAS, the Parties agree that coordinating efforts and expertise in the evaluation of the availability of groundwater as the source of water intended to supply a platted subdivision is mutually advantageous and benefits the public;

WHEREAS, the County and the District share a common interest in continuing to develop new science and better understanding of the causal relationship between groundwater production and the condition of aquifer systems in the County;

AGREEMENT BETWEEN COLLIN COUNTY AND NORTH TEXAS GROUNDWATER
CONSERVATION DISTRICT

WHEREAS, Chapter 232 of the Texas Local Government Code requires applicants to acquire a plat from the County’s Commissioners Court prior to subdividing certain tracts of land located outside the limits of a municipality (“Tracts”);

WHEREAS the County, as authorized by Section 232.0032 of the Texas Local Government Code, requires applicants seeking to plat a Tract for which groundwater is intended to be the source of supply to provide a statement prepared by an engineer licensed to practice in Texas or a geoscientist licensed to practice in Texas certifying that adequate groundwater is available for the subdivision in accordance with Title 30 of the Texas Administrative Code, Chapter 230 (the “Certification Statement”);

WHEREAS, the District, in accordance with Section 59 of Article XVI of the Texas Constitution, Chapter 36 of the Texas Water Code, and the District’s enabling act, adopts and implements rules to manage groundwater, protect property rights, and balance the conservation and development of groundwater to meet the needs of the citizens of the County and the State of Texas;

WHEREAS, Sections 36.113-36.117 of the Texas Water Code empower the District to approve or deny drilling permits for new wells, operating permits for non-exempt wells, and operating permits for certain types of exempt wells in the County in accordance with the District’s rules;

WHEREAS, Chapter 232 of the Texas Local Government Code grants the County the exclusive and final authority to grant or deny plat applications seeking to subdivide a Tract;

WHEREAS, Chapter 36 of the Texas Water Code grants the District the exclusive and final authority to grant or deny groundwater permits in the County; and

WHEREAS, Title 30 of the Texas Administrative Code, Chapter 230 does not replace other state and federal requirements applicable to public drinking water supply systems, the authority of counties as prescribed by the Texas Local Government Code, or the authority of groundwater conservation districts under Texas Water Code, Chapter 36.

THEREFORE, in consideration of the mutual promises, obligations, and benefits to be derived by the Parties pursuant to this Agreement, the County and the District each agree as follows:

**ARTICLE I
AUTHORIZATION AND PURPOSE**

1.1 Authority and Purpose.

- a. This Agreement is entered into pursuant to the Interlocal Cooperation Act, Texas Government Code Chapter 791; the Texas Water Code, Chapter 36; the Texas Local Government Code; and other applicable law.

- b. The purpose of this Agreement is to facilitate effective implementation of the County's and District's respective rules and regulations concerning Tract plat applications by ensuring that prior to receiving an approved plat from the County or a permit from the District, applicants seeking to subdivide a Tract of land in the County that relies on groundwater ("Plat Applicants") (1) certify adequate groundwater availability and (2) comply with the District's rules, including but not limited well spacing, and groundwater production for a defined beneficial use. The District recognizes that its role is to offer its technical resources and input to the County when evaluating Certification Statements and that the County has exclusive jurisdiction and the sole discretion to take action regarding plat applications and the Certification Statements. Similarly, the County recognizes that the District has exclusive jurisdiction and the sole discretion to take action regarding groundwater-related water well registration, and permit applications.

ARTICLE II DUTIES OF THE PARTIES

2.1 Communication. Parties agree to timely and effectively communicate and coordinate in the execution and implementation of this Agreement and to assist each other in the Platting Authority's consideration of plat applications and in the District's processing and consideration of applications for water well registrations or permits, where groundwater is the proposed source for domestic use under a proposed plat.

2.2 County's Duties.

- a. The County shall require all Plat Applicants seeking to subdivide a Tract for which groundwater is intended to be the source of supply to provide a completed Certification Statement and direct them initially to the District for initial guidance on the process prior to considering the plat application.
 - 1. For Plat Applicants seeking to subdivide a Tract in the Extraterritorial Jurisdiction of an incorporated municipality and for which groundwater is intended to be the source of supply, a completed Certification Statement will be required in conformity with guidelines included in an existing Interlocal Agreement between the County and an incorporated municipality, as applicable.
- b. Upon the receipt of an application for a plat seeking to subdivide a Tract for which groundwater is intended to be the source of supply, the County shall confirm that the applicant has conducted the certification process and provided the final Certification Statement and any accompanying documents provided by the Plat Applicant to the District for its formal review as described under Section 2.3(b) of this Agreement.
- c. Upon the receipt of a request from the District to verify whether a subdivided Tract for which an operating or drilling permit application for a well or well site is sought has been subdivided in accordance with the County's subdivision regulations, the County agrees to act as follows:

1. confirm with the District by verifying tract location and road access in connection with the pending operating or drilling permit application;
2. verify whether a plat application and/or a Certification Statement has been received by the District, and if so, whether a plat is pending and awaiting approval or has been denied;
3. coordinate with the District to ensure the applicant has complied with all relevant County and District regulatory standards, rules, and the laws and regulations governing subdivision platting and groundwater production in the County, including the County's subdivision regulations, if any;
4. if the County places any restrictions or conditions regarding the drilling, depth, completion, equipping, or operation of water wells in the plat for a Tract, the County shall timely submit such restrictions or conditions to the District to ensure the District may be aware of such restrictions or conditions in considering any well registration or permit applications for water wells on the Tract.

2.3 District's Duties.

- a. Upon the receipt of an application for a drilling or operating permit for any well on a subdivided Tract of land or on a Tract for which a plat application is pending, the District shall coordinate with the County to determine whether the Tract of land on which the well will be drilled or operated has been subdivided in accordance with the County's subdivision regulations. If the applicant's Tract is not subdivided in accordance with the County's subdivision regulations, the District shall not grant an application for the permit without first coordinating with the County and making a reasonable effort to remedy any outstanding occurrences of noncompliance.
- b. Upon the receipt of a proposed plat needing a Certification Statement for the County, the District agrees to act as follows:
 1. consult with any and all Plat Applicants regarding each proposed plat, as necessary to complete the District's review of the Certification Statement;
 2. use the best available science to prepare an administrative determination that the information in the Certification Statement appears to be correct and sufficiently certifies adequate groundwater is available for the subdivision;
 3. conduct prior site verification and well completion inspections as necessary to confirm that the well owner's investment is proper and completed to District rules and well completion standards;

4. verify the Plat Applicant's ownership interest in the Tract;
5. verify the Tract's total acreage and proposed plat's subdivided lot acreage;
6. verify the Plat Applicant's anticipated method of water distribution, as provided in the Certification Statement, whether by the expansion of an existing public water supply system, a new public water supply system, individual water wells for individual subdivided lots or a combination of such methods ("Distribution Method");
7. determine whether the Plat Applicant's Distribution Method conforms with District rules, including but not limited to those concerning well spacing, and groundwater production for a defined beneficial use;
8. determine whether the Projected Water Demand Estimates provided by the Plat Applicant in the Certification Statement are reasonably accurate ("Demand Estimates");
9. determine whether the proposed use of groundwater, the Distribution Method and Demand Estimates, to the extent the Distribution Method and Demand Estimates rely on groundwater:
 - i. unreasonably affect existing groundwater and surface water resources or existing permit holders;
 - ii. are dedicated to any beneficial use;
 - iii. are consistent with the District's approved groundwater management plan;
 - iv. does not constitute waste, as defined by the District's rules;
 - v. otherwise comply with the District's rules, including but not limited to rules concerning well spacing, and groundwater production for a defined beneficial use;
10. determine whether the proposed use of groundwater, the Distribution Method, and Demand Estimates, to the extent the Distribution Method and Demand Estimates rely on groundwater, comply with the applicable Desired Future Conditions, considering:
 - i. the applicable Modeled Available Groundwater calculations determined by the Executive Administrator of the Texas Water Development Board ("TWDB");

- ii. the Executive Administrator of the TWDB's estimates of the current and projected amount of groundwater produced by wells exempted or excluded under Rule 3.1 of the District's rules;
 - iii. the amount of groundwater authorized under permits previously issued by the District;
 - iv. a reasonable estimate of the amount of groundwater that is actually produced under permits issued by the District;
 - v. yearly precipitation and production patterns;
11. prepare a written report detailing the District's review of the Certification Statement and provide input regarding the accuracy of the information included in and with the Certification Statement, whether the information in the Certification Statement sufficiently complied with TCEQ's rules set forth in Title 30 of the Texas Administrative Code, Chapter 230 and whether sufficient groundwater is available to serve the Tract subdivision in the manner proposed by the Plat Applicant.
- i. A copy of the written report detailing the District's review of the Certification Statement will be provided to the County and the Plat Applicant.

**ARTICLE III
GENERAL PROVISIONS**

- 3.1 Recitals.** The recitals herein stated are correct, agreed upon, and hereby incorporated by reference and made a part of this Agreement.
- 3.2 Obligations of the Parties.** Parties agree to be bound by this Agreement, and to work in good faith toward achieving its purpose and the functions described herein.
- 3.3 Amendment.** The Parties, and their respective designees, may propose an amendment to this Agreement. An amendment to this Agreement is adopted if the governing body of each Party adopts the amendment and furnishes the other Party with a copy of the minutes or resolution reflecting approval.
- 3.4 Notices.** To be effective, any notice provided under this Agreement must be in writing, and shall be deemed to have been received for all purposes upon the earlier to occur of hand delivery or three (3) days after the same is mailed by U.S. Postal Service certified or registered mail, return receipt requested, and addressed as follows:

If to the County:

Clarence Daugherty, Director of Engineering
Collin County Engineering Department
4690 Community Ave. Ste 200
McKinney, TX 75071
cdaugherty@co.collin.tx.us

If to the District:

North Texas Groundwater Conservation District
Attn: Mr. Paul Sigle, General Manager
PO Box 508
Gainesville, TX 76241
paul@northtexasgcd.org

Each Party agrees to provide a courtesy copy of any notice by email to the other Party. Each Party shall notify the other Party immediately if any of the contact information above changes.

- 3.5 Governing Law.** This Agreement shall be governed by, and construed in accordance with the laws of the State of Texas, and shall be fully enforceable in Collin County.
- 3.6 Formal Matters.** The relationship between the Parties under this Agreement shall be that of independent contractors, and not that of partners, joint ventures, or any other relationship.

AGREEMENT BETWEEN COLLIN COUNTY AND NORTH TEXAS GROUNDWATER
CONSERVATION DISTRICT

This Agreement sets out the entire agreement of the Parties in connection with the subject matter addressed herein, and may be modified or amended only in accordance with this Agreement.

- 3.7 Voluntary Removal.** At any time, a Party at its own discretion may deem it is in its own best interest to voluntarily terminate its participation in this Agreement. Such termination shall be effective 30 (thirty) days after the terminating Party delivers written notice of termination to the other Parties. The Parties shall have no additional liability to one another for termination under this section.
- 3.8 Prior Agreements Superseded.** This Agreement constitutes the entire Agreement of the Parties regarding the subject matter of this Agreement and supersedes all previous agreements and understandings, whether written or oral, relating to such subject matter.
- 3.9 Assignment.** No Party may assign its rights, privileges and obligations under this Agreement in whole, or in part, without the prior written consent of the other Party. Any attempt to assign without such approval shall be void.
- 3.10 Construction.** In case any one or more of the provisions contained herein shall be held to be for any reason invalid, illegal, or unenforceable in any respect, the remaining provisions of the Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein. This Agreement shall not be construed for or against any Party by reason of the authorship or alleged authorship of any provision, or by reason of the status of the respective Parties.
- 3.11 Legal Compliance.** Parties, their officials, employees, designees, and agents shall comply with all applicable federal, state, and local laws and ordinances related to the work and services performed under this Agreement.
- 3.12 Force Majeure.** No Party shall be responsible for delays or lack of performance by such entity or its officials, employees, designees, or agents that result from acts beyond that Party's reasonable control, including acts of God, strikes or other labor disturbances, pandemics or epidemics, or delays by federal or state officials in issuing necessary regulatory approvals and/or licenses, except that the Parties shall take reasonably proactive measures to avoid delays that could be caused by the COVID-19 pandemic. In the event of any delay or failure excused by this Section, the time of delivery or of performance shall be extended for a reasonable time period to accommodate the delay.
- 3.13 Multiple Counterparts.** This Agreement may be executed in separate identical counterparts by the Parties and each counterpart, when so executed and delivered, will constitute an original instrument, and all such separate identical counterparts will constitute but one and the same instrument.

- 3.14 No Third Party Beneficiary.** The terms and provision of this Agreement are intended solely for the benefit of each Party hereto, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other person or entity.
- 3.15 Compliance With Laws.** The Parties must observe and comply with all applicable federal, state, and local statutes, ordinances, rules, and regulations, including, without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and non-discrimination laws and regulations. The Parties shall be responsible for ensuring their own compliance with any laws and regulations applicable to their activities under this agreement, including maintaining and necessary licenses and permits.
- 3.16 Execution of Agreement.** This agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this agreement, and all of which, when taken together, shall be deemed to constitute one and the same agreement. The exchange of copies of this agreement and of signature pages by electronic transmission shall constitute effective execution and delivery of this agreement as to the parties and may be used in lieu of the original agreement for all purposes. Signatures of the parties transmitted or executed electronically shall be deemed to be their original signatures for any purpose whatsoever.

IN WITNESS WHEREOF, the Parties hereto, acting under the authority of the respective governing bodies, have caused this Agreement to be duly executed in multiple counterparts, each of which shall constitute an original, effective on the date signed by each Party, the latest of which shall be the Effective Date.

AGREED UPON AND APPROVED BY:

COLLIN COUNTY, TEXAS
acting by and through its Commissioners Court

Chris Hill, Collin County Judge

Date:

NORTH TEXAS GROUNDWATER CONSERVATION DISTRICT, *acting by and through its Board of Directors*

Attest:

President, Board of Directors

Date:

Secretary, Board of Directors

Date:

AGREEMENT BETWEEN COLLIN COUNTY
AND NORTH TEXAS GROUNDWATER
CONSERVATION DISTRICT

