

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT ("Agreement") is entered into by and between the City of Fort Worth, a home rule municipality in the State of Texas ("Fort Worth"), and the City of Euless, a home rule municipality in the State of Texas ("Euless"). Fort Worth and Euless are sometimes hereinafter referred to individually as the "Party" and collectively as the "Parties".

RECITALS

WHEREAS, the Interlocal Cooperation Act, Chapter 791, Government Code, authorizes local governments to contract with one another for the performance of governmental functions and services; and

WHEREAS, Texstar Cove Addition, a proposed subdivision (the "Subdivision") to be developed within the boundaries of Fort Worth, needs to be serviced with a gravity flow sanitary sewer line ("Sewer Line"); and

WHEREAS, it is necessary for the Sewer Line to be constructed under and across a portion of the Texas Star Golf Course ("Golf Course"), owned by and located within the boundaries of Euless; and

WHEREAS, Fort Worth will be entering into a Community Facilities Agreement ("CFA") with the developer of the Subdivision outlining the developer's construction obligations regarding the Sewer Line; and

WHEREAS, to further facilitate developer's construction of the Sewer Line, it is necessary for Euless to execute and convey to Fort Worth a permanent sewer line easement ("Permanent Easement") and temporary construction easement (collectively the "Easement"); and

WHEREAS, in the event developer or its assigns default or are unable to complete the construction of the Sewer Line, Fort Worth desires to afford Euless the opportunity to complete said construction by utilizing the financial guarantee as required by the CFA; and

WHEREAS, Euless and Fort Worth further desire to set forth maintenance obligations within the Easement once the Sewer Line is constructed.

NOW, THEREFORE, in consideration of the mutual benefits and promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

ARTICLE I. SEWER LINE CONSTRUCTION AND MAINTENANCE

1.01 Easement. Euless will grant Fort Worth the Easement so that the Sewer Line may be constructed. Fort Worth will record the Permanent Easement after a pre-construction meeting

concerning the Sewer Line has taken place consistent with the CFA but not before the completed Sewer Line is ready for final inspection. The final plat for the Subdivision shall not be filed prior to the recording of the Permanent Easement. Fort Worth will allow Eules to utilize the surface of the Easement for Golf Course purposes, including the construction and maintenance of cart paths, roads and other activities typically associated with the operation of a golf course.

1.02 Sewer Line Construction. The construction of the Sewer Line will be located and constructed according to the terms of the Easement, the CFA, and developer's Development Agreement with Eules.

1.03 Collection of Financial Guarantee. If developer or its assigns are unable to complete construction of the Sewer Line within the two year time period required by the CFA, Fort Worth agrees that Eules will have the ability to finish construction of the Sewer Line by utilizing the financial guarantee under the same terms that Fort Worth can utilize the guarantee under the CFA. Fort Worth further agrees that it will not accept the guarantee unless Eules is included as a named beneficiary. In the event Eules assumes construction under this section, it will complete construction of the Sewer Line within the Easement according to the same specifications and plan requirements as contemplated by the CFA, and Fort Worth will provide final construction inspection to ensure that those requirements have been met.

1.04 Sewer Line Maintenance. Upon acceptance of the Sewer Line by Fort Worth, Fort Worth agrees to perpetually operate and maintain, at its sole cost and expense, the improved Sewer Line and Easement.

1.04(a) Entry. In emergency situations which require immediate action because of imminent threat to human life or property, Fort Worth will verbally notify Eules Texas Star Golf Course Superintendent Scott Boven Tel: 817/658-1658 or General Manager Glenda Hartsell-Shelton Tel: 817/685-1859 as soon as possible before it enters the Easement. In all other circumstances, Fort Worth must always request and receive the written (with email being sufficient) permission of Eules a minimum of twenty-four (24) hours prior to entry, and Eules agrees to not unreasonably withhold its consent.

1.04(b) Method of Maintenance. Except in emergency situations as described above, Fort Worth shall seek the prior written consent of Eules regarding the scope and manner of any repair or maintenance work to be done within the Easement.

1.04(c) Damage and Repair. Fort Worth agrees that it will be liable for any damage, above or underground, to the Easement or the Golf Course as a result of its work, and will utilize its best efforts to minimize disruption of Golf Course operations or damage to the Golf Course property. Fort Worth further agrees that after any work it will restore the Easement and any affected portion of the Golf Course to an equal or better condition than that existing at the time of this Agreement.

**ARTICLE II.
GENERAL PROVISIONS**

2.01 Approvals Required. This Agreement is subject to approval by the Euless City Council and the Fort Worth City Council, and when executed by the appropriate officials of both Euless and Fort Worth, shall bind the Parties hereto.

2.02 Entire Agreement. This written Agreement constitutes the entire Agreement between the Parties, and any prior oral agreement which purports to vary from the terms hereof shall be void.

2.03 Amendment. This Agreement shall not be amended or modified other than in a written agreement signed by both Parties. Any amendment, modification, addition or change to this Agreement shall be in writing and shall be approved and executed in the same manner as this Agreement.

2.04 Successors and Assigns. Neither Party may assign or transfer this Agreement or any interest in this Agreement without prior written consent of the other Party.

2.05 Interpretation. Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against either Party.

2.06 Applicable Law. This Agreement is made and shall be construed in accordance with the laws of the State of Texas and venue for any dispute arising out of this Agreement shall lie in Tarrant County, Texas.

2.07 Notice. Unless otherwise noted, all notices and communications under this Agreement shall be sent via the United States Postal Service with proper postage by certified mail, postage prepaid or by hand delivery to the following addresses:

City of Euless
Attention: City Manager
201 N. Ector Dr.
Euless, Texas 76039

City of Fort Worth
Attention: City Manager
1000 Throckmorton
Fort Worth, Texas 76102

2.08 Severability. In the event any portion or provision of this Agreement is illegal, invalid, or unenforceable under present or future law, then and in that event, it is the intention of

the Parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the Parties that in lieu of each clause or provision that is found to be illegal, invalid or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

2.09 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

2.10 Independent Contractor. Each Party shall operate under this Agreement as an independent contractor, and not as an agent, representative, servant or employee of the other. Subject to the terms of this Agreement, each Party shall have the right to control the details of its performance hereunder.

2.11 Authority to Execute. The individuals executing this Agreement on behalf of the respective Parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the Party for which his or her signature appears, that there are no other Parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the Party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

2.12 Binding Effect. This Agreement shall be binding upon and inures to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, as allowed herein; however, this Agreement confers no rights or benefits on any third Parties.

2.13 Attorney's Fees. This Agreement shall be considered to be a contract providing for goods or services under Section 271.151, Texas Local Government Code. In any legal proceeding brought to enforce the terms of this Agreement, the prevailing Party may recover its reasonable and necessary attorney's fees from the non-prevailing Party.

IN WITNESS WHEREOF, the Parties, acting under authority of their respective governing bodies, have caused this Agreement to be duly executed in several counterparts, each of which shall constitute an original.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EULESS
ON THIS _____ DAY OF _____, 2011.

CITY OF EULESS, TEXAS

ATTEST:

By: _____
Mary Lib Saleh, Mayor

Kim Sutter, City Secretary

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH
ON THIS _____ DAY OF _____, 2011.

CITY OF FORT WORTH, TEXAS

ATTEST:

By: _____
Betsy Price, Mayor

Marty Hendrix, City Secretary