INTERLOCAL AGREEMENT BETWEEN COMAL COUNTY, TEXAS AND THE CITY OF SPRING BRANCH RELATING TO ROAD REPAIRS AND ROUTINE MAINTENANCE WITHIN THE PUBLIC RIGHT-OF-WAY

This Interlocal Agreement is entered into between Comal County, Texas, a political subdivision of the State of Texas ("County") and the City of Spring Branch, Texas ("City").

WHEREAS, this Agreement by the County is on a temporary basis with a City in existence for less than two (2) years; and

WHEREAS, City is newly formed and desires to contract with County for road repairs and routine maintenance within the public right-of-way all within the city limits of City; and

WHEREAS, this Agreement is made pursuant to and under the provision of Chapter 791, Texas Government Code.

NOW THEREFORE, in consideration of the mutual promises and covenants given an the mutual benefits received, which is hereby acknowledged by Comal County and the City of Spring Branch, the parties agree as follows:

ARTICLE 1 – PURPOSE AND OBJECTIVE

The purpose of this Agreement is to define the terms under which the County will provide road maintenance and debris removal within the public right-of-way, and driveway permitting consultation services on a temporary basis to the City of Spring Branch.

ARTICLE 2 – TERM AND TERMINATION

This Agreement shall become effective on February 25, 2016, and shall be effective for a term of one (1) year. This Agreement may be terminated for any reason at any time by either party upon ninety (90) days written notice to the other party.

ARTICLE 3 – SERVICES

In response to a written request to the County Engineer by City's Mayor, County will provide road repairs to City's streets and routine maintenance within the City's public right-of-way in the form of mowing, re-positioning or replacement of damaged traffic control devices, pothole patching, application of road surface markings and debris removal. The County reserves the right to determine when it will respond to City's request for services. Furthermore, anything outside the scope of the above listed services will require Commissioners Court approval.

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ARTICLE 4 – CONSIDERATION

For services under Article 3, County will charge City and City will pay County for labor and materials at actual cost to County and equipment costs at the rates assigned by the Federal Emergency Management Administration (FEMA) construction code.

ARTICLE 5 – PAYMENT

County will invoice City monthly for services rendered during the preceding thirty (30) days. Payment is due at the Comal County Auditor's Office, 150 N. Seguin Ave., Suite 200, New Braunfels, Texas 78130, within thirty (30) days of receipt of invoice.

ARTICLE 6 – MISCELLANEOUS

6.1 **Notice:** Any notice required under the provisions of this Agreement shall be in writing and delivered in person or deposited in the United States Mail, registered or certified, return receipt requested. Any such notice must be addressed to the following addresses. Any notice shall be deemed received three days after the date of deposit in the United States Mail, unless proof is offered to the contrary. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

COMAL COUNTY: Comal County Judge 150 N. Seguin Ave. New Braunfels, Texas 78130 **With a copy to:** Comal County Engineer 195 David Jonas Drive New Braunfels, Texas 78130	CITY OF SPRING BRANCH: Mayor James Mayer P.O. Box 1143 Spring Branch, Texas 78070 **With a copy to:**

6.2 **Amendment:** This Agreement may not be amended except in a written instrument specifically referring to this Agreement and signed by the parties hereto.

6.3 **Binding Agreement:** This Agreement has been duly executed and delivered by both parties and constitutes a legal, valid and binding obligation of the parties. Each person executing this Agreement on behalf of each party represents and warrants that they have full right and authority to enter into this Agreement.

6.4 **Severability:** In the event that one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein, but shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect.

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6.5 **Immunity:** No provision of this agreement shall affect or waive any sovereign or governmental immunity available to either party and/or its elected officials, officers, employees and agents under Federal or Texas law nor waive any defenses or remedies at law available to either party and/or its elected officials, officers, employees and agents under Federal or Texas law.

6.6 **Venue:** This agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with the laws of the State of Texas, without regard to its conflict of laws principles. Exclusive venue shall be in a court of competent jurisdiction in Comal County, Texas.

6.7 **Third Party:** The parties to this Agreement do not enter this Agreement to protect any specific third party. The intent of this Agreement excludes the idea of a suit by a third party beneficiary. The parties to this Agreement do not consent to the waiver of sovereign or governmental immunity under Texas law to the extent any party may have immunity under Texas law.

6.8 **Joint Venture and Agency:** The relationship between the parties to this Agreement does not create a partnership or joint venture between the parties. This Agreement does not appoint any party as agent for the other party.

6.8 **Headings:** The headings of this Agreement are for the convenience of reference only and shall not affect in any manner any of the terms and conditions herein.

6.9 **Entire Agreement:** This Agreement contains the entire agreement between the parties and correctly sets forth the rights, duties and obligations of each to the other as of the Effective Date. Any oral representations or modifications concerning this Agreement will be of no force or effect excepting a subsequent written modification executed by both parties.

COMAL COUNTY, TEXAS: **_____, 2016** **_____** **COUNTY JUDGE, SHERMAN KRAUSE** **_____** **ATTEST: COMAL COUNTY CLERK** **BOBBIE KOEPP**	**CITY OF SPRING BRANCH, TEXAS:** **_____, 2016** **_____** **MAYOR, JAMES MAYER** **_____** **ATTEST: CITY SECRETARY** **BAMBI MAYER**

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