

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER 'S LICENSE NUMBER.

#### CONSENT TO ENCROACH AGREEMENT

STATE OF TEXAS                                 }  
COUNTY OF GALVESTON                     }

WHEREAS, Sports Shed Kemah, LLC, a Texas limited liability company, (hereinafter the "Owner", whether one or more), is Owner of the following described property, (hereinafter the "Property") situated in the City of League City, (hereinafter the "City"), Galveston County, Texas.

#### PROPERTY DESCRIPTION:

That certain called 7.782 acre tract of described in General Warranty Deed filed for record on June 30, 2016, under Instrument Number 20160339642 in the Official Public Records of Galveston County, Texas, said called 7.782 acre tract being out of and a port of Lots 1, 2, 3, and 4, Block 2 of Jarboe Addition in the M. Muldoon Two League Grant, Abstract No. 18, Galveston County, Texas, according to the unrecorded Map of League City and Subdivisions prepared R. W. Luttrell for J. C. League in 1893, 1907 and 1909.

WHEREAS, Owner's Property is addressed as 1520 Lawrence Road in League City, Texas; and

WHEREAS, Owner desires to construct small-diameter private sanitary sewer force main (hereinafter "Force Main Sewer") within an unnamed and unopened 40-foot wide platted road right-of-way, lying westerly of and abutting Owner's Property said platted right-of-way being parallel with Lawrence Road, and within a City of League City sanitary sewer easement, all in said Jarboe Addition; and

WHEREAS the proposed private Force Main Sewer will encroach upon the said unnamed and unopened platted right-of-way as follows: From Owner's westerly property line, approximately 10 feet distant northerly of the southwesterly corner of the called 7.782 acre tract the Force Main Sewer enters into the unnamed and unopened platted road, perpendicular to the roads easterly right-of-way line; the Force Main Sewer then runs a distance of approximately 5 feet to a generally 90 degree deflection to the left; the Force Main Sewer then runs in a southerly direction along a line that is parallel with and approximately 5 feet westerly of the easterly right-of-way line of said road, a distance of 570 feet, more or less, to a generally 90 degree deflection to the right; the Force Main Line then runs in a westerly direction along a line that is parallel with and approximately 10 feet northerly of the northerly right-of-way line of FM 518, at 35 feet, more or less pass the westerly right-of-way line of said

unnamed and unopened right-of-way and the easterly line of said sanitary sewer easement, a distance of 150 feet, more or less, to the Force Main Sewer's proposed core-cut connection into an existing City sanitary sewer manhole, the total linear footage of said Force Main Line being 725 feet, more or less; and

WHEREAS, prior to the construction or installation of said Force Main Line: (i) Owner shall submit properly engineered plans to the City for review and approval and construction shall not occur until such plans have been approved; and (ii) Owner shall pay the City a fee of \$1,319.50 based on the following formula:  $\$15 \times 2 \text{ inches} \times \text{approximately } 43.93 \text{ rods} = \$1,317.90$ .

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that the City hereby consents to Owner's encroachment of said private Force Main Line within the unnamed and unopened platted right-of-way and within the aforesaid sanitary sewer easement, subject to the terms and conditions hereinafter set forth.

#### TERMS AND CONDITIONS:

1. Owner, Owner's successors, heirs, or assigns hold the City harmless from all claims, lawsuits, costs, and damages for any person or property arising out of or in any way connected with the maintenance and use of said encroaching private Force Main Line, except where such injuries or damages are caused solely by the negligence of the City, its agents, or employees;
2. If the City, its successors, assigns or grantees, shall at any time in its sole discretion determine that it is necessary to do so for the purpose of maintaining City facilities, it shall be privileged to remove or alter the above-mentioned encroaching private Force Main Line, and which the City agrees to restore as nearly as is practical to their former condition, all at Owner's cost. Owner, Owner's successors, assigns and grantees, hereby releases the City from any and all liability for damage caused to the encroaching private Force Main Line by any such removal, altering and restoring. Owner, Owner's successors, assigns and grantees further releases the City from any and all liability for loss of or damage to the encroaching private Force Main Line which may be caused by, result from or be related to the presence or malfunctioning of the City's facilities, regardless of whether its negligence may contribute to such loss or damage.
3. The City may, at its sole discretion, terminate this consent to encroach by giving Owner, Owner's successors, assigns, agents or licensees written notice of such termination. Such written notice of termination shall be delivered by U. S. Postal Service certified mail delivery. Upon receipt of such notice, Owner, Owner's successors, assigns, agents or licensees shall have sixty (60) calendar days to cause the removal of said encroachment. If the encroachment has not been removed within said 60 days, the City may cause the removal the encroachment, the cost of which removal by the City shall be solely borne by the Owner, Owner's successors, assigns, agents, or licensees, and which cost may be attached as a lien against Owner's property described above.

- For Owner (Sports Shed Kemah, LLC):

By: \_\_\_\_\_

## ACKNOWLEDGMENT

Before me, a notary public, on this day personally appeared Mark T. Wheat, known to me or having proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

My Commission Expires: \_\_\_\_\_

For the City of League City, Texas:

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

By: \_\_\_\_\_

John Baumgartner  
Deputy City Manager

ACKNOWLEDGMENT

STATE OF TEXAS                                 }  
COUNTY OF GALVESTON                     }

Before me, a notary public, on this day personally appeared John Baumgartner, known to me or having proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

APPROVED AS TO FORM: \_\_\_\_\_

Nghiem Doan, City Attorney