



COMMUNITY GREEN SPACE CRF WAIVER PROGRAM
WITH THE HIDDEN LAKES COMMUNITY ASSOCIATION INC.

This AGREEMENT ("Agreement") is entered by and between **Hidden Lakes Community Association, Inc.** (the "HOA") and the **City of League City** ("City"), a home-rule municipality, located at 300 W. Walker St., League City, Texas 77573 on the date set forth below.

Terms:

1. Purpose:

- 1.1. The HOA has applied for relief from Capital Recovery Fees ("CRFs") through the Community Green Space Irrigation Grant Program. The City, in its discretion, grants this relief as an economic development incentive to encourage beautification, sustainability, and preservation of community open space, while maintaining compliance with Chapter 395 of the Texas Local Government Code.
- 1.2. The HOA's project proposes installation of three (3) one-inch irrigation meters and one (1) three-quarter-inch irrigation meter to serve green space located within Hidden Lakes Section 1 and Section 2. The applicable CRFs, as set under Ordinance No. 2006-72, are \$3,504.43 per one-inch meter and \$2,102.66 per three-quarter-inch meter. The total CRF obligation for the project is \$12,615.95.

2. Grant of Relief:

- 2.1. The City hereby grants the HOA conditional relief from the payment of CRFs in the total amount of \$12,616 (rounded), subject to the HOA's full compliance with the project scope and commitments described in Exhibit A.
- 2.2. The HOA shall perform and maintain the improvements and activities described in Exhibit A as part of its obligations under this Agreement.
- 2.3. The City will internally account for the CRFs in accordance with Chapter 395 by transferring funds from the General Fund to the CRF Fund, but this internal action does not alter the fact that the HOA's obligation has been conditionally excused under the Program.
- 2.4. The City's grant of relief shall not be construed as creating any entitlement, refund, or credit for future CRFs. It is a one-time incentive subject to compliance with this Agreement, Exhibit A, and the Program requirements.

3. Funding. The City will satisfy the CRF obligation in the amount of \$12,616 by authorizing an internal budget transfer from the General Fund (Non-Departmental) to the CRF Water Fund. This Agreement does not obligate the City to appropriate or expend funds beyond this specific transaction.

4. Eligibility and Compliance: The HOA represents and warrants that its project satisfies the eligibility criteria established in the Program, including:

- 4.1. Irrigation exclusively for noncommercial HOA common area green space.
- 4.2. Meter sizes not exceeding two inches, subject to City Manager approval.
- 4.3. Irrigated area permanently dedicated as community open space by recorded restriction.

- 4.4. Subdivision at least 90 percent built-out.
- 4.5. HOA is resident-controlled and does not act in a developer capacity.
- 4.6. Project serves a recognized public purpose, including beautification, stormwater benefit, and enhancement of recreational or pedestrian corridors.
5. **Conditions of Relief:**
 - 5.1. Project Completion: The HOA must complete installation of the irrigation infrastructure within one year from the date of City Council approval of this Agreement.
 - 5.2. Maintenance: The HOA shall maintain the irrigated green space for not less than five years after project completion.
 - 5.3. Recordkeeping: The HOA acknowledges that the City will maintain a record of this grant of relief, including the CRF amount, project description, and public purpose served, to comply with Chapter 395 documentation requirements.
6. **Revocation and Clawback:** The City reserves the right to revoke the relief granted under this Agreement and to recover the value of the excused CRFs if:
 - 6.1. The HOA fails to complete the irrigation project within one year of Council approval; or
 - 6.2. The HOA fails to maintain the irrigated green space for at least five years following project completion.
7. **Termination:** This Agreement may be terminated by the City upon written notice if the HOA breaches any condition of eligibility or fails to perform its obligations under this Agreement.
8. **Licenses/Certifications:** HOA represents and warrants that it will obtain and maintain in effect, and pay the cost of, all licenses, permits or certifications that may be necessary for HOA's performance of this Agreement. If HOA is a business entity, HOA warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its formation; and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement and is authorized to execute this Agreement according to its terms on behalf of HOA.
9. **INDEMNIFICATION: HOA SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS CITY, AND EACH OF ITS OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES AND LIABILITIES, INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES AND REASONABLE LITIGATION COSTS, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY ACTS OR OMISSIONS OF HOA OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF HOA IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT, TO THE EXTENT THE CLAIM ARISES FROM NEGLIGENCE, WILLFUL ACT, BREACH OF CONTRACT OR VIOLATION OF LAW.**
10. **Force Majeure:** Neither party shall be liable to the other for (i) any delay in performance; (ii) any other breach; (iii) any loss or damage; or (iv) any contribution to or aggravation of any of the

foregoing; arising solely from uncontrollable forces such as fire, theft, storm, war, or any other cause that could not have been reasonably avoided by the party's exercise of due diligence.

11. **No Effect on Encroachment Agreement.** Nothing in this Agreement shall be construed to modify, amend, limit, or otherwise affect the rights of the City under the Encroachment Agreement previously executed with the HOA. The Encroachment Agreement remains in full force and effect, and the City retains all rights thereunder, including without limitation the right to require removal of irrigation improvements located within the City's right-of-way.
12. **Notices:** Any notice given under this Agreement by either party to the other may be affected either by personal delivery in writing or by mail, registered or certified postage prepaid with return receipt requested. Mailed notices shall be addressed to the addresses of the Parties as they appear in the contract. Notices delivered personally shall be deemed communicated at the time of actual receipt. Mailed notices shall be deemed communicated three (3) days after mailing.
13. **Jurisdiction:** Any disputes under this Agreement shall be brought in a court of competent jurisdiction in Galveston, Texas and governed by Texas law.
14. **Entire Agreement:** This Agreement contains the entire understanding between the Parties and supersedes all prior agreements, arrangements, and understanding, oral or written between the Parties relating to this Agreement. This Agreement may not be modified except by mutual written agreement of the Parties executed subsequent to this Agreement.
15. **Legal Construction/Severability:** In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained in it. To this end, the provisions of this Agreement are declared to be severable. The Parties may mutually agree to renegotiate the Agreement to cure such illegality/invalidity or unconstitutionality if such may be reasonably accomplished.
16. **Sovereign Immunity:** The Parties agree that neither the execution of the Agreement by City nor any other conduct, action or inaction of any City representative relating to the Agreement constitutes a waiver of sovereign immunity by City.
17. **Authority:** The Parties stipulate that in entering into this Agreement, the City is performing a solely governmental function and not a proprietary function. HOA warrants and represents that HOA has full power and authority to enter into and perform this Agreement and to make the grant of rights contained herein. The person signing on behalf of City represents that he/she has authority to sign this Agreement on behalf of City.
18. **Non-Waiver:** The Parties specifically agree that neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by HOA. No covenant or condition of this Agreement may be waived except by written consent of the waiving party. Forbearance or indulgence by one party in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the other party.

(signature block on next page)

Executed on _____ . *(date to be filled in by City Secretary)*

HIDDEN LAKES COMMUNITY ASSOCIATION INC. - "HOA"

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CITY OF LEAGUE CITY – "City"

John Baumgartner, City Manager

Attest:

Diana Stapp, City Secretary

Approved as to Form:

Office of the City Attorney

Exhibit A

Community Green Space Irrigation Grant Program

Hidden Lakes Community Association Inc.