

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

**AGREEMENT FOR INSTALLATION, OPERATION AND MAINTENANCE OF SOLAR
POWERED SPEED AWARENESS SIGNS WITHIN THE FALCON POINT SUBDIVISION**

This Agreement (the "Agreement"), is made and entered into, by and between FORT BEND COUNTY, TEXAS ("County"), a body corporate and politic, acting by and through its Commissioners Court, and the Falcon Point Homeowners Association, Inc. ("Association"), a non-profit corporation organized under the laws of the State of Texas. County and Association may each be referred to herein as a "Party" and, collectively herein as, the "Parties."

RECITALS:

WHEREAS, Association is a Texas non-profit corporation created to, among other things, maintain common areas and provide certain services for the benefit of the residents of the Falcon Point Subdivision ("Subdivision"); and

WHEREAS, Association has requested the installation of certain solar-powered speed awareness signs (each, a "Sign" and, collectively, the "Signs") in an effort to address concerns with speeding on streets within the Subdivision; and

WHEREAS, County is a body corporate and politic under the laws of the State of Texas with authority to maintain public right-of-way and install traffic control devices including, but not limited to, the Signs; and

WHEREAS, Association recognizes the Signs are not typically installed on all public roads and is therefore, willing to fund all operation and maintenance costs associated with having County install the Signs within the Subdivision; and

WHEREAS, County and Association believe it is in their best interests to enter into this Agreement to install, operate and maintain the Signs to encourage drivers to operate vehicles in a safe manner within the Subdivision.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, **the receipt and sufficiency of which are hereby acknowledged**, the Parties agree as follows:

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SECTION 1
PURPOSE

The purpose of this Agreement is to outline the obligations related to the installation, operation, and maintenance of the Signs within the Subdivision.

SECTION 2
OBLIGATIONS

2.1 County agrees to purchase and install the Signs within the public right of way at certain locations within the Subdivision at its discretion, upon consultation with the Association. The Signs shall comply with all County standards and requirements for signs to be used in the public right of way. County agrees to manage the installation, operation, and maintenance responsibilities of the Signs, subject to Association's obligation to fund such maintenance costs for the Signs, as provided below.

2.2 Association shall be responsible for all costs to maintain the Signs in a properly operating manner for as long as such Signs remain in place within the Subdivision, which shall include, but is not limited to, the costs of repair, replacement, relocation and other modifications, as needed.

2.2.1 Upon completion of any tasks related to maintenance of the Signs, County shall submit an invoice showing the amounts due for costs incurred by County to perform such maintenance to Association.

2.2.2 Association shall pay each invoice within thirty (30) calendar days of receipt, payable to Fort Bend County, delivered to the Fort Bend County Treasurer, 301 Jackson Street, Richmond, Texas 77406-1202.

SECTION 3
TERM

This Agreement shall be in effect from the date of execution of the last party hereto and shall continue in full force and effect for one (1) year and thereafter automatically renew on a yearly basis as long as one (1) or more Signs are in place and functional in the Subdivision. Either Party may terminate this Agreement upon thirty (30) days' written notice to the other Party. Upon termination of this Agreement, County will determine, at its sole discretion, whether the non-functioning Signs will remain installed. In the event that County determines to remove any installed Signs upon termination of this Agreement, such removal shall be at County's sole expense.

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SECTION 4
INSURANCE AND LIABILITY

4.1 Liability Insurance. At all times, Association will provide and keep in force liability insurance covering Association for liability for property damage and personal injury. This insurance is to be carried by one or more insurance companies duly authorized or admitted to transact business in Texas. The insurance provided under this section must be in the amount of not less than \$100,000.00 for property damage and not less than \$100,000.00 for one person and \$300,000.00 for one accident for personal injury. This insurance will protect Association against liability to any employees or servants of Association, and to any other person or persons whose property damage or personal injury arises out of or in connection with the occupation, use, or condition of the Signs. Association shall include County and the members of Commissioners Court as an additional insured on such insurance.

4.2 Each Party is solely responsible for the actions and omissions of its employees, agents and officers. No Party hereto waives or relinquishes any immunity or defense on behalf of itself, its trustees, its officers, members, employees, and agents as a result of the execution of this Agreement and the performance of the respective obligations and covenants contained herein.

SECTION 5
NOTICES

5.1 Each Party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

5.2 Each Party giving a Notice shall address the Notice to the receiving Party at the address listed below or to another address designated by a Party in a Notice pursuant to this Section:

County: Fort Bend County Engineering
Attn: County Engineer
301 Jackson Street
Richmond, Texas 77469

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With a copy to: Fort Bend County
Attn: County Judge
401 Jackson Street
Richmond, Texas 77469

Association: Falcon Point Homeowners Association, Inc.
Attn: Daniel Herrin
Post Office Box 219320
Houston, TX 77218-9320

5.3 A Notice is effective only if the Party giving or making the Notice has complied with subsections 5.1 and 5.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

5.3.1 If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.

5.3.2 If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

SECTION 6 **MISCELLANEOUS**

6.1 The Parties may not amend or waive this Agreement, except by a written agreement executed by both Parties.

6.2 The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The Parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity.

6.3 If a court finds or rules that any part of this Agreement is invalid or unlawful, the remainder of the Agreement continues to be binding on the Parties.

6.4 This Agreement supersedes any and all other agreements, either oral or in writing between the Parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

6.5 This Agreement cannot be assigned by either Party.

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6.6 This Agreement does not confer any enforceable rights or remedies upon any person other than the Parties. No provision of this Agreement constitutes consent to suit.

6.7 The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

6.8 County and Association each bind themselves and their successors, executors, administrators, and assigns to the other Party of this Agreement and to the successors, executors, administrators, and assigns of such other Party, with respect to all covenants of this Agreement.

6.9 No waiver or waivers of any breach or default (or any breaches or defaults) by any Party hereto of any term, covenant, condition, or liability hereunder, or the performance by any Party of any obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstances.

6.10 Nothing in the Agreement is construed as creating any personal liability on the part of any officer, director, employee, or agent of any public body that may be a Party to the Agreement, and the Parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee, or agent of County or Association.

6.11 This Agreement may be executed in several counterparts. Each counterpart is deemed an original and all counterparts together constitute one and the same instrument. In addition, each Party warrants that the undersigned is a duly authorized representative with the power to execute the Agreement.

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EXECUTED on this the 4th day of October, 2019.

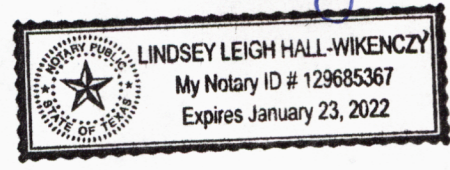
FALCON POINT HOMEOWNERS ASSOCIATION, INC.

[Signature]
Daniel Herrin, Board President

THE STATE OF TEXAS §
COUNTY OF Fort Bend §

This instrument was acknowledged before me on the 4th day of October, 2019 by Daniel Herrin, Board President, of the Falcon Point Homeowners Association, Inc., a non-profit corporation organized under the laws of the State of Texas, on behalf of said non-profit corporation.

(SEAL) [Signature]
Notary Public in and for the State of Texas



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