

STATE OF TEXAS
COUNTY OF FORT BEND

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**REVOCABLE LICENSE AGREEMENT BETWEEN SUGAR LAND COWBOYS AND CHEER AND
FORT BEND COUNTY FOR USE OF FOOTBALL FIELDS AT HARLEM ROAD PARK**

THIS LICENSE AGREEMENT is made and entered into by and between Fort Bend County, a body corporate and politic under the laws of the State of Texas ("County"), and Sugar Land Cowboys and Cheer ("Club"), a company authorized to do business in the State of Texas.

RECITALS

WHEREAS, Fort Bend County hereby adopts Chapter 320 of the Local Government Code for the purpose of acquiring, improving, equipping, maintain, financing, and operating on or more public parks;

WHEREAS, Fort Bend County Commissioners Court elects to exercise and perform the powers authorized by Chapter 320 which includes executing a contract pertaining to a park under is control, namely Fort Bend County Harlem Road Park;

WHEREAS Club desires to assist Fort Bend County in providing recreational opportunities at Harlem Road Park for the citizens for the County, to promote the sport of cheering and develop within the citizens of the County the spirit of good sportsmanship and cooperation, as well as provide a means to actively and recreationally occupy the time and leisure of said citizens;

WHEREAS, Club has requested permission to use a certain portion of Harlem Road Park, for the purposes described above, to be used by persons in the County; and

WHEREAS, the County is willing to allow Club to use a certain portion of Harlem Road Park for the purposes set forth above; and

WHEREAS, Club is willing to supervise and manage the said park fields and appurtenances thereto; and

WHEREAS, County finds that this License serves a public purpose.

NOW THEREFORE, in consideration of the mutual covenants, licenses, and benefits to both parties, it is agreed as follows:

LICENSE TERMS

1. Property.

- 1.1. Subject to the provisions of this License, the County hereby licenses to the Club a revocable right to use and maintain the following described portion of Harlem Road Park, located in Fort Bend County, Texas, to-wit:

Those certain football fields located on a tract of land being a part of Fort Bend County Harlem Road Park, said area being identified with hatch lines as "Harlem Road Park Football Fields" on the map or diagram marked "Exhibit A," attached hereto and incorporated herein by reference as if copied herein verbatim, hereinafter called "Property."

- 1.2. The license granted herein permits Club to use, schedule use of, and maintain the above described Property for the purposes of providing sporting activities and play fields for the residents of Fort Bend County and surrounding areas.
- 1.3. This License does not convey any interest in Property to Club. The License is merely a license to use the Property according to the terms hereof.

2. Term.

- 2.1. This License shall be effective as of the date signed by the County and terminate on September 30, 2020, unless terminated sooner pursuant to the terms herein.

3. Name.

- 3.1. The fields are to be known as "Harlem Road Park Football Fields."

4. Maintenance.

- 4.1. Club shall maintain Property in its present condition. Club is responsible for any necessary field preparation before and after play. County shall, at its own expense, continue to mow grass on its regular schedule which is currently set for once every 10 days. County reserves the right to change such mowing schedule without notice, as determined by the County.
- 4.2. Club shall provide all supplies and materials necessary to perform the maintenance requirements described in Section 4.1. Club shall be responsible for only those maintenance requirements as described in 4.1.
- 4.3. County may perform periodic unannounced and/or noticed inspections of the fields and appurtenances thereto to determine the condition thereof.

5. Improvements

- 5.1. This license does not create a right by Club to construct or install any fixtures, improvements, alterations, or additions thereto, made and or installed in or upon the fields by Club, including, but not limited to the playing areas, the appurtenances thereto, team quarters (including lockers and showers), public restrooms, electronic scoreboards, sidewalks, shrubberies, stands, floodlighting facilities.
- 5.2. Should any fixtures or improvements be installed with or without the permission of the County, the County may order that the fixture, improvement, alteration or addition be removed or alternately that they become the property of the County when installed and or constructed on the fields. Except as otherwise provided herein, all property that may be moved without damage to the Property, as determined solely by County, does not become the property of the County, but remains the property of the Club. Upon termination of this license, any movable property not removed by Club before the date of termination becomes the property of the County.

5.3. CLUB SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE COUNTY FOR ALL DAMAGES AND EXPENSES, INCLUDING REASONABLE ATTORNEY FEES, FOR OR ON ACCOUNT OF ANY NECESSARY LEGAL ACTION TO REMOVE THE THREAT OF THE FILING OF A LIEN OR THE REMOVAL OF ANY LIEN.

6. Liability and Insurance.

6.1. Club shall furnish County with insurance certificate(s) and a copy of each policy that is in effect as of the effective date of this License for verification and approval by the County Risk Management Department. Club shall provide County subsequent insurance certificates throughout the term of the License upon request. Club shall carry Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$2,000,000 general aggregate for bodily injury and property damage, which coverage shall include independent contractors, and contractual liability each at \$1,000,000 per occurrence. Coverages shall be written on per occurrence forms. Policies shall name the County, its elected and appointed officials, agents, and employees as additional insureds.

6.2. CLUB EXPRESSLY AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE COUNTY FROM AND AGAINST ANY AND ALL LOSS, DAMAGE, CLAIMS, DEMANDS, LAWSUITS, LIABILITY, JUDGMENTS AND EXPENSES, INCLUDING ATTORNEYS FEES, INVESTIGATIVE COSTS, AND OTHER COSTS OF LITIGATION, IN ANY MANNER ARISING OUT OF THE ACTS OR OMISSIONS OF THE CLUB AND THE CLUB'S EMPLOYEES, CONTRACTORS, REPRESENTATIVES, MEMBERS, AGENTS, GUESTS, INVITEES AND VOLUNTEERS, IN THEIR USE OF THE PROPERTY, IRRESPECTIVE OF WHETHER THE COUNTY WAS CONCURRENTLY NEGLIGENT.

6.3. Club shall ensure that a "WAIVER AND RELEASE OF LIABILITY FOR USE OF FORT BEND COUNTY HARLEM ROAD PARK FACILITIES," attached hereto as "Exhibit B" and incorporated by reference, is executed on behalf of each Club participant prior to participation. Copies of the Release of Liability will be made available to County upon request.

6.4. County makes no representation, warranty, or guarantee with respect to the condition of the Property, the presence or absence of pits or depressions in the surface of the fields, the type or condition of the soil or other material within the soil, and the presence of pipes or other objects in the soil. CLUB ACCEPTS THE PROPERTY AND ALL APPURTENANCES AND IMPROVEMENTS THERETO "AS IS, WHERE IS, AND WITH ALL FAULTS."

7. Conduct and Security.

7.1. Club shall exercise proper supervision and control of all activities of Club on the Property. In exercising the rights and performing the obligations required of it under the terms of this License, Club shall comply, and shall require all persons using the Property to comply, with all applicable federal, state, county and city laws, ordinances, rules and regulations, including any Park Rules that may be adopted from time to time by the Commissioners Court. Said Park Rules are incorporated herein by reference as if copied herein verbatim. Additionally, Club shall at all times maintain and enforce good order

and fair sportsmanship upon the Property, and shall not permit any conduct, behavior or practice in violation of any federal, state, or municipal laws, rules, regulations or ordinances or of a sort likely to bring discredit or humiliation upon anyone, including Fort Bend County and its governing body.

- 7.2. Club shall permit all persons residing in Fort Bend County, Texas to participate in the activities of Club upon the Property. Club shall not discriminate against any person or persons because of race, color, religion, sex or national origin.
- 7.3. Club may and is encouraged to create and distribute to users of the Property a written guideline or code of conduct. The guideline or code of conduct may not conflict with any federal, state, county and/or city ordinance, rule, and regulation. However, Club may require conduct of a higher standard or degree of character than is required under all rules and laws so long as the prescribed conduct does not discriminate against any person on the basis of their race, color, religion, sex or national origin. Club shall provide to the County any such guideline or code of conduct. The County reserves the right to amend the guidelines or code of conduct.
- 7.4. Club shall provide all necessary security personnel for the events it sponsors or conducts on the Property.
- 7.5. Club acknowledges and agrees that is neither the responsibility nor the right of persons other than those representing Fort Bend County Parks and Recreation Department to enforce park rules and regulations. Club shall contact Fort Bend County Parks & Recreation if any Club participant witnesses a violation of Park Rules or actions inconsistent with expectations of a public setting. For emergency situations, Club shall call the Fort Bend County Sheriff's Office for assistance.

8. Times and Calendar.

- 8.1. County may establish the day-to-day times when Club may use the Property for its activities. The County may post signs at or near the entrance to the Property stating the times when the Property is open to the public and Club.
- 8.2. Club may use the Property at all times during the calendar year, except when the Property is scheduled for other events by the County.
- 8.3. Notwithstanding the foregoing, the County may alter or change the dates and times that Club may use the Property. The County may, with or without notice to Club, prohibit entry into and use of the Property whenever it is necessary, as determined by County. Unless an act of God, war or other public calamity requires closure of the Property, the County may give notice to Club, in the manner described herein of any change in the Park's calendar.
- 8.4. Club shall be required to provide a written schedule of games and practices for each athletic season. Club shall be responsible for scheduling use of the Property by other youth organizations. Club shall not deny the use of the Property to any youth organization that does not interfere with the normal Club playing season.

9. Notice and Termination.

- 9.1. This License may be terminated by either party, with or without cause, by giving written notice to the other party at least thirty (30) days prior to the date of termination.

- 9.2. Notice to County shall be given by registered or certified U. S. Mail, Return Receipt Requested, postage prepaid, addressed to Fort Bend County, County Judge, 401 Jackson St., 1st Floor, Richmond, Texas 77469, with copy to Fort Bend County, Parks Director 9555A Highway 6, Missouri City, TX 77459.
- 9.3. Notice to Club shall be given by registered or certified U. S. Mail, Return Receipt Requested, postage prepaid, addressed to Club, Inc., Attn: Rod Kinney, 11011 Bearsden Drive, Richmond, Texas 77407.
- 9.4. Notice is considered given and completed upon deposit of the notice in the U.S. Mail.
- 9.5. Each party may change its respective address and specify as its address any other address in the State of Texas by giving at least fifteen (15) days written notice of such change to the other party.

10. Income.

- 10.1. Club may sell "concession items" such as food, beverages, and activity "programs" without need for prior approval from County.
- 10.2. Club must have prior written approval from County regarding any other uses of the property for production of income not named herein.

11. General Terms.

- 11.1. Paragraph captions herein are merely descriptive and do not add to or detract from the content of this License.
- 11.2. Any oral representations or modifications concerning this License are of no force or effect; and this License may be modified or changed only by the Commissioners Court.
- 11.3. Club shall provide the County at all times with the current names, addresses and phone numbers of the President, chief acting officer, vice-president and each board member of Club.
- 11.4. This License shall be governed under Texas law, and it shall be performed entirely in Fort Bend County, Texas. 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 License and waive the right to sue or be sued elsewhere. Nothing in the License shall be construed to waive the County's sovereign immunity.
- 11.5. The person signing this license on Club's behalf hereby represents that he or she is authorized by the Club's Board of Directors to execute this License on Club's behalf.
- 11.6. No statement contained in this License shall be construed so as to find Club or any of its participants, to be an employee, or agent of the County, and Club and its participants shall be entitled to none of the rights, privileges, or benefits of County employees except as otherwise may be stated herein nor shall Club or its participants hold themselves out as employees or agents of the County.
- 11.7. In the event of one or more of the provisions contained in this license 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 hereof and this License shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- 11.8. The waiver by either party of a breach of any provision of this License shall not operate as or be construed as a waiver of any subsequent breach.

11.9. Any amendments to this License shall be of no effect unless in writing and signed by both parties hereto.

11.10. Club shall not assign this License, or any interest arising herein, without the prior written consent of County.

12. Termination.

12.1 Termination for Convenience. County may terminate this Agreement at any time upon thirty (30) days written notice.

12.2 Termination for Default. County may terminate the whole or any part of this Agreement for cause in the following circumstances:

(a) If Club fails to perform services within the time specified in the Scope of Services or any extension thereof granted by the County in writing;

(b) If Club materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.

12.3 If, after termination, it is determined for any reason whatsoever that Club was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with Section 6.1 above.

12.4 Upon termination of this Agreement, County shall compensate Club in accordance with Section 3, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. Club's final invoice for said services will be presented to and paid by County in the same manner set forth in Section 3 above.

12.5 If County terminates this Agreement as provided in this Section 6, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Club.

12.6 If County terminates this Agreement prior to the termination date, County shall not be subject to any early termination fee or other penalty.

13. Texas Government Code Section 2251.152 Acknowledgment.

13.1. By signature below, Club represents pursuant to Section 2252.152 of the Texas Government Code, that Club is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153.

14. No Boycott of Israel.

14.1. As required by Chapter 2270, Government Code, Club hereby verifies that it does not boycott Israel and will not boycott Israel through the term of this Agreement. For purposes of this verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

15. Understanding, Fair Construction.

15.1. By execution of this Agreement, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Agreement. This Agreement, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.

IN WITNESS WHEREOF, this License is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this License and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.

FORT BEND COUNTY

SUGAR LAND COWBOYS AND CHEER

KP George, County Judge



Rod Kinney

Date



Title

ATTEST:



Date

Laura Richard, County Clerk