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DONATION AGREEMENT REGARDING FOOTBRIDGES

This Donation Agreement Regarding Recreational Facilities (the "Agreement") is entered into as of this ___ day of August, 2014 (the "Effective Date"), by and between **Fort Bend County**, a body corporate and politic, acting by and through its Commissioners Court (the "County") **Falcon Ranch Homeowners Association, Inc.**, a Texas non-profit corporation ("Falcon") (County and Falcon may be individually referred to herein as a "Party" and collectively as the "Parties").

RECITALS

WHEREAS, the County and Willow Fork Drainage District ("WFDD") have entered into an Interlocal Governmental Agreement (the "Interlocal Agreement") dated July 1, 2014 whereby County and WFDD have determined to jointly participate in the design and construction of certain footbridges to be owned and operated by WFDD and within the boundaries of WFDD for the benefit of residents within their boundaries;

WHEREAS, the County will pay for the construction and installation of certain footbridges in an amount not to exceed \$200,000;

WHEREAS, WFDD will pay for the construction and installation of certain park and recreational projects in an amount not to exceed \$250,000;

WHEREAS, Falcon Residential Property Association has agreed to fund the construction of certain footbridges (the "Project"), all as described in the Interlocal Agreement in "Exhibit A" attached hereto;

WHEREAS, the estimated construction costs of the Project is \$515,545.00 and the Falcon wishes to donate the sum of \$50,000.00 to the County to fund a portion of the balance of the Project (the "Donation");

WHEREAS, the County desires to accept the Donation from the Falcon solely for the purpose of constructing the Project and pursuant to the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, obligations, and benefits herein set forth, the Parties contract and agree as follows:

1. Acceptance of Donation. The County hereby accepts the Donation from Falcon for the sole purpose of constructing the Project. The County agrees that the Donation will be applied solely to any necessary costs allocated to the Project by the County. The County hereby finds that the Donation amount and the conditions associated with the Donation as



described in the Recitals and this Section 1 are reasonable.

2. Refund of Donation. In the event that the County and WFDD do not construct the Project within six (6) months of the termination date of the Interlocal Agreement for any reason, the Donation shall be returned to Falcon. In the event of a refund of the Donation to the Falcon, the County and WFDD are no longer obligated to construct the Project, and the Parties have no further obligations between each other.
3. Recitals Confirmed. The matters set forth above in the Recitals of this Agreement are found to be true and correct.
4. Representations. Each Party represents that it has the full legal authority to enter into this Agreement and that the person signing below on behalf of each Party has full authority to bind such Party by executing this Agreement.
5. Parties in Interest. This Agreement shall be for the sole and exclusive benefit of the Parties and shall not be construed to confer any benefit or right upon any other party, and may not be assigned without the written consent of the Parties.
6. Interpretations. This Agreement and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of this Agreement. The Parties agree that this Agreement shall not be construed in favor of or against any Party on the basis that the Party did or did not authorize the Agreement. Nothing in this Agreement shall be construed to violate any state or federal statutory provision or any provision of the state or federal Constitutions and all acts done pursuant to this Agreement shall be performed in such manner as to conform thereto whether expressly provided or not.
7. Severability. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances shall not be affected thereby.
8. Notices and Addresses. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by (a) depositing same in the United States mail, addressed to the party to be notified, postage prepaid and registered or certified with return receipt requested; (b) by delivering the same in person to such party; or (c) by sending same by facsimile. Notice given by mail shall be effective three (3) days after deposit in the United States mail, and notice delivered in person or sent by facsimile shall be effective upon receipt. For the purpose of notice, addresses and facsimile numbers of the Parties shall, until changed as hereinafter provided, be as follows:

If to the County: Fort Bend County Judge
401 Jackson Street



Richmond, Texas 77469
Attn: The Honorable Robert Hebert
hebertb@co.fort-bend.tx.us
Phone: 281-341-8608
Facsimile: 281-341-8609

With a copy to:
Fort Bend County, Precinct 3
22333 Grand Corner Drive
Katy, Texas 77494
Attn: The Honorable Andy Meyers
meyersan@co.fort-bend.tx.us

If to Falcon: Falcon Ranch Homeowners Association, Inc.
c/o Spectrum Association Management
16690 Park Row
Houston, TX 77084
board@falconranchhoa.com

The Parties have the right from time to time to change their respective addresses and each has the right to specify as its address any other address upon at least fifteen (15) days written notice to the other Parties.

9. Entire Agreement; Modification; Exhibits. This Agreement is the entire agreement between the Parties concerning the Donation, and there are no prior effective representations, warranties or agreements among the Parties with respect thereto. No modification hereof or subsequent agreement relative to this Agreement shall be binding on any Party unless reduced to writing and signed by all of the Parties. The exhibit attached hereto is incorporated herein by reference for all purposes.
10. Limitation of Remedies. The Parties understand that the Project is a public project by WFDD and the County and construction of the Project is in their sole discretion. In the event that WFDD and the County do not acquire or construct the Project, Falcon shall have no remedy or recourse against WFDD and the County other than a refund of the Donation, without penalty, in accordance with Section 2.
11. Term. The term of this Agreement shall be the earlier of one year from the Effective Date or when WFDD completes construction of the Project.

IN WITNESS WHEREOF, the Parties have executed this Agreement in multiple counterparts, each of which shall be deemed to be an original, as of the date and year first written above.

Falcon Ranch Homeowners Association, Inc.

By: _____

Title: President

FORT BEND COUNTY, TEXAS

By: _____

Robert E. Hebert, County Judge

Date: _____

8-12-14

ATTEST:

Dianne Wilson, County Clerk

(SEAL)

