

**AGREEMENT BETWEEN  
THE CITY OF SUGAR LAND AND  
GANNOWAY LAKE ESTATES HOME OWNERS ASSOCIATION, INC.**

This agreement (Agreement) is entered into between the **CITY OF SUGAR LAND, TEXAS** (City) and the **GANNOWAY LAKE ESTATES HOME OWNERS ASSOCIATION, INC.** (Gannoway Lakes).

**Background:**

Gannoway Lakes is a property owners' association created for the Gannoway Lakes community located within the City. By Resolution No. 14-27 the City Council of the City of Sugar Land adopted a Council Policy Regarding Participation With Community-Based Organizations in Capital Improvement Projects Using 4B Corporation Funds (Policy). Under the Policy, Gannoway Lakes submitted an application to the City requesting that the Sugar Land 4B Corporation (SL4B) assist with funding for a decorative concrete wall located along Burney Road between Vinehill and Gannoway Lake Drive (Application). The decorative concrete wall will replace the existing deteriorating brick wall located along Burney Road between Vinehill and Gannoway Lake Drive. The decorative concrete wall will be located within an existing sixteen-foot public utility easement, and two existing eight-foot public utility easements (collectively, the Public Utility Easements), all originally dedicated by the Gannoway Lake Estates Section One Plat, recorded in Slide Nos. 2264B and 2265A, File No. 20010229 of the Fort Bend County, Texas Plat Records (Plat).

The SL4B adopted Resolution No. 2017-08-11 approving funding for a portion of the costs of the decorative concrete wall, subject to: (1) Gannoway Lakes obtaining a survey showing the location of the decorative concrete wall; (2) if the survey shows that any portion of the decorative concrete wall is located within the Public Utility Easements, Gannoway Lakes obtaining a "No Objection" letter or consent to encroachment from each entity with utility facilities located within the Public Utility Easements evidencing that the entity does not object to the decorative concrete wall being located within the applicable portions of the Public Utility Easements; (3) if the survey shows that a portion of the decorative concrete wall is located outside the Public Utility Easements, Gannoway Lakes obtaining a dedication of utility easement to the City from each property owner upon which the decorative concrete fence will be located outside the Public Utility Easements; and (4) Gannoway Lakes submitting to the City the "No Objection" letter or consent to encroachment from each entity with utility facilities located in the Public Utility Easements if any part of the decorative concrete wall is located within the Public Utility Easements.

Gannoway Lakes: (1) obtained a survey showing the location of the decorative concrete wall, and showing that all portions of the decorative concrete wall are located within the Public Utility Easements; (2) obtained a "No Objection" letter or consent to encroachment from each entity with utility facilities located within the applicable portions of the Public Utility Easements stating that the entity does not object to the decorative concrete wall being located within the Public Utility Easements; and (3) submitted to the City a "No Objection" letter or consent to encroachment from each entity with utility facilities located in the Public Utility Easements. The City and Gannoway Lakes desires to enter into this Agreement to establish the terms of the decorative concrete wall construction.

## Agreement:

In consideration of the promises of each, the City and Gannoway Lakes agree as follows:

1. Definitions. The capitalized terms in the Background section of this Agreement have the meaning ascribed therein and apply to this Agreement. Furthermore, in this Agreement:

*Application* means the Sugar Land 4B Corporation Joint Participation Project Funding Request-Application submitted by Gannoway Lakes to the City on June 1, 2017.

*Improvements* mean the decorative concrete wall to be located along Burney Road between Vinehill and Gannoway Lake Drive, the depiction and specifications of which are shown in the attached Exhibit A, which is incorporated into this Agreement.

2. Effective Date and Term. This Agreement is effective on the latest date of the parties' signatures and ends on the date the City makes payment to Gannoway Lakes as provided in this Agreement.

3. Installation. Gannoway Lakes will own and may install, maintain, and replace the Improvements within the Public Utility Easements in compliance with this Agreement, the City's ordinances, and other applicable laws and regulations. Gannoway Lakes will enter into a contract(s) with contractor(s) to construct the Improvements. Gannoway Lakes must obtain any permits and pay any fees required by the City or other governmental entities relating to the installation of the Improvements within the Public Utility Easements, including any permits or fees required for working in City easements.

4. Maintenance. After construction and installation, Gannoway Lakes must maintain and keep the Improvements in good condition and repair and in compliance with the City's ordinances, and other laws.

5. City Reimbursement for Improvements. Upon completion of the Improvements, Gannoway Lakes will submit to the City:

- (a) Copies of all required permits obtained for installation of the Improvements;
- (b) Copies of receipts showing that all the contractors have been paid a total amount of at least \$150,935.00;
- (c) A letter from Gannoway Lakes' Board President warranting that the Improvements have been completed according the requirements of this Agreement; and
- (d) Photographs of the completed Improvements.

The City will make one payment of \$75,000.00 to Gannoway Lakes within 30 days of the City's review and approval of the documents and photographs listed above.

6. Termination.

- (a) If Gannoway Lakes fails to substantially begin work to install the Improvements within 90 days of the effective date of this Agreement, the City's city manager may terminate this Agreement by giving Gannoway Lakes at least 10 days' written notice of termination prior to the date of termination.
- (b) The City may terminate this Agreement as provided in this paragraph if Gannoway Lakes fails to comply with any provision of this Agreement. The City will give Gannoway Lakes notice of the default in writing citing the terms of the Agreement that have been breached and what action Gannoway Lakes must take to cure the default. If Gannoway Lakes fails to cure the default as specified in the notice within 30 days after receiving the notice (or such longer period as may be necessary provided that Gannoway Lakes promptly begins curing the default and diligently continues such efforts to completion), the City's city manager may terminate this Agreement by written notice to Gannoway Lakes, specifying the date of termination.

7. Notices. All notices required under this Agreement must be in writing and may be sent by: (a) delivering the notice in person; (b) depositing the notice in the U. S. Mail, certified or registered, return receipt requested, postage prepaid; (c) by depositing the notice with Federal Express or another nationally recognized courier service for next day delivery; or (d) sending the notice by telefax with confirming copy sent by mail. Notice is deemed effective when received by the Party to be notified. All notices must be sent or delivered to the following addresses or as the City or Gannoway Lakes may hereafter designate by written notice:

City: City of Sugar Land  
2700 Town Center Boulevard North  
Sugar Land, Texas 77479  
Attn: City Manager

Gannoway Lakes: Gannoway Lake Estates Homeowners' Association, Inc.  
1602 Gannoway Lake Court  
Sugar Land, Texas 77498  
Attn: Jerry Palasek

8. Binding Agreement. This Agreement is binding on Gannoway Lakes, its successors, assigns and grantees.

9. Law Governing and Venue. This Agreement is governed by the law of the State of Texas and a lawsuit may only be prosecuted on this Contract in a court of competent jurisdiction located in or having jurisdiction in Fort Bend County, Texas.

10. Entire Agreement. This Agreement represents the entire agreement between the City and Gannoway Lakes and supersedes all prior negotiations, representations, or contracts, either written or oral. This Agreement may be amended only by written instrument signed by both parties.

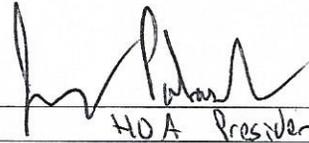
11. Severability. If a court finds or rules that any part of this Agreement is invalid or unlawful, the remainder of the Agreement continues to be binding on the parties.

**CITY OF SUGAR LAND**

**GANNOWAY LAKE ESTATES HOME OWNERS ASSOCIATION, INC.**

\_\_\_\_\_  
Allen Bogard, City Manager

Date: \_\_\_\_\_

By:  (Jerry Polasek)  
Title: HOA President

Date: 1/5/17

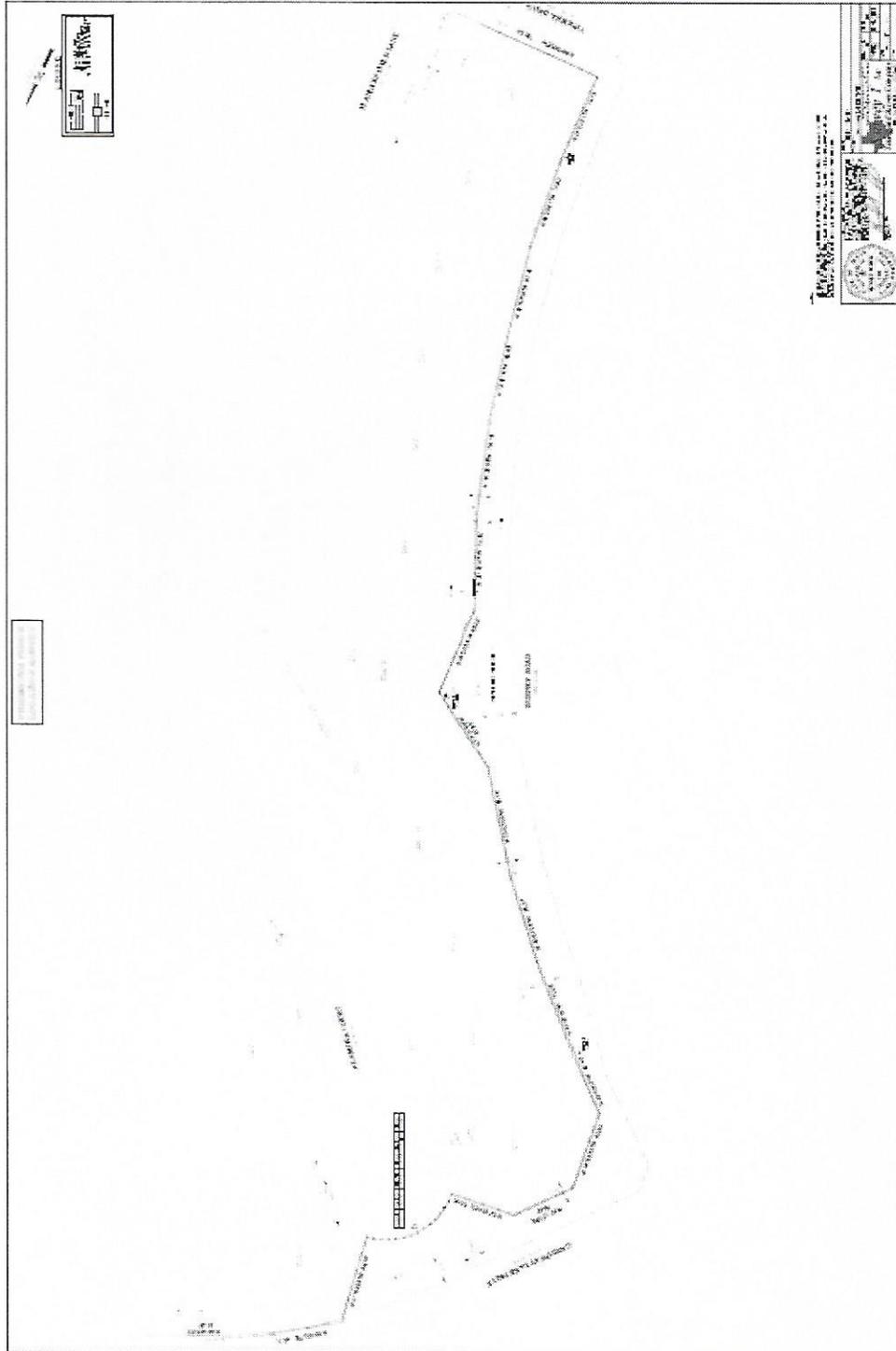
ATTEST:

\_\_\_\_\_  
Thomas Harris, Assistant City Secretary

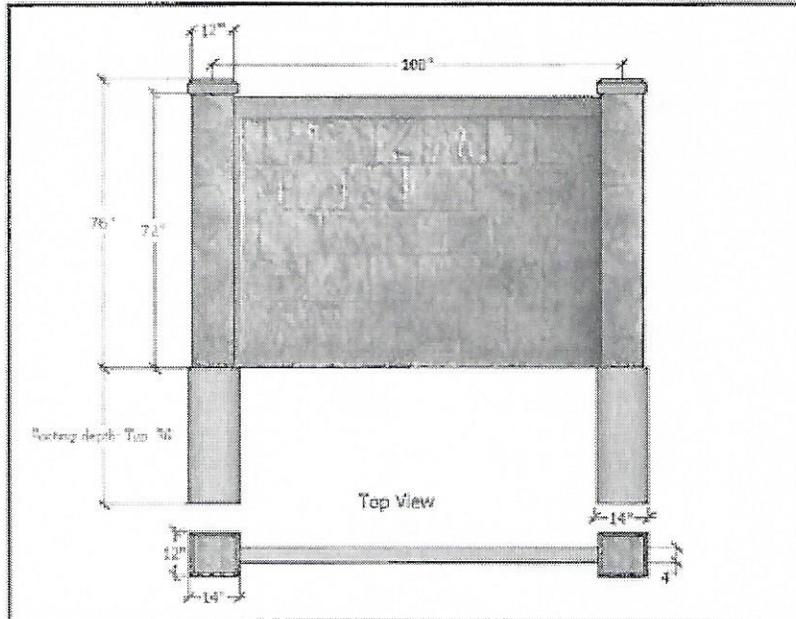
Approved as to Form:  
*DAnn Shea Smith*

# EXHIBIT A

## Improvements



## RHINOROCK FENCE SPECIFICATIONS



TECHNICAL INFORMATION- RhinoRock Fence Panel		
Dimension of Panel	182 cm x 259 cm	72"x102"
Weight of Panel	105 Kg	230 lbs
Weight per area	21.5kg/m <sup>2</sup>	4.9 lbs/ft <sup>2</sup>
Thickness of Panel	115mm	4.5"
EPS Foam Core thickness	63-95mm	2.5-3.75"
Glass fiber reinforced concrete shell thickness	8mm	5/16"
% glass fiber by volume	4-1.50%	
Compressive Strength of proprietary concrete max design	4x10 <sup>7</sup> N/m <sup>2</sup>	5800 psi
Ultimate tensile strength of glass fiber reinforced concrete	9.6x10 <sup>6</sup> - 1.4x10 <sup>7</sup> N/m <sup>2</sup>	1400-2100 psi
Wind load capacity of panel	225 km/h	145mph with 1.6 safety factor
axial load capacity of panel	1644 kg/lineal meter	1100 lbs/lineal foot
moisture absorption of EPS foam core by total immersion	<4%	
Combustibility of glass fiber reinforced concrete shell	Non-combustible	
Freeze/thaw performance	200 freeze thaw cycles with no damage	
Derby, fungus, or mushroom attack	none	
Termite food source	none	