

**AGREEMENT BETWEEN
THE CITY OF SUGAR LAND AND GREATWOOD COMMUNITY
ASSOCIATION, INC.**

This Agreement is made between the **CITY OF SUGAR LAND, TEXAS (CITY)** and **GREATWOOD COMMUNITY ASSOCIATION, INC. (ASSOCIATION)**.

Recitals:

The City is annexing Greatwood effective December 12, 2017, pursuant to and as more particularly described in Ordinance No. 2075 adopted by the City's City Council. The Association owns certain property in which drainage outfalls are located that provide drainage for streets and properties within Greatwood. Upon annexation of Greatwood the City will begin maintenance of the drainage outfalls. The City needs access across, over and within the property so that it can maintain the drainage outfalls.

Agreement:

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the premises and mutual covenants and agreements expressed herein, the parties agree as follows:

1. Definitions. In this Agreement:

Agreement means this Agreement Between the City and the Association.

Association means the Greatwood Community Association, Inc.

Authorized Persons means the City, its officers, employees, agents, contractors, the contractors' subcontractors, and other acting under or through their authority.

City means the City of Sugar Land, Texas.

Drainage Outfalls means the drainage outfall structures numbered as Nos. 26, 27, 28, 30, 31, 34, 36, and 37 in Exhibit "A", including any associated equipment, facilities, and appurtenances thereto.

Property means the strip of land located between Shadow Bend Drive and Greatwood Parkway shown in the map for Property No. R143661 of the Fort Bend Central Appraisal District and which was conveyed to the Association along with other tracts of land under Quitclaim of Common Area recorded in File No. 2002082488 of the Fort Bend County Official Public Records.


Greatwood Community Association
10-3-17

Work means the construction, reconstruction, repair, restoration, and alteration of the Drainage Outfalls.

2. Exhibits. This Agreement includes the following exhibits, attached to and incorporated into this Agreement by reference:

Exhibit A—Locations of Drainage Outfalls

3. Access Authorized. The Authorized Persons may enter onto, over, across and have ingress to and from the Property to operate, inspect, maintain or perform Work on or to the Drainage Outfalls. The access granted herein includes access by vehicles, equipment, machinery and pedestrians.

4. The City's Obligations. The City will:

- (a) Give 48-hours advance written notice to the Association before it enters upon the Property to perform Work on or to the Drainage Outfalls;
- (b) Coordinate with the Association's engineer and operator, if any, during Work performed on or to the Drainage Outfalls;
- (c) Not cause damage to the Property or related facilities that undermines the integrity of the Property or related facilities;
- (d) Take any necessary steps to prevent adverse effects to the Property, or related facilities that impair flood protection;
- (e) After Work is completed by any of the Authorized Persons:
 - (1) Repair, restore or cause to be repaired or restored the Property to as reasonable a condition existing prior to the Work;
 - (2) Remove, or cause to be removed, all construction or maintenance equipment from the Property;
 - (3) Remove, or cause to be removed, all spoil generated by the Authorized Persons' activities or distribute, or cause to be distributed, such spoil in a manner consistent with the approval of the Association's engineer, if any, and re-fill or re-compact soil to meet the Association's requirements; and
 - (4) Re-seed and establish grass coverage, or cause such to be done, if necessary; and
- (f) Require its contractors performing Work to maintain general liability insurance in an amount not less than \$1,000,000.00 per occurrence.

5. City's Insurance. The City currently maintains insurance coverage for death and bodily injury in an amount sufficient to cover claims against the City under the Texas Tort Claims Act. Before beginning construction or reconstruction of the Drainage Outfalls, the City will provide the Association with a copy of the City's certificate of insurance. City shall require all of its contractors performing Work to maintain general liability insurance in an amount not less than \$1,000,000.00 per occurrence. The insurance carried by City pursuant to this section shall provide primary coverage to the Association with respect to any claim related to or arising out of the Work or use of the Property hereunder, and in such circumstance the Association's policy will be excess over the policy or policies carried by the City hereunder.

6. Term.

(a) *Initial Term.* The initial terms of this Agreement begins on December 12, 2017 and ends on December 11, 2027, unless terminated earlier as allowed by this Agreement.

(b) *Renewal Term.* This Agreement automatically renews for successive five-year terms after the initial term unless a party gives the other party at least six months' advance written notice prior to the end of the term that the Agreement will not be renewed for another term.

(c) *Non-Renewal.* If this Agreement is not renewed by the Association, it agrees to negotiate in good faith to grant an easement to the City so that the City may access the Drainage Outfalls to provide drainage for Greatwood.

7. Termination. The parties may terminate this Agreement during its term as provided in this paragraph if a party fails to comply with its terms. The party alleging the default will give the other parties notice of the default in writing. If the party in default fails to cure the default within 30 days of the date of the notice, the party giving the notice may terminate this Agreement by written notice to the other party, specifying the date of termination. Termination of this Agreement under this paragraph does not affect the right of the parties to seek any remedies for breach of contract as provided by law.

8. Notices. All notices given or required herein shall be given in writing and shall be given either by hand delivery or by depositing such notice in the United States first-class mail, postage prepaid, by certified or registered mail, return receipt requested, enclosed in an envelope addressed to the party to be notified at the following address, or at such other address as any such party shall from time to time designate in writing:

If to City: City of Sugar Land
 P.O. Box 110

Sugar Land, Texas 77487
Attention: City Manager
abogard@sugarlandtx.gov

w/ copy to: City of Sugar Land
111 Gillingham Ln.
Sugar Land, Texas 77478
Attention: Director of Public Works
rvalenzuela@sugarlandtx.gov

If to Association: Greatwood Community Association, Inc.
8802 Greatwood Parkway
Sugar Land, Texas 77479
Attention: President
ECW

Notice delivered in accordance with this paragraph shall be deemed delivered upon delivery, if delivered by hand, and three (3) business days after deposit in a domestic United States depository box, if delivered by mail.

9. Miscellaneous Provisions.

(a) *Payment from Current Revenues.* Payment for the performance of governmental functions or services under this Agreement is being made from current revenues available to the City.

(b) *Permits and Licenses.* The City or its contractors, shall make application for, and secure from, any and all federal, state, and local governmental authorities having jurisdiction thereof, and shall maintain in effect and comply with, all permits, licenses and other authorizations required for the purposes of the Work.

(c) *No Liens.* The City shall keep the Property, or cause the Property to be kept, free and clear of all liens and encumbrances resulting from the Work or acts performed by or on behalf of the City pursuant to this Agreement.

(d) *Remedies Cumulative.* The rights and remedies provided in this Agreement or otherwise under applicable laws are cumulative and the exercise of any particular right or remedy does not preclude the exercise of any other right or remedy.

(e) *Dispute resolution procedures.* The City and the Association desire an expeditious means to resolve any disputes that may arise between them regarding this Agreement. If either party disputes any matter relating to this Agreement, the parties agree to try in good faith, before bringing any legal action, to settle the dispute by submitting the matter to mediation before a



third party who will be selected by agreement of the parties. The City and the Association will each pay one-half of the mediator's fees.

(f) *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 Agreement in a court of competent jurisdiction located in or having jurisdiction in Fort Bend County, Texas.

(g) *Attorney's Fees.* Should either party to this Agreement bring suit against the other party for any matter relating to this Agreement, neither party will seek or be entitled to an award of attorney's fees or other costs relating to the suit.

(h) *Assignment.* This Agreement may not be assigned to any other person or entity unless the City and the Association consent in writing to the assignment.

(i) *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.

(j) *Entire Agreement.* This Agreement represents the entire agreement between the City and the Association 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.

SIGNATURE PAGE FOLLOWS



**GREATWOOD COMMUNITY
ASSOCIATION, INC.**

By: [Signature]
Print Name: JACK HOLLO
Title: PRESIDENT
Date: 10/11/14

ATTEST:

By: [Signature]
Print Name: Laura Jill Oppenz
Title: Secretary

CITY OF SUGAR LAND

Allen Bogard, City Manager

Date: _____

ATTEST:

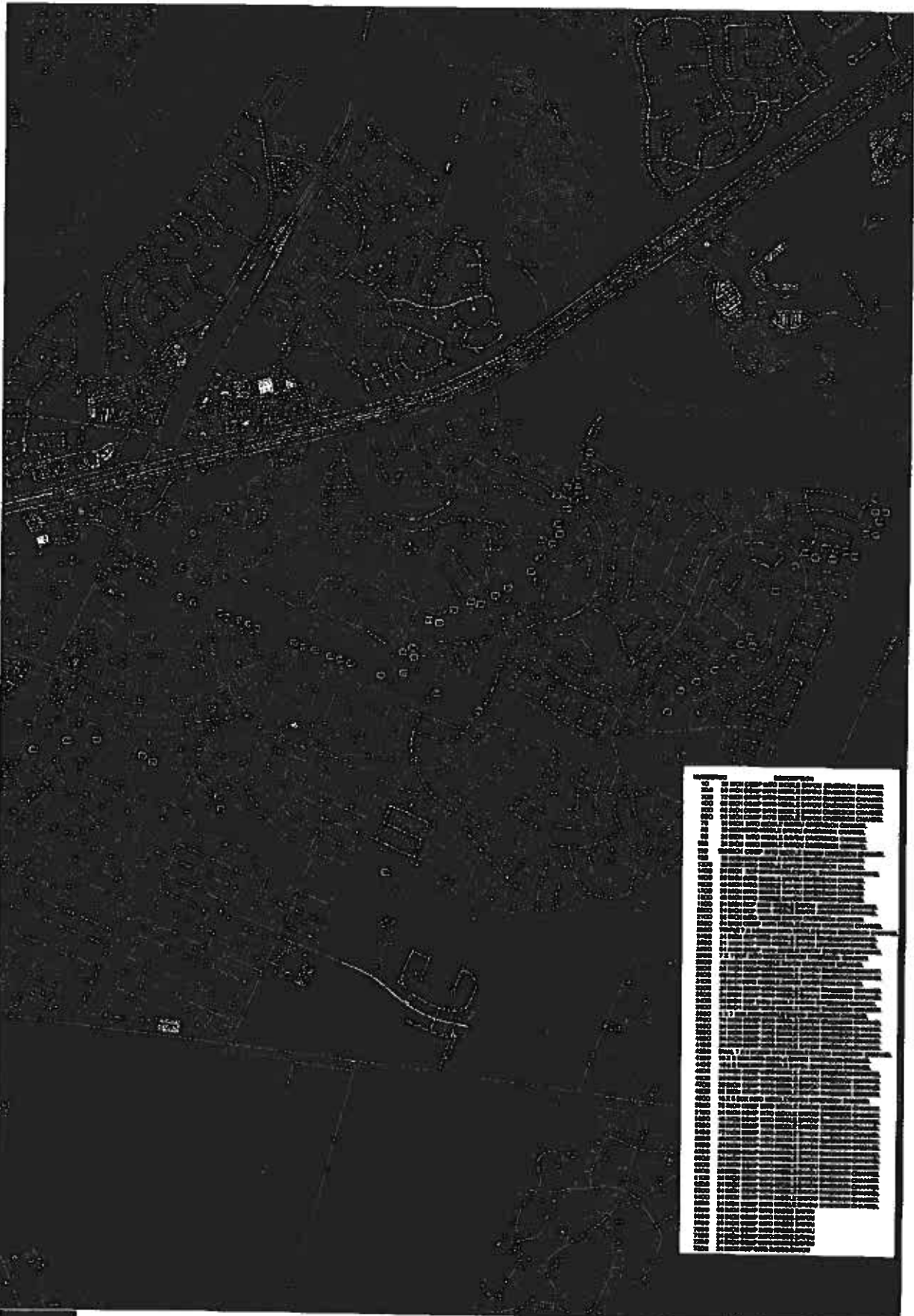
Glenda Gundermann, City Secretary

Approved as to Form:

Attachment: Exhibit A—Location of Drainage Outfalls

EXHIBIT A
Location of Drainage Outfalls

A handwritten signature in black ink, appearing to be a stylized 'D' or 'J' with a flourish.



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**CITY OF SUGAR LAND
GREATWOOD OUTFALLS**



[Handwritten signature]