

AGREEMENT FOR RECREATIONAL FACILITIES BETWEEN FORT BEND COUNTY
MUNICIPAL UTILITY DISTRICT NO. 25, OF FORT BEND COUNTY, TEXAS, AND
PHEASANT CREEK HOMEOWNERS ASSOCIATION, INC.

This Agreement For Recreational Facilities (this "Agreement") is entered into on the 17 day of May, 2018 (the "Effective Date"), by and between **Fort Bend County Municipal Utility District No. 25, of Fort Bend County, Texas**, a body politic and corporate and a political subdivision of the State of Texas organized under the provisions of Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code (hereinafter referred to as the "District"), and **Pheasant Creek Homeowners Association, Inc.**, a Texas non-profit corporation (hereinafter referred to as the "HOA").

RECITALS

Pursuant to Section 54.201(b)(7) and Sections 49.461-466 of the Texas Water Code, the District has the authority to construct, improve or extend parks and recreational facilities for its residents.

The residents of the HOA also are residents of the District. The HOA has the authority to install playground equipment on its property.

The HOA currently operates parks within the boundaries of the HOA and the District, as shown on the maps and/or plats of Pheasant Creek Subdivision on file in the Real Property Records of Fort Bend County, Texas (the "Parks"). The Parks are open and available to all residents of the District.

The District and the HOA desire to make the improvements to Parks as described on **Exhibit "A"** attached hereto and incorporated herein for all purposes, as said improvements may be modified pursuant to the mutual written agreement of the District and the HOA (the "Project").

The District and the HOA have determined that it is in the best interest of their mutual residents to jointly participate in the Project and desire to enter into a definitive agreement to specify the terms and conditions under which the District and the HOA will participate in the Project.

AGREEMENT

For and in consideration of the mutual promises, covenants, obligations and benefits of this Agreement, the District and the HOA contract and agree as follows:

Section 1. Design. The Project will be designed by the District's engineer and a representative designated by the HOA, with the District's engineer retaining final design authority. Preparation of contracts or other documents relating to the installation of the Project

will be the responsibility of the District. The Project shall be designed and installed in accordance with all applicable rules, regulations and requirements of all governmental entities having jurisdiction over the Project.

Section 2. Cost and Financing of the Project; Insurance During Construction.

Construction of the Project will not begin until the Board of Directors of the District approves the scope and cost of the Project and awards a contract for such construction. The cost of designing and constructing the Project will be paid for by the District with funds available from its park bonds (the "Bond Funds"). The District is not obligated to use funds from any source other than the Bond Funds to finance the Project.

During the construction process, the District will obtain liability insurance of at least \$1,000,000 for the Project and name the HOA as an additional insured. The District will provide a certificate of insurance or other documentation to the HOA evidencing that the HOA has been named an additional insured before construction of the Project begins.

Section 3. Construction. The District agrees that it will administer and inspect the Project during the construction process. The HOA agrees that upon completion of the Project and the HOA's written acceptance of the Project (the "Acceptance Date"), it will solely responsible, at its sole cost and expense, for maintaining the Project. If the HOA has not either provided written acceptance of the Project to the District or provided in writing to the District the reasons why the HOA will not accept the Project within ten (10) business days from the date the HOA receives a copy of the Certificate of Substantial Completion for the Project issued by the District's engineer, the HOA will be deemed to have accepted the Project (the "Deemed Acceptance Date") and its ownership and maintenance responsibilities then will begin as of the Deemed Acceptance Date.

Section 4. Ownership, Operation and Maintenance of the Project; Insurance.

As of the Acceptance Date or, if applicable, the Deemed Acceptance Date, the HOA will own, operate and maintain the Project, at its sole cost and expense, in accordance with the requirements of all laws, rules and regulations applicable to the HOA and the Project. The HOA agrees that the Project will never be gated or access otherwise denied to all residents of the District. The District agrees, however, that the HOA may establish reasonable rules and procedures for the use of the Project, such as hours of access (e.g., sunrise to sunset), etc.

The HOA agrees to maintain property and general liability insurance of at least \$1,000,000 (general aggregate) in connection with its ownership, operation and maintenance of the Project and will name the District as an additional insured.

Section 5. Access to the Project. The HOA agrees that access to the completed Project by all residents of the District will not be limited or restricted during the Term of this Agreement (as defined below).

Section 6. Termination of Agreement. This Agreement is to remain in full force and effect for a period of ten (10) years from the Effective Date (the "Term") and is not subject to termination during the Term. If the HOA determines that any portion of the Project needs to

be replaced during the Term of this Agreement or thereafter, the parties hereto will need to enter into a new written agreement. The District is not obligated to enter into an agreement regarding the replacement of any portion of the Project either during the Term or thereafter. If the District, in its sole discretion, decides to enter into an agreement regarding the replacement of any portion of the Project, any such agreement shall be conditioned upon the availability of Bond Funds.

The ownership, operation and maintenance duties and responsibilities of the HOA as to the Project will survive the expiration of this Agreement.

Section 7. Addresses and Notices. All notices provided or permitted to be given under this Agreement must be in writing and may be served by (i) depositing same in the United States mail, addressed to the party to be notified, postage prepaid and registered or certified with return receipt requested; (ii) by delivering the same in person to such party; (iii) by prepaid telegram or telex; or (iv) by facsimile copy transmission. Notice given by mail shall be effective upon deposit in the United States mail system. Notice given in any other manner shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the parties shall be as follows:

If to the District: Fort Bend County Municipal Utility District No. 25, of Fort Bend
County, Texas
c/o Executive General Manager
P.O. Box 2847
Sugar Land, Texas 77487-2847
Telefax: (281) 277-0028

If to the HOA: Pheasant Creek Homeowners Association, Inc.
c/o HOA President
2906 Pheasant Creek Drive
Sugar Land, Texas 77498
Telefax: _____

Any party hereto may change its address for notice by giving seven (7) days prior written notice to the other parties.

Section 8. Entire Agreement; Modification. This Agreement constitutes the entire agreement between the District and the HOA concerning the Project. There have been and are no agreements, covenants, representations or warranties between the parties other than those expressly stated or provided for herein. No modification or subsequent agreement relative to the subject matter hereof shall be binding on any party unless reduced to writing and signed by the parties.

Section 9. Parties in Interest. This Agreement shall be for the sole and exclusive benefit of the District and the HOA and shall not be construed to confer any benefit or right upon any other party, including particularly any resident of the District or the HOA.

Section 10. Severability. The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section or other part of this Agreement or the application thereof to any other person or circumstance shall ever be held by any court of competent jurisdiction to contravene or be invalid under the constitution or laws of the State of Texas for any reason, that contravention or invalidity shall not invalidate the entire Agreement. Instead, this Agreement shall be construed as if it did not contain the particular provision or provisions held to be invalid, the rights and obligations of the parties shall be enforced accordingly, and this Agreement shall remain in full force and effect, as construed. The remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section or other part of this Agreement to the other parties or circumstances shall not be affected thereby.

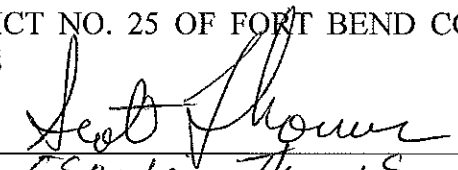
Section 11. Successors and Assigns. This Agreement shall apply to and be binding upon the parties hereto and their respective officers, directors, successors and assigns. This Agreement and any of the rights obtained hereunder are not assignable by any party hereto without the express written consent of the other party, which consent shall not be unreasonably withheld.

Section 12. Authorization. Each party represents that (i) execution and delivery of this Agreement by it has been duly authorized by its governing body or other persons whom such party is legally bound to obtain authorization, (ii) that the consummation of the contemplated transactions will not result in a breach or violation of, or a default under, any agreement by which it or any of its properties is bound, or by any statute, rule, regulation, order or other law to which it is subject, and (iii) this Agreement is a binding and enforceable agreement on its part.

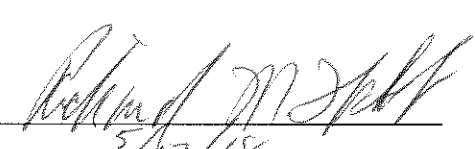
Section 13. Applicable Law. This Agreement shall be governed and construed in accordance with the laws of the State of Texas.

IN WITNESS WHEREOF, the parties hereto 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 herein.

FORT BEND COUNTY MUNICIPAL UTILITY
DISTRICT NO. 25 OF FORT BEND COUNTY,
TEXAS

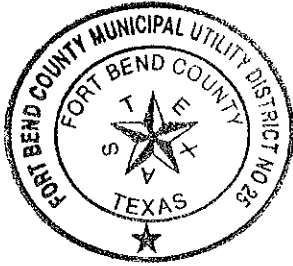
By: 
Name: Scott Thomas
Title: Secretary
Date: 5-17-18

ATTEST:

By: 
Name: 5/17/18

Title: VICE PRESIDENT
Date: 5-17-2018

(DISTRICT SEAL)



PHEASANT CREEK HOMEOWNERS
ASSOCIATION, INC.

By:

Name:

Title:

Date:



Jackie Martinez

President

5/17/18

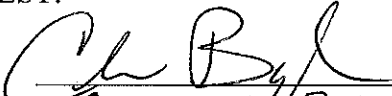
ATTEST:

By:

Name:

Title:

Date:



CHARLES BEYL

ACC CHAIR

5/17/18

FBC MUD 25**Schematic Design Cost Estimate****Neighborhood Parks**

<i>Item</i>	<i>Qty</i>	<i>Unit</i>	<i>Unit Cost</i>	<i>Unit Total</i>	<i>Comments</i>
Pheasant Creek (Allocated Funds: \$241,667)					
Demolition				\$ -	
Remove ext. edging and play components	1	EA	\$ 6,500.00	\$ 6,500.00	
Remove damaged conc sidewalks	350	SF	\$ 5.00	\$ 1,750.00	
Remove and stockpile EWF	5650	SF	\$ 0.65	\$ 3,672.50	Removal and haul away
Subtotal				\$ 11,922.50	
Site Work Construction					
Concrete Paving (4") (sidewalk replacement)	350	SF	\$ 4.50	\$ 1,575.00	
6" Concrete Curbing for Fitness Stations	125	LF	\$ 6.50	\$ 812.50	
Subtotal				\$ 2,387.50	
Site Features/Furnishings					
Replacement Play Equipment	1	AL	\$ 68,000.00	\$ 68,000.00	EEVOS, WEEVOS and Toddler Swing Units
EWF spreading	5850	SF	\$ 0.55	\$ 3,217.50	
EWF replacement, spreading	700	SF	\$ 3.50	\$ 2,450.00	Includes for fitness station
Tuff Timbers Edging	400	LF	\$ 9.50	\$ 3,800.00	
Geotextile Fabric	6350	SF	\$ 0.15	\$ 952.50	Includes for fitness station
Fitness station Installation	1	AL	\$ 18,500.00	\$ 18,500.00	
Dog Waste Stations	3	EA	\$ 700.00	\$ 2,100.00	
Water Fountain Replacement	1	EA	\$ 5,500.00	\$ 5,500.00	Assuming water/sewer connection is in working order
Concrete Patching	1	AL	\$ 1,500.00	\$ 1,500.00	Patching may be required when furniture is removed.
Subtotal				\$ 106,020.00	
Landscaping/Irrigation					
Sod	1500	SF	\$ 0.75	\$ 1,125.00	For remediation
Subtotal				\$ 1,125.00	
Pheasant Creek (Allocated Funds: \$241,667)					
Demolition				\$ 11,922.50	
Site Work Construction				\$ 2,387.50	
Site Features/Furnishings				\$ 106,020.00	
Landscaping/Irrigation				\$ 1,125.00	
Subtotal				\$ 121,455.00	
Construction Contingency (15%)				\$ 18,218.25	
General Conditions/Profit (12%)				\$ 14,574.60	
Total				\$ 154,247.85	