

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

AGREEMENT FOR THE DONATION OF PROPERTY

WHEREAS, Horizon Communities Improvement Association (“HCIA”) is chartered under Texas and federal laws as a non-profit property owners’ improvement association; and

WHEREAS, HCIA owns certain land in east El Paso County, Texas that was originally platted to serve as a public park; and

WHEREAS, that land remains undeveloped; and

WHEREAS, HCIA does not have the means to develop the land as a park; and

WHEREAS, the County of El Paso, Texas (“County”) is a political subdivision of the State of Texas; and

WHEREAS, the County desires to obtain the land described below to develop as a park; and

WHEREAS, the County has, or will obtain, funding to develop the land as a park; and

WHEREAS, HCIA is ready, willing, and able to donate the land to be developed as a public park;

NOW, THEREFORE, the Parties agree as follows:

I. Terms

1. Parties. The Parties to this contract are Horizon Communities Improvement Association (“HCIA”) and the County of El Paso, Texas, a political subdivision of the state of Texas (“County”). HCIA agrees to donate and convey to County, and County agrees to accept from HCIA the Property defined below.

2. Legal Description. As described in **Attachment A**.

3. Consideration. HCIA agrees to donate, transfer, and convey all rights in the Property for \$1, County’s commitment to develop the property as a park at its expense, and other good and valuable consideration. While the County intends to act expeditiously to develop the Property as a park, there is no deadline to do so.

4. Leases and encumbrances. HCIA is not aware of any leases or other property interests that encumber the property. After the effective date, HCIA will not, without County’s consent, create a new lease or convey any interest in the Property. HCIA is not a party to a Natural Resource Lease. “Natural Resource Lease” means any existing oil and gas, mineral, water, wind, or other natural resources lease affecting the property.

5. **Earnest Money.** There is no earnest money.
6. **Title Policy.** County may obtain an owner's policy of title insurance issued by a title company of its choosing at County's expense. If necessary, HCIA will cooperate with County to obtain documentation in HCIA's possession or control that is reasonably necessary for County to obtain the Title Policy. HCIA authorizes the Title Company to deliver the Commitment and Exception Documents (if any) to County.
7. **Membership in Property Owners Association. HCIA RELEASES THE COUNTY FROM ANY MEMBERSHIP OBLIGATIONS IN ITS PROPERTY OWNERSHIP ASSOCIATION. THE COUNTY WILL GENERALLY MAINTAIN THE PARK, IN ITS DISCRETION. HOWEVER, THE COUNTY WILL OWE HCIA NO TAXES, DUES, OR FEES OF ANY KIND.**
8. **Statutory Tax Districts:** If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires HCIA to deliver and County to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.
9. **Annexation.** If the Property is located outside the limits of a municipality, HCIA notifies County under section 5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.
10. **Property located in a certificated service area of a utility service provider.** Notice required by section 13.257, Water Code: The real property, described in Attachment A, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area, there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water and sewer service to your property. The County acknowledges receipt of the foregoing notice at or before the execution of a binding contract to the purchase the real property described in Attachment A or at closing of purchase of the real property.

11. **Public Improvement Districts:** If the Property is in a public improvement district, HCIA must give County written notice as required by section 5.014, Property Code. An addendum containing the required notice shall be attached to this contract.
12. **Texas Agricultural Improvement District.** The Property is NOT located in a Texas Agricultural Development District. For additional information, contact the Texas Department of Agriculture.
13. **Private Transfer Fee.** The property is NOT subject to a “Private transfer fee obligation” created under a declaration or other covenant recorded in the County deed records, a contractual agreement or promise, or an unrecorded contractual agreement or promise.
14. **Propane Gas System Service Area.** If the Property is located in a propane gas system service area owned by a distribution system retailer, HCIA must give County written notice as required by section 141.010, Texas Utilities Code.
15. **No water impoundment.** The Property does not adjoin an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code.
16. **Inspections.** HCIA has, and will, allow County’s agents access to the Property at reasonable times for inspection. County has determined the availability of utilities to the Property suitable to satisfy County’s needs.
17. **Property Condition.** County accepts the property “as is” and without warranty. This provision does not preclude County from inspecting the Property and negotiating repairs or treatments in a subsequent amendment.
18. **HCIA’s Disclosures.** Except as otherwise disclosed in this contract, HCIA has no knowledge of the following:
 - a. Any flooding of the Property which has had a material adverse effect on the use of the Property;
 - b. Any pending or threatened litigation, condemnation, or special assessment affecting the Property;
 - c. Any environmental hazards that materially and adversely affect the Property;
 - d. Any dumpsite, landfill, or underground tanks or containers now or previously located on the Property;
 - e. Any wetlands, as defined by federal or state law or regulation, affecting the Property; or
 - f. Any threatened or endangered species or their habitat affecting the Property.
19. **Closing.** At closing:
 - a. HCIA shall execute and deliver a special warranty deed conveying title to the Property to County and furnish tax statement or certificates showing no delinquent taxes on the Property.

- b. HCIA and County shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents reasonably required for the closing of the conveyance and the issuance of the Title Policy.
 - c. There will be no liens, assessments, or security interests against the Property.
20. **Possession.** HCIA shall deliver to County possession of the Property in its present or required condition upon closing.
21. **Special Provisions.** HCIA will deliver to County an executed Right of Entry Agreement as to the known as: 14729 Pasaje Pl., Clint, Texas 79928; Horizon View Estates #21, Lot 8, Block 4 (.33 acres). The Right of Entry will inure to the benefit of the County and be in a form substantially similar to Attachment B.
22. **Settlement Expenses.** Each party will be responsible for its own settlement expenses, including fees for any attorney it employed.
23. **Taxes.** HCIA and County are each tax exempt entities, and each believes in good faith that there are no taxes, interest, maintenance fees, assessments, dues or rents due or owing on the Property. However, if any taxes are discovered, or imposed upon the property, the Parties obligations will be allocated as follows:
- a. Taxes for the current year (if any), interest, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. The tax proration (if any) may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the Parties shall adjust the prorations when tax statements for the current year are available.
 - b. If this sale or County's use of the Property after closing results in the assessment of additional taxes, penalties or interest (Assessments) for periods prior to closing, the Assessments will be the obligation of County. If Assessments are imposed because of HCIA's use or change in use of the Property prior to closing, the Assessments will be the obligation of HCIA. Obligations imposed by this paragraph will survive closing.
24. **CASUALTY LOSS:** If any part of the Property is damaged or destroyed by fire or other casualty after the Effective Date of this contract, HCIA shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If HCIA fails to do so due to factors beyond HCIA's control, County may terminate this contract or accept the Property in its damaged condition with an assignment of insurance proceeds (if any), if permitted by HCIA's insurance carrier, and receive credit from HCIA at closing in the amount of the deductible under the insurance policy. HCIA's obligations under this paragraph are independent of any other obligations of HCIA under this contract.
25. **DEFAULT:** If County fails to comply with this contract, County will be in default, and HCIA may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract, thereby releasing both parties from this contract.

If HCIA fails to comply with this contract, HCIA will be in default and County may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.

16. **MEDIATION:** It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between HCIA and County related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.
17. **ATTORNEY'S FEES:** In any legal proceeding related to this contract each Party shall bear its own attorneys' fees and court costs.
18. **REPRESENTATIONS:** All covenants, representations and warranties in this contract survive closing. If any representation of HCIA in this contract is untrue on the Closing Date, HCIA will be in default. Unless expressly prohibited by written agreement, HCIA may continue to show the Property and receive, negotiate, and accept back up offers.
19. **NOTICES:** All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by fax or electronic transmission as follows:

TO COUNTY AT: THE COUNTY OF EL PASO, TEXAS
 ATTN: COUNTY JUDGE
 500 East San Antonio, Suite 301
 El Paso, Texas 79901

With Copy to: EL PASO COUNTY ATTORNEY
 500 East San Antonio, Suite 503
 El Paso, Texas 79901

TO HCIA AT: HORIZON COMMUNITIES IMPROVEMENT ASSOCIATION
 ATTN: GENERAL MANAGER
 14200 Ashford St.
 Horizon City, Texas 79928

With Copy to:

20. **EFFECTIVE DATE:** This Agreement is effective on the date the last party executed it.

THE COUNTY OF EL PASO, TEXAS – DONEE

Ricardo A. Samaniego
El Paso County Judge
Date: _____

Approved as to form only:

Kevin McCary
Assistant County Attorney

HORIZON COMMUNITIES IMPROVEMENT ASSOCIATION

William Eggleston
President
Date: _____

Roxane Jurado
General Manager

Approved as to form only:

Sergio Estrada
Counsel for HCIA